



Town Planning & Building Committee

**3 December 2013
6.30pm**

MINUTES

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

T139. OPENING OF MEETING

T139.1 Present

T140. ACKNOWLEDGEMENT OF COUNTRY

T141. WELCOME TO GALLERY

T142. APOLOGIES

T143. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

T144. CONFIRMATION OF MINUTES

T144.1 Town Planning & Building Committee – 5 November 2013

T145. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T145.1 View Terrace No 34 (Lot 267)

T146. REPORTS OF COMMITTEES

T147. ORDER OF BUSINESS

T148. REPORTS OF OFFICERS – STRATEGIC PLANNING

T148.1 Consultation Strategy for the Review of the Municipal Inventory, Creation of Heritage Areas & Listing of Individual Properties on Council's Heritage List *Page 2
Agenda Ref 10.1*

T149. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL

*T149.1 Mixed Use Development Canning Highway No 147 (Lot 18)
Application for Condition 20 Clearance* *Page 3
Agenda Ref 9.1*

*T149.2 Preston Point Road No. 126 (Lot 4959)
Applicant: Shayne Le Roy Design
Owner: B De Jong
Application No. P38/13* *Page 4
Agenda Ref 9.2*

*T149.3 Preston Point Road No. 18A (Lot 2)
Applicant: Collaborative Design
Owner: Ms K J Lowe
Application No. P139/13* *Page 8
Agenda Ref 9.3*

*T149.4 View Terrace No. 34 (Lot 267)
Applicant: Giorgi Exclusive Homes
Owner: T & M Buhagiar
Application No. P56/13* *Page 13
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- T149.5 Hillside Road No. 6 (Lot 11) Page 22**
Applicant: Ariane Prevost Architect **Agenda Ref 9.6**
Owner: C & A Stonehouse
Application No. P133/13
- T149.6 George Street No. 65 (Pt 3/ SP16096) Page 37**
Applicants: Woods Bagot **Agenda Ref 9.7**
Owner: A Jones & A M Medcalf
Application No: P148/13
- T149.7 View Terrace No. 62 (Lot 85) Page 54**
Applicant: John Chisholm Design **Agenda Ref 9.10**
Owner: F & C Lupis
Application No. P134/13
- T149.8 Oakover Street No. 64 (Lot 321) Page 68**
Owner: P & K McNulty **Agenda Ref 9.11**
Applicant: John Chisholm Design
Application No. P154/13
- T149.9 No. 64 (Lot 103) East Street, East Fremantle Page 75**
Owner: E Featherby **Agenda Ref 9.12**
Applicant: John Chisholm Design
Application No. P153/2013
- T149.10 No. 90 (Lot 284) Hubble Street Page 81**
Applicant: John Chisholm Design **Agenda Ref 9.13**
Owner: Sarah White
Application No. P155/13
- T149.11 Dalgety Street No. 25 (Lot 59) Page 89**
Applicant: Gemma Hohnen **Agenda Ref 9.8**
Owner: K Taylor
Application No. P151/13
- T149.12 En Bloc Recommendation**
- (A) No. 7 (Lot 1) Reynolds Street, East Fremantle Page 97**
Owner/Applicant: V Blagaich **Agenda Ref 9.9**
Application No. P161/13
- (B) Allen Street No. 68 (Lot 27) Page 102**
Owner/ Applicant: C & R Ainslie **Agenda Ref 9.4**
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- (C) No. 46A Fraser Street (Lot 1 on Strata Plan 12042) Page 105**
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Owner: D Newman and S Foxtan as Executors Estate of Doris Ellen Woods
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- T150. REPORTS OF OFFICERS – STRATEGIC PLANNING (CONTINUED)**
- T150.1 Review of TPS No 3 and Local Planning Strategy Page 112**
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3 December 2013

MINUTES

T151. CONFIDENTIAL BUSINESS

T152. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T153. CLOSURE OF MEETING

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

T139. OPENING OF MEETING

The Presiding Member opened the meeting.

T139.1 Present

Cr Siân Martin (Presiding Member)
Cr Cliff Collinson
Cr Barry de Jong
Cr Michael McPhail
Cr Maria Rico
Mr Jamie Douglas Manager Planning Services
Mr Andrew Malone Senior Town Planner
Ms Janine May Minute Secretary

T140. 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.”

T141. WELCOME TO GALLERY

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

T142. APOLOGIES

Mayor O’Neill.

T143. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

T144. CONFIRMATION OF MINUTES

T144.1 Town Planning & Building Committee – 5 November 2013

Cr de Jong – Cr Collinson

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

T145. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T145.1 View Terrace No 34 (Lot 267)

C Gregory: Confirming that she did agree at mediation to accept the amended plans if the roofline was in fact at the height shown on the photos.

Cr de Jong – Cr Collinson

That the correspondence from Mrs C Gregory be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T149.4).

T146. REPORTS OF COMMITTEES**T146.1 Town Planning Advisory Panel – 12 November 2013**

Cr Martin – Cr de Jong

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

T147. ORDER OF BUSINESS

Cr Martin – Cr Collinson

The order of business be altered to allow the representative from Griffiths Architects and members of the public to speak to relevant agenda items. CARRIED

T148. REPORTS OF OFFICERS – STRATEGIC PLANNING**T148.1 Consultation Strategy for the Review of the Municipal Inventory, Creation of Heritage Areas & Listing of Individual Properties on Council's Heritage List**

By Jamie Douglas, Manager Planning Services 25 November 2013

Purpose of this Report:

This report provides information regarding the proposed Consultation Strategy for the review of the Municipal Inventory and for the creation of Heritage Areas and listing of properties on the Heritage List. It is recommended that Council endorse the proposed Consultation Strategy.

Discussion:

The existing Municipal Inventory (MI) is based upon a Heritage Survey conducted in 2006. The MI contains some 1,023 properties of varying significance. The MI is somewhat dated and provides limited statutory protection for the listed properties compared with those formally adopted on the Heritage List under the Town Planning Scheme No3.

At it's meeting on 20 August 2013, the Council resolved that a heritage review should be undertaken and determined the following:

That a Heritage Consultant be requested to provide a submission containing a proposed scope of works, personnel and experience and cost contingencies to undertake;

- *a review of the Municipal Inventory*
- *designation and establishment of Heritage Areas under clause 7.2 of the Planning Scheme.*
- *All actions necessary to achieve the inclusion of selected properties on the Heritage List under clause 7.1 of the Planning Scheme.*

At its meeting on 15 October 2013 Council endorsed the appointment of Griffiths Architects to undertake the work and requested that the proposed Consultation Strategy in support of the Review be submitted to the Town Planning & Building Committee for consideration.

The consultants have submitted the attached strategy and will attend the meeting to provide any questions from elected members.

RECOMMENDATION

It is recommended that Council endorse the proposed Consultation Strategy submitted by Griffiths Architects in respect to the review of the Municipal Inventory and the creation of Heritage Areas and listing of properties on the Heritage List.

Mr Williamson (Griffiths Architects) briefly explained the consultation process.

RECOMMENDATION TO COUNCIL**Cr Rico – Cr de Jong**

That Council endorse the proposed Consultation Strategy submitted by Griffiths Architects in respect to the review of the Municipal Inventory and the creation of Heritage Areas and listing of properties on the Heritage List. CARRIED

T149. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL**T149.1 Mixed Use Development Canning Highway No 147 (Lot 18)
Application for Condition 20 Clearance**

By Jamie Douglas, Manager Planning Services on 29 November 2013

BACKGROUND:

At its meeting on 5 November 2013, the Town Planning & Building Committee considered a report and recommendation for clearance of Condition 20 of the WAPC development approval dated 6 March 2012. The Committee resolved:

That the matter be held over to the Council Meeting on 19 November 2013 pending an informal meeting between the applicants and the Committee to determine which elevations of the development will require further consideration by Council in relation to colours and finishes, prior to implementation.

Councillors Martin, Rico, Collinson and McPhail and the Manager Planning Services met with the developer's representatives on 13 November 2013. An animated graphic representation of the external and internal details of the buildings was provided. There was general discussion and consensus from elected members that a darker (terra-cotta) render would be preferable in respect to some features on the Canning Highway frontage.

It was further agreed that the matter be again considered by the TPBC at its meeting on 3 December 2013 at which time the developers will have actual samples of the proposed render to be used.

REPORT

The applicants have submitted the attached letter and elevation indicating Council's preferred colour Render 2 "Claypot".

Three varying samples of the claypot colour will be presented at the meeting.

RECOMMENDATION:

It is recommended that Council advise the proponents of a mixed use development at 147 Canning Highway that the plans and accompanying information date stamp received 28 October 2013 submitted in response to Condition 20 of the WAPC approval 04-50007-1 dated 06 March 2012 satisfy this condition.

Mr Rendell (Architect/Applicant) and Mr Oustryck provided three samples of the claypot colour for elected members' selection.

Elected members unanimously indicated they preferred the Claypot 150%.

Cr McPhail – Cr Rico

That Council advise the proponents of a mixed use development at 147 Canning Highway that the plans and accompanying information date stamp received 28 October 2013 submitted in response to Condition 20 of the WAPC approval 04-50007-1 dated 06 March 2012 satisfy this condition. CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

The author of this report makes the following impartiality declaration in the matter of the following report: "As a consequence of the owner being known to me due to his position as an elected member of the Town, there may be a perception that my impartiality on the matter may be affected. I declare that I have considered this matter entirely on its merits and with complete impartiality and objectivity".

Cr de Jong declared a financial interest in the following item as he is the owner of the subject property and left the meeting at 6.50pm

Crs Martin, Rico, Collinson and McPhail made the following impartiality declaration in the matter of 126 Preston Point Road: "As a consequence of the owner being known to us, as a fellow elected member, there may be a perception that our impartiality on the matter may be affected. we declare that we will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T149.2 Preston Point Road No. 126 (Lot 4959)

Applicant: Shayne Le Roy Design

Owner: B De Jong

Application No. P38/13

By Andrew Malone, Senior Town Planner on 26 November 2013

PURPOSE OF THIS REPORT

This report was presented to the Town Planning and Building Committee on 2 July 2013. The application was deferred. Council did not determine the application within the statutory 90 days, therefore the applicant, pursuant to the 'Deemed Refusal' provision of the Town Planning Scheme Clause 10.9, appealed the application to the State Administrative Tribunal.

This report considers a Section 31 State Administrative Tribunal Order for Council to reconsider an application for Planning Approval for development approval of demolition of an existing dwelling and the construction of a two storey single dwelling at 126 (Lot 4959) Preston Point Road, East Fremantle. The application is recommended for conditional approval.

A full report has been undertaken by Mr. Joe Algeri of Algeri Planning Appeals. This report details the planning history of the development and includes an assessment of the proposed development based on the relevant legislation.

Description of Site

The subject site is:

- a 737m² block
- zoned Residential R12.5
- developed with a single storey dwelling
- located in the Richmond Hill Precinct.

Conclusion

This report and recommendation should be read in conjunction with the associated SAT report from Mr. Joe Algeri of Algeri Planning Appeals and the original planning report presented to the Town Planning and Building Committee in July 2013. Based on the SAT Order for the Committee to reconsider the development application and based on the further information provided by the applicant, it is considered the proposed development application can be supported by Council.

RECOMMENDATION

That Council approve of the development application for demolition of an existing dwelling and the construction of a two storey single dwelling at 126 (Lot 4959) Preston Point Road, East Fremantle, in accordance with the plans date stamp received on 26 November 2013 subject to the following conditions:

1. Crossover width to be a maximum width of 3.0 metres.
2. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
3. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (i) below*)
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
8. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.

- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.*

Mr Le Roy (applicant) addressed the meeting regarding the SAT mediation process and its positive outcome for all parties, including the neighbours who had previously raised objections to the proposal.

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Martin

That Council approve of the development application for demolition of an existing dwelling and the construction of a two storey single dwelling at 126 (Lot 4959) Preston Point Road, East Fremantle, in accordance with the plans date stamp received on 26 November 2013 subject to the following conditions:

- 1. Crossover width to be a maximum width of 3.0 metres.**
- 2. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
- 3. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)**
- 4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 5. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 6. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
- 8. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural**

angle of repose and/or another method as approved by the Town of East Fremantle.

9. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED 4:0

Cr de Jong returned to the meeting at 7.00pm and it was noted he neither spoke nor voted on the previous motion.

Cr Martin made the following impartiality declaration in the matter of 18A Preston Point Road: "As a consequence of the owner being 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".

T149.3 Preston Point Road No. 18A (Lot 2)**Applicant: Collaborative Design****Owner: Ms K J Lowe****Application No. P139/13**

By Andrew Malone, Senior Town Planner on 13 November 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval for single storey additions (comprising studio and bathroom) to an existing two storey dwelling at 18A (Lot 2) Preston Point Road, East Fremantle. The proposal is recommended for approval subject to conditions.

Description of Site

The subject site is:

- a 489m² survey strata block
- zoned Residential R12.5
- developed with a single two storey dwelling
- located in the Richmond Precinct.

Statutory Considerations

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

Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 1 October 2013.

Date Application Received

1 October 2013

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

Nil

CONSULTATION**Advertising**

The adjoining Strata owner has viewed the plans and has raised no objection to the proposal. The applicant has also submitted a comment form from the adjoining neighbour at 6 Alcester Street. The neighbour is satisfied with the proposed addition. The application was advertised to unit 3 4 Alcester Street for a two week period between 1 November 2013 and 15 November 2013. At the close of advertising no submissions were received.

Town Planning Advisory Panel

The subject application was not referred to the Town Planning Advisory Panel because of the minor nature of the proposal. The proposed additions will not be visible from Preston Point Road. The additions will have no street impact.

Site Inspection

By Senior Town Planner on 13 November 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%	80%	A
6.4.2 Outdoor Living	30sqm	N/A	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	N/A	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	A
3.7.15-20 Precinct Requirements	A

DISCUSSION**Building Setbacks**

The proposed development is located on the boundary for a length of 9.7 metres and to an overall height of 3.2 metres. 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 proposed addition located on the boundary. The Acceptable Development Provisions for building on the boundary is a length of 9.0 metres and a maximum height of 3.0 metres. The proposed addition is single storey and cannot be significantly viewed from the street. The proposed variations to the Acceptable Development Criteria are 0.7 metres to the overall length and a 0.2 metre variation to the height of the parapet wall. These variations are considered minor.

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 dwelling is located to the rear of 18 Preston Point Road. A portion of the second storey of the dwelling can be viewed from Preston Point Road. The proposed addition is located to the east of the existing dwelling. A portion (approximately 11.5m²) of the addition will be able to be viewed from the street. The proposed addition is located 42 metres from the front boundary, therefore minimising street impact. The proposed location, length and height of the parapet wall are considered acceptable and appropriate.

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

The existing dwelling is not listed on the Municipal Heritage Inventory. The proposed boundary length and height of the wall is considered minor in nature. The addition does not impact the streetscape or existing dwelling. The adjoining neighbour to the east has signed a neighbour comment form indicating they are satisfied with the development. The proposed addition is considered not to significantly affect the visual presence to the adjoining neighbours.

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

The proposed variations to the Acceptable Development Criteria are 0.7 metres to the overall length and a 0.2 metre variation to the height of the parapet wall. These variations are considered minor. The proposed addition does not adversely impact on the scale or bulk of the dwelling. The addition is considered sympathetic with the design of the existing dwelling. There are no adverse impacts to surrounding neighbours. The proposed setbacks are complementary to the predominant streetscape.

The proposed setback to the eastern boundary does not impact 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 other dwellings in the immediate locality.

In conclusion, the 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:

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

The Performance Criteria states:

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

The proposed addition is single storey and comprises a flat roof. Approximately 3.2 metres in length will be visible from the streetscape, however the addition is located 42.0 metres from the front boundary, therefore limiting any actual presence the addition has to the street. The proposed flat roof to the addition minimises the impact to adjoining neighbours to the south and east. The proposed addition is designed to be sympathetic

and simplistic in design, therefore the addition complements the existing dwelling and traditional form of the surrounding design in the immediate locality.
The proposed roof is considered appropriate for the area and therefore can be supported by Council.

RECOMMENDATION

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

- (a) variation to the setback requirements of the side setback (western elevation) – required setback 1.7 metres. Proposed 0.7 metres to the overall length and a 0.2 metre variation to the height of the parapet wall;
- (b) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
for additions to an existing dwelling at 18A (Lot 2) Preston Point Road, East Fremantle, in accordance with the plans date stamp received on 1 October 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. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (i) below*)
 3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 4. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 5. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 8. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 9. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.

- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.*

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

Cr Rico – Cr McPhail

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

- (a) variation to the setback requirements of the side setback (western elevation) – required setback 1.7 metres. Proposed 0.7 metres to the overall length and a 0.2 metre variation to the height of the parapet wall;**
 - (b) element 3.7.8 of the Residential Design Guidelines: Roof pitch;**
- for additions to an existing dwelling at 18A (Lot 2) Preston Point Road, East Fremantle, in accordance with the plans date stamp received on 1 October 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. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)**
 - 3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
 - 4. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
 - 5. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
 - 6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
 - 7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal,**

modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

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

Footnote:

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

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

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T149.4

View Terrace No. 34 (Lot 267)

Applicant: Giorgi Exclusive Homes

Owner: T & M Buhagiar

Application No. P56/13

By Andrew Malone, Senior Town Planner on 31 October 2013

PURPOSE OF THIS REPORT

This report considers a Section 31 State Administration Tribunal Order for Council to reconsider an application for Planning Approval for development approval of demolition of an existing dwelling and proposed development application for double storey (three storeys to the rear) dwelling at 34 (Lot 267) View Terrace, East Fremantle. The proposed demolition and proposed new construction is recommended for approval. A full assessment has been undertaken and is detailed below.

Past Resolution

At its meeting on 6 August 2013 Council considered an application for retrospective approval for demolition of an existing dwelling and proposed development application for double storey (three storeys to the rear) dwelling. Council determined to refuse the application for the following reasons:

That the application for the proposed demolition of the existing dwelling and construction of a three storey new dwelling at 34 (Lot 267) View Terrace, East Fremantle as described on the plans date stamped received 10 July 2013 be refused for the following reasons:

1. *The proposed development does not comply with the requirements of the Acceptable Development Criteria or Performance Criteria of the Local Planning Policy Residential Design Guidelines as listed:*
 - 3.7.4 Site Works
 - 3.7.6 Construction of New buildings
 - 3.7.7 Building Setbacks and Orientation
 - 3.7.15 Precinct Requirements
 - Building Height, Form, Scale and Bulk
2. *The proposed development does not comply with the following requirements of the Town Planning Scheme No.3:*
 - *The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (c), (g), (o), and (p) because it would detrimentally impact upon the amenity of the area and adjoining neighbours.*
3. *The proposed development does not comply with the orderly and proper planning of the area consistent with the objectives for the residential zone identified in Clause 4.2 of the Town Planning Scheme No. 3.* CARRIED 4:0

Amended plans have subsequently been lodged for reconsideration.

BACKGROUND**Description of Site**

The subject site is:

- a 769m² 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)

Impact on Public Domain

Tree in verge: No impact.
Light pole: No impact.
Crossover: Crossover has been designed to comply with Council requirements.
Footpath: No impact.
Streetscape: Demolition of existing dwelling and construction of new dwelling.

Documentation

Plans and relevant forms date stamp received on 1 May 013.
Plans and further information date stamp received on 13 May 2013.
Plans and further information date stamp received on 14 June 2013.
Plans and further information date stamp received on 10 July 2013.

Amended plans and photomontage building height representation date stamp received on 20 November 2013.

