



Town Planning & Building Committee

**3 September 2013
6.30pm**

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 3 SEPTEMBER, 2013 COMMENCING AT 6.30PM.

T96. OPENING OF MEETING

T96.1 Present

T97. ACKNOWLEDGEMENT OF COUNTRY

T98. WELCOME TO GALLERY

T99. APOLOGIES

T100. CONFIRMATION OF MINUTES

T100.1 Town Planning & Building Committee – 6 August 2013

T101. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T101.1 Coolgardie Avenue No. 11 – Marzia Design

T101.2 George Street No. 48 – Rob Bates-Smith (The Wine Store)

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T102. REPORTS OF COMMITTEES

T102.1 Town Planning Advisory Panel – 13 August 2013

T103. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL

T103.1 Receipt of Reports

T103.2 Order of Business

*T103.3 Coolgardie Avenue No. 11 (Lot 24)
Applicant: Marzia Design
Owner: K & K Baker
Application No P98/2013*

*Page 2
Agenda Ref. 8.2*

*T103.4 Bedford Street No. 21 (Lot 92)
Applicant: Rosalie Pech Eva Architect
Owner: P Wade
Application No. P87/13*

*Page 8
Agenda Ref. 8.5*

*T103.5 Chauncy Street No. 17 (Lot 5047)
Applicant/Owner: Dr J Hogan
Application No. P78/13*

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Agenda Ref. 8.6*

*T103.6 George Street No. 48 (Lot 300)
Applicant: R Bates-Smith
Owner: Mulloway Pty Ltd
Application No. P101/13*

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Agenda Ref. 8.7*

T104. ADJOURNMENT

T105. RESUMPTION

T106. REPORT'S OF OFFICERS (Cont)

*T106.1 George Street No. 48 (Lot 300) Page 27
Applicant: R Bates-Smith Agenda Ref. 8.7
Owner: Mulloway Pty Ltd
Application No. P101/13*

*T106.2 Fortescue Street No. 14 (Lot 177) Page 28
Applicant: Mike Johnson Agenda Ref. 8.1
Owner: Mike Johnson
Application No. P226/2010 & P138/2011*

*T106.3 Silas Street No. 12 (Lot 594 & 621) Page 32
Applicant: Desert Storm Pty Ltd Agenda Ref. 8.3
Owner: Desert Storm Pty Ltd
Application No. P60/2013*

*T106.4 King Street No. 69 (Lot 329) Page 39
Applicant: John Chisholm Design Agenda Ref. 8.4
Owner: T Chambers
Application No. P97/13*

T107. CONFIDENTIAL BUSINESS

*T107.1 Canning Highway No. 235 (Lot 1851) Page 46
Applicant: Paintessa Development Pty Ltd Agenda Ref. 9.1
Owner: Paintessa Development Pty Ltd
Application No. P47/13*

T108. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T109. CLOSURE OF MEETING

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 3 SEPTEMBER, 2013 COMMENCING AT 6.30PM.**T96. OPENING OF MEETING****T96.1 Present**

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

T97. 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.”

T98. WELCOME TO GALLERY

There were 10 members of the public in the gallery at the commencement of the meeting.

T99. APOLOGIES

Nil.

T100. CONFIRMATION OF MINUTES**T100.1 Town Planning & Building Committee – 6 August 2013**

Cr de Jong – Cr Rico

That the Town Planning & Building Committee minutes dated 6 August 2013 as adopted at the Council meeting held on 20 August 2013 be confirmed. CARRIED

T101. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**T101.1 Coolgardie Avenue No. 11 – Marzia Design**

Photographs of surrounding fencing styles were provided by the applicant and circulated to elected members.

Cr Rico – Cr de Jong

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T103.3).

CARRIED

T101.2 George Street No. 48 – Rob Bates-Smith (The Wine Store)

Two emails from owner with attachments including ‘Parking Availability Survey’ and letters of support from 2012 and advising that he has received verbally their continued support for the increased patronage.

Cr Rico – Cr de Jong

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T106.1).

CARRIED

3 September 2013

MINUTES

- T101.2** **George Street No. 48 – Rob Bates-Smith (The Wine Store)**
Email from Paul Filippin in response to request for comment on continuation of increased patronage and advising that he does not approve.

Cr Rico – Cr de Jong

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T106.1).

CARRIED

T102. REPORTS OF COMMITTEES

- T102.1** **Town Planning Advisory Panel – 13 August 2013**

The scheduled meeting was not held.

T103. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL

- T103.1** **Receipt of Reports**

Cr Nardi – Cr de Jong

That the Reports of Officers be received.

CARRIED

- T103.2** **Order of Business**

Cr Nardi – Cr de Jong

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

CARRIED

- T103.3** **Coolgardie Avenue No. 11 (Lot 24)**

Applicant: Marzia Design

Owner: K & K Baker

Application No P98/2013

By Andrew Malone, Senior Planner on 27 August 2013

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for development approval of a front boundary fence at 11 (Lot 24) Coolgardie Avenue, East Fremantle. The proposed front fence is recommended for approval subject to conditions.

BACKGROUND

Description of Site

The subject site is:

- a 607m² green title lot
- zoned Residential 12.5
- improved with a single storey single dwelling, shed and swimming pool
- located in the Richmond Precinct.

Statutory Considerations

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

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

Relevant Council Policies

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

Impact on Public Domain

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

Streetscape : New dwelling currently finalising construction. Proposed front fence will be visible from street.

Documentation

Plans and relevant forms date stamped received on 29 July 2013.
Justification letter addressing neighbours submission date stamped received on 26 August 2013

Date Application Received

29 July 2013

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

- 15 July 1985 Council approved construction of a solid masonry front fence
- 14 January 2008 Building Licence issued for replacement of an existing retaining wall
- 21 November 2011 Council approve planning application for two storey single dwelling.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours and sign for a two week period between the 1 August 2013 and 15 August 2013. At the close of advertising one (1) submission was received. A summary of the submission and applicant’s justification is detailed below in the table and is attached to this report.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>13 Coolgardie Avenue</p> <p>We wish to express our concerns regarding the above mentioned proposed fence:</p> <p>The proposed design at 1.8m high, with a retaining wall on the East side of the property, on our boundary wall (No 13 Coolgardie), up to the footpath, would NOT allow us a clear visual sightline of pedestrians and oncoming traffic when backing out of our driveway.</p> <p>For this reason, we have concerns regarding the safety of this proposed design. The footpath at the front of our properties is used by families walking to and from Richmond school, which is located at the end of Coolgardie Avenue. When accessing our driveway we need to have an unobstructed view down the street, and the proposed fence would not allow this.</p> <p>We also question if the proposed fence would enhance the streetscape? Coolgardie Ave is a very narrow street and with 2m high brick walls across most of the top section of our street where the units are located, we question if 1.8m+ high brick walls on the No 11 side of the street would create even more of a closed-in, narrow feeling.</p>	<p>First: all the walls are complying with the R-code and all the Shire rules so what stated by the neighbours is not correct and not acceptable.</p> <p>We do not agree on the statement that the wall will not allow them to have a clear vision and the sightline as the wall in question is low and permeable visible as per R-Code and Shire requirements.</p> <p>The neighbour’s property is at a higher and a different level so the wall will not interfere with their vision.</p> <p>Secondly: the wall has always been in that position in the original house with no effects on the driveway, proof of that is a brick pier which still exists in the Baker’s property.</p> <p>It also needs to be noted that the neighbour’s fence and gate have been erected inside the Baker’s property as shown by the survey marks (clearly visible on site) at least 500mm inside the property.</p> <p>That needs to be removed and relocated in the right position (inside the neighbour property).</p> <p>Please also note a large number of screen walls around the area are built within similar situations and their aspect resemble what we would like to have.</p>	<p>The height and permeability of the fence will be addressed in detail in the Discussion Section of this report.</p> <p>The visual permeability of the fence will be addressed in detail in the Discussion Section of this report.</p>

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
	<p>The wall being proposed is maximum 1800mm high and not 2000mm as stated in the e-mail of the neighbours.</p> <p>The school is located not as close as described in the letter and it does not constitute matter or an issue for our wall.</p> <p>Furthermore as per the R-Code the "Front walls and fences to promote surveillance and enhance streetscape, taking account of: The need to provide screening to the front setback." The wall in-fact will improve the streetscape and will give more security and privacy to the new dwelling.</p> <p>Finally the expression of interested and comments expired the 16th of August and the letter is dated the 20th of August.</p>	

Town Planning Advisory Panel Comments

The application was not considered by the Town Planning Advisory Panel. The application is considered minor in nature. The proposed front fence does not adversely impact the streetscape and does not significantly impact on the built form of the dwelling.

Site Inspection

By Senior Planner on 23 August 2013.

DISCUSSION

Front Fence

The previous development application (P168/11) for the two storey dwelling proposed a solid brick fence of approximately 1.7m height which did not comply with LPP – 143 Fencing. The proposal included removal of the existing fence and construction of a rendered 1.7m high solid fence, which is inconsistent with the LPP - 143 Fencing. Council resolved:

The proposed "Street Front Fence" shown on the submitted plans does not form part of this approval. Revised detailed plans incorporating the demolition of the existing fencing within the front setback area and its replacement with fencing which is in compliance with the Local Planning Policy – Policy on Local Laws Relating to Fencing and the satisfaction of the Chief Executive Officer are to be submitted and approved by the Chief Executive Officer prior to the issue of a Building Licence.

Council refused the solid fence component of the proposal and required that the existing non-compliant fence be demolished and replaced with fencing which complies with LPP – 143 Fencing.

The proposed front fence does not comply with the Acceptable Development Criteria of the RDG Element 3.7.11, previously LPP – 143 Fencing. Element 3.7.11 of the RDG provides criteria by which to assess proposed variations to the front fence requirement can be assessed against. These are as summarised below.

- P4.1** *Less permeable fences above 1.2m may be approved when they meet the following:*
- i. A higher fence/wall is required for noise attenuation;*
 - ii. A less permeable fence would aid in reducing, headlight glare from motor vehicles. This would apply more particularly where the subject is opposite*

- or adjacent to an intersection which could lead to intrusion of light into windows of habitable rooms;*
- iii. Where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence;*
 - iv. Where the applicant can demonstrate to the Council that there is a need to provide visual screening to an outdoor living area. This shall apply in situations where there is no alternative private living space other than in the front of the residence or for part of the secondary side boundary of a corner lot.*

The proposed fence has an average fence height of 1.8 metres (1.2 metres solid render brick 0.6 metres infill panels). Infill panels are to a maximum height of 1.75. The maximum pier height on the front facade is 1.9 metres located on the second pier to the east of the lot frontage. A 2.2 metre high pier is located adjoining the neighbour to the east. The lot slopes approximately 0.7 metres adjoining the neighbour to the east and 0.55 metres at the front of the lot boundary. The minor discretion in overall fence height is required to compensate for the slope in the natural ground level. The fence and infill panels are articulated to ensure the fence where practical slopes with the natural ground level change. This proposed variation is required so as to facilitate sufficient support and suitable locations for the piers to maintain an aesthetically pleasing front fence.

The fence has been conditioned to ensure the infill panels have 60% visual permeability. The proposed fence (infill panels) is visually permeable. The development is not considered to adversely impact the streetscape of the locality.

The proposed aluminium infill panels and rendered brick fence are considered to be constructed in a material that is consistent the other fences in the surrounding locality. The fence is considered to significantly comply with the provisions of the Acceptable Development Provisions of the RDG except for the overall height of the gate. This minor variation is considered acceptable due to the slope in the natural ground level. The proposed fence is considered to comply with the PC provisions P4.1 iii of Element 3.7.11 of the RDG with regard to the overall height of the fence.

In conclusion the design of the fence is considered appropriate and therefore can be supported by Council.

Sight lines

The proposed fence is considered not to comply with the 'Deemed to Comply' provisions of Element 5.2.5 Sight Lines of the R-Codes, which state:

- C5** *Walls, fences and other structures truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, other structures adjoin vehicle access points where a driveway meets a public street and where two streets intersect (refer Figure Series 9).*

While the rendered brick wall is 0.75 metres high at the adjoining property other structures (infill panels and brick piers) adjoin the vehicle access point of 13 Coolgardie Avenue, where their driveway meets Coolgardie Avenue. The proposed fence will be required to be assessed as per the Design Provisions of the R-Codes, which state:

- P5** *Unobstructed sight lines provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, rights-of-way, communal streets, crossovers, and footpaths.*

The brick pier is 0.3 metres in width. The infill panels have been conditioned to be 60% visually permeable. There is a need to provide adequate sight lines for the neighbouring property. An existing 1.2 metre high fence currently limits existing sight-lines. The proposed fence will provide 60% permeable above 0.75 metres from ground level, therefore providing sight lines at vehicle access points to ensure safety and visibility.

Coolgardie Avenue is a narrow street, with vehicles using on-street car parking to the south of the street. It is considered vehicle movements on Coolgardie are restricted and therefore slow. Vehicles currently block visual sightlines and therefore existing sightlines are limited and restricted in some locations of the street. It is important to maintain sightlines of the footpath to ensure the safety of pedestrians. In this instance the permeability of the fence will ensure views to the footpath are maintained. The proposed fence adjoining 13 Coolgardie Avenue is considered to provide appropriate and safe sight lines.

The fence is not considered to impact significantly on the sightlines for vehicle accesses and egresses to 13 Coolgardie Avenue. It is noted that a 1.5 metre truncation is provided in the fence at the access and egress of 11 Coolgardie. The proposed fence is considered to provide sufficient sight lines so as to provide appropriate visibility and safety, therefore the proposed fence can be supported by Council.

CONCLUSION

The application is for an approval for a fence which exceeds the required height maximum of the relevant Local Planning Policy by a maximum of 0.1 metre. The fence is articulated to ensure its scale, height and design is consistent with Council Policy and with other fences in the locality. While the proposed fence does not comply with the 'Deemed to Comply' provisions of Element 5.2.5 Sight Lines of the R-Codes, it is considered the Design Provisions have been appropriately addressed so as to provide adequate sight-lines. The proposed fence is considered to comply with the PC provisions P4.1 iii of Element 3.7.11 of the RDG. Therefore it is recommended the fence be supported by Council and approved subject to appropriate conditions.

RECOMMENDATION

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

- (a) variation to Element 3.7.11 Front Fence of the Residential Design Guidelines;
- (b) variation to the 'Deemed to Comply' provisions of Element 5.2.5 Sight Lines of the R-Codes;

for a front boundary fence at 11 (Lot 24) Coolgardie Avenue, East Fremantle, in accordance with the plans date stamp received on 29 July 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. No planting/ landscaping greater than 0.75 metres in height to be located within 1.5 metres of the north east corner of the lot adjoining the access/ egress of 13 Coolgardie Avenue.
3. The proposed Fence shall be visually permeable 1.2m above natural ground level to the satisfaction of the Chief Executive Officer in consultation with relevant Council Officers.
4. Front fences must be visually permeable (can be seen through) to a minimum of 60% at any point higher than 1.2m above natural ground level. To be visually permeable the vertical surface of the fence is to have continuous vertical or horizontal gaps of a minimum 60mm over the vertical surface of the infill panel or is a surface offering equal or less obstruction to views, to the satisfaction of the Chief Executive Officer in consultation with relevant Council Officers.
5. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building 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 fence/wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Kevin Baker (owner) addressed the meeting in support of the officer's recommendation.

Cr Nardi – Cr de Jong

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

- (a) variation to Element 3.7.11 Front Fence of the Residential Design Guidelines;**
- (b) variation to the 'Deemed to Comply' provisions of Element 5.2.5 Sight Lines of the R-Codes;**

for a front boundary fence at 11 (Lot 24) Coolgardie Avenue, East Fremantle, in accordance with the plans date stamp received on 29 July 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. No planting/ landscaping greater than 0.75 metres in height to be located within 1.5 metres of the north east corner of the lot adjoining the access/egress of 13 Coolgardie Avenue.**
- 3. The proposed Fence shall be visually permeable 1.2m above natural ground level to the satisfaction of the Chief Executive Officer in consultation with relevant Council Officers.**
- 4. Front fences must be visually permeable (can be seen through) to a minimum of 60% at any point higher than 1.2m above natural ground level. To be visually permeable the vertical surface of the fence is to have continuous vertical or horizontal gaps of a minimum 60mm over the vertical surface of the infill panel or is a surface offering equal or less obstruction to views, to the satisfaction of the Chief Executive Officer in consultation with relevant Council Officers.**
- 5. This planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building 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 fence/ wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.* CARRIED 6:0

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 July 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T103.4**Bedford Street No. 21 (Lot 92)****Applicant: Rosalie Pech Eva Architect****Owner: P Wade****Application No. P87/13**

By Andrew Malone, Senior Town Planner on 12 August 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval for loft addition comprising a second storey attic space over the existing residence at 21 (Lot 92/Plan 3250) Bedford Street, East Fremantle. The proposal is recommended for approval.

BACKGROUND**Description of Site**

The subject site is:

- a 663m² block.
- zoned Residential R20.
- developed with a single storey dwelling.
- located in the Woodside 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

Town Planning Scheme No. 3 (TPS3) – R20.

Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : No impact
- Footpath : No impact
- Streetscape : Second storey loft addition over the existing residence.

Documentation

Plans and relevant forms date stamp received on 24 June 2013.

Date Application Received

24 June 2013

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

Nil

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 1 July and 15 July 2013. At the close of advertising no submissions were received. The adjoining neighbour to the south has indicated they do not object to the proposal as noted on the Neighbour Comment Form.

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 9 July 2013 and the following comments were made:

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>Consider redesign of Dutch gable – design to be amended to point of ‘cut off’ of Dutch gable</p>	<p>The headroom at the landing (9th riser), for example, would be reduced to 1840mm at the wall and 2150mm at the nosing of the 10th riser, a very cramped result. The absolute minimum headroom for any stair is 2000mm, and for a main staircase in a substantial and elegant house is a very mean result, more suitable to a service stair. Further it is not possible to ‘slide’ the position of the stair northerly to align with the truncated gable, as the Study has insufficient north-south length to accommodate the full run of stair treads (for 19 risers) required to attain the 3500mm rise to access the attic, plus the required clear space at the base of the stair.</p> <p>These matters are largely decided with reference to the Building Code of Australia Vol 2 The Housing Provisions (Class 1 &10) regarding access and egress and ceiling heights, together with experience of the practical considerations of those issues which constitute a comfortable, practical, well-designed stair.</p>	<p>The architect has indicated that the design of the gable is governed with reference to the Building Code of Australia Vol 2 The Housing Provisions (Class 1 &10) regarding access and egress and ceiling heights. To maintaining minimum internal stairwell access heights the design is required as proposed.</p>

Site Inspection

By Senior Town Planner on 13 August 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. A summary of the assessment is provided in the following tables.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	50%	363 (55%)	A
6.4.2 Outdoor Living	30sqm	N/A	A
6.5 Car Parking	2	N/A	A
6.6 Site Works	Less than 500mm	N/A	A
6.9.1 Overshadowing	25%	21%	A
6.9.2 Drainage	On-Site	On-Site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision.	Status
3.7.2 Additions and Alterations to Existing Buildings	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	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 proposed development requires Council discretion with regard to a setback variation to the southern boundary to the Town's Local Planning Policies and the Residential Design Codes, as detailed below. The adjoining neighbour to the south has signed a neighbour comment form stating they have no objection to the proposed variation/development. A Heritage Impact Statement has also been prepared. The proposed additions and alterations are considered sympathetic with the existing B category building.

Building Setbacks

The applicant is seeking Council discretion with regard to the ADP of Element 3.7.7 of the Residential Design Guidelines - Building Setbacks and Orientation for the southern elevation setback requirements. The proposed addition is located 1.2 metres from the southern lot boundary. The proposed addition is required to be set back 2.9 metres from the side boundary, based on a side elevation with major openings to the existing bedroom. The proposed addition to the southern elevation does not have major openings. Therefore the existing dwelling in itself does not comply with the current Code requirements. These proposed additions to the side elevation do not negatively impact on adjoining neighbours, with respect to overlooking and overshadowing, therefore the side elevation setback variation is considered appropriate.

The LPP RDG Element 3.7.7 provides performance 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.*

The primary street setback is required to be 7.5 metres from the front boundary. The existing set back to the dwelling is 4.2 metres. The proposed addition is located within the existing roof space with minor alterations to the roof required to accommodate gables, windows, the stairwell and second bathroom (bath 2). The set back to the proposed loft is 8.0 metres. There is no change to the proposed primary street setback, therefore the primary street setback complies with Council and R-Code ADP criteria and matches the traditional setbacks of the immediate area.

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

The proposed addition is located within the existing roof form of the dwelling. Minor changes to the existing roof form to include gables are required to accommodate the addition, however these changes do not significantly affect the visual presence of the existing dwelling or roof form.