Date Application Received

1 May 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 and sign for a two week period between the 9 May 2013 and the 22 May 2013. At the close of advertising three (3) submissions were received. These are summarised in the following table and are attached in full to this report.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
Reduce level of the roof line in accordance to TOEF RGD to preserve existing views to Blackwall Reach.	Revised plans have been submitted reducing the proposed height of the dwelling.	The applicant is seeking variations. These are addressed and discussed in detail below.
Height of the proposed dwelling is considered excessive and should not be supported.	New proposed elevation is lower by 1.3m. Given the 6m slope at rear of the lot, it is very difficult to design a dwelling to comply with maximum wall & ridge heights.	
Form, bulk and scale does not fit with the immediate locality – in terms of roof pitch, orientation and articulation	Bulk – recessing walls along the side setbacks to create visual diversity, as well as substantial rear setback. Pushing first floor to the rear creates bulk but presents as a well designed streetscape. The ridge height would not impact neighbours views.	

The neighbours (Mr G & Mrs C Gregory) at 31 View Terrace, requested that they be involved in the SAT mediation. This was granted by the SAT. Subsequent to mediation, the Gregory's provided Council with a letter advising Council they supported the proposed development, as amended. As such the above concerns raised have been significantly addressed, through the amendments to the plans.

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting held on 14 May 2013 and the following comments were made:

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
The panel was not in support of this application due to the height, bulk and scale of the proposal.	Revised plans have been submitted reducing the proposed height of the dwelling. Further amended plans were submitted 10 July 2013. These substantially reduce the number of variations that were being requested. Refer to attached letters dated 14 June and 10 July 2013 for justifications and amendments,	The applicant is seeking variations. These are addressed and discussed in detail below. The applicant has amended the plans following consultation with Council Officers. The development although amended still seeks significant variations to the height requirements. The proposed development is not supported in its current built form.

This application was not re-referred to the Town Planning Advisory Panel. The modifications to the proposed design have minimised the areas required for assessment under the Performance Criteria of the RDG.

Site Inspection

By Senior Town Planner on 28 June 2013 and 16 July 2013.

On-site mediation on 14 October 2013 and 8 November 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%	61%	A
6.4.2 Outdoor Living	30sqm	112sqm	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	N/A	A
6.9.2 Drainage	On-site	On-site	A

6.3 Boundary Setbacks

Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (south)							
Ground	Guest Bed	4.1m	3.5m	Y	7.5m	7.5m	A
Ground	WIR	4.1m	2.1m	N	7.5m	6.9m	A*
Ground	Garage	4.0m	7.5m	N	7.5m	7.5m	A
Rear (north)							
All rear setbacks comply							
Side (east)							
Basement	Bedroom 3	2.3m	10.5m	N	1.2m	1.2m	A
Ground	Bed 1/ Ensuite	4.8m	12.6m	N	1.2m	1.2m	A
Upper	Upper living	7.6m	12.6	Y	4.6m	6.0m	A
Side (West)							
Basement	Setback complies						
Ground	<ul style="list-style-type: none"> Individual setbacks to independents walls comply. The setback of total length of western elevation wall does comply with Figure Series 4 (4C) section D of the R-Codes for total wall setback requirements. 						A
Upper	<ul style="list-style-type: none"> Individual setbacks to independents walls comply. The setback of total length of western elevation wall does not comply with Figure Series 4 (4C) section D of the R-Codes for total wall setback requirements. Required setback 2.5m. Provided setback 2.5. 						A

*Note: Residential Design Codes Element 5.1.2 Street Setback C2.4 states: *A porch, balcony, verandah, chimney or the equivalent may (subject to the Building Code of Australia) project not*

more than 1m into the street setback area, provided that the total of such projections does not exceed 20 per cent of the frontage at any level. (refer Figure 2b). It is considered the WIR is a minor incursion into the front setback area and has been designed to provide building articulation. It is considered to comply with the 'Deemed to Comply' provisions of the R-Codes.

Local Planning Policies Assessment

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

Wall Height Requirement	Required	Proposed	Variation	Status
Building Height (wall)	5.6m	8.43m	2.83m	D
Building Height (ridge)	8.1m	9.2m	1.1m	D

DISCUSSION

View Sheds

While the proposed dwelling does require an assessment under the Performance Criteria of the Guidelines, the new dwelling is not considered to impact on the view shed from neighbouring properties. As is clearly illustrated by the photomontage of the existing and proposed view sheds, the proposed dwelling has only minor impacts, however the main views to Blackwall Reach are improved. The Gregory's have noted that the proposed view sheds are acceptable.

The applicant has had considerable liaison with the author of this report. Several amendments were made to the plans prior to it being initially determined by Council, however these amendments still required Council discretion. Further information and amendments have been lodged by the applicant as part of the SAT mediation process. These clarify building heights and view vistas and amend the plans to reduce the number to discretions being sought by the applicant. It is considered the proposed front of the dwelling has been designed in such a manner as to carefully consider the streetscape and the viewing vistas of adjoining neighbours. It is noted that the applicant has attempted to minimise the impact of the height of the dwelling at the front boundary. Existing lot and verge vegetation screen the rear of the dwelling from the streetscape.

It is considered the amendments and clarifying information by the applicant demonstrate that viewing vistas will be significantly maintained and partially improved with regard to Blackwall Reach. These photomontages are included in the attachments to this report. It is considered the proposed dwelling can be supported in respect to its impact upon views.

Building Height

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

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

- 8.1m to the top of a pitched roof
- 6.5m to the top of an external wall (concealed roof)
- 5.6m to the top of an external wall; and where the following apply:
 - i. *The proposal demonstrates design, bulk and scale that responds to the established character or other site specific circumstances;*
 - ii. *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; and,*
 - iii. *Subject to the provisions of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

The proposed dwelling has been amended. The dwelling presents as two storeys from View Terrace, however to the rear of the lot, it is three storeys. The maximum height of the dwelling is 8.43 metres to the eaves and 9.2 metres to the ridge.

The Acceptable Development Provisions state a wall should have a maximum height of 5.6 metres and 8.1 metres to the roof ridge.

The wall/ roof height requires Council to consider the application under the Performance Criteria of the Guidelines. The Residential Design Codes 2010 stated:

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

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

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

As such, the proposed development will be assessed under the Performance provisions of the Guidelines. The proposed dwelling is required to be assessed as per the PC requirements of the RDG for the building height, which allows for:

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

View Terrace has a range of building heights, scale and built forms. There is no established design or traditional development, however the majority of the dwellings are 2 storey. Roof designs vary from flat to pitched roofs.

The applicant has undertaken design modifications, and included design measures to minimise the impact of the building on the streetscape and to the viewing vistas of adjoining neighbours. The applicant has ensured view corridors are maintained by minimising the roof pitch.

The topography of the subject lot slopes approximately 4.0 metres from south to north. It is considered the topography of the site makes the design of a development that complies with the Acceptable Development Provisions difficult unless it is split level. The applicant has considered the topography of the site into the design of the dwelling, and with the exception of building height, the development fully complies with the Acceptable

Development Provisions of the RDG. The proposed development addresses the streetscape built form in a sensitive manner so as to minimise scale and bulk to the streetscape. The dwelling presents as single storey to View Terrace. The roof pitch height at the front of the dwelling is 6.8 metres. The maximum height is permitted at 8.1 metres, however it is considered that if the dwelling was 8.1 metres to the street, it would have significant adverse impacts to the neighbours to the south and to the streetscape. This is not a preferable design outcome.

While the bulk of the building (3 storeys) from the rear of the lot is considered high, the potential impacts to the streetscape, viewing vistas and to neighbours is considered acceptable.

The proposed development complies with the 'Deemed to Comply' provisions of the R-Codes for Element 5.4.1 – Visual Privacy and 5.4.2 – Solar Access for adjoining sites. The proposed development is not considered to impact on the light and ventilation received by adjoining lots.

It is considered the proposed amendments to the proposed development, including previous roof modifications and assessment of building height of the development under the Performance Criteria of the Guidelines are considered appropriate and acceptable. The proposed building height to the wall and ridge height does comply with the Performance Criteria of the RDG. Accordingly, the design of the dwelling and proposed height can be supported by Council.

Conclusion

A modification to the development has brought the proposed development into compliance with the Acceptable Development Criteria of the Guidelines with the exception of building height, however the wall and ridge height does comply with the Performance Criteria of the RDG. The dwelling is of a scale, bulk and design that are consistent with the prevailing streetscape. It is considered viewing vistas are protected and as such, the proposed modified development can be supported and is recommended for approval.

RECOMMENDATION

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

(a) element 3.7.17 of the Residential Design Guidelines: Building Height for the demolition of an existing dwelling and proposed development application for double storey (three storeys to the rear) dwelling at 34 (Lot 267) View Terrace, East Fremantle, in accordance with the plans date stamp received on 20 November 2013 subject to the following conditions:

1. Crossover width to be a maximum width of 3.0 metres.
2. Where this development requires that any facility or service within the street verge to be removed, modified or relocated then such works must be approved by Council and to the satisfaction of the Chief Executive Officer.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive

Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.

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

Footnote:

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

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

The correspondence from C Gregory, referred from Correspondence (MB Ref T145.1), was tabled.

Ms Iliadis (Designer) addressed the meeting commenting on the positive outcome from the SAT mediation process.

Cr de Jong – Cr McPhail

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

- (a) **element 3.7.17 of the Residential Design Guidelines: Building Height for the demolition of an existing dwelling and proposed development application for double storey (three storeys to the rear) dwelling at 34 (Lot 267) View Terrace,**

East Fremantle, in accordance with the plans date stamp received on 20 November 2013 subject to the following conditions:

1. Crossover width to be a maximum width of 3.0 metres.
2. Where this development requires that any facility or service within the street verge to be removed, modified or relocated then such works must be approved by Council and to the satisfaction of the Chief Executive Officer.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
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- (g) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T149.5

Hillside Road No. 6 (Lot 11)

Applicant: Ariane Prevost Architect

Owner: C & A Stonehouse

Application No. P133/13

By Andrew Malone, Senior Town Planner on 19 November 2013

PURPOSE OF THIS REPORT

This report considers an application for additions and alterations to an existing dwelling at 6 (Lot 11) Hillside Road, East Fremantle. A full assessment has been undertaken and is detailed below. The proposal is recommended for approval subject to conditions.

Proposed Development

The development application proposes additions and alteration to an existing dwelling. It is proposed to retain the existing dwelling, with the proposed additions and alterations comprising:

Ground Floor

- modifying the garage to a carport;
- Internal ground floor modification and alterations. These with the exception of the carport and minor enlargement of the existing store are within the existing ground floor building envelope.

First Floor

- New first floor balcony.
- Enlargement of master bedroom, ensuite and walk in robe.
- Modification to utility and living room to new loggia.
- Enclosure of verandah.
- Internal first floor modification and alterations.

Second Floor

- Enclosure of second floor pavilion/vergola for proposed living room.
- Extension and modifications to second floor to include kitchen, pantry, dining and laundry, with external deck and access to the rear existing gazebo.

BACKGROUND

Description of Site

The subject site is:

- a 1390m² block

- zoned Residential R12.5
- developed with a two storey dwelling.
- located in the Riverside 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 : No Impact. Additions and alteration will impact on the front facade, however due to the slope of the existing lot, it is considered these alterations to the dwelling will not have any impact to the streetscape.

Documentation

Plans and relevant forms date stamp received on 24 September 2013.
Letter of objection from adjoining neighbour date stamped received 14 October 2013.
Letter of response from applicant date stamped received 21 October 2013

Date Application Received

24 September 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 26 September 2013 and the 14 October 2013. An extension of the advertising period was permitted to ensure the neighbour could review the plans and provide Council with comment. At the close of advertising one (1) submission was received. This is summarised in the below table and is attached to this report.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>4 Hillside Road</p> <p>The proposal significantly increases the height, the bulk and the footprint of the existing built form. The existing house has a small open roof top terrace. The proposal creates an entire third floor at this roof top level over the entire length of the existing structure. Is the scale of this increase appropriate and necessary?</p> <p>Currently there is major overlooking, privacy and building bulk issues that would not be acceptable under today's residential design codes. I am glad to see the plan includes new privacy screening on the arched windows in the outdoor rear entertainment pool area. These windows currently directly overlook</p>	<p>The proposal does not significantly increase the height as alleged at all. The application acknowledges limited areas of non-compliance of the existing development with regard to height (quantitatively demonstrated as only a marginal increase in height to only a small portion of a part of the roof) that does not contribute to any loss of amenity to the neighbour at all. The incorporation of a new pitched roof to the extent shown in the proposal technically alters the existing issue of height and brings it into compliance. Regardless, the comparative outcome to amenity between the existing and the proposed roof is no change, thus</p>	<p>Areas of non-compliance with the 'Deemed to Comply' provisions of the R-Codes and the Acceptable Development Criteria of the RDG will be addressed in detail later in the report.</p> <p>Where appropriate conditions have been included in the Officers Report to protect the amenity of the neighbour.</p>

<p>my entire active outdoor living space. I trust that council will make the screening of all existing and proposed openings overlooking my active outdoor living and indoor living area a condition of any approval.</p> <p>I am especially concerned that the banks of windows, doors and new open terraces to both the rear and front of the building on all levels be adequately screened to ensure my privacy. Planting as screening as shown on the drawing is not adequate.</p> <p>The proposal has many boundary setbacks that do not comply with Acceptable Development Provisions including but not limited to Rear gazebo building on boundary contains major openings and is over-height</p> <p>2) Proposed wall on boundary to front of existing house</p> <p>3) East elevation walls with major openings by way of their effective height to #6 Hillside. Openings in existing walls are being further opened and extensive new major openings provided at the proposed third level additions.</p> <p>The proposal exceeds acceptable building height provisions.</p> <p>In the proposal active habitable spaces (such as the supposed new "kitchen" and living area) and outdoor living areas (such as upper third level terraces and decks) directly overlook the very limited outdoor living areas at # 4 Hillside Road. Screening by way of vegetation and or balustrade height screening as indicated in the proposal is not screening as defined in the R Codes.</p>	<p>there is no affect to any neighbour.</p> <p>The application does not significantly increase the bulk at all as alleged. The addition at the rear of the building is setback in accordance with the Codes and is well below height levels allowed to that part of the site. The balance of the development is expressed as existing bulk and it is shown in the point above must be considered negligible.</p> <p>The application does not significantly increase the footprint at all as alleged. There is a proposal for only 40m2 increase in the footprint to the proposed development (equivalent to 0.02% over the 1388m2 site), which is confined to a proposal for roof cover to a pre-existing car parking hardstand at the front of the dwelling.</p> <p>The scale of the building meets the Guidelines of the precinct, which makes special mention of large scale housing stock to the area. The residence is in keeping with the established residential character of the precinct. The development is located at the top of the ridgeline. The neighbours own house is of a similar mass, bulk and scale set to a lower natural ground level to the same ridge having a similar affect on its western neighbour.</p> <p>The author exaggerates the extent of the proposed addition adjoining the pre-existing level three in the application. In keeping with the policy requirement that additions should be behind the existing development, a two-storey addition only is proposed to the existing rear single-level house, which will interconnect with the existing three-level part of the house. There is no intention to increase the area of three-level development at all or as alleged. The setbacks for the additions in the development satisfy the deemed-to-comply provisions for two-storey development.</p> <p>Quantitatively, the proposed addition comprises 75m2 only in total floor area (inside and out), which according to the neighbours own claims, can be described as being very "small"</p>	
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	<p>Cones of vision measurement provided in the application to proposed new windows and outdoor raised areas show the extent to which overlooking might be possible, including areas of active habitable space and open space. The application shows the incorporation of a number of intermediary screening devices to be incorporated in accordance with requirements in the Codes to satisfy privacy conditions. As previously noted, the owners have incorporated additional screening to certain existing windows to address the neighbours specific concerns. The rear outdoor living space to the neighbour is thus wholly screened for privacy at the common boundary as a result.</p> <p>The use of permanent vegetative screens (planting) as a screening measure is an acceptable proposition under the Code and not as alleged. Such screens are significantly more attractive, provide climate control and are used widely in the locale. The use of vegetative screening to the proposed terrace area over the carport is entirely satisfactory, especially when the unobstructed point of view from this space is the neighbours front setback including a hardstand parking area or open space.</p> <p>The development proposal does not seek to alter the setback to the common boundary to that which already exists. It is relevant to note the neighbours own development has a nil setback for a significant length of the common boundary in any case. Significantly this area, roofed to the boundary prevents any overlooking from the development property regardless of the setback of the development property.</p>	
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Town Planning Advisory Panel

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

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
Panel queries excessive wall height, privacy, and overlooking issues of the proposal.	In response we refer panel members to the significant detail regarding matters relating to wall height and privacy/overlooking already provided in the justification report issued with the application. The contents of the same were	The proposed wall height and overlooking issues will be addressed in depth within the Discussion Section of this report. The applicant has undertaken advice with regard to providing visual

	<p>discussed in a meeting with the planner, Mr Andrew Malone prior to the application being made. We believe we show that the application satisfies/ complies with the Scheme (including all Design Guidelines) and the Codes and can be approved for development as submitted. Mr Malone would be in a position to explain the justifications made relevant to the Code and Design Guidelines directly to the panel.</p> <p>It is relevant to note that prior to the application being made, and with the planners advice, the owners undertook to provide screening (to the extent required under the Codes) to some existing windows which have been in place for more than 40 years (without issue). This was done in special effort to ameliorate privacy issues (Refer cover letter). The owners also contacted the affected neighbour directly to offer them an opportunity to see first hand the proposed development from the owners point of view. The owners recommended the neighbour seek independent understanding from the planner also to understand the proposal. At even date the neighbour has made contact with the owner in order to try and make arrangements to view the owners property. The owners will continue to encourage the neighbour to seek independent advice from the planner if they wish.</p>	<p>screening to existing windows located at the gazebo which according to the applicant, have been in place for more than 40 years. These windows provide unobstructed view to Fremantle. These windows are not required to be screened as they do not form any part of this current application. The owners proposed screening these existing windows to protect the amenity of the neighbour.</p>
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Site Inspection

By Senior Town Planner on 8 November 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%	71%	A
6.4.2 Outdoor Living	30sqm	70sqm	A
6.5 Car Parking	2	3	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	N/A	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	N/A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	A
3.7.15-20 Precinct Requirements	D

DISCUSSION**Visual Privacy**

The applicant has undertaken advice from the Planning Officer to provide screening to the existing windows located at the gazebo. These windows provide unobstructed view to Fremantle and the port. These windows are not required to be screened as they do not form any part of this current application. This has been undertaken to facilitate and to protect the neighbour's amenity.

The proposed development is considered to overlook the adjoining neighbour. The 'Deemed to comply' provisions for Element 5.4.1 Visual privacy of the R-Codes requires major openings which have their floor level more than 0.5 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its 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.

Areas which are required to be assessed under the 'Design Provisions' of the R-Codes are:

- Loggia doors;
- Terrace;
- Deck;
- Kitchen; and
- Living area.

Conditions have been included in the Officer's Recommendation to provide suitable screening to the Loggia doors and terrace. Addition conditions have been recommended to screen the existing gazebo area and to ensure the living area planting / screening is to a suitable standard. The Loggia and terrace areas are considered lower areas and overlook areas that have the potential to impact the adjoining neighbour. These windows have been conditioned to ensure maximum visual privacy to side and rear boundaries on the neighbour's lot.

The remaining windows are assessed as per the 'Design Provisions' of the R-Codes.