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

While the setback to the southern boundary is required to be 2.9 (this is based on a wall with major openings to the existing dwelling). The proposed openings to the addition are considered minor openings and as such do not impact on adjoining neighbour. The existing Bed 1 window does not have a significant adverse impact on the adjoining neighbour. This window forms part of the original heritage dwelling. The proposed addition is considered to comply in other respects with the Acceptable Development Provisions of the LPP and the 'Deemed to Comply' provisions of the R-Codes. The proposed side setback variation is considered acceptable.

The proposed setback is considered to reflect the setback of the existing dwelling and ensure minimal changes to the roof form of the dwelling. The proposed setback is considered consistent with adjoining dwellings in the immediate locality.

The proposed addition is considered to improve the residential amenity of the dwelling for the current owners. The proposed addition does not significantly impact on the existing dwelling, the streetscape or adjoining neighbour and therefore it is considered that the proposal can be supported by Council.

CONCLUSION

It is considered the proposed addition is designed to be compatible with the existing dwelling and is consistent with the adjoining developments within the streetscape. The proposed addition has minimal impact to the dwelling and improves the residential amenity for the current owners. The proposed addition is fully compliant with the 'Deemed to Comply' of the R-Codes with the exception of the minor setback variation. The setback variation to the ADP of the RDG, is considered to comply with the PC of the RDG. The proposed addition is sympathetic to the streetscape and is deemed appropriate for the area and to the dwelling. The proposed addition is considered not to negatively impact on the heritage significance of the dwelling and is a sympathetic and considerate design.

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

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the side setback requirements (southern elevation) from 3.0 metre to 0.9 metres (*Element 3.7.7 of the Residential Design Guidelines - Building Setbacks and Orientation*) for a second storey loft addition to an existing dwelling at 21 (Lot 92/Plan 3250) Bedford Street, in accordance with the plans date stamp received on 24 June 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 proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
5. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
6. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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 Peter Wade (owner) addressed the meeting in support of the officer's recommendation.

Cr Martin – Cr de Jong

That Council exercise its discretion in granting approval for a variation to the side setback requirements (southern elevation) from 3.0 metre to 0.9 metres (*Element 3.7.7 of the Residential Design Guidelines - Building Setbacks and Orientation*) for a second storey loft addition to an existing dwelling at 21 (Lot 92/Plan 3250) Bedford Street, in accordance with the plans date stamp received on 24 June 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 proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
5. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
6. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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 6:0

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 July 2013, this application is deemed determined, on behalf of Council, under delegated authority.

Cr Wilson made the following impartiality declaration in the matter of 17 Chauncy Street: "As a consequence of the owners being known to me as neighbours when I resided at my former residence in Locke Crescent, 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".

T103.5 Chauncy Street No. 17 (Lot 5047)**Applicant/Owner: Dr J Hogan****Application No. P78/13**

By Andrew Malone, Senior Town Planner on 26 August 2013

PURPOSE OF THIS REPORT

This report considers a planning application for additions and alterations comprising of two ground floor bedrooms, first floor alfresco and a rear alfresco area at 17 (Lot 5047) Chauncy Street, East Fremantle. The proposed additions and alterations are recommended for approval subject conditions.

Description of Site

The subject site is:

- a 736m² block
- zoned Residential R12.5
- developed with a two storey dwelling.
- located in the Richmond Hill Precinct.

Statutory Considerations

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

Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Documentation

Plans and relevant forms date stamp received on 4 June 2013.

Justification Letter and neighbours consent form date stamp received on 26 June 2013.

Amended plans and supporting documentation date stamp received on 19 August 2013.

Date Application Received

4 June 2013

CONSULTATION**Advertising**

The applicant has provided a copy of the proposed plans signed by the neighbour at 27 (Lot 5048) Locke Crescent. A further set of amended plans have been signed by the neighbour at 27 Locke Crescent. The proposed development was also advertised to surrounding neighbours. No submissions were received.

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting held on 11 June 2013 and the following comments were made:

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
Panel does not support the reduced setback requirement to the front portion of this application, as it is contrary to Council's policy on front setback requirements.	See in depth attached letter by applicant addressing the Performance Criteria with regard to front setback. Amended plans submitted 19 August 2013.	The proposed amended plans are considered to significantly address the set back issue raised by the Panel and Council. The proposed development is considered of a compatible scale and bulk as it presents to Chauncy Street as adjoining buildings. It is considered the proposed development complies with the averaging of the front setback element of the R-Codes.

Site Inspection

By Senior Town Planner on 11 July 2013. Site meeting with applicant and owner 8 August 2013.

STATUTORY ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	55%	56%	A
6.4.2 Outdoor Living	30sqm	67sqm	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	As existing	A
6.9.2 Drainage	On-site	On-site	A

Local Planning Policies Assessment

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

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

6.3 Boundary Setbacks							
Wall Orientation	Wall Type	Wall Height	Wall length	Major Opening	Required Setback	Proposed Setback	Status
Front (west)							
Ground	Bed	3.0m	6.7m	Y	7.5m	4.5m	A*
Ground	Alfresco	6.3m	5.0m	Y	7.5m	5.2m	A*
Rear (east)							
Ground	alfresco	2.5m	2.8m	N	6.0m	6.8m	A
Side (north)							
Ground	Bed	3.0m	11.5m	N	1.5m	1.8m	A
Upper	Alfresco	6.3m	18.0m	Y	4.7m	2.7m	A
Side (south)							
Ground	As Existing						

*The proposed setback from the primary street is 4.5 and 5.2 metres to the ground and first floor. The proposed addition complies to the averaging provision for front setback as outlined in 'Figure Series 2 – Street Setbacks' Element 5.1.2 'Deemed to Comply' C2.1 iii of the R-Codes, which allows for the front setback to be averaged across the entire lot frontage.

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 (**ADP**) and have been assessed under the provisions of the Performance Criteria (**PC**) of the Guidelines:

Built Form of Additions and Alterations

The proposed amended additions and alterations are setback 4.5 metres from the front boundary to the ground floor and 5.2 metres to the first floor. The additions are visible from Chauncy Street. 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 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 subject dwelling is not listed on the Town's Municipal Heritage List. The additions and alterations are not to a contributory building, therefore P1.1 cannot be used for assessment purposes. As such the PC cannot be used to assess the development application.

The proposed additions have been designed to reduce the overall bulk and scale of the existing building and have been designed to align with the new dwelling located on the corner of Locke Crescent and Chauncy Street. The addition is proposed within the front setback area, however the proposed dwelling complies with Element 5.1.2 C2.1 iii which states buildings setback from the front boundary:

reduced by up to 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 open space between the setback line and line drawn parallel to it at twice the setback distance (refer Figure 2a, 2b and 2c)

The required front setback is 7.5 metres. The proposed additions comply with the 'averaging' front setback requirement as stated above. The proposed additions, as viewed from Chauncy Street through to Locke Crescent, are considered to create a consistent flow of setback, scale, bulk and built form and significantly maintain the prevailing building line of the locality form. This will be discussed in greater detail later in the report.

Building Setbacks

The proposed development incorporates a front setback variation to the Acceptable Development Provisions of Element 3.7.7 of the RDG (front boundary) setback requirements. The proposed set back from the front boundary is required to be 7.5 metres. The proposed ground floor is situated 4.5 metres from the front lot boundary and 5.2 metres from the first floor to the front lot boundary. The proposed amendments are considered to improve the overall design of the existing dwelling by articulating the front of the building.

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

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

The proposed setback from the primary street is 4.5 and 5.2 metres respectively. The applicants submits the proposed addition adheres to the averaging provision for front setback as outlined in 'Figure Series 2 – Street Setbacks' Element 5.1.2 C2.1 iii of the R-Codes, which allows for the front setback to be averaged across the entire lot frontage. The average lot setback is greater than 7.5 metres and therefore complies with the 'Deemed to Comply' requirement of Element 5.1.2 of the R-Codes.

When assessed as per the prevailing traditional built form and setback of the immediate locality, the proposed addition is considered to significantly match the immediate locality of Chauncy Street. The incursion into the front setback area is considered a variation to the prevailing 7.5 metre setback requirement, however due to the proximity of the dwelling to Locke Street, the proposed design of the additions are considered to match the adjoining dwelling to the north and provide a consistent built form. Notwithstanding the prevailing front setback requirements, in some instances there are minor incursions

into the street setback area. These are generally to carports/ garages and are single storey. The proposed additions are however considered to articulate the front of the dwelling. The applicant further proposes improve the front of the lot and revert a previously retained area back to natural ground level. New stepped landscaped retaining walls are proposed, set back 3.0 metres from the front lot boundary. This will reduce the overall impact of the reduced setback to the additions with regard to scale and bulk.

It is noted that the applicant has indicated that there are no alternatives with regard to providing additional accommodation in the building. The proposed additions and alterations are required to be assessed as per the PC of the RDG. This requires:

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

This criteria is not applicable, the subject dwelling is not listed on the Town's Municipal Inventory.

The proposed addition is considered not to have a significant adverse impact to the visual presence of the streetscape and of adjoining dwellings. This will be discussed in greater detail later in the report.

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

The side setback to the north western boundary is required to be 4.7 metres due to the major opening of the alfresco area. The proposed set back is 2.7 metres. The proposed side setback is consistent with the prevailing setback of the dwelling and of the adjoining dwellings. The alfresco area does overlook an adjoining lot to the north, however the adjoining neighbour has signed a copy of the plans indicating they have no objection to the proposed development. The proposed extent of overlooking is considered acceptable.

As is illustrated on plan 3, the sightlines through the front set back of the first floor are consistent with the front setback of the adjoining property. The overall design of the addition does require Council discretion with regard to front setbacks, however the additions are considered to improve the articulation of the building, improving the overall streetscape.

There are no intrusions into view corridors for surrounding neighbours.

In conclusion, the proposed front setback variation to the Acceptable Development Provisions is considered acceptable, as the proposed development is considered to comply with the Performance Criteria of the RDG. The proposed front setback is supported.

Visual Privacy

The 'Deemed to comply' (C) provisions for Element 6.4.1 Visual privacy of the R-Codes require 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 and studies;
- 6.0 metres in the case of habitable rooms, other than bedrooms and studies; and
- 7.5 metres in the case of unenclosed outdoor active habitable spaces.