The 'Design Provisions' of 5.4.1 allows for:

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

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

The proposed second floor additions and alterations include areas of overlooking from the deck, kitchen and living area. The applicant has provided the following justification with regard to potential overlooking:

Generally

- *The natural ground level and current mode of stepped (terraced) site levels of the western neighbour which is below that of the subject development site largely prevent loss of amenity caused by potential for overlooking.*
- *The potential for overlooking exists to the same extent as the current development Neighbours have lived in harmony with the existing windows and openings for more than 40 years, including windows located to the existing gazebo (facing west).*

Specifically

- *The potential for overlooking from windows and openings to the western facade of the main dwelling is extinguished by the neighbours own development which comprises a wide expanse of roofing to the boundary line which prevents any visual access or any outlook from the proposed kitchen windows at all.*
- *Similarly, the potential for overlooking is negligible by the neighbours own development, which comprises a wide expanse of roofing to the boundary line, as well as permanent vegetative screening trees (neighbour side) will allow only minimal direct overlooking from the existing terrace.*
- *No overlooking is available from the enclosed terrace due to the solid barrier on the neighbours property to the boundary.*
- *In relation to the deck area and stair (from the external gazebo to the proposed deck) once again, the potential for overlooking is marginal by way of the neighbours own development (a wide expanse of roofing to the boundary line), however, a small area of direct overlooking from the proposed deck will exist. It should be noted that the potential to overlook this area exists to the same extent as the current development (as demonstrated in the photo array). It is proposed a screen or similar approved element be erected atop the existing masonry wall on the boundary between the properties to prevent overlooking in the horizontal cone of vision from access via the stair.*
- *In relation to the western windows of the existing gazebo located on the boundary (which have been insitu for more than 40 years as it) it is proposed it is proposed, in accordance with discussion in the covering letter to this application, that the existing windows shall be screened to increase visual privacy. The method of screening shall be in compliance with one or a number of the design principles set out under 5.4.1 in Codes and decided upon in consultation with the neighbour.*

The proposed second floor deck, kitchen and living area are considered to be at a height that will not to impact significantly on the neighbour. The neighbour has stated that she does intend to develop her lot, therefore it is noted that the current application is based on the existing neighbouring development. Should a development application be submitted in the future, this will be assessed on its individual merits. It is brought to the applicant's attention that future views from the second floor may not be able to be fully protected by any future development of the neighbour's lot, however the height of the second floor should maintain sufficient viewing vistas.

The overlooking from windows and openings to the second floor western facade of the main dwelling is minimal due to the windows overlooking only the neighbour's roof. None of the windows are considered to overlook directly into habitable areas or into the rear garden of the adjoining neighbour.

Due to the location and extent of overlooking it is not considered necessary to screen the proposed second floor deck, kitchen and living area from overlooking the neighbour's lot. Direct overlooking of habitable areas or active liveable areas are suitably screened or are conditioned to be suitably screened. In addition, in relation to the western windows of the existing gazebo located on the boundary, it is proposed the existing windows shall be screened to increase visual privacy for the neighbour.

The proposed second floor openings, due to their design and overall height are proposed to maximise views to Fremantle and the port. The neighbour's amenity is considered to be protected. There is no overlooking into habitable areas or active outdoor areas due to the overall height of the dwelling. It is considered the proposed design complies with the Design Principles of Element 5.4.1 Visual privacy of the R-Codes. It is considered the proposed development can be supported.

Boundary Setback

The applicant is seeking Council discretion with regard to the setback requirements of the R-Codes and the Town's RDG for the proposed second floor additions and alterations.

The development incorporates a side setback variation to the western boundary of approximately 1.0 metre to the dining room and approximately 0.7 metres to the living area. These setbacks have been assessed as per major openings and therefore require a greater side setback. The existing pavilion is proposed to be enclosed and therefore the existing setback is to be maintained. The proposed rear addition kitchen has major openings and pursuant to the 'Deemed to Comply' provisions of the R-Codes is required to be set back 4.3 metres from the boundary (notwithstanding the overlooking setback requirements). The proposed setback is 3.3 metres. The proposed kitchen will replicate the existing building form and setback.

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 additions and alteration comply with the traditional setback of the immediate locality. The set back from the front boundary is approximately 33 metres. While the enclosure of the pavilion is to the front of the dwelling, it is considered the enclosure will have minimal impact to the front streetscape. The side (west) setback to the living and dining room requires assessment under the Performance Criteria. It is considered the proposed additions and alterations will not have an impact to the streetscape.

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

The dwelling is not listed on the Town's Municipal Inventory. The setbacks requiring Council discretion are to the western side boundary of the proposed development. The building setback does not adversely affect its visual presence to the streetscape or the character of the dwelling. The proposed additions and alterations have been design to be complementary to the existing dwelling.

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

The proposed western side setback variations are to the dining room and living room, both areas being assessed as having major openings, therefore requiring greater setbacks from the boundary. As was discussed in the Visual Privacy section of this report the proposal does also require a variation to the visual privacy requirements of the R-Codes. The proposed set back and visual privacy variations are as a consequence of the window design. The proposed second floor openings, due to their design and overall height are proposed to maximise views to Fremantle and the Port. The design outcome and proposed setbacks follow the existing building form and is considered appropriate.

The proposed dining room will be set back 3.3 metres from the western boundary in line with the existing dwelling. The proposed living room will be set back 4.1 metres from the western boundary in line with the existing pavilion. The proposed additions and alteration are significantly incorporated into the built form of the existing development. The proposed amendments, including the variation to the setback requirements are considered not to significantly impact on the dwelling, the adjoining neighbour to the west (due to the height of the existing dwelling) or the streetscape. It is considered the reduced setback does not impact on the adjoining neighbour with regard to visual privacy or building bulk.

In conclusion, the proposed setback variations to the dining room and living room are consistent with the existing side setbacks and complement the dwelling. There will be no significant impact to the streetscape. Impact with regard to setback for the neighbour is considered minor and therefore it is considered the proposal can be supported by Council.

Roof Form

The proposed roof is considered to comply with the provisions of the Performance Criteria of the RDG, which states:

P5 *Roof forms of new buildings complement the traditional form of surrounding development in the immediate locality.*

The proposed additions and alterations maintain the existing roof line of the building. It is proposed to enclose the existing roof pavilion, however the design will maintain the appearance of a flat roof and pavilion form. The rear addition to the second floor has been design to maintain the flat roof character of the building. The roof pitch and form have been designed to be contemporary and complementary to the existing dwelling, replicating the built form of the original dwelling.

As part of this design, two skillion roof forms are proposed. The proposed roof forms minimise the impact to the existing dwelling. It is considered due to the elevated nature of the lot and dwelling, there will be no streetscape impact. The existing dwelling can be viewed from several areas throughout East Fremantle, and holds a distinct vantage point in the cityscape, therefore the flat roof is considered to maintain the existing built and roof form of the dwelling. The proposed additions and alterations are considered to complement the existing cityscape.

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

Building Height

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

A2.3 *Category 'B' provisions as set out within Table 3 – Maximum Building Heights of the Residential Design Codes are applicable as the 'Acceptable Development' standards where:*

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

As such the proposed additions and alterations are required to comply with the Deemed to comply' (previously 'Acceptable Development Provisions') which sets out an overall maximum height of 7 metres for flat roofs.

In this instance the existing dwelling is located at the highest point on Hillside Road and throughout the surrounding area. Therefore the proposed additions are not considered to impact on adjoining neighbours views. The proposed additions and alterations are considered minor and do not impact in the vistas or views of adjoining neighbours because the dwelling as existing is located as the highest point of Hillside Road, therefore adjoining dwellings to the east do not have views westward. The proposed additions have been designed to minimise impact to adjoining neighbours therefore the additions do not impact on the existing views of other surrounding neighbours.

The existing dwelling does not comply with the current height requirements of the RDG. The proposed additions and alterations are also considered to be required to be assessed under the Performance Criteria of the Residential Design Guidelines.

The existing dwelling has a maximum height of 9.8 metres from the natural ground level. The proposed additions will increase the overall maximum height of the building to 10.4 metres (proposed reroofing and enclosure of the pavilion). It is considered the overall scale and bulk of the building will remain significantly the same as the existing dwelling. The proposed development does not comply with the provisions of A2.3 building height of the RDG.

The proposed dwelling is required to be assessed as per the PC requirements of the RDG for the building height, which allows for:

- P1** *New developments, additions and alterations to be of a compatible form, bulk and scale to traditional development in the immediate locality.*
- P2** *Form and bulk of new developments to be designed appropriately to the topography of the landscape.*

The height and design of the roof is considered acceptable and appropriate to the design of the existing dwelling. It is considered to complement the existing form of the dwelling. The proposed variations include a modification to the existing pavilion and the rear addition, which extending the ridge line from the existing overall maximum height of the dwelling. The following statement by the applicant is supported:

The existing dwelling comprises a 1950's development with significant architectural addition on the early 1970's. The existing built form of the dwelling was granted development to three levels with a prominent roof terrace viewing deck on the crest of the hill to allow optimum use of the topography to capture the sweeping all round views available to this site. As such the residences prominence makes it a local landmark.

The dwelling does hold a prominent position with the cityscape. The applicant has considered the proposed design of the additions thoroughly and has provided detailed justifications and statements that relate to the Town's Guidelines. These are included in the applicant's application information.

The applicant has provided the following statement with regard to the height of the dwelling:

Notwithstanding the development meets the desired development outcomes and performance criteria in relation to the Building Design Requirements 3.7.18.4 as stated above, the following information is provided in support of approval of the development as proposed.

- *The local policy clause 3.7.18.4.1.3 A2.3 states Category B provisions as set out in Table 3 of the Code are applicable for applications for development.*
- *The existing development was previously approved on three levels and as such satisfies the requirements of Table 3 - Maximum building heights under Category C (with the exception of a minor incursion of wall as shown) of the Code.*
- *In all cases, the proposed development demonstrates compliance with the Design Principles of the Code S.1.6.P6 therefore should be able to be approved irrespective of the category.*
- *Height control is subject to discretionary variation as provided for under the R-Codes.*

The proposed additions will increase the overall maximum height of the building to 10.4 metres (proposed reroofing and enclosure of the pavilion).

The roof design and therefore the eaves design to the additions improve the design and building articulation. The additions do not exceed the existing pitch of the dwelling and therefore the proposed additions have minimal impact to the dwelling and streetscape. The topography of the subject lot slopes approximately 11.0 metres from the rear of the lot down to the front of the subject lot. The proposed variation to the continuation of the existing pitch height over that required under the Acceptable Development Provision of the RDG is considered reasonable and acceptable. The applicant has carefully designed the additions to be sympathetic with the existing dwelling, minimising the scale and bulk of the built form. While it is noted visual privacy and setbacks are required to be assessed as per the Performance Criteria due to the window design, it is considered the overall height of the dwelling and proposed screening mitigates any significant adverse impacts. The proposed additions and alteration have been conditioned to improve the existing amenity of the adjoining neighbour to the west.

Currently views from surrounding properties are considered not to be impacted. The existing dwelling is the highest point of Hillside Road and enjoys expansive views of the Town and Fremantle. The proposed additions and alterations will not impact on the viewing corridors of surrounding neighbours. The proposed additions maintain the existing pitch of the roof, therefore it is considered the proposed dwelling with not increase in overall height.

It is considered the proposed variation to the dwelling height complies with the Performance Criteria of the R-Codes. Accordingly, it is considered the design of the dwelling and proposed height can be supported by Council.

Conclusion

The proposed additions and alterations are of a suitable scale, bulk and design so as to have a minimal impact on adjoining dwellings and streetscape. The proposed additions and alterations are considered reasonably set back from the boundary to preserve the existing amenity of the adjoining neighbours. Conditions have been included in the

Officer's Recommendation to protect the visual privacy of the adjoining neighbour to the west.

The proposed dwelling has been conditioned to reasonably protect the neighbour's amenity. Existing overlooking from the gazebo which has a significant impact on the neighbour has been agreed by the applicant to be screened. While it is considered the proposal will have some impact to the neighbour, it is considered the proposal, as conditioned, will improve overall neighbour's amenity, therefore providing a good planning outcome.

The applicant 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. Suitable and appropriate justifications have been provided by the applicant. It is considered the proposed variations to the Acceptable Development Provisions of the RDG and the 'Deemed to Comply' provisions of the R-Codes can be supported and conform to the provisions of the Performance Criteria.

The application as conditioned is therefore considered appropriate and is recommended for approval.

RECOMMENDATION

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

- (a) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy
- (b) variation to the setback requirements of the side setback (kitchen western elevation) – required setback 4.3metres. Proposed setback is 3.3 metres;
- (c) variation to the setback requirements of the side setback (living room western elevation) –required setback 4.8 metres. Proposed setback is 4.1 metres;
- (d) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- (e) element 3.7.18 of the Residential Design Guidelines: Building Height

for additions and alterations to an existing dwelling at 6 (Lot 11) Hillside Road, East Fremantle, in accordance with the plans date stamp received on 24 September 2013, subject to the following conditions:

- 1. New doors to loggia to be replaced by fixed and obscure glazed windows, to comply with the 'Deemed to Comply' provisions of the R-Codes element 5.4.1 (Explanatory Guidelines with regard to Section 7.1 Visual Privacy)
- 2. Proposed planting identified on drawing A05 external to the living area outside of the area indentified in the cone of vision to be so designed as to remain non habitable and non accessible.
- 3. The three windows at the existing Gazebo to be replaced by fixed and obscure glazed windows to prevent overlooking into the neighbours property.
- 4. The 1.65 metre screen to the front terrace on the western boundary to be designed to comply with the 'Deemed to Comply' provisions of the R-Codes element 5.4.1 (Explanatory Guidelines with regard to Section 7.1 Visual Privacy).
- 5. 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*)
- 6. 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.
- 7. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- 8. 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.

9. 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.
10. 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.
11. 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.
12. 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.
13. Crossover to remain as existing. Should the crossover be proposed to be modified a separate application is required to be submitted to Council.
14. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Ms Preston (adjoining owner) addressed the meeting objecting to aspects of the proposal relating to loss of privacy to her outdoor living area, height, bulk and scale. Ms Preston requested the matter be deferred to allow elected members to inspect the impact of the proposed development from her property.

Ms Prevost (Architect) addressed the meeting in support of the officer's recommendation and responding to the concerns expressed by the adjoining owner.

Cr de Jong – Cr Collinson
The adoption of the officer's recommendation.

Amendment

Cr Rico

That the matter be held over to the Council Meeting pending a site inspection of the subject and adjoining properties. AMENDMENT LAPSED FOR WANT OF A SECONDER

The substantive motion was put.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

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

- (a) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy**
- (b) variation to the setback requirements of the side setback (kitchen western elevation) – required setback 4.3metres. Proposed setback is 3.3 metres;**
- (c) variation to the setback requirements of the side setback (living room western elevation) –required setback 4.8 metres. Proposed setback is 4.1 metres;**
- (d) element 3.7.8 of the Residential Design Guidelines: Roof pitch;**
- (e) element 3.7.18 of the Residential Design Guidelines: Building Height**

for additions and alterations to an existing dwelling at 6 (Lot 11) Hillside Road, East Fremantle, in accordance with the plans date stamp received on 24 September 2013, subject to the following conditions:

- 1. New doors to loggia to be replaced by fixed and obscure glazed windows, to comply with the 'Deemed to Comply' provisions of the R-Codes element 5.4.1 (Explanatory Guidelines with regard to Section 7.1 Visual Privacy)**
- 2. Proposed planting identified on drawing A05 external to the living area outside of the area identified in the cone of vision to be so designed as to remain non habitable and non accessible.**
- 3. The three windows at the existing Gazebo to be replaced by fixed and obscure glazed windows to prevent overlooking into the neighbours property.**
- 4. The 1.65 metre screen to the front terrace on the western boundary to be designed to comply with the 'Deemed to Comply' provisions of the R-Codes element 5.4.1 (Explanatory Guidelines with regard to Section 7.1 Visual Privacy).**
- 5. 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)**
- 6. 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.**
- 7. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 8. 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.**
- 9. 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.

10. 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.
11. 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.
12. 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.
13. Crossover to remain as existing. Should the crossover be proposed to be modified a separate application is required to be submitted to Council.
14. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED 4:1

Under s.5.21(4)(b) of the Local Government Act 1995, Cr Rico requested that the voting of Council members be recorded.

Crs Martin, Collinson, McPhail & de Jong voted in favour of the recommendation with Cr Rico having voted against the motion.

T149.6 George Street No. 65 (Pt 3/ SP16096)**Applicants: Woods Bagot****Owner: A Jones & A M Medcalf****Application No: P148/13**

By Andrew Malone, Senior Town Planner on 9 May 2013

BACKGROUND**Description of Proposal**

This report considers an application for planning approval for a three storey high residence, comprising of two storey single dwelling and undercroft existing car park (for 44 Hubble Street and 67 George Street) located at 65 George Street, East Fremantle. 44 Hubble Street, 65 George Street and 67 George Street are all located on one parent lot. The application is recommended for conditional approval.

BACKGROUND**Description of site**

The subject site is:

- a 587m² Strata lot, of which 128m² relates to the specific development site.
- zoned Mixed Use
- vacant block / car parking
- located in the Plympton Precinct
- Building (44 Hubble Street) located on the Town's Municipal Heritage Inventory as a category B[^]. The building is listed as a property within the George Street Heritage Precinct and is located on the Schedule included as Amendment 4 to the Town Planning Scheme No.2. Clause 7.1.7 of Town Planning Scheme No 3 states:

Notwithstanding the provisions of clauses 7.1.2 to 7.1.3, the local government may establish the Heritage List by adopting any or all of the places that were incorporated in Appendix v – Schedule of Places Heritage Value in Town Planning Scheme No. 2 shall after the revocation of that scheme have the status for all relevant purposes of a Heritage List.

Therefore it is considered the lot as a whole is listed on the Town's Heritage List pursuant to Clause 7.1.7 of Town Planning Scheme No.3

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Mixed Use

Residential Design Codes (R-Codes)

Impact on Public Domain

Tree in verge	: No impact
Light pole	: No impact
Crossover	: No impact
Footpath	: No impact
Streetscape	: Proposed new contemporary two storey dwelling over existing car parking.

Documentation

Plans and relevant forms date stamp received on 17 October 2013.

Neighbours objection letter date stamped received 11 November 2013.

Further information and response letter to neighbours submission date stamped received 22 November 2013.

Date Application Received

17 October 2013

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

16 April 1973 Council refuses permission for a fish wholesale business;

18 February 1974	Council declares stables at 44 Hubble Street neglected buildings;
17 November 1975	Council decides to permit the continued occupation of 44 Hubble Street for Office and Storage for Electrical Equipment;
20 August 1984	Council grants approval for a change of use from “Electrical Contractor” to “Florist/Nursery – Gift Lines and Craft Retail”;
21 April 1986	Council grants special approval for the erection of 2 additional living units and 2 additional commercial units at 44 Hubble Street (65A & 65B George Street);
21 April 1986	Council grants planning consent for 65 George Street to be used for multi-purpose residential and business purposes;
28 July 1986	Building Licence 08/1165 issued for two 3-storey units at the rear of 44 Hubble Street;
22 April 1987	Council grants approval for a change of use from “Florist/Nursery – Gift Lines and Craft Retail” to Second-hand shop dealing in bric-a-brac, ceramics, small pieces of furniture, silverware, and local handicrafts for a period of 2 years;
31 March 1988	Council agrees to the existing timber fence remaining providing it is extended to a maximum height of 2100mm, and endorses unauthorised variations consisting of two dormer windows;
3 May 1988	State Planning Commission endorses a Strata Plan for the subdivision of the buildings at 44 Hubble Street into 3 built strata lots;
20 March 1995	Council grants conditional approval for therapeutic massage on the ground floor with residence above;
19 June 1995	Council resolves to instruct its solicitors to prosecute for non-compliance with the planning consent provisions relating to the residential/therapeutic massage salon;
15 July 1997	Council decides to advise the applicant that the residence at 44 Hubble Street cannot be used for commercial activities – it must be retained for residential purposes, special approval granted for an under verandah sign, and a sandwich board sign;
21 April 1998	Council decides to prosecute the owner and occupier of 65 George Street for erecting a sign without approval;
20 April 1999	Council decides to ask the Police to investigate as there are strong grounds for believing the premises is operating illegally as a place of prostitution;
27 October 1999	Detective Superintendent of the Organised Crime Division advises in writing that the premises at 65 George Street ceased to operate as a massage parlour on 22 October 1999;
20 June 2000:	Council grants conditional special approval for use of the premises as a service store (health & fitness services) on the ground floor and a residence above;
19 March 2002	Council grants approval for the use of 44 Hubble Street as a Buddhist Centre in conjunction with a residence;
4 November 2005	Building Licence 05/89 issued for verandah;
17 October 2006	Council grants approval for additions at the rear of 44 Hubble Street;
8 May 2007	Town Planning and Building Committee resolved to approve a retail flower shop on the ground floor, with residential use of the 2 upper floors at Unit No 2, 65 George Street;
9 October 2007	That Council exercise its discretion in granting approval for a change of use of the premises at No. 44 Hubble Street (cnr George Street) from “Buddhist Centre and residential” to “Shop for the purposes of retailing swimwear and gym wear, and residential”.

CONSULTATION Advertising

The application was advertised to surrounding neighbours and a sign was placed on the subject site for a two week period between 7 February and 25 February 2013. A newspaper advert was also placed in a local newspaper on 9 February 2013. At the close of advertising one submission had been received and is attached to this report. The issues raised in the submission are summarised in the following table alongside the applicant's response and officer's comment.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>The Scheme enables Council to make Policy to augment Policy Objectives to co-ordinate development with consideration for bulk, form, setbacks and future character, but not the solar access and overshadowing and parking standards as given in the R-Codes.</p> <p>The Scheme adopts the parking standards and solar access requirements as per the R-Codes.</p> <p>Overshadowing of the neighbouring residence at 46 Hubble Street demonstrably diminishes solar access; the statement "leaves the flooding of sunlight down to the outdoor spaces" is completely subjective and is proven.</p> <p>The Objectives of the Scheme offers no comment or guidance on bulk, form or setbacks and therefore does not influence the outcomes of the R-Codes. The R-Codes therefore takes precedence.</p> <p>Town of East Fremantle's Local Planning Policy and Local Planning Strategy offer some objectives to guide housing development but none that amend or replace the R-Codes in relation to solar access and parking.</p> <p>The Proposal has on-site limitations that affect existing parking warranting more On-street parking.</p> <p>The proposal contravenes the objectives of the solar access clauses of the R-Codes, clauses the Planning Scheme or Local Policy cannot amend or replace.</p> <p>With respect, the Council is called upon to recognise the importance of the 'back yard' to the character, amenity and historical development of the Town and to the community.</p>	<p>The R-Codes enable assessment of development proposal against either 'Deemed-to-Comply' provisions or 'Design Principles'. The submission by urbanplan on behalf of the owners of 46 Hubble Street fails to recognise this fundamental point.</p> <p>In addition, and as acknowledged by the Town's officers, clause 7.5 of the Town's Scheme facilitates the variation of any development requirement in this instance due to the heritage buildings.</p> <p>Notwithstanding, the proposal results in no variations to the deemed-to-comply provisions of the R-Codes relating to solar access or parking, which are the specific issues addressed by urbanplan's submission.</p> <p>As detailed by urbanplan's submission, the proposed single dwelling results in overshadowing of 46 Hubble Street of 12.5%. The submitted site plan indicates the resultant overshadowing more accurately to be 13.3% including the existing fence. The proposed dwelling is located between two existing commercial buildings. The site of the proposed dwelling and the commercial buildings on either side are located on a single parent lot under common ownership.</p> <p>The urbanplan submission seeks to combine the small amount of overshadowing created by the proposed dwelling (13.3%) with the existing overshadowing created by the existing, non-residential commercial buildings located either side of the proposed dwelling (yet on the same parent lot). This is incorrect and seeks to exaggerate the impact of the modest development proposed.</p> <p>Clause 1.4 of the R-Codes details how the R-Codes are to be applied.</p>	<p>The matters of overshadowing and car parking will be addressed in detail later in the report.</p> <p>The development is considered to require discretion with regard to car parking.</p> <p>The development is considered to comply with the 'Deemed to Comply' provisions of the R-Codes with regard to overshadowing.</p>

	<p>It provides that Part 5 of the R-Codes applies to single houses, and importantly does nowhere state that the R-Codes apply to existing non-residential, commercial buildings.</p> <p>As the development site is a portion of a single parent lot, 46 Hubble Street is not bound to the north by 'another lot'. As such, the applicable deemed-to-comply overshadowing limit applicable to the proposed development is 25%.</p> <p>As the overshadowing resultant from the dwelling is 13.3%, the proposal clearly satisfies the relevant deemed-to-comply requirement relating to solar access.</p> <p>In relation to parking, the deemed-to-comply requirement under clause 5.3.3 C3.1 of the R-Codes is for 1 onsite parking space. This requirement has been achieved with the proposed development. In addition, it should also be noted there is significant scope for reciprocal use of the parking. The parking will typically be vacated by the existing commercial tenancies during times when residential parking use is required.</p> <p>There is currently provision for on-street parking along George Street. Furthermore, the development site is located 270m from four bus routes along Canning Highway, and 325m from a bus route along Marmion Street.</p>	
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Town Planning Advisory Panel Comments

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

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>Panel recognise the George Street Precinct is a noisy area and recommend suitable noise attenuation methods are used to limit the impact of potential noise.</p> <p>Panel thanks the applicant for the previous feedback, comments and further information.</p> <p>Panel welcomes and supports the development.</p>	N/A	<p>The Panel's comments in respect for noise attenuation and its general support of the application is noted.</p> <p>A condition has been included requiring the applicant to note of the plans through a Section 70A notification that the building is in a Mixed use zone and therefore will have associated noise.</p>

Site Inspection

By Senior Town Planner on 1 November 2013.

ASSESSMENT

The proposal has been assessed against the provisions of Town Planning Scheme No. 3 and the Residential Design Codes of Western Australia. The proposed development incorporates a number of variations to the Town of East Fremantle Town Planning Scheme No.3 and the Residential Design Codes, as detailed below.

Heritage

The subject lot is listed on the Town's Heritage List by virtue to the subject parent lot being located in the Plympton Precinct and the Municipal Heritage List (**MHI**). The subject lot has a B[^] category rating. The MHI states for B rated properties:

"Category B

Places of considerable local heritage significance

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."

The subject property is in the George Street Precinct in which all individual properties are on the Heritage List under TPS 3. The proposed development has been assessed to require variations to the Town's Planning Scheme. The proposed variations were considered pursuant with *Clause 7.5 (a) of Town Planning Scheme No. 3 – Variations To Scheme Provisions for a Heritage Place or Heritage Area*. This Clause provides that *"the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.6.2"*. However this provision may only be utilised if proper regard has been given to Clauses 5.6.2, 5.6.3, 9.4 and 10.2 of the Town Planning Scheme. This will be discussed in detail later in the report. The applicant is seeking significant Council variations with regard to the proposed development application. For Council to consider such variations, it is required to be satisfied that the proposed development complies with the provisions of Clause 5.6.3 (b) and Clause 10.2.

Subject to the relevant Scheme Clauses, the existing building at 44 Hubble Street and therefore the whole parent lot is listed on the Town's Heritage List as a consequence of Clause 7.1.7 of Town Planning Scheme No 3.

Mixed Use Zone

TPS3 provides for the following objectives to be regarded in the development of a building within a mixed use zone:

- *To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which will not prejudice the amenities of the neighbourhood;*
- *To ensure future development within each of the Mixed Use Zones is sympathetic with the desired future character of each area, and that a significant residential component is retained as part of any new development;*
- *To promote the coordination of development within each of the Mixed Use zones and to facilitate the safe and convenient movement of pedestrians to and within the area;*
- *To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the streetscape.*

TPS 3, sub-clause 5.8.10 states for development in the Mixed Use zone:

“5.8.10 Development in the Mixed Use Zone: The local government will generally not approve any development or re-development involving a change in use of existing residential floor space in a Mixed Use zone, unless it is satisfied that an appropriate mix of uses, including residential, is to be maintained. No development is to be approved in a Mixed Use zone where it would prejudice the character or amenity of the locality by reason of the nature of the resultant activities, the building design or the impact of traffic or car parking.”

Note: While the Mixed Use zones are intended to provide for a range of commercial facilities, residential development is an essential characteristic of these areas, and care needs to be taken to ensure preservation of a residential component.”

The proposed development is for a two storey residential dwelling located above the existing off street car park located on 65 George Street. The proposal is associated with 44 Hubble Street, (commercial and residential building) and 67 George Street, (commercial and residential building). It is considered the proposed commercial and residential mix is appropriate and adheres to the objectives as outlined above.

It is considered the proposed development will improve the character of the locality by introducing an original and unique building design, while not impacting on the residential amenity of the surrounding buildings or significantly impacting on car parking in the area.

The proposed development is considered to adhere to the objectives for the mixed use zone as outlined in the Scheme.

Residential Development in Non-Residential Zones

Clause 5.3.4 *Residential Development in Non-Residential Zones* of TPS3 states:

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

The development requirements for a R40 density for a mixed use zone are outlined below in the R-Codes assessment. The proposed development does require Council to exercise discretion with regard to the minor height variation, however the proposed development is considered of a scale and bulk that is sympathetic with the adjoining buildings and is consistent with the coordinated development of George Street. A comprehensive development application, including detailed streetscape analysis and assessment has been submitted with the application. It is concluded that the proposal will not impact on the streetscape or the character of the area and therefore can be supported.

Setbacks

Clause 5.8.1 *Building Setbacks* of TPS3 states:

Except as otherwise required or permitted by the local government, buildings in the Commercial Zones are to be aligned with the front property boundary, and are to be built up to any side boundary, other than a boundary which abuts the Residential Zone. In the case of a boundary which abuts land situated in the Residential Zone, the side setback standards applicable to the adjoining Residential Zoned land are to apply.

The proposed building has been designed to be aligned with the front property boundary, and is to be built up to the eastern side boundary. While the proposed building is not proposed with a zero lot setback on the eastern and western boundaries, the proposed

setbacks from the boundaries are considered to articulate the building and delineate the structure. The setbacks are considered appropriate as the proposed development is designed to minimise the impact to the adjoining building on George Street. The proposed southern boundary adjoins residentially zoned land. The southern elevation is setback 3.5 metres from the boundary. The required R-Code setback is 1.4 metres. The building adjoining the proposal is a dwelling on land zoned Residential R20. The proposed development is setback the appropriate distance to comply with the 'Deemed to Comply' provisions of the setback requirements of the R-Codes.

Car Parking

On 8 May 2007 the Town Planning and Building Committee resolved to approve a retail flower shop on the ground floor, with residential use of the 2 upper floors at Unit No 2, 65 George Street. This was based on:

The NLA of the proposed flower shop comprises 36m² and there will be one tenancy therefore 4 spaces are required for the shop tenancy, and 2 for the residential use pursuant to the RDC, a total of 6 spaces.

However, under the RDC Mixed – Use Development Requirements, the Acceptable Development performance criteria states:

- *on-site parking – as for Multiple Dwellings: may be reduced to one per dwelling where on-site parking for other users is available outside normal business hours;*

The above circumstance applies to the subject property, which has an allocated on-site parking space adjacent to the west wall of the building, and 1 immediately adjacent on-street parking space.

Based on this allowable relaxation the parking standard is 5 spaces.

Council approved a variation for 1 car parking bay to be provided on-site. There are 2 on-site car parking spaces allocated for the specific use of 44 Hubble Street. These spaces are located in a walled enclosure accessed via George Street, which is jointly used by Units 1 and 2, 65 George Street, which have one designated car parking bay each.

6.3.3 C3.1 of the R-Codes states the following minimum number of on-site car parking spaces per dwelling comprising the following

Type and plot ratio area of dwelling	Car parking spaces*	
	Location A	Location B
Small (<75m ² or 1 bedroom)	0.75	1
Medium (75-110m ²)	1	1.25
Large (>110m ²)	1.25	1.5
Visitors car parking spaces (per dwelling)	0.25	0.25

*Note: 6.3.3 C3.1.

A = within:

- 800m of a train station on a high frequency rail route, measured in a straight line from the pedestrian entry to the train station platform to any part of a lot; or
- 250m of a high frequency bus route, measured in a straight line from along any part of the route to any part of a lot.

B = not within the distances outlined in A above.

Furthermore, the subject lot is located 270 metres from four bus routes along Canning Highway, and 220 metres from Marmion Street, therefore the subject lot is considered to

be in an area with good access to public transport and is to be considered under the requirements for Location A requirements.

Based on the overall size of the proposed dwelling 153m², 1.5 car spaces are required to be provided based on a dwelling of greater than 110m², however it is considered that due to the nature of the proposal, and the design being only 1 bedroom, proposed on the second floor, the assessment should be undertaken for a 1 bedroom dwelling. As such the provisions of a small dwelling (1 bedroom) is considered sufficient 0.75 spaces for the dwelling with 0.25 spaces for visitors, therefore a total of 1 car parking space is required.

The applicant has stated:

In relation to parking, the deemed-to-comply requirement under clause 5.3.3 C3.1 of the R-Codes is for 1 onsite parking space. This requirement has been achieved with the proposed development.

In addition, it should also be noted there is significant scope for street car parking with respect to the shops. It is also noted that there is scope for reciprocal car parking. The parking will typically be vacated by the existing commercial tenancies during times when residential parking use is required.

Based on previous approvals and this current proposal, a total of 5 spaces are required to be provided. 2 on-site car parking spaces allocated for the specific use of 44 Hubble Street and 1 space each for Units 1 and 2, 65 George Street and 1 space for the proposal. The applicant has demonstrated that 5 car parking can be provided on site in the car parking area.

It is however considered that this car parking arrangement as detailed in the proposed plans is not appropriate with regards to access, egress and car parking. It is considered 1 on-site car parking space can be allocated to 44 Hubble Street and 1 space each for Units 1 and 2, 65 George Street parking in tandem and 1 space for the proposal, totalling 4 spaces on-site. Further, it is considered spaces as indicated on the plan would create egress issues. Therefore, it is considered 44 Hubble Street will lose one car parking bay to facilitate the car parking for the proposal, resulting in a shortfall of one (1) on-site car bay.

Clause 5.8.5 *Car Parking and Vehicular Access* of TPS3 states:

Car parking in respect of development in the Commercial Zones is to be provided in accordance with the standards set out in Schedule 11 of the Scheme and the specifications in Schedule 4 of the scheme. Where there are no standards for a particular use or development, the local government is to determine what standards are to apply. In its determination of the requirements for a particular use or development which is not listed in Schedule 11 of the Scheme, the local government is to take into consideration the likely demand for parking generated by the use or development.

The Scheme provisions provide four means to satisfy the car parking requirements:

- (i) *on-site (section 5.8.6 refers)*
- (ii) *immediately adjacent on-street car parking as per 5.8.7 which reads as follows:*

5.8.7 *On-Street Parking: The local government may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development, provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.*
- (iii) *off-site as per 5.8.6 which reads, in part:*

5.8.6 *Location of Car Parking ... subject to the local government's approval, off-site in the immediate vicinity of the development site. In considering a proposal for off-site parking, applicants will need to demonstrate to the satisfaction of the local government that any off-site parking areas will continue to be available for use in conjunction with the development at such times as it might reasonably be required.*

(iv) *cash-in-lieu as per 5.8.8 which reads as follows:*

5.8.8 *Cash-in-lieu of Parking: The local government may accept or require cash-in-lieu of all or a proportion of required car parking, based on the estimated cost of providing the requisite parking, including any associated access and manoeuvre facilities. Cash-in-lieu of parking shall be paid into a trust fund and used to provide public parking in the vicinity of the development site(s) in relation to which any cash-in-lieu contributions have been received."*

All new development and proposals for change of use and redevelopment within the George Street Mixed Precinct are also required to be assessed as per the *George Street Mixed Precinct New Development Contribution To The Management of Access and Parking Local Planning Policy*. This requires contributions at a rate of \$9,000 per space for each car parking space provided on-site. Council may at its discretion vary the applicable rate of the contribution in recognition of any site specific issues associated with a development proposal. In considering any variations in the applicable rate of contribution Council shall have regard to those matters contained in Clause 5.8, 7.5, and 10.2 of the Town Planning Scheme No. 3.

44 Hubble Street, 65 George Street and 67 George Street all form one lot, however are characterised by distinct stratas. Across the frontage of the parent lot on George Street and Hubble Street there are 5 street on-street car parking spaces that can be used in association with the commercial uses. This means a total of 9 car parking spaces are associated with the commercial and residential uses at 44 Hubble Street, 65 George Street and 67 George Street. This is considered appropriate and acceptable car parking. It is considered the proposed development complies with Clause 5.8, 7.5, and 10.2 of the Town Planning Scheme No. 3, specifically Clause 5.8.6, therefore no cash in lieu payment is considered necessary.

With the reorganisation of the car parking standards for the lot, it is considered the proposed development adheres to the 'Deemed to Comply' provisions of the R-Codes. However 44 Hubble Street will be required to lose one of its on-site car parking bays. As 44 Hubble Street has 3 on street car parking spaces adjoining the property, it is considered appropriate to consider the proposed car parking acceptable. The allocation of the on-street car parking does not prejudice adjacent development or adversely affect the safety or amenity of the locality and therefore it is considered can be supported by Council.

Building Height

The application proposes a building height of 8.27m to the flat roof from the natural ground level.

Clause 5.8.2 *Building Height* of TPS3 states:

Except as otherwise permitted by the local government, the maximum height of buildings in the Commercial Zones are to be as follows:

(a) Town Centre: Walls: 8.0 metres Overall: 10.5 metres

(b) Special Business: Walls: 8.0 metres Overall: 10.5 metres

(c) Mixed Use: Walls: 5.5 metres Overall: 8.0 metres

Under TPS 3 except as otherwise permitted by Council, the maximum overall building height in the Mixed Use zone is 8m, with walls being 5.5 metres. As the building is a flat roofed structure the wall height is 8.2 metres, exceeding the maximum wall height by 2.7 metres and the overall height by 0.2 metres. It is noted that the scheme height restrictions do not specifically provide for flat roofed design structures. The streetscape analysis of surrounding buildings has identified a varied building height development pattern. The proposed development has an overall height of 8.27 metres to the top of the concealed roof, and is considered consistent with the adjoining buildings.

The proposed building form and existing car park increases the overall height has a maximum height of 8.27 metres. The proposed development has been designed to be an iconic building, designed to complement the existing heritage dwelling at 44 Hubble Street. The design of the building does not try to replicate conventional flat roofs, but is designed with varied setbacks and roof articulation to George Street.

The applicant sought the Town Planning Advisory Panel comments prior to lodging the development application. The current Panel's comments support the proposed development. The applicant has undertaken a thorough assessment of the streetscape and surrounding urban environment. It is considered appropriate as the proposed development does not propose to replicate the heritage development of the adjoining property at 67 George Street. The development is contemporary and is considered will have a positive impact to the streetscape. It is considered the proposed development is sympathetic to the adjoining heritage property.

The overall height of the building is considered consistent with previously approved recent development in the area. The developments scale and bulk is ameliorated through the articulation of the building and roof design. As is demonstrated by the photomontages/ streetscapes provided by the applicant, the proposed development is not considered to significantly impact on the area. The overall building height of the development requires Council discretion of 0.2 metres to the overall development height. This height variation is minor and is considered acceptable when assessed with the overall unique design of the building. Therefore, it is considered the proposed development as a whole can be supported by Council. It is noted the adjoining neighbour to the rear has objected to the development and these concerns and addressed below.

Plot Ratio

The plot ratio of the proposed development on 65 George Street is 1:1.2, however 44 Hubble Street, 65 and 67 George Street all for part of one parent lot, therefore the proposed plot ratio of the whole parent lot is 0.8:1.

TPS 3 specifies that plot ratio in the Mixed Use zone should be no more than 0.5:1 therefore the proposed development exceeds the specified plot ratio.

The proposed development is considered of a similar scale, bulk and plot ratio as recently approved developments within the area. The proposed development is considered to significantly comply with the 'Deemed to Comply' provisions of the R-Codes requirements for Mixed Use development. The proposed development is not considered excessive in terms of plot ratio, height, scale or bulk.