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

The 'Design Provisions' (P) of 6.4.1 allows for:

1. *Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:*
 - *building layout, location;*
 - *design of major openings;*
 - *landscape screening of outdoor active habitable spaces; and/or*
 - *location of screening devices.*

2. *Maximum visual privacy to side and rear boundaries through measures such as:*
 - *offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
 - *building to the boundary where appropriate;*
 - *setting back the first floor from the side boundary;*
 - *providing higher or opaque and fixed windows; and/or*
 - *screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).*

The proposed first floor alfresco area does overlook the side of the adjoining lot to the northwest, however this is not over an active habitable space. The proposed alfresco area is proposed in the front setback area for Chauncy Street and has been designed to maximise views to the river, however the alfresco area does not adhere to the requirements of the 'Deemed to Comply' provisions of the R-Codes. No screen devices are proposed to minimise overlooking. The adjoining neighbour to the north has signed a copy of the plans acknowledging the proposed overlooking and stating they have no objection to it.

It is considered the proposed extent of overlooking and area overlooked is not to an active habitable area and as such minimal direct overlooking of active habitable spaces and outdoor living areas of the adjacent dwelling is achieved. Therefore it is concluded, the proposed major opening to the alfresco area can be supported from the aspect of overlooking.

Roof Pitch

The proposed extensions comprise additions to the front and to the rear of the dwelling. The proposed additions to the rear of the dwelling have a 15° roof pitch and the front additions have a flat roof. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

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

The Performance Criteria states:

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

The roof form is of a pitch and material that is consistent with the existing dwelling. The proposed rear alfresco area will not be visible from the street. The proposed additions do complement the traditional form of surrounding development in the immediate locality and therefore is considered to comply with the Performance Criteria of the RDG.

The proposed design, scale and form of the front roof is considered to complement the traditional form of the existing dwelling through a simple flat roof design that matches the existing front facade. The proposed roof design of the addition does not dominate the existing dwelling or streetscape.

The proposed roof is considered appropriate for the area and complements the existing dwelling, therefore the roof design and pitch can be supported.

CONCLUSION

It is considered the proposed additions and alterations are compatible with the prevailing scale and bulk of dwellings in the immediate area. The rear alfresco area as proposed is considered acceptable and can be supported. The proposed additions and alteration within the front setback area are considered not to comply with the ADP of the RDG, however they are considered to comply with the PC and the 'Deemed to Comply' provisions of the R-Codes. The proposed design of the additions improves the overall articulation, presence and street amenity of the dwelling, through the tied retaining and landscaping. The proposed additions are considered acceptable with regard to setback, building height, scale and overlooking. The proposed front additions and alterations are supported and therefore it is recommended the amended additions can be supported by Council and approved subject to appropriate conditions.

RECOMMENDATION

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

- (a) variation to the front setback requirements (eastern elevation) – required setback 7.5 metres. Proposed setback is 4.5 metres (ground floor) and 5.2 metres (first);
- (b) variation to the setback requirements of the side setback (northern elevation) – required setback 4.7 metres. Proposed setback is 2.7 metres;
- (c) element 3.7.8 of the Residential Design Guidelines: Roof pitch; and
- (d) 'deemed to comply' element 6.4.1 Visual privacy of the R-Codes;

for additions and alterations comprising a ground floor bedroom, first floor alfresco and a rear alfresco area at 17 (Lot 5047) Chauncy Street, East Fremantle, in accordance with the plans date stamp received on 19 August 2013 subject to the following conditions:

1. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
2. Area located in front of new retaining wall to be suitably planted/ landscaped. Landscaping to be no higher than 0.75m when within 1.5m of where the Vehicle Access Point (driveway) meets a street.
3. Where this development requires that any facility or service within a street verge trees to be removed, modified or relocated then such works must be approved by Council and to the satisfaction of the Chief Executive Officer.
4. 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*)
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be

removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

11. 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.
12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building 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 Brent De Pledge (designer) accompanied by the owners, Dr Jennifer Hogan and Mr Max Bowater, addressed the meeting in support of the officer's recommendation.

Cr de Jong – Cr Martin

That the application for additions and alterations comprising a ground floor bedroom, first floor alfresco and a rear alfresco area at 17 (Lot 5047) Chauncy Street, East Fremantle be deferred to the September meeting of Council to allow the applicants to provide a 3D streetscape of both Locke Crescent and Chauncy Street which shows the new development and its impact upon the streetscape.

CARRIED

Cr Wilson and Cr de Jong made the following impartiality declaration in the matter of 48 George Street: "As a consequence of Mr Owen Ritson, one of the submitters and present in the gallery, being known to us due to having engaged his services as a tree surgeon, there may be a perception that our impartiality on the matter may be affected. I declare that we will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

Cr Collinson made the following impartiality declaration in the matter of 48 George Street: "As a consequence of Mr Owen Ritson, one of the submitters and present in the gallery, being known to me as a friend, 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".

T103.6 George Street No. 48 (Lot 300)

Applicant: R Bates-Smith

Owner: Mulloway Pty Ltd

Application No. P101/13

By Jamie Douglas, Manager Planning Services on 27 August 2013

PURPOSE OF THIS REPORT

Approval has been granted for a 12 month period to increase patronage at the wine bar at 48 George Street to a maximum of 100 patrons. This approval period has now expired and the applicants seek a renewal of the planning approval on an indefinite basis. This report recommends that the application be approved subject to conditions.

BACKGROUND

At its meeting on 7 August 2012, the Town Planning & Building Committee considered a recommendation for refusal of the application and resolved as follows (a copy of this report forms Attachment 1 to this report):

That the matter be deferred pending finalisation of the Access and Parking Management Study to enable officers to prepare a further report based on those findings.

At its meeting on 20 August 2012 Council subsequently resolved:

That:

A. *approval be granted, for a 12 month period, for an increase in the maximum number of patrons to be accommodated within the restaurant and wine bar at 48 George Street, from 70 to 100, subject to the following conditions:*

- 1. the requirement for an owner's contribution to the George Street Precinct Access and Park be reassessed prior to the expiry of this 12 month period.*
- 2. The applicants and operators of the venue shall consult with all submitters to the application who have identified they do not support increased numbers at the venue and shall present a plan of management to the satisfaction of the Chief Executive Officer, which addresses (to the maximum practical extent) the concerns of noise, cigarette smoke and anti-social behaviour within 8 (eight) weeks from the date of this approval. The increase in patron numbers, the subject of this approval, may not be commenced prior to the receipt and acceptance of the plan of management by the CEO.*

Footnote:

Approval by Office of Racing Gaming and Liquor will be required.

B. *Council staff consult with the owners/occupants of nearby Hubble Street dwellings identified in this report regarding the implementation of 'Residents Only' parking restrictions and that a further report*

Statutory Considerations

Town Planning Scheme No. 3

Local Planning Strategy – Plympton Precinct (LPS)

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Mixed Use – TPS No. 3

'A-' Management Category Municipal Heritage Inventory

Relevant Council Policies

Local Planning Policy – Contribution to the Management of Access and Parking in George Street Precinct

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : No impact
- Footpath : No impact
- Streetscape : The queuing patrons are at times impacting upon the streetscape.

Documentation

Application and supporting information date stamp received 1 August 2013.

Date Application Received

1 August 2013

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

- 24 January 2001 A Planning Approval for alterations and additions to the bottle shop was approved by Council.
- 21 April 2004 Building Licence issued for alterations and additions to the liquor store.
- 12 January 2011 Planning Approval issued for external repainting, replacement of awning and re-cladding of planter boxes.
- 15 March 2011 Council conditional approval for a partial change of use from bottle shop to restaurant and wine bar and for an extension and internal alterations
- 20 August 2012 Council granted approval for an increase in patronage from 70 to 100 persons for a period of 12 months.

BACKGROUND

The application approved by Council on 15 March 2011 was for a partial change of use from existing bottle shop and retail use to bottle shop and restaurant/wine bar and for a minor extension and internal alterations associated with the proposed change of use. The change of use was associated with the rear shop and cellar areas which have floor areas of 160m² and 100m² respectively and it was proposed would have seating for 70 people – 48 on the ground floor and 22 overflow seats in the cellar.

The proposed hours of operation were:

Day	Bottle Shop	Restaurant/Wine Bar
Monday - Tuesday	9.30am – 10.00pm	11.00am – 10.00pm
Wednesday - Saturday	9.30am-10.00pm	11.00am-midnight
Sunday	10.00am-10.00pm	11.00am – 10.00pm

The total number of staff at any one time would be 5-6 (Wine Bar 3-4 & Bottle Shop 2-3)

No additional on site car parking was available to support the application, accordingly. In combination with the existing 17 bay dispensation and 3 on site spaces, the proposal was assessed as having a net parking shortfall of 15 bays for the entire floor area proposed for the wine bar use.

To address the above shortfall conditions of approval were applied which:

1. Required a contribution of \$135,000 to a future George Street Precinct Access and Parking study (instead of a 'cash-in lieu' payment of \$337,500 which would otherwise be required under the Scheme).
2. Required the premises to close by midnight, except on Sunday, Monday and Tuesday nights when customers are required to leave the premises by 10.00pm.
3. Restricted the maximum number of customers in the wine bar/restaurant to seventy (70) at any one time.

The application given temporary approval by Council on 20 August 2012 allowed for an increase in the maximum number of customers allowed on site to 100 and was subject to the following conditions:

- A. approval be granted, for a 12 month period, for an increase in the maximum number of patrons to be accommodated within the restaurant and wine bar at 48 George Street, from 70 to 100, subject to the following conditions:
 - 1. *the requirement for an owner’s contribution to the George Street Precinct Access and Park be reassessed prior to the expiry of this 12 month period.*
 - 2. *the applicants and operators of the venue shall consult with all submitters to the application who have identified they do not support increased numbers at the venue and shall present a plan of management to the satisfaction of the Chief Executive Officer, which addresses (to the maximum practical extent) the concerns of noise, cigarette smoke and anti-social behaviour within 8 (eight) weeks from the date of this approval. The increase in patron numbers, the subject of this approval, may not be commenced prior to the receipt and acceptance of the plan of management by the CEO.*
- B. Council staff consult with the owners/occupants of nearby Hubble Street dwellings identified in this report regarding the implementation of ‘Residents Only’ parking restrictions and that a further report on implementation be prepared for determination by Council.

CONSULTATION

Advertising

The application was advertised by a sign on the site, newspaper advertisement and letter to 460 neighbours (which was the same process as applied to the prior application in August 2012). Submissions were invited during the comment period 10 August 2013 to 26 August 2013.

Nine submissions were received during the advertising period, one of which was in support of the proposal, and one provided conditional support. Copies of the various submissions are attached in full and the following is a summary of the issues which have been raised. These matters are addressed within the body of the report. The submissions were forwarded to the applicant for response. No response was received at the time of writing however the applicant has the opportunity to address the committee.