Residential Design Codes

The following is an assessment of the development as per the requirements of the Residential Design Codes. The areas of Council discretion required regarding the 'Deemed to Comply' provisions and the compliance with the Design Provisions of the R-Codes are addressed below:

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	45%	86%	A
Primary Street Setback	4m	0.9m	D
Height: Concealed Roof	7.0m	8.27m	D
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	13.3%	A
Drainage	On-site	On-site	A

Street Setbacks and Side and Rear Setbacks

The proposed development does not comply with the 'Deemed to Comply' provisions of Element 6.1.3 Street Setback of the R-Codes, which states:

- *Development complies with the minimum setback from the primary and secondary street(s) in accordance with Table 4.*

And

- *Balconies are to be located entirely within the property boundary.*

The proposed development also does not comply with the ADP of Element 7.1.4 Side and Rear Setback of the R-Codes, which states:

- *In area coded R30-R60, the development complies with minimum side and/ or rear boundary setback requirements as set out in table 2a and 2b, and Figure 3 subject to any additional measures in other elements of the code.*

The above ADP requirements are considered superseded by the Town's Town Planning Scheme requirement in Clause 5.8.1 *Building Setbacks*, which states:

Except as otherwise required or permitted by the local government, buildings in the Commercial Zones are to be aligned with the front property boundary, and are to be built up to any side boundary...

It is noted however that *In the case of a boundary which abuts land situated in the Residential Zone, the side setback standards applicable to the adjoining Residential Zoned land are to apply.* The proposed design of the development has setbacks to the south, east and west boundaries. The development is set back 0.3 metres from the western boundary, 1.4 metres from the eastern boundary and 3.5 metres from the southern boundary. The east and west are commercial properties. To the south is residential zoned land. The required setback is 1.4 metres. Therefore the proposed development complies with the 'Deemed to Comply' provisions of the R-Codes.

Overshadowing

The main premise of the neighbour's objection relates to overshadowing. The neighbour states:

The existing development on 67 (the composite 67 George Street) overshadows the site of 46 Hubble Street by 29.5 % - this equates to overshadowing of 87 square metres of the 132 square metre outdoor living area, or 66% of the outdoor living area. The existing overshadowing is in excess of the R-Codes permissibility.

The proposed development, if constructed in its current form, would increase the overshadowing of 46 Hubble Street residence to 42%. This is 17% over the RCodes limit of 25%. More astonishingly, the impact of the proposal at 21 June is to overshadow 105 square metres of the outdoor living area equivalent to 78% of the

'back yard'. This overshadowing extends into the living areas by a further 21 square metres.

The proposed building is located between two existing commercial buildings at 44 Hubble Street and 67 George Street. The site of the proposed dwelling and the commercial buildings on either side are located on a single parent lot (Pt 3/ SP16096).

The neighbours assessment of overshadowing combines existing commercial overshadowing, with the overshadowing created by the proposed dwelling (13.3%). Clause 1.4 of the R-Codes details how the R-Codes are to be applied. The R-Codes are not applied to commercial properties. As such the proposal results in no variation to the 'Deemed to Comply' provisions of the R-Codes relating to solar access which states overshadowing should not exceed 25% of the adjoining lot. The overshadowing from the proposed development is 13.3%. The Town Planning Scheme does not provide overshadowing requirements.

The adjoining development abuts a higher density coded area 'Mixed Use' area / R40. The proposed development while requiring a 0.27 metre height variation is considered appropriate. The reduction of 0.27 metres to the overall height is considered to have minimal positive impact to the neighbour therefore the proposed development has not been recommended to be reduced in height. The subject parent lot and adjoining neighbours lot is also east / west orientated. The site orientation, acceptable density and height requirements means overshadowing of the neighbours lot will be problematic.

Notwithstanding all the above, the proposed development is considered to comply with the R-Code requirements for residential development and therefore it is considered the proposed development can be supported.

Consideration for Council

In respect to parking and overshadowing requirements as raised in the neighbours letter, specific clauses in the Scheme are required to be adhered to for Council to appropriately support the proposed development.

Under Clause 7.5 and 5.6 of Town Planning Scheme No 3, the applicable development standard may be relaxed, unconditionally or subject to such conditions as the local government thinks fit, however the power conferred in this clause can only be exercised if:

- (i) Council is satisfied the non compliance will not have an adverse effect upon the occupiers and users of the development, the inhabitants of the locality or the likely future development of the locality.
- (ii) Council is satisfied the relaxation would be appropriate having regard to the criteria set out in clause 10.2
- (iii) If, in the opinion of Council, the relaxation is likely to affect any owners or occupiers in the general locality or adjoining the site, the Council is to consult the affected parties, as per the provisions of clause 9.4 and have regard to any expressed views prior to making its determination to grant the relaxation.

Clause 5.6.2 States:

In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and*
- (b) have regard to any expressed views prior to making its determination to grant the variation.*

The application was advertised for a two week period. The adjoining neighbour has submitted a letter of objection.

Clause 5.6.3(b) of TPS3 requires that:

the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

With respect to (ii) the criteria extracted from clause 10.2 which appears relevant is as follows:

- (a) *the aims, objectives and provisions of the Scheme*
- (c) *the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submission to be sought;*
- (i) *the conservation of any place that has been entered in the Register within the meaning of the Heritage of Western Australia Act 1990, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;*
- (j) *the compatibility of a use or development with its setting;*
- (l) *the cultural significance of any place or area affected by the development;*
- (o) *the preservation of the amenity of the locality;*
- (p) *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (q) *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (r) *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (s) *whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;*

With respect to the provisions of the Scheme and the application of variations with respect to car parking, the following are relevant and need to be considered before any decision on granting a relaxation on parking is considered.

- (i) *Aims of the Scheme*
To ensure the safe and convenient movement of people throughout the Town, including pedestrians, cyclists, public transport users and motorists.
- (ii) *General objective of all zones*
To promote the integration of transport and land use, and to encourage the use of low energy transport modes, such as walking, cycling and public transport.
- (iii) *Objectives of mixed use zone*
 - *To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which will not prejudice the amenities of the neighbourhood;*
 - *To ensure future development within each of the Mixed Use Zones is sympathetic with the desired future character of each area, and that a significant residential component is retained as part of any new development;*
 - *To promote the coordination of development within each of the*

- Mixed Use Zones and to facilitate the safe and convenient movement of pedestrians to and within the area;*
- *To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the streetscape.*

- (v) *Development in the Mixed Use Zone*
No development is to be approved in a mixed use zone where it would prejudice the character or amenity of the locality by reason of the nature of the resultant activities, the building design or the impact of traffic or car parking.

In short, having considered all of the above provisions, Council has the power, if satisfied that the relevant Scheme provisions have been met, to relax the development standards applicable in this application. Those provisions provide for relaxations of applicable standards if Council has satisfied itself with regard to relevant matters which must be considered prior to considering granting such relaxations.

The neighbour has objected to the development on the basis of non compliance with car parking and overshadowing. As previously discussed the overshadowing is considered to comply with the 'Deemed to Comply' provisions of the R-Codes. The applicant is seeking Council discretion with regard to car parking requirements, plot ratio requirements and building height requirements. The above variations are not considered to impact on the amenity of the area. The proposed development is considered to be a contemporary and high quality design, which will add to the character of the streetscape. The proposed development would not prejudice the character or amenity of the locality by reason of the nature of the building design or the impact of traffic or car parking, therefore the proposed development is considered can be supported by Council.

CONCLUSION

The proposed development is consistent with the overall building height of other developments in the area. The overall total height variation is 0.27 metres. This is considered minor. It is considered the proposed design of the building, articulation and setback minimise the scale and bulk impact to the streetscape. The proposed design is considered to add interest to the street and the applicant has provided an integrated and thorough design proposal that will improve the character of the area.

The proposed two storey development has an overall plot ratio of 1.2:1 (0.8:1 over the whole parent lot). The permitted plot ratio of the area is 0.5. Adjoining buildings on George Street have been redeveloped at a greater plot ratio than TPS 3 permits. In this instance the proposed plot ratio is considered appropriate. The proposed development is considered of a scale and height consistent with the 'mixed use' zone and has been designed to be consistent and sympathetic to adjoining buildings. The proposed development is considered not to be excessive in height, scale or bulk.

The parking reorganisation is not considered significant given that the proposal provides on-site parking to accommodate future commercial units and the proposed residential development. Conditions have been included in the Officers Recommendation to ensure the car parking bays are appropriately marked and managed.

The application recommended for approval, subject to conditions.

RECOMMENDATION

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

- (a) variation to the provision of on-site parking pursuant to Town Planning Scheme No 3;
- (b) variation to building height under Town Planning Scheme No 3 (required 5.5 wall, 8.0 metres overall : proposed 8.27 metres concealed roof)

- (c) variation to plot ratio of Town Planning Scheme No 3 from 0.5:1 to 1.2:1 (0.8:1 for the overall parent lot);
for two storey over existing car parking development located at 65 (Pt 3/ SP16096) George Street, East Fremantle, in accordance with the plans date stamp received on 17 October 2013 subject to the following conditions:
1. Prior to the applicant submitting an application for a Building Permit, the development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer as detailed in the Local Planning Policy – Element 3.7.16.4.3 Fremantle Port Buffer of the Residential Design Guidelines.
 2. The landowner shall lodge a section 70A notification pursuant to the transfer of Land Act on the Certificate of Title(s) of the development site, prior to the issue of a Building Permit. This notification shall be sufficient to alert prospective landowners that the dwellings are located within Area 2 of the Fremantle Port Buffer and the proposed built form of the development within the precinct is to be adhered to. The wording of the memorial shall be placed on all strata titles as follows;
The subject lot (strata) is located within proximity to the Fremantle Port. From time to time the location may experience noise, odour, light spill and other factors that arise from the normal operations of a 24 hour working Port.
 3. The landowner shall lodge a section 70A notification pursuant to the transfer of Land Act on the Certificate of Title(s) of the development site, prior to the issue of a Building Permit. This notification shall be sufficient to alert prospective landowners that the dwellings are located within the commercial zone of George Street. The wording of the memorial shall be placed on all strata titles as follows;
The subject lot (strata) is located within proximity to George Street commercial zone. From time to time the location may experience noise, odour, light spill and other factors that arise from the normal operations of a commercial area.
 4. The ground floor car parking at 65 George Street is to be a minimum of 4 spaces, clearly assigned a minimum of 1 on-site car parking spaces allocated for the specific use of 44 Hubble Street residential and 1 space each for Units 1 and 2, 65 George Street and 1 space for the proposal.
 5. A Site and Traffic Management Plans for trades persons and delivery vehicles to be approved by the Chief Executive Officer in consultation with relevant officers, to be lodged with the Building Licence application.
 6. The works 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.
 7. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 8. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 9. All stormwater 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 licence.
 10. 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.
 11. 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. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
 12. 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.

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

Footnote:

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

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

Mr & Mrs Chaney (adjoining owners) and Mr Brashaw (Planner representing the Chaney's) addressed the meeting expressing concern regarding the solar access and overshadowing impact the development would have on their outdoor area and also internal living areas. Mr Brashaw suggested a redesign of the top floor could alleviate these concerns.

Mr Jones (owner) and Mr Lopez (architect) addressed the meeting in support of the officer's recommendation and explained elements of the design and finishes.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr McPhail

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

- (a) variation to the provision of on-site parking pursuant to Town Planning Scheme No 3;**
- (b) variation to building height under Town Planning Scheme No 3 (required 5.5 wall, 8.0 metres overall : proposed 8.27 metres concealed roof)**
- (c) variation to plot ratio of Town Planning Scheme No 3 from 0.5:1 to 1.2:1 (0.8:1 for the overall parent lot);**

for two storey over existing car parking development located at 65 (Pt 3/ SP16096) George Street, East Fremantle, in accordance with the plans date stamp received on 17 October 2013 subject to the following conditions:

- 1. Prior to the applicant submitting an application for a Building Permit, the development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer as detailed in the Local Planning Policy – Element 3.7.16.4.3 Fremantle Port Buffer of the Residential Design Guidelines.**
- 2. The landowner shall lodge a section 70A notification pursuant to the transfer of Land Act on the Certificate of Title(s) of the development site, prior to the issue of a Building Permit. This notification shall be sufficient to alert prospective landowners that the dwellings are located within Area 2 of the Fremantle Port Buffer and the proposed built form of the development within the precinct is to be adhered to. The wording of the memorial shall be placed on all strata titles as follows;**

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

3. The landowner shall lodge a section 70A notification pursuant to the transfer of Land Act on the Certificate of Title(s) of the development site, prior to the issue of a Building Permit. This notification shall be sufficient to alert prospective landowners that the dwellings are located within the commercial zone of George Street. The wording of the memorial shall be placed on all strata titles as follows;
The subject lot (strata) is located within proximity to George Street commercial zone. From time to time the location may experience noise, odour, light spill and other factors that arise from the normal operations of a commercial area.
4. The ground floor car parking at 65 George Street is to be a minimum of 4 spaces, clearly assigned a minimum of 1 on-site car parking spaces allocated for the specific use of 44 Hubble Street residential and 1 space each for Units 1 and 2, 65 George Street and 1 space for the proposal.
5. A Site and Traffic Management Plans for trades persons and delivery vehicles to be approved by the Chief Executive Officer in consultation with relevant officers, to be lodged with the Building Licence application.
6. The works 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.
7. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
8. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
9. All stormwater 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 licence.
10. 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.
11. 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. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
12. 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.
13. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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.* CARRIED 3:2

Under s.5.21(4)(b) of the Local Government Act 1995, Cr Collinson requested that the voting of Council members be recorded.

Crs McPhail, de Jong & Martin voted in favour of the recommendation with Crs Collinson & Rico having voted against the motion.

T149.7**View Terrace No. 62 (Lot 85)**

Applicant: John Chisholm Design

Owner: F & C Lupis

Application No. P134/13

By Andrew Malone, Senior Town Planner on 7 November 2013

PURPOSE OF THIS REPORT

This report considers an application for additions and alterations to an existing dwelling at 64 (Lot 85) View Terrace, East Fremantle. A full assessment has been undertaken and is detailed below. The proposal is recommended for approval subject to conditions.

Proposed Development

The development application proposes additions and alteration to an existing heritage dwelling. It is proposed to retain the existing dwelling, modifying the carport to a garage and construct a new gym, cellar and laundry to the rear undercroft. Above the undercroft it is proposed to construct new open plan kitchen/ dining/ living area, a theatre room and alfresco area. A second garage is also proposed to the rear of the subject lot.

BACKGROUND**Description of Site**

The subject site is:

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

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

In this instance, the proposed additions are to the rear of the heritage dwelling. The additions are not considered to impact on the dwelling. Due to the nature of the development and the proposed design, a heritage assessment was not considered necessary. The proposed additions will have no significant impact to the existing dwelling

or to the streetscape. The applicant has endeavoured to conserve the significance of the dwelling. The Town Planning Advisory Panel support the proposed additions. It was considered a Heritage Assessment / Impact Statement was not required as corollary to a development application as sufficient information was provided by the applicant.

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 : Additions and alterations to the rear of the existing dwelling. These will be partially visible from the street.

Documentation

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

Date Application Received

24 September & 16 & 18 October 2013.

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

- 27 May 2010 Application for retaining wall and limestone fence approved under delegated authority.
- 30 October 2013 Application for swimming pool and associated pool pump approved under delegated authority.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 27 September 2013 and the 11 October 2013. At the close of advertising two (2) submissions were received. These are summaries in the below table and are attached to this report.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>64A View Terrace</p> <p>There is already a double garage proposed in the plans for the additions to the house. The building proposed is a very large structure and with the proposed fill the wall height will actually be at least 4.2 metres high from existing ground level, this is without the roof. We would like to know the full height including the roof and what roofing materials are proposed.</p> <p>We have concerns about how much overshadowing there will be on summer afternoons. The overshadowing drawing on the plans shows overshadowing at 12pm on the 21st of June. At 12 pm the sun is at its highest point and therefore</p>	<p>64A View Terrace</p> <p>Note relating to the concerns over the amount of fill being added to the rear of the site:</p> <p>The area of retaining walls and fill to level R.L. 39.500 at the low lying rear of the block forms part of a previous planning and building application in March / April 2010. It has previously been dealt with by Council, subsequently approved, is not to be addressed in this response.</p> <p>Roofing materials and garage height:</p> <p>As indicated on drawing A301, North Elevation, the garage is 3.2m high above ground level, including a concealed metal roof to be built</p>	<p>Any area of non-compliance or requiring Council discretion with regards to the Scheme, R-Codes or the RDG will be addressed in detail in the discussion section of this report or have been suitably addressed by the applicant.</p>

<p>overshadowing is at a minimum. The fact is that as day progresses into afternoon the shadowing increases considerably, this will impact significantly on both the front of our house, and our back yard and swimming pool. As the windows in the 2nd garage will overlook our pool, we would ask that they be obscure fixed windows.</p> <p>The setback of the proposed 2nd garage is currently only one metre from our boundary, according to Table 2a - Boundary setbacks in the Residential R Codes for WA, the minimum setback for a structure with a wall size of 13.5 metres, as in this case, is at least 1.5 metres. We would ask the council to consider adjusting the setback to at least the minimum required by the R Codes of 1.5 but preferably at least 2 metres from the boundary or reducing the wall length to 9 metres. Ideally a combination of increasing the setback and reducing the length and height of the building would help ameliorate the Impact of this building on our home.</p> <p>The plans show an existing retaining wall on the eastern boundary. The existing retaining wall does not extend to the distance shown on the plans; it falls short by a metre or so. We are concerned about the possibility of this impacting on our property. In winter we experience some run off of water and sand from our neighbour's property. With regard to the existing retaining walls, the retaining wall to the south was only built recently.</p> <p>We are concerned about the amount of fill that is proposed to be added the block prior to the commencement of building the 2nd garage. It would appear that at least one metre or more of fill is proposed to be added to the site which means that the height of the 2nd garage will be increased by the fill.</p> <p>We note that some of the living area of the proposed building will be 4 metres from the boundary which is less than the 6 metres required by the R Codes. It appears on the plans that the windows overlooking our living area are proposed to be obscure, we would like to ensure that this is the case and also that these windows be fixed in order to ensure</p>	<p>at low pitch behind the brickwork. The roof would be of a low reflectivity Colorbond such as Shale Grey. The roof will be no higher than the 3.2m brickwork height.</p> <p>Concerns relating to overshadowing on summer afternoons. As correctly highlighted by the neighbour, the site plan does show the shadowing effect at 12pm, June 21. This is as required by Planning applications and is in accordance with the Residential Design Codes. There is no requirement to show overshadowing during summer as this falls outside of planning requirements. If required, I can show an overshadowing diagram at a date and time nominated by the neighbour so that they may judge the effect of the garage, fence and summer shading, however, I believe this will be minimal in comparison to what could be built. The owners of 62 View terrace could easily apply for a sub-division such as the sub-division at 64 View Terrace and build a complete 2 storey home on the rear block in full compliance with the R-Codes.</p> <p>Concerns regarding overlooking from the Eastern garage windows: Currently these windows are shown as highlight windows compliant with the R-Codes, with sills at 1650mm above floor level. As such, they pose no overlooking issue, however should Council require, the owners are happy to make these fixed windows.</p> <p>Concerns about the visual amenity of neighbours property: Whilst it is understood that the adjoining neighbours wish to protect the visual amenity of their property, the R-codes allow for an outbuilding which is; a. relatively low in height (in this case 3.2m) b. sited so as to preserve the use and amenity of open space (this building is sited as far back on the block as is permissible and as low as possible)</p> <p>Concerns relating to the setback of the garage from the Eastern boundary: The owners of 62 View Tce. are happy to comply with R-code requirements and setback the garage 1.5m from the eastern boundary, bringing the proposed</p>	
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<p>that the obscure glass is effective in maintaining privacy.</p> <p>Finally we would like to enquire about the materials to be used for the 1650 high screen wall on the balcony, which appears to be only 2.9 metres from the boundary at its closest point instead of 7.5 metres indicated by the R Codes. Will this screen be permanent and constructed from solid obscure materials?</p> <p>11 Philip Street</p> <p>In principal, we are supportive of the Application. However, the proposed additions must comply, without exemption, with the East Fremantle Town Planning Scheme planning regulations. In particular, with regard to front setbacks, side boundary restrictions, height restrictions, fence & boundary requirements, site datum levels and any other relevant regulations. In particular, given we note the back yard has been raised and a new [inner] limestone boundary wall has been built. We request the following action:</p> <p>(i) As the back yard will be raised, we request that the owner provide an additional 1.8 meter high fence [on top of the new [inner] limestone boundary wall to ensure our privacy is retained.</p> <p>(ii) We understand that the proposed additions include the provision of pool pump which is located at the rear of the proposed garage [eg, adjacent to our rear boundary].</p> <p>(a) We request that the pool pump be relocated away from our boundary</p> <p>(b) And the pool pump be fully enclosed and fully soundproofed</p>	<p>garage into compliance.</p> <p>Concerns relating to the proposed usage of the garage: Mr. Frank Lupis drives a limousine as a chauffeur service. The vehicle is naturally large, very quiet and requires a garage of these dimensions to adequately shelter and protect it. There is no source of loud noise, no industrial processes being undertaken and no negative source of acoustic / environmental impact.</p> <p>Concerns relating to the existing eastern retaining wall and water run off Whilst the retaining walls and fencing appear to be new and of sound construction, any minor issues of water runoff during storms can certainly be addressed as part of the proposed works.</p> <p>Concerns relating to obscure windows to living / kitchen area: The window to the kitchen area on the eastern side of the proposed addition is fixed and obscure, preventing any overlooking. The windows to the north of the living and dining are now 6m from the eastern boundary, however they are effectively screened with a 1.65m high screen wall to also prevent overlooking.</p> <p>Concerns relating to the proposed 1.65m high screen wall east side of Alfresco: The screen wall will mostly likely be a brick wall with Dulux Acratex finish, or a Formcraft lightweight wall if required by engineering, however in a visual sense, these appear to look the same – a totally solid and visually impermeable screen wall to provide both parties adequate privacy.</p> <p>Having visited the site today and photographed the existing site conditions, the owners of 62 View Terrace are very keen to achieve some form of visual privacy for themselves. As can be seen from the images, they are heavily overlooked by the adjoining neighbours at 64A view Terrace and they have no hope of achieving privacy in their own back garden due to low height clear glazed windows on the west side of the relatively new building at 64A View</p>	
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	<p>Terrace.</p> <p>11 Philip Street Rear (common) fencing: It is proposed that a new 1.8m high rear fence be erected as part of the works and in accordance with the Dividing Fences Act, Building Commission Guidelines and Council guidelines. It is anticipated that both parties will liaise and come to agreement as to the most suitable material and style of fence in order to provide a solution that works aesthetically and visually for both parties.</p> <p>Concerns relating to pool pump enclosure: It is proposed that the pool pump enclosure be constructed from solid limestone block work, with a solid core door. The enclosure will be approximately 1.5m high, therefore concealed behind the new boundary fence and will have a low pitch skillion roof with 55mm Anticon to assist in reducing noise.</p> <p>I have recently monitored pool pump enclosures and find that an SPL (Sound Pressure Level) of 55 to 60 dB at 1m from the exterior is average for a timber framed enclosure. With regards to limestone blocks of 100 - 120mm, it is anticipated that sounds in the 2000Hz to 4000 Hz frequency range will be immediately reduced by 40 to 50 dB, rendering the pool pump barely audible and well below the level of normal conversation. Please note that the SPL reduces quickly as the listener moves further from the source of noise.</p>	
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Town Planning Advisory Panel

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

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
Panel supports the retention of the original residence and the retention of the original roofing tiles and chimney.	No comment.	The design of the proposed additions and alterations are sympathetic and enhance the character and heritage value of the existing dwelling.

Site Inspection

By Senior Town Planner on 8 November 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%	61%	A
6.4.2 Outdoor Living	30sqm	58.4sqm	A
6.5 Car Parking	2	3	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	N/A	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	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	A
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	A
3.7.15-20 Precinct Requirements	D

DISCUSSION**Fill**

The applicant was previously approved (P48/10) retaining walls and fill for the purposes of drainage, aesthetic and functional reasons. In addition to this the applicant has previously advised that the proposed works are to remediate drainage issues over the site and to provide for the future construction of a swimming pool. The swimming was approved in November 2013. While the retaining wall was constructed, the fill was never placed on the lot. As such the fill application has lapsed and is required to be reconsidered in this application.

The subject application proposes to fill (retaining already constructed) the site to match the levels of 64A View Terrace. The application does not propose the placement of any fill or the construction of any retaining walls greater and/or higher than the adjoining site (1m maximum).

The proposed fill exceeds 0.5 metre as required under the 'Deemed to Comply' provisions of the R-Codes. The Design Principles of the R-Codes with regard to Element 5.3.7 Site Works states:

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

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

The proposed assessment of the fill under the Design Principles is not considered to have a significant impact on the adjoining lots. The area to be filled is to be developed with a pool (previously approved) and garage (proposed) and is not intended to be developed as a new lot (subdivision approval expired and current zoning does not permit subdivision). The proposed fill respects the natural features and natural ground level of the subject lot and adjoining lots. The proposed fill will not impact on the privacy requirements of the R-Codes or on the streetscape.

Based on this it is considered appropriate to fill the rear part of 62 View Terrace consistent with the adjoining lot and to provide for a less topographically constrained back yard. It is considered the proposed fill as previously approved can be supported.

Visual Privacy

The 'Deemed to comply' provisions for Element 5.4.1 Visual privacy of the R-Codes requires major openings which have their floor level more than 0.5 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its 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 additions significantly comply with the 'Deemed to Comply' provisions, with the exception of the alfresco area to the western boundary. The alfresco is considered to overlook the adjoining property to the west. The areas overlooked are to the rear of the adjoining property.

The 'Design Provisions' of 5.4.1 allows for:

1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:

- *building layout, location;*
- *design of major openings;*
- *landscape screening of outdoor active habitable spaces; and/or*
- *location of screening devices.*

2 Maximum visual privacy to side and rear boundaries through measures such as:

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

The proposed alfresco does overlook the rear garden of the adjoining lot to the west, however this overlooks an existing rear shed and rear garden, this area is considered not to be an active habitable areas. The extent of overlooking is approximately 3.0 metres. It is considered not necessary to screen the alfresco to protect the shed and rear garden from overlooking. Direct overlooking of habitable areas or active liveable areas are suitably screened.

The proposed alfresco opening is designed to maximise views of the entertainment area. The neighbour's amenity is considered to be protected. There is no overlooking into habitable areas. It is considered the proposed design complies with the Design Principles of Element 5.4.1 Visual Privacy, of the R-Codes and therefore the proposed alfresco overlooking to the west is considered acceptable and can be supported.

Building Setbacks

The proposed development incorporates a side setback variation (western boundary) to the setback requirements of element 3.7.7 Building Setback and Orientation to the Residential Design Guidelines. The proposed setback is required to be 1.7 metres from the western boundary to comply with the 'Deemed to Comply' provisions of the R-Codes. The proposed rear addition and alfresco is located 1.0 metre from the western boundary.

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

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

The proposed setback from the primacy street is as existing (10.5 metres). The proposed additions and alterations do not impact significantly on the streetscape. The prevailing street set back is maintained.

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

The subject dwelling is listed on the Town's Municipal Heritage List as a 'C' category. The proposed additions are sympathetic with the existing dwelling. The prevailing side setbacks to the eastern elevation are maintained and do not impact on the dwelling. The set back to the western boundary, is considered to have a minor impact only. The proposed western rear addition does not maintain the traditional set back of the existing dwelling, however the proposed addition is excavated into the subject lot. The proposed additions articulate the dwelling, minimising any perceived scale and bulk of the existing dwelling and additions. The proposed additions are considered to have no adverse impacts to the visual presence of the streetscape or of adjoining dwellings.

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

The proposed side setback to the western boundary under the 'Deemed to Comply' provisions of the R-Codes is required to be 1.7 metres. The proposed setback is 1.0 metre. Council discretion for a 0.7 metres setback variation to the 'Deemed to Comply' provisions of the R-Codes is required.

The proposed dwelling is considered not to significantly impact on the streetscape. The existing dwelling and front facade is not proposed to be altered, therefore the dwelling presents as a traditional heritage dwelling to the street. The dwelling setback, design and articulation minimises the bulk and scale of the building. The orientation of the dwelling is considered not to overshadow any adjoining lot. It is considered adjoining properties are not impacted with regard to light, ventilation or views.

The proposed dwelling is appropriate and it is considered can be supported by Council.

Roof Form

The proposed dwelling has a skillion roof with an overall pitch of approximately 7.5°. The proposed roof is considered to comply with the provisions of the Performance Criteria of the RDG, which states:

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

The proposed additions have been designed to be contemporary and complementary to the existing heritage dwelling. The additions are designed to be distinct from the existing dwelling, ensuring the additions are clearly identifiable as the new structure. As part of this design, two Skillion roof forms are proposed. The proposed roof forms minimise the impact to the existing dwelling. The existing dwelling is to remain, concealing the proposed additions from the street, therefore it is considered the proposed additions will not significantly impact the streetscape. In this context the roof form adds to the overall street character. The dwelling is considered to complement the existing streetscape.

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

Building Height

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

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

The existing dwelling is single storey to View Terrace. The proposed rear additions are two storey with a modern skillion roof design with a maximum height of 7.0 metres to the top skillion roof. The maximum height of the wall to the underside of the eaves is 6.7 metres. The Acceptable Development Provisions state a wall height of 5.6 metres is required and a roof pitch height of 8.1 metres. The wall height requires Council discretion. The proposed development does not comply with the provisions of A1.4 building height of the RDG.

The proposed dwelling is required to be assessed as per the PC requirements of the RDG for the building height, which allows for:

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

The height and design of the roof is considered acceptable and appropriate to the design of the existing dwelling.

The proposed wall height as measured to the underside of the skillion roof is 5.6 metres. The development requires a 0.9 metre wall height variation, however this is located to the rear of the property and does not impact on the existing dwelling or the streetscape. The roof design and therefore the eaves design to the additions improve the design and building articulation.

The overall height of the roof is well within the 8.1 metre maximum height requirement for a pitched roof, however the proposed additions exceeds the 5.6 metre maximum height requirement for a wall heights.

It is further noted that the proposed additions are at a lower level than the existing dwelling. The additions do not exceed the existing ridge height of the heritage dwelling and therefore the proposed additions have minimal impact to the dwelling and streetscape. The topography of the subject lot slopes approximately 4.0 metres from south to north. It is considered the topography of the site makes compliance with the Acceptable Development Provisions for wall height difficult. The proposed 0.9 metre variation to the wall height over that required under the Acceptable Development Provision is considered appropriate and acceptable. The applicant has carefully designed the additions to be sympathetic with the existing dwelling, minimising the scale and bulk of the built form.

The proposed development complies with the 'Design Principles' of the R-Codes for Element 9 – Design for Climate and Element 8 – Privacy. The proposed development is not considered to impact on the light and ventilation received by adjoining lots.

It is considered the proposed variation to the wall height complies with the Performance Criteria of the Guidelines. The overall pitch of the roof complies with the Acceptable Development Provisions of the Guidelines. Accordingly, it is considered the design of the dwelling and proposed height can be supported by Council.

Conclusion

The proposed dwelling is of a suitable scale, bulk and design so as to have minimal impact on adjoining dwellings and the streetscape. The application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the R-Codes. It is considered the proposed variations to the 'Deemed to Comply' provisions of the R-Codes can be supported and conform to the provisions of the 'Design Principles' of the R-Codes and RDG.

The application as conditioned is therefore considered appropriate and is recommended for approval.

RECOMMENDATION

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

- (a) element 5.3.7 Site Works of the Residential Design Codes;
- (b) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy
- (c) variation to the setback requirements of the side setback (western elevation) – required setback 1.7 metres. Proposed setback is 1.0 metres;
- (d) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- (e) element 3.7.17 of the Residential Design Guidelines: Building Height

for additions and alterations to an existing dwelling at 62 (Lot 85) View Terrace, East Fremantle, in accordance with the plans date stamp received on 16 & 18 October 2013, subject to the following conditions:

1. Crossover width to remain as existing. No alterations to the crossover are permitted unless prior approval has been granted by Council.
2. All proposed screening to be a minimum height of 1.65 metres and to comply with the R-Code Explanatory Guidelines with regard to Section 7.1 Visual Privacy
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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

Mr & Mrs Radich (adjoining owner) addressed the meeting expressing concern regarding:

- The reduced setback and length of the proposed second garage
- The highlight windows facing their property
- Water and sand runoff from this property
- The amount of fill and where will it stop.

Mr Chisholm (architect) advised the meeting that:

- he had submitted a revised plan increasing the setback to 1.5m
- his clients had agreed to fixed highlight windows as it was not necessary to have them opening
- the sand/water runoff issue would be addressed in this application.
- fill currently taking place on the site had previously been approved by Council.
- The al fresco area would be screened to provide further privacy.

Cr Martin – Cr Rico

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

- (a) *element 5.3.7 Site Works of the Residential Design Codes;*
 - (b) *variation to Element 5.4.1 of the Residential Design Codes Visual Privacy*
 - (c) *variation to the setback requirements of the side setback (western elevation) – required setback 1.7 metres. Proposed setback is 1.0 metres;*
 - (d) *element 3.7.8 of the Residential Design Guidelines: Roof pitch;*
 - (e) *element 3.7.17 of the Residential Design Guidelines: Building Height*
- for additions and alterations to an existing dwelling at 62 (Lot 85) View Terrace, East Fremantle, in accordance with the plans date stamp received on 16 & 18 October 2013, subject to the following conditions:*

1. *The setback to the proposed garage be increased to 1.5m from the eastern boundary*
2. *The highlight windows on the eastern boundary be opaque and non opening.*
3. *Crossover width to remain as existing. No alterations to the crossover are permitted unless prior approval has been granted by Council.*
4. *All proposed screening to be a minimum height of 1.65 metres and to comply with the R-Code Explanatory Guidelines with regard to Section 7.1 Visual Privacy*
5. *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.*
6. *Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)*
7. *The 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.*
8. *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.*
9. *With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.*
10. *All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.*
11. *All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally*

adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

12. *Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.*
13. *If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.*
14. *This planning approval to remain valid for a period of 24 months from date of this approval.*

Footnote:

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

- (a) *retaining walls should be extended so as to contain runoff on site.*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *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.*
- (d) *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.*
- (e) *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).*
- (f) *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.*
- (g) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (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”.*

Amendment

Cr Collinson

That the application be deferred to allow the applicants to explore options to reduce the size of the garage.

AMENDMENT LAPSED FOR WANT OF A SECONDER

The substantive motion was put.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Rico

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

- (a) element 5.3.7 Site Works of the Residential Design Codes;**
- (b) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy**
- (c) variation to the setback requirements of the side setback (western elevation) – required setback 1.7 metres. Proposed setback is 1.0 metres;**

- (d) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- (e) element 3.7.17 of the Residential Design Guidelines: Building Height
- for additions and alterations to an existing dwelling at 62 (Lot 85) View Terrace, East Fremantle, in accordance with the plans date stamp received on 16 & 18 October 2013, subject to the following conditions:
1. The setback to the proposed garage be increased to 1.5m from the eastern boundary
 2. The highlight windows on the eastern boundary be opaque and non opening.
 3. Crossover width to remain as existing. No alterations to the crossover are permitted unless prior approval has been granted by Council.
 4. All proposed screening to be a minimum height of 1.65 metres and to comply with the R-Code Explanatory Guidelines with regard to Section 7.1 Visual Privacy
 5. 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.
 6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)
 7. The 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.
 8. 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.
 9. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 10. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 11. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 13. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 14. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) retaining walls should be extended so as to contain runoff on site.*
- (b) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) 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.*
- (d) 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.*
- (e) 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).*
- (f) 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.*
- (g) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (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 4:1

Reason for Varying Officer's Recommendation

The applicant's willingness to:

- increase eastern setback
- modify the highlight windows
- rectify existing retaining problems to satisfy adjoining owners' concerns.

The Manager Planning Services supported the amendments to the officer's recommendation.

T149.8

Oakover Street No. 64 (Lot 321)

Owner: P & K McNulty

Applicant: John Chisholm Design

Application No. P154/13

By Jamie Douglas, Manager Planning Services on 13 November 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval for a swimming pool, proposed alterations and a 2 storey extension to the rear of an existing single storey rendered brick and tile dwelling at 64 (Lot 321) Oakover Street, East Fremantle. The proposed additions and alterations are recommended for approval subject to appropriate conditions.

Description of Site

The subject site is:

- a 983m² block
- zoned Residential R12.5
- developed with a single storey dwelling

- located in the Woodside Precinct.

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Residential R12.5
Residential Design Codes (R-Codes)
'C' Management Category - Municipal Heritage Inventory

The Municipal Heritage Inventory states a 'C' Management Category as:

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

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 : A portion of rear addition will be viewed from street.

Documentation

Plans and relevant forms date stamp received on 21 October 2013.

Date Application Received

21 October 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 28 October 2013 and the 11 November 2013. At the close of advertising no submissions were received.

Town Planning Advisory Panel

The proposal was presented for comment at its meeting held on 12 November 2013
The Panel made the following comment:

- *Panel supports the proposed development*

Site Inspection

By, Manager Planning Services on 12 November 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%	59%	A				
6.4.2 Outdoor Living	30sqm	230sqm	A				
6.5 Car Parking	2	2	A				
6.6 Site Works	Less than 500mm	Less than 500mm	A				
6.9.1 Overshadowing	25%	14%	A				
6.9.2 Drainage	On-site	On-site	A				
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)	Garage addition	N/A	N/A	N/A	7.5m / consistent with locality	12m, consistent	A
Rear (east)	Pool room	2.6	5.6	yes	1.5m	1.2m	D
Side (south)	Garage addition	3.0m	19.5m	No	2.2m	Nil	D
	Rear 2 storey	5.6m	8.0m	No	1.2m	3.34m	A
	Rear 1storey	3.1m	13m	No	1.5m	1m	D
Side (north)	shed	3.m	6m	No	1m	Nil	D
	Rear 2 storey	6m	8.0m	No	1.2m	5m	A
	Rear 1 storey	3.1m	7.0m	yes	1.5m	7.9m	A

* Wall length as calculated for assessment purposes

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

CONSIDERATION**Heritage Assessment**

The dwelling at 64 Oakover Street is included on Council's Municipal Heritage Inventory as a 'C' Management Category. The Town Planning Advisory Panel advises that it supports the application.

The existing dwelling is of modest proportions but with some architectural merit and streetscape presence. The existing structure is a good example of an inter-war period bungalow. The proposed extension to the rear of the property is appropriately formed and

scaled to complement the existing structure. However it is considered the replacement of the existing tiled roof with a new 'Colorbond' roof should not be supported. The existing tiled roof is integral to the architecture of the era and is replicated on the neighbouring properties also from the same era. To this end it is considered the replacement of the existing tiles with 'Colorbond' would diminish the heritage significance of the dwelling and would introduce a discordant element into the streetscape. While it may be difficult to match the existing tiles it is considered that retiling the entire roof would be preferable to replacing the tiles with 'Colorbond'.

A condition has been included in the Recommendation to require the roof to be tiled. (A similar condition was required by Council in July 2013 in respect to 80 Oakover Street which has a similar built form and heritage management category to the subject property).

Visual Privacy

The Deemed to Comply standards for element 6.4.1 of the R-Code provisions for visual privacy 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;
- 6.0 metres in the case of habitable rooms, other than bedrooms; and
- 7.5 metres in the case of active habitable spaces.