ISSUE
<p><u>Support for Application</u></p> <p>One submission supported the application. The submission stated that successful businesses should be encouraged to grow, 100 people is a modest number and initial concerns regarding noise and parking have not been a problem.</p> <p>One other submitter did note there is no longer a noisy queue outside the venue since numbers were increased – although they objected to increased parking and noise.</p>
<p><u>Parking</u></p> <ul style="list-style-type: none"> - Noticed an increase in traffic congestion and lack of parking since the trial commenced. - There is currently a problem with lack of parking particularly severe on Friday, Saturday and Sunday nights. - Lack of parking particularly affects residents who do not have driveways. - Parking problems are particularly severe in Hubble Street which also suffers from the patrons from the Trade Winds Hotel. - Already tight in area of dense housing. - Significant increase in on-street parking in Hubble Street since the wine bar opened. Increased traffic and turning movements are a pedestrian hazard since Hubble Street is poorly lit. - Patrons park in the no parking area directly behind the two 15 minute bays in front of the Wine Store- creates a dangerous situation. - Parking is already at a premium with many residents having no onsite parking and two cars parked on the street.

Use/Amenity

- Smokers gather outside the venue, talk loudly and leave cigarette refuse.
- Late evening departures cause disturbance from noise.
- No amount of effort on the Wine Store's behalf can contain the noise generated by 100 voices and arrivals/departures throughout the night.
- People outside the venue talking on their phones and smoking are keeping neighbours awake.
- The residents of Hubble Street live with a noisy venue in their midst, and are unfairly disturbed on a regular basis.
- The increase in numbers has led to increased noise, traffic congestion and parking problems – these have not been addressed by the operators during the trial period.
- Many patrons are not locals and so put pressure on parking.

APPLICANTS SUBMISSION

The applicant has made the following submission in support of their request for permanent approval for a capacity of 100 patrons.

- *“There have been no complaints received from Council or the Department of Racing, Gaming and Liquor since the inception of The Wine Store's wine bar.*
- *The ratio of local patrons frequenting the venue has increased significantly due to the fact people know they will not have to line up.*
- *Contrary to the Planning Report dated 7 August 2012 recommending refusal to the original application the following has occurred since trading with 100 patrons;*
- *No parking shortfall has occurred. This is evidenced by the attached Parking Availability Survey*
- *No undue (or negative) amenity impacts have occurred*
- *Traffic has not amounted to have a noticeable effect on traffic flow and safety*
- *The Wine Store should be considered small, 'local' and low-impact at a capacity of 100 patrons.*
- *In summary The Wine Store has proven beyond reasonable doubt the ability to manage an increase from 70 to 100 patrons and seeks Council's approval to continue to operate with a capacity of 100 patrons on a permanent basis.”*

ASSESSMENT**Temporary Permit Conditions**

It is considered that Council's requirements in respect to its temporary approval have been met. The operators have consulted with the immediate submitters and are taking reasonable steps to manage noise and the impacts of patrons in the vicinity of the venue. There have been no recorded complaints from residents during this period.

Hubble Street residents were consulted as part of the survey of all households in the Plympton Precinct in respect to the outcomes and options arising from the Access and Parking Study. This survey clearly indicated that there was not general support for a resident parking program in the Precinct. However it is recognised that notwithstanding the general availability of on street parking to service commercial and residential needs in the Precinct, particular properties may be individually affected. In respect to these properties, the owners have the opportunity to apply for a resident parking permit and for parking restrictions to be applied in respect to their property frontage under the existing Resident Parking Permit Policy. Residents are being made aware of this option as part of the initiatives arising from the Access and Parking Management Plan.

Residential Amenity

The impacts upon residents in the immediate vicinity of the venue cannot be discounted, however they are considered to be an inevitable consequence of increased numbers of people moving through residential areas to access commercial venues. There is no indication that the disturbance identified by submitters is other than persons behaving

lawfully in the public domain. Accordingly no Planning Permit conditions can be applied which could further effectively mitigate these impacts. In approving the temporary permit for 100 patron capacity at the venue, elected members had accepted that the level of residential amenity for some dwellings surrounding the George Street Mixed Use zone will be less than that anticipated in outer urban residential suburbs.

Car Parking

The applicant's submission that patrons were not experiencing unreasonable parking difficulties are supported by the findings of the Traffic and Parking Management Plan which confirms that in the Precinct as a whole, there is adequate on-street capacity to accommodate residential and commercial demands providing adequate management and planning actions are undertaken. However this is not to say that individual properties may not be unreasonably impacted by their proximity to commercial venues. As previously stated, individual property owners can apply for resident parking restrictions and permits in respect to their property under the current Council Resident Parking Policy.

At its meeting on 16 July 2013 Council determined that it is necessary for the continued imposition of the parking contributions (in accordance with the Planning Policy - George Street Mixed Use Precinct New Development Contribution) in light of outcomes from the Traffic and Parking Management Plan. While the Plan concludes that adequate on-street parking capacity exists to reasonably accommodate parking demand projections, it also identifies a number of works which will be required over time to ensure reasonable accessibility is maintained for commercial premises and residences in the Precinct. The projected cost of these works is \$1.65 million. It is reasonable to conclude that the existing and proposed commercial developments are the primary driver for and beneficiary of these works as any new residential development is likely to fully provide for its onsite parking demand.

The following issues are also relevant to the application of the Policy:

- The proposed rate of the contribution (\$9,000 for each space not provided on site) is significantly less per space than that of cash-in-lieu payments (\$22,500 per space) and as such is less of a potential barrier to new development, change of use and redevelopment proposals.
- In considering whether the impost of the contribution to parking in the public domain is reasonable, it should be noted that developers who do not provide the required on-site car spaces enjoy a higher development potential and achieve more developable area in comparison with developers who provide for all their parking demand onsite.
- It is inequitable not to require all developments to accept (or contribute wholly or in part) to the public cost of management of parking generated by their development.
- By allowing commercial parking generation to be wholly or partially accommodated on-street when development is approved, Council is accepting the on-going management of this parking demand into the future. As development increases the cost of management measures is likely to increase.
- It is inequitable to allow a 'first come, best dressed' approach to parking provision whereby current development is allowed to absorb the existing on-street parking capacity at the expense of potential future developments occurring within the "mixed use" zone.

In accordance with the previous assessment of the application for an increase in patronage to 100 patrons, it will require a parking dispensation of 6 bays in addition to the 15 bay shortfall already approved for the development. Accordingly it is considered that any approval of the application should be conditional upon a developer contribution of \$54,000.

CONCLUSION

The applicants have reasonably managed the impacts of the increased patronage upon the amenity of nearby residents during the trial period. However it is anticipated that the level of residential amenity for some dwellings surrounding the George Street Mixed Use zone will be less than that anticipated in outer urban residential suburbs as a

consequence of increased numbers of people moving through the area to visit commercial venues.

The existing development has a substantial parking shortfall of 15 on site bays. The increased patronage will give rise to a further shortfall of 6 bays and it is considered that that any approval of the application should be conditional upon a developer contribution of \$54,000.

RECOMMENDATION

That the application (date stamp received 1 August 2013), to permanently vary the conditions of planning approval relating to a restaurant and wine bar at No. 48 George Street, East Fremantle by raising the maximum number of customers on site from 70 to 100, be approved subject to the following condition:

1. That (pursuant with the Planning Policy - George Street Mixed Use Precinct New Development Contribution) the owner of the land shall pay to the Town of East Fremantle (**Town**) \$54,000 representing the owner's contribution (**Contribution**) to the George Street Precinct Access and Parking Management Plan in lieu of 6 on site car parking spaces not provided.

Hubble Street residents, Mr Mark Sambrailo, Ms Anne Machin, Mr Owen Ritson & Ms Jodie Payne addressed the meeting and expressed concern with the increase in numbers. Mr Sambrailo drew attention to the lack of traffic control in the area, congestion at the intersection of Hubble & George Streets, traffic speed, vehicles continuing to travel the wrong way up Hubble Street and impaired vision in George Street due to parking on either side of the road.

Mr Rob Bates-Smith addressed the meeting in support of the permanent increase in numbers. Mr Bates-Smith responded to the submitters concerns including antisocial behaviour and noise issues and undertook to host another 'community forum' as he felt the comments did not address the current trading environment.

Mr Jamie Douglas, Manager – Planning Services, responded to Mr Bates' concerns regarding the proposed contribution to the George Street Precinct Access and Parking Management Plan in lieu of a parking shortfall.

T104. ADJOURNMENT

Cr de Jong – Cr Nardi

That the meeting be adjourned at 8.14pm.

CARRIED

T105. RESUMPTION

Cr de Jong – Cr Collinson

That the meeting be resumed at 8.41pm with all those present at the adjournment in attendance.

CARRIED

T106. REPORT'S OF OFFICERS (Cont)

T106.1 *George Street No. 48 (Lot 300)*
Applicant: R Bates-Smith
Owner: Mulloway Pty Ltd
Application No. P101/13

Cr de Jong – Cr Martin

That the application (date stamp received 1 August 2013), to permanently vary the conditions of planning approval relating to a restaurant and wine bar at No. 48 George Street, East Fremantle by raising the maximum number of customers on site from 70 to 100, be approved subject to the following condition:

1. That (pursuant with the Planning Policy - George Street Mixed Use Precinct New Development Contribution) the owner of the land shall pay to the Town of East Fremantle (Town) \$54,000 representing the owner's contribution (Contribution) to the George Street Precinct Access and Parking Management Plan in lieu of 6 on site car parking spaces not provided.

Footnotes:

- (a) *This approval does not negate the conditions of approval applicable to the original application for a partial change of use from bottle shop to restaurant and wine bar date stamp received 22 December 2010 (other than Condition (4) of that approval).*
- (b) *The method and possible staging of the contribution shall be at the discretion of the Chief Executive Officer.*

CARRIED 6:0

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 July 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T106.2 Fortescue Street No. 14 (Lot 177)
Applicant: Mike Johnson
Owner: Mike Johnson
Application No. P226/2010 & P138/2011
 By Andrew Malone, Senior Planner on 19 August 2013

BACKGROUND

Purpose of this Report

This report considers a Section 31 State Administration Tribunal Order for Council to reconsider an application for Planning Approval for development approval of a steel lattice vehicular gate and pedestrian entry gate which have been erected on the front boundary at 14 (Lot 177) Fortescue Street, East Fremantle.

A previous planning application for retrospective approval was refused by Council on 17 May 2011. Amended plans were submitted to Council on 12 August 2013. Based on these amended plans, the proposal is recommended for approval.

Past Resolution

At its meeting on 7 May 2013 Council considered an application for retrospective approval for steel lattice automatic vehicular entrance gate measuring 2.18 metres in height (maximum). Council determined to refuse the application for the following reasons:

1. *Council refuse the application for planning approval for amended steel lattice driveway and front entry gates located on the front fence line at 14 Fortescue Street, East Fremantle for the following reasons:*
 - 1.1 *The proposed gates exceed the maximum height requirements for front fences specified in Part 3.1 of Local Planning Policy 143 – Policy on Local Laws Relating to Fencing.*
 - 1.2 *The application does not meet the Objectives of the Town Planning Scheme No.3, Clause 4.2 and Clause 10.2 (j), (o), (p) of the Scheme since it would detract from the visual amenity of the area and is incompatible with the existing fence and those of surrounding properties and would be a discordant element which is not supported by the prevailing built form character in the vicinity.*
2. *That the steel lattice driveway and front entry gates be removed from the front boundary within a period of 90 days from the date of this determination.*

Amended plans have subsequently been lodged.

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : No impact
- Footpath : No impact
- Streetscape : The gates will be visible from streetscape. The proposed amended plans bring the front fence significantly into compliance with the Town’s Guidelines.

Documentation

Plans and relevant forms date stamp received on 12 August 2013.

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

- 21 December 2010 Email from Peta Cooper to Harry Monaghan requesting – confirmation of natural ground level and dimensions of fencing/gates including height above NGL
- 16 March 2011 Amended plans received indicating ‘average height of walls and gates 1800mm above natural ground level’.
- 17 May 2011 Council refuses application for retrospective planning approval for driveway and pedestrian front entry gates.
- 7 May 2013 Council refuses application for retrospective planning approval for front entry gates and approves a rear sauna area.

DESCRIPTION OF THE PROPOSAL

The proposal is for an amended application for front vehicular gate with associated piers. The previous application for retrospective approval incorporated steel lattice automatic vehicular entrance gate measuring 2.18 metres in height (maximum) and a 2.0 metre pedestrian gate. The amended application has reduced the pillar height to 1.95 metres and the maximum height of the vehicular entrance gate to 1.9 metres. The maximum height of the pedestrian gate is approximately 1.8 metres.

CONSULTATION

Town Planning Advisory Panel

The previous application was considered by the Panel at its meeting on Tuesday 25 January 2011. The Panel made the following comments:

The Panel’s and applicant’s comments from the report dated 25 January 2011 are summarised in the table below.

PANEL COMMENT	APPLICANT RESPONSE
<p>Panel does not support retrospective approval and would recommend replacement of gates with a material sympathetic to existing fence material. Gate and fence should be height compliant.</p>	<p>The existing piers on the upper side of the gates are approximately 1800 mm above the ground level. The gates at this point do not exceed the height of the adjacent pier The steel gates have an attractive pattern, are visually permeable and provide security needed for the owners children. The gates cost \$18,000 and improve the presentation of the property.</p>

Due to the minor scale and nature of the proposed reduction of height, the proposed application was not referred back to the Panel.

Site Inspection

By Senior Planner on 20 August 2013.

DISCUSSION

Note*

This planning application was lodged prior to the adoption of the Town's Residential Design Guidelines and was previously assessed as per the previous Town's policies. However as the proposed amended development is required to be determined under a Section 31 State Administration Tribunal, the application for Planning Approval has been assessed under the Town's Residential Design Guidelines.

Front Fence

The proposed amended front fence does not comply with the Acceptable Development Criteria of the RDG Element 3.7.11. Element 3.7.11 of the RDG provides criteria by which to assess proposed variations to the front fence requirement can be assessed against. These are as summarised below.

P4.1 *Less permeable fences above 1.2m may be approved when they meet the following:*

- i. A higher fence/wall is required for noise attenuation;*
- ii. A less permeable fence would aid in reducing, headlight glare from motor vehicles. This would apply more particularly where the subject is opposite or adjacent to an intersection which could lead to intrusion of light into windows of habitable rooms;*
- iii. Where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence;*
- iv. Where the applicant can demonstrate to the Council that there is a need to provide visual screening to an outdoor living area. This shall apply in situations where there is no alternative private living space other than in the front of the residence or for part of the secondary side boundary of a corner lot.*

The amended application has reduced the pillar height to a maximum of 1.95 metres and the maximum height of the vehicular entrance gate to 1.9 metres. The maximum height of the pedestrian gate is approximately 1.8 metres.

The maximum height of gate and pier is 1.9 metres. This is to the northwest section of the gate, where the gate is required to be higher to compensate for the slope in the natural ground level. This proposed variation is required so as to facilitate the location and free movement of the gate and also to provide sufficient support for the gate. The proposed gate is considered to comply with the PC provisions P4.1 iii of Element 3.7.11 of the RDG. The 0.1 metre variation is only to the northwest section of the gate and supporting pier where the land slopes. In all other areas the fence is considered to comply with Council's requirements with regard to height.

The material of the gate is powder coated wrought iron. While the proposed gate is not changing from existing, it is considered the reduction in height integrates better with the street. The proposed wrought iron gate is considered to be constructed in a material that is consistent the other fences in the surrounding locality. The gate is considered to significantly comply with the provisions of the Acceptable Development Provisions of the RDG except for the overall height of the gate. This minor variation is considered acceptable due to the slope in the natural ground level which slopes approximately 0.2metres over the extent of the length of the gate. The proposed amended gate/ fence is considered an improvement over the application that was previously refused by Council.

The proposed gate/ fence is visually permeable. The development is not considered to impact on the streetscape of the locality. Overall, the amended fence/ gate is considered appropriate and therefore can be supported by Council.

CONCLUSION

The application is for an approval for amended gates which exceed the required height maximum of the relevant Local Planning Policy by a maximum of 0.1 metre. The gate is considered of a scale, height and design similar to other fences in the locality and therefore is compatible with the existing prevailing fences/gates in the vicinity. The proposed gate is considered to comply with the PC provisions P4.1 iii of Element 3.7.11 of the RDG. Therefore it is recommended the amended gate can be supported by Council and approved subject to appropriate conditions.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to 3.7.11 Front Fence of the Residential Design Guidelines for front fence/ gate to an existing dwelling at 14 (Lot 177) Fortescue Street, East Fremantle, in accordance with the plans date stamp received on 12 August 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. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following is not a condition but a note 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.*

Cr Martin – Cr de Jong

That Council exercise its discretion in granting approval for a variation to 3.7.11 Front Fence of the Residential Design Guidelines for front fence/ gate to an existing dwelling at 14 (Lot 177) Fortescue Street, East Fremantle, in accordance with the plans date stamp received on 12 August 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. **This planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

The following is not a condition but a note 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.*

CARRIED 6:0

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 July 2013, this application is deemed determined, on behalf of Council, under delegated authority.

- T106.3** **Silas Street No. 12 (Lot 594 & 621)**
Applicant: Desert Storm Pty Ltd
Owner: Desert Storm Pty Ltd
Application No. P60/2013
 By Christine Catchpole, Planning Officer on 9 August 2013.

PURPOSE OF THIS REPORT

This report considers an application for a storage facility and entry statement incorporating bicycle parking racks, landscaping, solar panels and wall signage.

BACKGROUND

Council approved an application for planning approval for alterations and additions to the medical practice comprising the following on 15 November 2011:

- (i) enclosure of an undercroft car parking area to create 111m² of floor space to accommodate 2 consulting rooms, 3 offices, a waiting room/reception area and store; and
- (ii) development of 18 on site car spaces and a service vehicle/ambulance bay.

DESCRIPTION OF PROPOSAL

Storage Facility and Entry Statement

The current proposal is for an entry statement and storage facility building on the corner of May Street and St Peters Road. The entry statement is for the rear of the medical centre to what is effectively the entry to the car park. Mounted on two walls of the building are signs for the medical centre.

The building will be approximately 5 metres x 3.65 metres in area and 4 metres in height to the top of the pitched roof and 3.0 metres to the top of the skillion roof section. The structure will have minimal setbacks to both lot frontages (between 600mm and 700mm) and signage will be incorporated on the walls facing May Street and St Peters Road. The building materials are steel frame and ply cladding, as for the front office of the medical centre, with glass blocks in place of highlight windows. The glass blocks will be placed at the very top of the wall beneath the roof space. The pitched roof section of the building will be clad in mini-orb zincalume and the skillion roof section with face limestone block work. The remainder of the corner between the verge and the car park is proposed to be landscaped. Landscaping was a condition of the previous planning approval issued in 2011. The building's purpose is primarily for storage but will serve also as an entry statement and building sign. Two solar panels (700mm x 600mm) will also be installed on the north and west planes of the pitched roof.

Signage

The proposal incorporates a number of signs for the site. Two signs, 1.0 metre x 1.25 metres in dimension, are for the purpose of identifying the building and the medical centre use. The sign materials will be laser cut metal. The signs facing the south and east on the corner will replace one of the existing signs currently on the side wall of the building. It is a laser-cut naturally 'corroded' metal sheet with a coloured backing board for the highlighting of the letters. It is proposed to use low level external illumination at night, with the up-lighting unit

located on the wall below the sign and solar powered from the proposed panels.

The third sign is a wall sign (of the dimensions ~2 metres x ~4 metres) proposed to be located on the masonry wall (dividing fence) on the northern boundary of the property at the entry to the car park from May Street. The sign to be mounted on the wall will be composed of low-sheen silver coloured metal sheet in the form of individually cut letters and fixed to the masonry wall surface. It is not intended to illuminate this sign.

Statutory Considerations

Town Planning Scheme No. 3 (TPS 3) – Town Centre Zone

Relevant Council Policies

Town Centre Redevelopment Guidelines
Design Guidelines – Signage

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : The proposal will impact the streetscape of St Peters Road and May Street and will be constructed in an area indicated as being for landscaping and bicycle parking on previously approved plans (15.11.2011). Signage and the solar panels will also be visible from both streets.

Documentation

- .. Original plans and relevant forms date stamped received on 6 May and 7 June 2013 (superseded).
- .. Amended plans and relevant supporting documentation date stamped received on 9 August 2013.