The side boundary setbacks for the first and second floor rear extension are less than the above, accordingly, the proposal is required to meet the Performance Criteria of Design Principle 1.1 and 1.2 of the R-Codes. The design incorporates high level windows as necessary to satisfy these Principles. It is therefore considered that the proposal will fully comply with the visual privacy requirements of the R-Codes.

Overshadowing

Based upon information provided by the applicant it is apparent that shadows cast by the proposed addition upon the adjacent neighbour at 66 Oakover Street will not have a material impact. The shadow cast by the addition will not reach any major opening or outdoor living space of the neighbouring property and is substantially less than the maximum overshadowing allowable under the R-Codes.

Streetscape

The two storey component of the proposed addition will be visible from the street. Although of considerable dimensions the proposed addition will not over scale or compete with the existing dwelling because of the staggered setback of the proposed upper storey which is to the rear of the existing built form. The roof form of the proposed upper storey is sympathetic to that of the existing dwelling although, as previously stated, it is considered that this new roof should be tiled to harmonise with the existing tiled roof of the dwelling.

It is proposed to increase the width of the existing garage however its existing alignment which is to the rear of the front verandah is to be retained. Accordingly the garage will not dominate the front elevation of the dwelling.

The Town Planning Advisory Panel has endorsed the proposed design.

In light of the above, the proposal is considered to have a positive streetscape impact.

Side Boundary Setbacks

The proposal incorporates variations to each side and rear boundary for various portions of the development. However where side parapet walls are proposed, these will correspond with either blank walls or similar parapets on neighbouring properties. The proposed additions have been designed with high level windows to restrict visual privacy

impacts. The shadow cast from the proposed addition falls across the driveway to the rear battle axe lot to the south of the subject site and will not have a material impact upon the neighbours outside living areas. Accordingly an exercise of discretion in respect to the setback provisions for 'deemed to comply' development under the R-Codes will not have a material impact upon neighbours. It is also noted, there have been no objections from neighbours to the proposal.

The proposed swimming pool is to be located 1 metre off the rear boundary however the pool pump is to be contained in an acoustic enclosure.

Conclusion

The proposed additions and alterations are of a suitable scale, bulk and design so as to have a minimal impact on the existing heritage dwelling and streetscape. It is considered however that the tiled roof of the existing dwelling should be retained or retiled to match the extension and that the new roof should be terra cotta tiled or similar.

The proposed boundary setback variations will not have a material impact upon neighbours.

The application as conditioned is therefore considered appropriate and is recommended for approval.

RECOMMENDATION

That Council exercise discretion by:

- a) varying the southern side boundary setback provisions from 2.2m and 1.5m to Nil and 1m respectively
 - b) varying the northern side boundary setback provisions from 1m to Nil
 - c) varying the rear boundary setback provisions from 1.5m to 1.2 m
- and grant approval for swimming pool, additions and alterations to an existing dwelling at 64 (Lot 321) Oakover Street, East Fremantle, in accordance with the plans date stamp received on 21 October 2013 subject to the following conditions:
1. The proposed new 'Colorbond' roof is not approved. The existing and proposed roofs shall be terra cotta tiled of similar material and colour to the existing tiled roof.
 2. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (Refer footnote (c) below).
 3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 4. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 5. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. Prior to the commandment of any site works a Dilapidation Survey of the neighbouring property at 62 Oakover Street be undertaken by the applicant. A copy of the completed survey shall be provided to the owner of 62 Oakover Street.
10. The pool pump and filter equipment shall comply with the Noise Abatement Regulations (see footnote c).
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development and operation of the swimming pool plant are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (e) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.*

Mr Chisholm (architect) addressed the meeting in support of the proposal and explained the energy efficiency of a colorbond roof.

Cr de Jong – Cr Rico

That Council exercise discretion by:

- (a) **varying the southern side boundary setback provisions from 2.2m and 1.5m to Nil and 1m respectively**
 - (b) **varying the northern side boundary setback provisions from 1m to Nil**
 - (c) **varying the rear boundary setback provisions from 1.5m to 1.2 m**
- and grant approval for swimming pool, additions and alterations to an existing dwelling at 64 (Lot 321) Oakover Street, East Fremantle, in accordance with the plans date stamp received on 21 October 2013 subject to the following conditions:**
1. **The proposed new ‘Colorbond’ roof is not approved. The existing and proposed roofs shall be terra cotta tiled of similar material and colour to the existing tiled roof.**
 2. **Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (Refer footnote (c) below).**
 3. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council’s further approval.**

4. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. Prior to the commandment of any site works a Dilapidation Survey of the neighbouring property at 62 Oakover Street be undertaken by the applicant. A copy of the completed survey shall be provided to the owner of 62 Oakover Street.
10. The pool pump and filter equipment shall comply with the Noise Abatement Regulations (see footnote c).
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development and operation of the swimming pool plant are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (e) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision

making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T149.9 No. 64 (Lot 103) East Street, East Fremantle

Owner: E Featherby

Applicant: John Chisholm Design

Application No. P153/2013

By Christine Catchpole, Planning Officer, on 15 November 2013

BACKGROUND

Description of site

The subject site is:

- a 508m² freehold lot;
- zoned Residential R20;
- a single heritage dwelling with alterations and additions; and
- located in the Plympton Precinct.

Description of Proposal

It is proposed to construct an upper storey, timber framed, weatherboard clad ensuite and walk in robe with a skillion zincalume roof. This will be accessed from the upper storey bedroom, up a flight of three steps, positioning the addition between the roof of the original dwelling and that of the extension.

Statutory Considerations

- Town Planning Scheme No. 3 – Residential R20 (TPS 3)
- Local Planning Strategy – Plympton Precinct (LPS)
- Residential Design Codes of WA (RDC)
- Fremantle Port Buffer Zone – Area 2
- Municipal Heritage Inventory 2006 – Management Category B

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

Relevant Council Policies

Residential Design Guidelines 2013 (RDG)

Impact on Public Domain

Tree in verge	:	No impact
Light pole	:	No impact
Crossover	:	No impact
Footpath	:	No impact
Streetscape	:	The proposed additions and alterations will be partly visible from the street.

Documentation

Plans and relevant forms date stamped received on 21 October and 29 November 2013.

Date Application Received

21 October 2013.

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

- 4 March 2011** – Building Licence issued for the removal of an internal wall between the bathroom and laundry.
- 16 March 1999** – Council granted approval for erection of rear additions and internal alterations.
- 23 May 1987** – Building Licence issued for upper floor studio addition.
- 6 January 1981** – Building Licence for new kitchen, dining room and laundry.

Site Inspection

By Planning Officer on 8 November 2013.

CONSULTATION

Advertising

The landowners to the side and rear were advised of the proposal and had the opportunity to comment from 23 October to 7 November 2013. No comments were received.

Town Planning Advisory Panel

The application was considered by the Panel at its meeting held on 12 November 2013 as the additions and alterations are partly visible from the street. The Panel supported the application.

STATISTICS

Key: C = Complies, D = Discretion

5.1.3 - LOT BOUNDARY SETBACK								
RDC C3.1	Buildings setback from the boundary							
	Wall	Length	Height	Major openings	Setback required	Setback proposed	Status	Comments
	South							
	Ensuite & walk in robe southern boundary	4.6m	7.2m	No	1.3m	1.5m	C	
	North							
Ensuite & walk in robe southern boundary	5.4m	7.2m	No	1.3	5.7m	C		
	West (front)							
	5.0m	7.2	Yes	6.0m	14.8m	C		

* Refer to Clause 5.3.3 of TPS 3 (development assessed at R20 standards)

5.1.4 – OPEN SPACE				
		Required	Provided	Status
RDC C4	Minimum total (55% of site)	Lot 1: N/A	N/A – no change	C
		Lot 2: 235.4m ²	N/A – no change	C

5.1.6 – BUILDING HEIGHT					
		Required	Provided	Status	Comments
RDG & RDC C6	Hipped and/or gabled roof				
	Maximum wall height (to top of wall from NGL)	6.0m	6.5m	D	Wall height equal to ridge height of original dwelling.
	Maximum roof height (to top of roof from NGL)	Concealed roof 7m Top of pitched roof 9m	7.2m	C	Skillion roof – height less than existing two storey extension.

PART 5.2 - STREETScape REQUIREMENTS

ROOF PITCH AND COLOUR					
		Required	Provided	Status	Comments
RDG	Pitch	28° required under RDG	5°	D	Skillion roof extension between original roof and two storey extension to rear.
	Colour	N/A	Zincalume	C	Reflectivity condition to apply

PART 5.4 - BUILDING DESIGN

5.4.1 - VISUAL PRIVACY						
RDC	Room	Required	Proposed	Overlooking to...	Status	Comments
C1.1- C1.2	No finished floor level is greater than 500mm above the existing natural ground level therefore there are no visual privacy issues.				C	Ensuite and WIR with obscure glazing or opening greater than 1.6m high for openings facing adjoining properties and opening facing the street.

5.4.2 - SOLAR ACCESS FOR ADJOINING SITES					
		Required	Provided	Status	Comments
RDC C2.1- C2.2	Maximum shadow cast on adjoining property (% of site)	≤R12.5: 25%	26%	D	Marginally exceeds overshadowing permitted, however, additional shadow will fall over existing residence and side setback of dwelling.

ASSESSMENT

The site is occupied by a dwelling with a Municipal Heritage Inventory management category rating of B and has been extended to the rear with a two storey addition

comprising a dining room on the lower floor and a bedroom on the upper floor. A lower level deck and upper level balcony were also part of these additions.

Privacy and Overlooking

The applicant has designed the addition so that overlooking of adjoining properties is severely restricted. The window for the robe on the northern elevation is obscure glazed to 1.65 metres high. The window facing the street is within the shower recess, and the view would be to roof tops of surrounding dwellings. The view from this window would also be partly obscured by the roof of the house. The other ensuite window faces east and will be obscure glazed. There are no windows on the southern elevation.

Heritage

Although the "B" management category guidelines state that a heritage impact statement will be required with a development application, it was not considered necessary to enforce this requirement in this instance. The applicant is proposing a minor addition to the second storey which although partly visible from the street, for a minor part of the extension, is not considered to impact on the heritage value of the property. The view of the addition from the street is limited due to the height difference between the street pavement level and the floor level of the dwellings, the latter being much higher along this section of East Street, mature vegetation and the narrow side setbacks of dwellings either side.

Overall it is considered that the works do not undermine the local heritage value of the residence with regard to its design and the use of construction materials, however, given the heritage rating of the property, it is considered necessary for the construction materials and colours to be to the satisfaction of the Chief Executive Officer, in consultation with relevant officers, prior to the issue of a building permit.

Wall Height

The wall height is marginally greater than that permitted under the RDC and the RDG (required 6.0 metres; provided 6.5 metres). This has been necessary to accommodate the addition in this location in respect to existing floor levels and to match the top of the wall to the roof ridgeline of the original dwelling. Given this is visually more pleasing the slight variation in roof height is considered acceptable.

Overshadowing

The overshadowing produced as a result of the addition amounts to a marginal amount in excess of that permitted under the RDC (permitted 25%; produced 26%). As the shadow will fall over the existing residence on the adjoining property to the south this marginal variation can be supported.

Roof Pitch and Reflectivity

The roof pitch does not comply with the provisions of the RDG in that it is not between 28° and 36°. The roof proposed is a skillion roof with a 5° pitch. The applicant has designed the roof in this fashion so the structure sits in the "valley" between the two roof ridge lines, therefore reducing its visual impact and visibility from the street. It is also noted in the RDG that a lean-to or skillion roof that sits below the roof line of an existing hipped roof is an acceptable roof form for additions to existing houses. However, as the roof pitch is 5° it is considered necessary to impose a condition of approval which will address roof reflectivity if this is of concern to neighbours.

On the basis of the above considerations the upper storey additions and alterations to the heritage dwelling are supportable subject to conditions as outlined below.

RECOMMENDATION

That Council exercise discretion in granting planning approval to vary:

- (i) Clause 5.1.6 of the Residential Design Codes of WA to allow a wall height greater than 6.0 metres for the alterations and additions;

- (ii) Clause 3.7.16.4.1.2 - Building Height, Form, Scale and Bulk of the Council's Residential Design Guidelines to allow a wall height greater than 6.0 metres for the alterations and additions;
- (iii) Clause 3.7.8.3 – Roof Form and Pitch of Council's Residential Design Guidelines 2013 to allow a roof pitch of less than 28° for the additions and alterations; and
- (iv) Clause – 5.4.2 – Solar Access for Adjoining Sites of the Residential Design Codes of WA to allow the shadow cast over the adjoining site to exceed 25% of the site area,

for upper storey additions and alterations (ensuite and walk in robe), to an existing dwelling at No. 64 (Lot 103) East Street, East Fremantle, as shown on plans date stamped received on 21 October and 29 November 2013 subject to the following conditions:

1. The details of colours and construction materials to be used to be to the satisfaction of the Chief Executive Officer, in consultation with relevant officers, prior to the issue of the building permit.
2. If requested by Council, within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
3. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by the Chief Executive Officer. (*refer footnote (e) below*).
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. The proposed works are not to be commenced until Council has received an application for a demolition licence (if required) and a building permit and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. This planning approval to remain valid for a period of 24 months from the 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); and*
- (e) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

Mr Chisholm (architect) addressed the meeting in support of the officer's recommendation.

Cr McPhail – Cr Collinson

That Council exercise discretion in granting planning approval to vary:

- (i) **Clause 5.1.6 of the Residential Design Codes of WA to allow a wall height greater than 6.0 metres for the alterations and additions;**
- (ii) **Clause 3.7.16.4.1.2 - Building Height, Form, Scale and Bulk of the Council's Residential Design Guidelines to allow a wall height greater than 6.0 metres for the alterations and additions;**
- (iii) **Clause 3.7.8.3 – Roof Form and Pitch of Council's Residential Design Guidelines 2013 to allow a roof pitch of less than 28° for the additions and alterations; and**
- (iv) **Clause – 5.4.2 – Solar Access for Adjoining Sites of the Residential Design Codes of WA to allow the shadow cast over the adjoining site to exceed 25% of the site area,**

for upper storey additions and alterations (ensuite and walk in robe), to an existing dwelling at No. 64 (Lot 103) East Street, East Fremantle, as shown on plans date stamped received on 21 October and 29 November 2013 subject to the following conditions:

- 1. The details of colours and construction materials to be used to be to the satisfaction of the Chief Executive Officer, in consultation with relevant officers, prior to the issue of the building permit.**
- 2. If requested by Council, within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
- 3. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by the Chief Executive Officer. (*refer footnote (e) below*).**
- 4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 5. The proposed works are not to be commenced until Council has received an application for a demolition licence (if required) and a building permit and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 6. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have**

received planning approval, without those changes being specifically marked for Council's attention.

7. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. This planning approval to remain valid for a period of 24 months from the 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); and*
- (e) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document- "An Installers Guide to Air Conditioner Noise".*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T149.10 **No. 90 (Lot 284) Hubble Street**
Applicant: John Chisholm Design
Owner: Sarah White
Application No. P155/13

By Jamie Douglas Manager Planning Services on 19 November 2013

PURPOSE OF THIS REPORT

This report considers and application for a two storey rear extension, partial demolition and renovations to a dwelling at 90 Hubble Street and recommends conditional approval.

BACKGROUND**Description of Proposal**

It is proposed to demolish an existing (mid 1970s) skillion roofed rear addition and build a 2 storey contemporary wooden clad addition in its place. The existing cottage in the front of the proposed addition is to be renovated and restored. The structural integrity of the existing cottage will be largely unaltered except for the creation of two openings to allow access to fitted wardrobes.

Description of Site

The subject site is:

- 509m² freehold lot
- zoned residential R 20
- improved with a single dwelling
- located in the Plympton Precinct
- Listed on Municipal Inventory B-

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

Statutory Considerations

State Planning Policy 3.1 Residential Design Codes
Local Planning Strategy Plympton
Town Planning Scheme No. 3 (Residential R20)

Relevant Council Policies

Local Planning Policy No. 1 : Residential Design Guidelines

Impact on Public Domain

Tree in verge : N.A
Light pole : N.A.
Crossover : existing
Footpath : N.A
Streetscape : The rear extensions will be visible from the street and will impact the streetscape character.

Documentation

Plans and relevant forms date stamped received 22 October 2013. Revised plans date stamped received 11 November 2013
Development Impact Statement dated 5 November 2013

Date Application Received

22 October 2013

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

None

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 <input type="checkbox"/> P <input type="checkbox"/> D <input type="checkbox"/> A <input type="checkbox"/> X	P

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	50%	62.4%	A
6.4.2 Outdoor Living	30m ²	40+m ²	A
6.5 Car Parking	2	1(existing)	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	21%	A
6.9.2 Drainage	On-site	On-site	A

Wall Orientation	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)	existing					A
Rear (east)	7.3m	10.8m	yes	3.9m	19.2	A
Side (north)	7.3m	13.3m	yes	4.6m	1.5m	D
Side (south)	3m	7.4m	no	1m	nil	D

Local Planning Policies Assessment

LPP No. 1 Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	N.A.
3.7.7 Building Setbacks and Orientation	A
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	N.A.
3.7.11 Front Fences	N.A.
3.7.12 Pergolas	A
3.7.13 Incidental Development Requirements	A
3.7.14 Footpaths and Crossovers	N.A.
3.7.15-20 Precinct Requirements	A

LPP No. 1: 3.7.15-20 Building Height			
Type	Required	Proposed	Status
Wall (Concealed Roof)	7m	7.3m	D

The proposal is seeking variations in respect to both side boundary setbacks and height.

CONSULTATION

- Neighbour Advertising**

The application was advertised to surrounding neighbours for a two week period between 25 October 2013 and 8 November 2013. Neighbours on either side and to the rear of the

property received letters of advice. At the close of advertising no submissions were received in response to the advertising.

The application includes letters of support from both side neighbours. The relevant side neighbour was also contacted by the applicant in respect to the revised plans and a further letter of endorsement was received.

• **Town Planning Advisory Panel**

The TPAP considered the proposal at its meeting on 12 November 2013 and made the following comments;

PANEL'S COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
Panel supports the proposed development	I am pleased that the Panel supports the proposed development and also recognises the efforts that we have made during the design process to retain existing heritage value whilst creating an architecturally aesthetic new addition.	Noted
Panel commends the applicant in respect to the retention of the dwelling and the chimney		Noted
Panel recommends the applicant retains the materials and skillion roof to the southern elevation as indicated in A303 photomontage to support the impression of depth within the original cottage.	<ol style="list-style-type: none"> 1. The design that has been submitted does not retain the skillion roof to the southern elevation, but it does propose to retain existing materials. It is part of the proposed development that the exterior cladding on the southern wall of the addition will remain weatherboards as per existing cladding. 2. It is simply not practicable to live in a house with low ceilings such as those under the existing skillion roof, particularly for our tall family. 3. Furthermore, on the plans submitted we are not proposing anything other than to have at least the same ceiling height in the addition as in the existing two front bedrooms that we are retaining. 4. The Heritage Impact Statement prepared by Philip Griffiths was in very strong support of our proposed development and had no objections whatsoever to it. It did not identify any impact on the southern boundary, from a heritage or a streetscape perspective. In fact, in relation to the demolition of the skillion roofed sections, Mr Griffiths specifically states in his 	<p>In light of the Panel's earlier comments this could reasonably be interpreted as an aspirational design consideration. It is however noted that</p> <ul style="list-style-type: none"> • the Development Impact Statement does not support retention of the skillion, • retention of the skillion is problematic because of the low ceiling height.

	<p>report that the 'scope of demolition is within the bounds of acceptability and we have seen this approach in numerous locations'.</p>	
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ASSESSMENT

• **Residential Design Guidelines/ Streetscape**

The proposed addition is contemporary in design and will read as a distinct building form behind the existing cottage structure. The new two storey addition will be quite apparent within the streetscape however it does not compete with, or over-scale the existing heritage significant structure. It is therefore considered to be consistent with the Burra Charter principles and contemporary architectural practice. Accordingly the proposed addition is considered to conform with the following Desired Development Outcomes and Performance Criteria of the Residential Design Guidelines.