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

- | | |
|------------------|--|
| 19 April 2005 | Council granted conditional approval for an extension of the existing medical centre comprising a two storey addition to the east, and an additional four residential units of 3 levels to the east of the medical centre. |
| 2 May 2006 | WAPC conditionally approves the amalgamation of Lots 594 and 621 (12 Silas Street & 25 May Street). |
| 11 December 2007 | Town Planning and Building Committee recommended that an application to amend the parking requirement be deferred to allow a report to be prepared in respect to the correspondence received from Mr John Kirkness dated 10 December 2007. |
| 19 December 2007 | Council adopted the Town Planning and Building Committee recommendation regarding the application to amend the planning requirement in relation to the condition requiring car parking, which states:
<i>“Cr Dobro – Mayor Ferris
That the matter be deferred to allow a report to be prepared in respect to the correspondence received from J Kirkness dated 10 December 2007.”</i> |
| 6 March 2008 | Owner requested deferral of the parking matter. |
| 19 May 2009 | Council deferred consideration of an application for additions at the front of the centre pending the submission of a Heritage Impact Statement. |

- 16 June 2009 Council approved an application for additions at the front of the centre.
- 15 November 2011 Council approved alterations and additions to the medical practice comprising two consulting rooms, three offices, a waiting room/reception area and store, as well as development of 18 on site car spaces and a service vehicle/ambulance bay.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 14 May 2013 and the application was supported.

Site Inspection

By Planning Officer on 31 May 2013.

ASSESSMENT

Use

Consulting rooms are a permitted ('P') use in the Town Centre and the storage facility /entry statement, bicycle parking, signage and solar panels are considered an incidental use to the consulting room use. Under Clause 4.3.3 of TPS 3 if a change in use of the land is an incidental use that does not change the predominant use of the land, and the proposed use complies with all the development standards and any requirements of the Scheme, then it can be considered a permitted ('P') use.

Advertising signs are assessed under the Design Guidelines – Signage Policy. The wall signs proposed when assessed under these Guidelines are designated as having a 'D' or discretionary status as they do not meet the acceptable solution criteria of the Guidelines. The signs proposed meet the discretionary performance criteria in that they do not exceed a height of 2 metres or a width of 5 metres, face a primary space, and meet the general signage regime for the site and the requirements for signage under the Guidelines.

On the whole the proposal is supported subject to standard planning conditions, however, a number of issues have arisen on assessment of the application. The details are noted below.

Setbacks

Under TPS 3 buildings should have a nil setback from all boundaries. In this case the setback is less than 1.0 metre from both side boundaries and although not strictly compliant with Scheme provisions is acceptable. The setback is to allow for the eaves overhang and to incorporate landscaping around the building and a mature tree to be planted.

Landscaping and Bicycle Parking

The development of the current vacant Lot 621 for car parking and driveway and the adjoining Lot 595 (held under licence from Main Roads WA) was considered to impact upon the streetscape. At the time the most recent development approval was considered by Council there were several mature trees on site. Accordingly a detailed landscape plan which identified the trees to be retained and those to be removed, and the treatment of the 'Landscaped Perimeter' was a condition of planning

approval. The landscaping plan submitted to satisfy the landscaping condition of approval also indicated bicycle parking racks on this portion of land. The bicycle parking was also indicated on the planning approval and building permit approved plans. It is also noted the shrub type landscaping would be replaced by the storage building; however, the area around the building would be landscaped. The landscaping required as per the previous planning approval has recently been installed.

After consultation with the landowner and the architect, plans were submitted indicating two freestanding bike racks in the rebated alcove to the south side of the building adjacent to the lift motor room and entry point. The area is located mid-way between the front and rear entrances and has some weather protection and visibility. Three bicycle racks have already been installed at the front of the medical centre. Concern was expressed with regard to the location of the bicycle racks in the alcove given it was in the entry area to the lift motor room and not adjacent to the entrance to the building.

Signage

The application in regard to signage is considered to comply with the objectives of the Town Centre Guidelines, however, the application does not strictly comply with the Council's Policy in regard to Design Guidelines - Signage.

Clause 3 of the above Guidelines requires that each sign must comply with Clauses 4 and 8. Whilst the signage complies with Clause 4 (general requirements) there is more than one sign proposed for the entry statement and storage facility building which means the proposal does not meet the "acceptable solution" of a single sign per building (i.e. deemed "permitted") under Clause 8, therefore Council discretion is required to approve the two signs proposed.

As previously mentioned one of the signs proposed for the storage building will be relocated from the existing building and is considered acceptable in the proposed new location on the building's wall. All signage is alike and the dividing fence sign is also considered to complement other signage, comply with the Guidelines and is supported.

Access / Egress Sight Lines – May Street Driveway

The Town raised concern with the proposed location of the storage facility in regard to pedestrian and vehicle sight lines from the May Street entry point to the car park. The applicant was asked to demonstrate that pedestrian and driver safety would not be compromised with the construction of the storage facility. It was also noted that the driveway had not been constructed at the approved 3.0 metre width, but rather at 4.5 metres due to a contractor error when it was constructed.

These matters were discussed with the architect and revised plans and supporting information were received on 9 August 2013.

Amended Plans

The amended plans and supporting information address four issues which were raised by the Town on initial assessment of the application, they are:

- (i) pedestrian and vehicle sight lines at the May Street car park entry;
- (ii) location and number of bicycle parking racks;
- (iii) loss of landscaped area (as approved in a previous planning application); and
- (iv) intended function of the additional storage facility given it is removed from the medical centre.

The owner's architect has addressed each of the above matters and these points are summarised below.

Sight Lines

The setback of the storage facility is in compliance with AS 2890.1 2004 in regard to "*Parking Facilities: Part One; Off-Street Parking Facilities*" and with Clause 7.3.6 A6 of the *Residential Design Guidelines* (which also makes reference to AS 2890.1) provided the driveway is reduced in width to 3.0 metres and is single lane access/egress only (it currently operates as single lane only). The amended plans indicate the crossover to May Street from the car park at a width of three metres. The AS 2890.1 can be met in every respect with the exception of the location of the driveway from the street intersection; six metres required. The crossover is 2.0 metres from the lot truncation and 5.0 metres from the turning kerb line. This is considered acceptable as Council did not support entry from St Peters Road on both legal and safety grounds and required the entry to the car park be from May Street. The applicant states that the vehicle movements per hour are less than the 30 movements specified in the AS as the threshold for requiring two way passing access / egress. Furthermore, he also states that the car park entry has functioned in this manner without difficulty for some time.

The applicant also states that the proposed storeroom has been specifically designed to be setback sufficiently from the driveway and footpath to provide the required unobstructed truncation. Further, he claims that as there is no fencing around the lot the "openness" of the site provides good visibility in regard to car and pedestrian movements and that the storeroom will have minimal impact on this "openness" and vehicle visibility.

Bicycle Racks

The proposed location of the bicycle racks (4 parking spaces) with the additional rack on the northern side of the storage facility adjacent to the driveway entry from May Street is considered to be a satisfactory solution as it is more likely for people to use their bicycle if they are able to park as close as possible to the entry to the building. The architect claims that in the unlikely event of access being lost at some point in the future, alternative locations for the four spaces could be found. He also argues that, along with the racks at the eastern end of the building on Silas Street, a total of 10 bicycle parking spaces are provided. Notwithstanding these points a condition of planning approval is considered necessary to ensure that the bicycle racks are installed to a design standard, and in a timely manner that is satisfactory to the Chief Executive Officer.

Landscaping

The Council approval dated 15 November 2011 contained a condition that stated a landscape plan (inclusive of the adjacent street verge) was to be prepared by a qualified landscape architect and submitted and approved by the Chief Executive Officer prior to the issue of the building permit.

The architect argues that the landscaping was not a requirement of Council but incorporated within the original proposal, by the applicant, to improve the visual appearance of the St Peters Road frontage and was formalised as part of the Council approval with the imposition of a specific condition of approval. He also states that given "the structure has been sympathetically arranged in conjunction with the perimeter landscaping to the car park generally...and that high quality signage and lighting has also been considered in this overall streetscape context" that the building will enhance the

overall amenity and appearance of the site . Additionally he points out that construction of the building will not result in a loss of parking spaces or vehicle manoeuvrability.

Subject to a condition of planning approval requiring the landscaping surrounding the storage facility to be installed, along with a total of 10 bicycle parking spaces on site, with their design being to the satisfaction of the Chief Executive Officer, the removal of landscaping in this area of the site can be supported.

Function of Storage Space

The supporting information indicates the storage facility is required for the efficient operation of the medical centre. It will be used for additional general storage as storage space is always at a premium in the centre. This will make available needed storage space within the centre and at the same time provides a significant entry statement to the complex. The building will not be used to store confidential records.

CONCLUSION

The proposal generally complies with the relevant development controls for the Town Centre. The storage facility is not considered to generate any additional car parking as it is for use solely by the medical centre. The solar panels are not considered to impact the streetscape and the proposed signage is able to satisfy the '*alternative performance criteria*' (discretionary) under the Design Guidelines for Signage and is considered to be of a high standard in terms of design and materials. Discretion is required with regard to the non-compliance with the minor setback variation and to allow more than a single sign per building.

Given the applicant is considered to have adequately addressed the Town's concerns with the proposal it is considered the application can be supported subject to conditions regarding crossover width, landscaping, provision of bicycle parking and reflectivity treatments for the zincalume wall panels if required.

RECOMMENDATION

That Council exercise its discretion in granting approval to vary:

- (i) Clause 5.8.1 of Town Planning Scheme No. 3 – Building Setbacks to allow the building to be setback from the side boundaries of the lot; and
- (ii) Clause 8 – Signage Requirements of Council's Design Guidelines - Signage (Acceptable Solution) to allow more than a single sign per building;

for a storage facility/entry statement building incorporating, bicycle parking, landscaping, signage and solar panels and additional wall (dividing fence) signage at No. 12 (Lots 594 and 621) Silas Street, East Fremantle in accordance with the plans and information date stamped received on 9 August 2013 subject to the following conditions:

1. The width of the crossover for the May Street to the entry to the car park being reduced in width to 3.0 metres as specified in the planning approval dated 15 November 2011.
2. The installation of landscaping (including the tree as indicated on plans dated 9 August 2013), surrounding the storage facility, and a total of 10 bicycle parking spaces on-site. The location of the bicycle parking racks to the satisfaction of the Chief Executive Officer in consultation with relevant officers and completed, along with all landscaping required prior to the submission of a building permit application.
3. If requested by Council within the first two years following installation, the zincalume sheeting to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. The proposed works are not to be commenced until Council has received an application for a building permit and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

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. 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.
8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building permit.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) A copy of the approved plans as stamped by Council are attached and the application for a building permit is to conform with the approved plans unless otherwise approved by Council.
- (c) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (d) 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.
- (e) It is advisable that an opinion be sought from a Registered Building Surveyor / Structural Engineer that the proposed roof structure can accommodate the load incurred by the installation of solar panels.

Cr de Jong – Cr Collinson

That Council exercise its discretion in granting approval to vary:

- (i) **Clause 5.8.1 of Town Planning Scheme No. 3 – Building Setbacks to allow the building to be setback from the side boundaries of the lot; and**
- (ii) **Clause 8 – Signage Requirements of Council's Design Guidelines - Signage (Acceptable Solution) to allow more than a single sign per building;**

for a storage facility/entry statement building incorporating, bicycle parking, landscaping, signage and solar panels and additional wall (dividing fence) signage at No. 12 (Lots 594 and 621) Silas Street, East Fremantle in accordance with the plans and information date stamped received on 9 August 2013 subject to the following conditions:

1. **The width of the crossover for the May Street to the entry to the car park being reduced in width to 3.0 metres as specified in the planning approval dated 15 November 2011.**
2. **The installation of landscaping (including the tree as indicated on plans dated 9 August 2013), surrounding the storage facility, and a total of 10 bicycle parking spaces on-site. The location of the bicycle parking racks to the satisfaction of the Chief Executive Officer in consultation with relevant officers and completed, along with all landscaping required prior to the submission of a building permit application.**
3. **If requested by Council within the first two years following installation, the zincalume sheeting to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
4. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than**

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

5. The proposed works are not to be commenced until Council has received an application for a building permit and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
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. 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.
8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building permit.
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Footnote:

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

- (a) This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) A copy of the approved plans as stamped by Council are attached and the application for a building permit is to conform with the approved plans unless otherwise approved by Council.
- (c) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (d) 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.
- (e) It is advisable that an opinion be sought from a Registered Building Surveyor / Structural Engineer that the proposed roof structure can accommodate the load incurred by the installation of solar panels. CARRIED 6:0

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 July 2013, this application is deemed determined, on behalf of Council, under delegated authority.

Cr Collinson made the following impartiality declaration in the matter of 69 King Street: "As a consequence of the owner being known to me as a friend, 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".

T106.4 King Street No. 69 (Lot 329)
Applicant: John Chisholm Design
Owner: T Chambers
Application No. P97/13

By Andrew Malone, Senior Town Planner on 14 August 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval for additions and alterations comprising the demolition of an existing rear extension and its replacement by new additions comprising kitchen/ dining/ living, bedroom, laundry and bathroom at 69 (Lot 329) King Street, East Fremantle. The proposed additions and alterations are recommended for approval subject to conditions.

BACKGROUND**Description of Site**

The subject site is:

- a 509m² block
- zoned Residential R20
- developed with a single storey dwelling
- located in the Plympton Precinct.
- 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

Town Planning Scheme No. 3 (TPS3) – Residential R20
Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Minimal impact. Addition will not be significantly visible from the streetscape.

Documentation

Plans and relevant forms date stamp received on 23 July 2013.

Date Application Received

23 July 2013

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

Nil.

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 25 July 2013 and the 8 August 2013. At the close of advertising no submissions were received.

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting held on 13 August 2013 and the following comments were made:

3 September 2013

MINUTES

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>It is pleasing to note from the drawings that the original features of the cottage are to be retained, although the original 4-room form has been previously compromised.</p> <p>The new rear extension has been carefully designed; skillion roof with highlights to capture northern sun.</p>	N/a	<p>The Panels comments are acknowledged</p> <p>A detailed assessment of the proposal has been undertaken and is addressed below.</p>

Site Inspection

By Senior Town Planner on 16 August 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. A summary of the assessment is provided in the following tables.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	50%	57%	A
6.4.2 Outdoor Living	30sqm	38sqm	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	22%	A
6.9.2 Drainage	On-site	On-site	A

Local Planning Policies Assessment

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

DISCUSSION

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 (**ADP**) and have been assessed under the provisions of the Performance Criteria (**PC**) of the Guidelines:

Heritage

As a B+ category building listed on the Town's MHI, the dwelling has some heritage significance at a local level, however it is acknowledged that previous additions have occurred to the building. The existing built form of the original dwelling is not being altered. The proposed development comprises of demolition of the existing additions. These additions are not considered to form part of the heritage element of the dwelling.

The proposed replacement addition is a single storey addition to the rear of the dwelling. It is proposed to remove an existing extension (original fabric of the dwelling is to remain) and to replace with a fibreboard cladding and zincalume roof addition. The additions have been designed in a sympathetic manner to the original dwelling and are considered to be a 'simple' design that enhances the character of the dwelling. The addition does not adversely affect the visual presence of the existing dwelling.

The proposed development conserves the heritage value of the original building. The proposed addition has minimal impact to the dwelling itself. It is noted in the Town's RDG:

a Heritage Assessment / Impact Statement may be required as corollary to a development application, particularly in considering demolition of the place.

The proposed demolition and replacement addition is to a previous addition to the original dwelling. It is considered the proposed demolition does not impact the original heritage dwelling. It is considered the proposed development is sympathetic to the character of the dwelling. The proposed changes are considered to significantly improve the liveability of the dwelling. As the overall works are considered to have no significant adverse impact to the dwelling, have no impact to the streetscape and are of a sympathetic design, a Heritage Impact Assessment was not requested. The Panel's comments are agreed with:

It is pleasing to note from the drawings that the original features of the cottage are to be retained.

It is considered the proposed additions and alterations can be supported, based on the simplistic and distinctive design from the original built form of the dwelling.

Building Setbacks

The applicant is seeking Council discretion with regard to the ADP of Element 3.7.7 of the Residential Design Guidelines - Building Setbacks and Orientation for the southern elevation setback requirements. The proposed addition is located 0.7 metres from the southern lot boundary. The proposed development is located to the rear of the existing B+ Municipal Heritage Inventory listed dwelling. The proposed addition is single storey and cannot be significantly viewed from the street. The proposed openings to the southern elevation are minor openings and as such the proposed setback is required to be 1.5 metres. The applicant is seeking a 0.8 metre setback variation.

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

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

The existing B+ Municipal Heritage Inventory listed dwelling will not be altered at the streetscape or front boundary setback. The existing dwelling is consistent with the prevailing setback of the immediate locality.

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

The existing dwelling is setback 0.2 metres from the southern boundary, therefore the proposed 0.7 metre setback is considered to complement the existing setback and does not negatively impact on the visual presence of the heritage dwelling.

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

The required setback to the southern boundary is 1.5 metres (based on minor window openings). The proposed addition is to the rear of the existing dwelling. The proposed addition will not be visible from the street. The proposed 0.7 metre setback is considered to complement the existing setback of 0.2 metres and does not negatively impact on the visual presence of the heritage dwelling. The proposed side setback variation is considered acceptable.

The proposed setback to the southern boundary does not impact significantly on the overshadowing of the adjoining property. The proposal complies with the 'Deemed to Comply' provisions of the R-Codes for overshadowing.

The proposed setback is considered to reflect the setbacks of dwellings in the immediate locality.

In conclusion, proposed addition is considered to improve the residential amenity of the dwelling. The proposed addition does not negatively impact the streetscape or adjoining neighbours and therefore it is considered that it can be supported by Council.

Roof Pitch

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

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

The Performance Criteria states:

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

The roof form is of a pitch and material that is different to the proposed existing dwelling. The proposed roof is distinct in design, with a scale and form that is considered to complement the traditional form of the existing dwelling through the simplicity of its design. The proposed roof form also hides the addition from view from the streetscape. The built form of the proposed addition does not conflict with the existing dwelling. The proposed roof is considered to minimise the scale and bulk of the proposed addition, as it presents to the dwelling and therefore is sympathetic to the heritage dwelling.

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

Conclusion

The proposed addition and alterations are considered consistent and sympathetic to the heritage dwelling and streetscape. The proposed demolition and replacement addition is to a previous addition to the original dwelling. The demolition of the existing rear extension will not impact on the significance of the heritage building. The proposed addition is of a smaller scale, bulk and design as the existing dwelling. The addition cannot be viewed from the streetscape. The application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the R-Codes. The application has been supported by the Town Planning Advisory Panel.

Whilst the application does seek some minor variations for setback and roof pitch. It is considered the proposal has been designed to minimise impact to the existing heritage dwelling and adjoining neighbours. The variations are considered to be minor in nature and are supported.

The application is therefore considered to be appropriate and is recommended for approval.

RECOMMENDATION

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

- (a) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (south elevation) – required setback 1.5 metres. Proposed setback is 0.7 metre;
- (b) variation to 3.7.8 Roof Form and Pitch of the Residential Design Guidelines; for additions and alterations to an existing dwelling at 69 (Lot 329) King Street, East Fremantle, in accordance with the plans date stamp received on 23 July 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 proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 5. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 6. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Cr Rico – Cr de Jong

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

- (a) **variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (south elevation) – required setback 1.5 metres. Proposed setback is 0.7 metre;**
- (b) **variation to 3.7.8 Roof Form and Pitch of the Residential Design Guidelines; for additions and alterations to an existing dwelling at 69 (Lot 329) King Street, East Fremantle, in accordance with the plans date stamp received on 23 July 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 proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
 - 3. **With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
 - 4. **All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
 - 5. **Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
 - 6. **If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
 - 7. **This planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

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

- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) 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 6:0

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 July 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T107. CONFIDENTIAL BUSINESS

T107.1 Canning Highway No. 235 (Lot 1851)
Applicant: Paintessa Development Pty Ltd
Owner: Paintessa Development Pty Ltd
Application No. P47/13

Cr Martin – Cr Rico

That this matter be dealt with on a confidential basis, in accordance with Section 5.23(2)(d) of the Local Government Act 1995, which involves confidentiality provisions in relation to legal advice.

CARRIED

Councillors had before them a report prepared by the Acting Chief Executive Officer, Jamie Douglas, on 29 August 2013 and labelled "Confidential".

Cr Martin – Cr Rico

That the application for demolition of the shop and residence and development of three dwellings at 235 Canning Highway, East Fremantle be referred to the Western Australian Planning Commission for determination with a recommendation that the application be refused consistent with Council's resolution of 16 April 2013.

CARRIED 6:0

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision

making made on 16 July 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T108. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T109. CLOSURE OF MEETING

There being no further business the meeting closed at 9.28pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **3 September 2013**, Minute Book reference **T96. to T109.** were confirmed at the meeting of the Committee on*

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Presiding Member