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

3.7.16.4.1.1 Statement

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

3.7.16.4.1.2 Desired Development Outcomes

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

3.7.16.4.1.3 Performance Criteria

The Criteria require that for buildings to be assessed under the Category ‘B’ height provisions of the R-Codes (as in this case) – The proposal must demonstrate design, bulk and scale that responds to neighbouring developments and the established character of the existing development on the site or other site specific circumstances;

• **Building Height**

The proposed addition has a concealed roof and a maximum wall height of 7.3m on the rear elevation. The height is a consequence of a slight cross fall on the subject lot and the majority of the proposal is compliant with the R-Code maximum height of 7m for ‘Deemed to comply’ development. The variation in height is small, does not impact the streetscape or the amenity of neighbours. Accordingly an exercise of discretion in this regard is supported.

• **Side Boundary Setbacks**

It is proposed to set the addition 1.5 metres from the northern side boundary and to have a boundary parapet wall on the southern side boundary. The subject lot is only 12.2 metres wide in common with the prevailing subdivision pattern in Plympton. Accordingly in common with most development proposals in Plympton, side boundary setback variations are proposed. The upper storey of the proposed addition is staggered so that it is set 5m off from the southern side boundary. This design limits the impact of the shadow cast onto the southern neighbour at 92 Hubble Street so that the total shadow cast is 21% (which is R-Code compliant) of the neighbouring property and falls substantially across the roof of the affected neighbours house. The rear garden area is substantially unaffected.

The proposed parapet wall is to incorporate 'materials and colour to neighbours specifications' and it is proposed that this would also be a requirement of any planning approval. In any event the dimension and location of the proposed parapet wall are such that it will not appear visually intrusive upon the neighbouring property.

The neighbouring property to the north at 88 Hubble Street is built on the boundary with the subject lot. It is considered the proposed 1.5m setback from the northern side boundary will not affect this property in terms of overshadowing or visual privacy because of the orientation of the lots and the lack of direct line of sight into any rooms of the neighbouring house at 88 Hubble Street.

- **Visual Privacy**

The design has responded to the lack of physical separation between neighbours by the use of high level windows or by locating windows so they do not afford a direct line of sight into any openings of the neighbouring properties. Accordingly it is considered the proposal meets the performance criteria for visual privacy in element 5.4.1 of the R-Codes.

- **Heritage**

Because of its B- listing on the MI and in response to the comments from the Town Planning Advisory Panel, the applicants were requested to provide a Development Impact Statement. This Statement was prepared by Griffiths Architects and concluded as follows:

In summary, I would make the following observations:

- *There will be no negative impact on the heritage status of the existing dwelling as a result of the proposed alterations and additions; and*
- *In relation to the streetscape impact, there is no disguising the fact that there will be a two-storey rear addition. However, it is well setback and a very calm architectural expression, which, in combination with the restored cottage, will have a positive impact on the streetscape.*

It is considered the proposed design will protect and conserve the principal elements of the B category building. The proposed additions, while distinct in form, will not diminish the heritage significance of the place and are consistent with contemporary conservation practice.

CONCLUSION

The proposed design is supported by the Town Planning Advisory Panel and adjacent neighbours. It is considered to perform satisfactorily in regard to its impact upon the heritage significant existing dwelling which is to be retained and conserved and more generally in regard to its impact upon the streetscape. An exercise of discretion in respect to the maximum building height, side boundary setbacks and visual privacy 'deemed to comply' standards of the R-Codes will not materially impact upon neighbours.

RECOMMENDATION

That Council exercise discretion by;

- (a) varying the southern side boundary setback provisions from 1m to Nil
- (b) varying the northern side boundary setback provisions from 4.6m to 1.5m
- (c) varying the maximum height for a sealed roof from 7m to 7.3m

and grant approval for additions and alterations to an existing dwelling at 90 (Lot 284) Hubble Street, East Fremantle, in accordance with the plans date stamp received on 11 November 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 (c) below).
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where

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

Ms White (owner) addressed the meeting in support of the officer's recommendation and explained the materials they were proposing for the development.

That Council exercise discretion by;

- (a) **varying the southern side boundary setback provisions from 1m to Nil**
 - (b) **varying the northern side boundary setback provisions from 4.6m to 1.5m**
 - (c) **varying the maximum height for a sealed roof from 7m to 7.3m**
- and grant approval for additions and alterations to an existing dwelling at 90 (Lot 284) Hubble Street, East Fremantle, in accordance with the plans date stamp received on 11 November 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 (c) below).
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 3. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 4. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 5. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 8. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
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CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

Cr Martin made the following impartiality declaration in the matter of 25 Dalgety Street: "As a consequence of the owner being known to me, through mutual acquaintances, 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".

T149.11 Dalgety Street No. 25 (Lot 59)

Applicant: Gemma Hohnen

Owner: K Taylor

Application No. P151/13

By Andrew Malone, Senior Town Planner on 22 November 2013

PURPOSE OF THIS REPORT

This report considers an application for additions and alterations comprising of studio and roof deck to an existing dwelling at 25 (Lot 59) Dalgety Street, East Fremantle. The proposal is recommended for approval subject to conditions.

Proposed Development

The development application proposes additions and alterations to an existing heritage dwelling comprising of studio (70m²) and deck located above the studio accessed from the existing dwelling and by external stairs. It is proposed to retain the existing dwelling.

BACKGROUND

Description of Site

The subject site is:

- a 1088m² block
- zoned Residential R12.5
- developed with a single storey dwelling with rear undercroft/ basement.
- located in the Woodside Precinct.
- B+^A category on the Town's Municipal Heritage List.

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

In this instance, due to the minor nature of the development and the proposed design of the studio being a separate structure a heritage assessment was not considered necessary. The proposed studio / deck will have no impact to the existing dwelling or to the streetscape.

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 : No Impact. Proposed studio will not be visible from the street. Currently a solid brick wall screens all views to the dwelling. The

existing dwelling and gradient of the lot will also limit views of the proposal.

Documentation

Plans and relevant forms date stamp received on 21 October 2013.
 Objection received by Council date stamped received 3 November 2013.
 Response to neighbours objection date stamped received 14 November 2013.

Date Application Received

21 October 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 24 October 2013 and the 7 November 2013. At the close of advertising one (1) submission was received. These are summaries in the below table and are attached to this report.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>24 Allen Street</p> <p>We object to the proposed development, based on the substantial impact on our privacy and the visual impact that the structure will have.</p>	<p>The scale of the proposed studio along the western boundary mimics the scale of a small garden shed. Siting of this project seeks to minimise the impact of this project through the utilisation of the existing topography. Excavation and a low pitched roof reduce visible bulk (height), refer section diagram A (attached).</p> <p>In addition to these design attributes, the building envelope on the western elevation is in the location of a pre-existing structure recently removed.</p> <p>Impact on Privacy</p> <p>The intention of the roof garden is to provide screening with plantings between neighbouring properties and the social area of the roof top deck. Access to this garden is intended for occasional maintenance only. The social area (roof top deck) is set back 9.8m from the western boundary in line with the neighbouring garage on the northern boundary. The design of both the deck and garden seeks to maintain a situation of privacy for both occupant and neighbours.</p>	<p>Any areas of non-compliance or requiring Council discretion with regards to the Scheme, R-Codes or the RDG will be addressed in detail in the discussion section of this report or have been suitably addressed by the applicant.</p> <p>The bulk, height and scale of the addition are considered to be compatible with the existing dwelling and with the surrounding locality.</p> <p>The proposed visual privacy is considered to comply with the 'Deemed to Comply' provisions of the R-Codes.</p>

Town Planning Advisory Panel

The application was not referred to the Town Planning Advisory Panel as it is not considered to impact the streetscape or detract from the heritage dwelling.

Site Inspection

By Senior Town Planner on 25 November 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%	61%	A
6.4.2 Outdoor Living	30sqm	58.4sqm	A
6.5 Car Parking	2	3	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	N/A	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	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	A
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	A
3.7.15-20 Precinct Requirements	A

DISCUSSION**Visual Privacy**

The 'Deemed to comply' provisions for Element 5.4.1 Visual privacy of the R-Codes requires major openings which have their floor level more than 0.5 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its 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 additions comply with the 'Deemed to Comply' provisions. However as the adjoining neighbour has raised a concern, the overlooking will be discussed further. The roof deck is split into an entertaining area and roof garden. The entertainment / social deck is set back 9.8m from the western boundary, this is in line with the existing neighbouring garage on the northern boundary. The roof garden provides screening with plantings between neighbouring properties and the entertainment deck. The roof garden

has access to it for maintenance purposes; however a condition has been included in the Officer's Recommendation to restrict the use of the garden.

The northern side of the deck located at the external stairs is considered to have overlooking of the neighbour's property and active habitable areas. It is recommended to screen the northern external stair access to the deck. An appropriate condition has been included in the Officer's Recommendation.

Screening to the northern neighbour is provided by a 1.6 metre high fence.

It is considered the proposed design complies with the 'Deemed to Comply' provisions of Element 5.4.1 Visual privacy of the R-Codes.

Building Setbacks

The proposed development is located on the boundary for a length of 17 metres, of which 9 metres is located adjoining a simultaneously constructed parapet wall to the neighbour's garage. The proposed studio has a maximum height of 2.8 metres from the natural ground level, however due to the deck being located on the roof of the studio and the requirement for a privacy screen, a further 1.6 metre privacy screen is located above the studio. The total height of the studio and screen is 4.4 metres. A further planted shade structure is proposed on the deck, further increasing the overall height to approximately 5.1 metres, however this planter structure is considered a minor structure. The existing garage on the neighbour's lot is considered to minimise the impact of the studio and deck to the northern neighbour. It is noted that the neighbour to the north has not objected to the proposal.

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 proposed addition located on the boundary. The Acceptable Development Provisions for building on the boundary is a length of 9.0 metres and a maximum height of 3.0 metres. The proposed variations to the Acceptable Development Criteria are 8 metres to the overall length and a 1.4 metre variation to the height of the wall / privacy screen.

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

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

The proposed studio is located to the rear of the existing dwelling. A solid brick wall and vegetation currently screens all views of the dwelling from the street. The proposed studio and deck will not be visible from the street. The set back of the studio / deck from the front boundary is considered appropriate.

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

The existing dwelling is listed on the Municipal Heritage Inventory as a B+^ category. The proposed studio and roof garden / deck are separate structures that do not impact on the existing heritage dwelling. No modifications are proposed to the existing dwelling. The addition does not impact the streetscape or existing dwelling. The proposed addition is considered not to significantly affect the visual presence to the adjoining neighbours.

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

The proposed location, length and height of the parapet wall are only considered to impact on the residents at 23 Dalgety Street. An existing garage parapet wall (9 metres in

length) is located on the boundary between 23 and 25 Dalgety Street. This garage is considered to minimise the impact of the studio / deck. The proposed additional 8 metre length of boundary wall is located behind the garage and therefore the proposed studio and screen wall is not considered to significantly impact the neighbour with regard to scale and bulk. The boundary wall is located to the rear garden of the adjoining neighbour.

The proposed setback to the northern boundary does not impact 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 other structures in the area, however the length is approximately twice the Acceptable Development Criteria requirements but the impact of the wall is considered minor. The studio is excavated into the lot, minimising the height, scale and bulk of the structure.

In conclusion, the proposed addition is considered to improve the residential amenity of the dwelling by providing an entertainment area. The applicant has undertaken efforts to minimise the impact of the studio. The proposed studio / deck do not negatively impact the streetscape or adjoining neighbours and therefore it is considered that it can be supported by Council with appropriate conditions.

Roof Form

The proposed dwelling has a flat roof with proposed deck and roof garden over the proposed studio. The proposed roof is considered to comply with the provisions of the Performance Criteria of the RDG, which states:

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

The proposed studio roof / roof deck has been designed complement the existing heritage dwelling. The proposed deck utilises the roof of the studio. The proposed studio is excavated into the rear of the lot. The excavation, flat roof / decking and setbacks minimise the scale and bulk of the structure. The design of the structure with associated planting reduces the visual impact of the proposed development. The additions are designed to be separate from the existing heritage dwelling. The proposed studio is located to the rear of the dwelling. Currently a solid brick wall is located on the front boundary. The studio / deck will not be able to be seen from the street, therefore having no impact to the surrounding locality. The design of the studio / decking is considered to protect the adjoining neighbours with regard to height, bulk and scale.

It is considered the deck / roof garden and the proposed studio, in the context of the overall design achieved can be supported by Council.

Conclusion

The proposed dwelling is of a suitable scale, bulk and design so as to have minimal impact on adjoining dwellings and 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. It is considered the proposed variations to the 'Deemed to Comply' provisions of the R-Codes can be supported and conform to the provisions of the 'Design Principles' of the R-Codes and RDG.

The application as conditioned is therefore considered appropriate and is recommended for approval.

RECOMMENDATION

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

- (a) variation to the setback requirements of the side setback (western elevation) – required setback 1.7 metres. Proposed 8 metres to the overall length and a 1.4 metre variation to the height of the parapet wall including visual screening;
- (b) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- for additions comprising of studio and deck to an existing dwelling at 25 (Lot 59) Dalgety Street, East Fremantle, in accordance with the plans date stamp received on 21 October 2013, subject to the following conditions:
1. Screening to be a minimum height of 1.6 metres and to comply with the R-Code Explanatory Guidelines with regard to Section 7.1 Visual Privacy to be provided on the northern external access to the deck.
 2. All proposed screening in the roof garden to be a minimum height of 1.6 metres and to comply with the R-Code Explanatory Guidelines with regard to Section 7.1 Visual Privacy.
 3. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (i) below*)
 4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 5. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 6. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 8. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 9. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 10. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) matters relating to dividing fences are subject to the *Dividing Fences Act 1961*.
- (g) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise".

Cr Collinson – Cr de Jong

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

- (a) variation to the setback requirements of the side setback (western elevation) – required setback 1.7 metres. Proposed 8 metres to the overall length and a 1.4 metre variation to the height of the parapet wall including visual screening;
 - (b) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- for additions comprising of studio and deck to an existing dwelling at 25 (Lot 59) Dalgety Street, East Fremantle, in accordance with the plans date stamp received on 21 October 2013, subject to the following conditions:
1. Screening to be a minimum height of 1.6 metres and to comply with the R-Code Explanatory Guidelines with regard to Section 7.1 Visual Privacy to be provided on the northern external access to the deck.
 2. All proposed screening in the roof garden to be a minimum height of 1.6 metres and to comply with the R-Code Explanatory Guidelines with regard to Section 7.1 Visual Privacy.
 3. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (i) below)*
 4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 5. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 6. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.

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

Footnote:

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

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

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T149.12 En Bloc Recommendation**Cr Collinson – Cr Rico**

That on behalf of Council, the Town Planning & Building Committee, under delegated authority, adopts en bloc the following officer recommendations in respect to Items MB Ref T149.12(A)-T149.12(C). CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

(A) No. 7 (Lot 1) Reynolds Street, East Fremantle**Owner/Applicant: V Blagaich****Application No. P161/13**

By Andrew Malone, Senior Town Planner on 18 November 2012

PURPOSE OF THIS REPORT

This report considers an application for proposed retaining walls located on Council's verge to provide a suitable crossover to the previously approved dwelling at 7 (Lot 1) Reynolds Street, East Fremantle. The proposal is recommended for approval subject to conditions.

BACKGROUND**Description of Proposal**

The previously approved single dwelling comprises four storeys containing a rumpus room, 6 bedrooms including master suite, playroom, garage, family/ meals/ kitchen, alfresco, swimming pool and associated service and utility rooms. The application was approved by Council on 11 December 2012.

Description of Site

The subject site is:

- a 290m² freehold block
- zoned Residential R12.5 (Assessment of the application has been undertaken at R35 density: Clause 5.3.3 of Town Planning Scheme No. 3)
- vacant
- located in the Riverside Precinct.

Statutory Considerations

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

Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : New crossover. Variation to Council Policy requested.
Footpath : No impact
Streetscape : No impact.

Documentation

Plans and relevant forms date stamp received on 31 August 2012.

Submissions received and forwarded to applicant 26 September 2012.

Applicant's response to public submissions and revised plans date stamp received on 5 November 2012.

Date Application Received

31 August 2012.

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

- 1990: Council conditionally approves an additional unit at the rear of 21 Preston Point Road (now 5 Reynolds Street) with increased building and ceiling heights.
- 23 Feb. 1998: Council conditionally approves a 4-level house at the rear of 17 Preston Point Road (now 9 Reynolds Street) on reduced setbacks and increased building height.
- 30 March 1993: State Planning Commission certifies approval to subdivide 21 Preston Point Road into 2 strata lots (1 X 378m² - 5 Reynolds Street, 1 X 524m² - 21 Preston Point Road).
- 17 April 2001: Council grants special approval for a second storey deck and parapet wall additions to the house at 5 Reynolds Street.
- 22 March 2002: WAPC certifies approval to subdivide 17 Preston Point Road into 2 strata lots (1 X 217m² - 9 Reynolds Street, 1 X 304m² - 17 Preston Point Road).
- 30 May 2006: CEO under delegated authority conditionally approves an upper level deck addition to 5 Reynolds Street.
- 19 Dec. 2006: Council defers an application for a 3-level house.
- 20 Feb. 2007: Council defers application pending a site inspection.
- 6 March 2007: Council refuses the application.
- 10 April 2007: Applicant appeals Council decision.
- 9 May 2007: SAT orders applicant to prepare and submit preliminary elevations for an amended house plan for Council comment.
- 19 June 2007: Council decides to advise SAT that it is prepared to grant in-principle approval to amended plans and requests the applicant to submit a formal application for planning approval, consistent with the new plans, for Council's detailed consideration and the formulation of appropriate conditions of approval.
- 22 June 2007: SAT Directions Hearing to hear outcome of Council meeting, and decide on action to progress the matter.
- 22 June 2007: SAT orders Directions Hearing for 23 July 2007.
- 17 July 2007: Council conditionally approves 3-level house and 2-level garage & studio.
- 22 March 2011: WAPC certifies approval to subdivide 19 Preston Point Road into 2 strata lots (1 X 290m² - 7 Reynolds Street, 1 X 251m² - 19 Preston Point Road).
- 11 December 2012: Council approve proposed development application for new dwelling.

CONSULTATION**Advertising**

The application was not advertised to surrounding neighbours. The proposal is considered minor in nature and is associated with the approved crossover and garage. The proposed retaining walls are considered to have no impact to adjoining neighbours.

Town Planning Advisory Panel

The application was not referred to the Town Planning Advisory Panel as the retaining wall is not considered to impact the streetscape or detract from the dwelling.

Site Inspection

4 October 2013. Senior Planning Officer met with applicant on-site to view the existing unauthorised works and discuss the proposal.

ASSESSMENT**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%	As existing	A
6.4.2 Outdoor Living	N/A	As existing	A
6.5 Car Parking	2	As existing	A
6.6 Site Works	Less than 500mm	As Existing	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	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	N/A
3.7.8 Roof Form and Pitch	N/A
3.7.9 Materials and Colours	N/A
3.7.10 Landscaping	N/A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	D
3.7.15-20 Precinct Requirements	N/A

DISCUSSION

The proposed retaining wall is to accommodate the proposed crossover and verge. The properties to the north and south of the subject lot have retaining wall located at the crossover/verge. There is approximately a 2.16 metre fall across the verge to the front of the subject lot boundary. Because of the site / verge fall, the applicant has proposed retaining walls and fill to ensure suitable access to the lot. This is considered appropriate and reasonable. The retaining wall and associated fill unifies the streetscape and Council verge.

Clause 3.7.14.3 of the Policy provides the Performance Criteria and Acceptable Development Provisions for footpaths and crossovers. The relevant Acceptable Development Provision A2.2 states:

Crossovers to be maximum 3m wide. Wider crossovers shall be considered to facilitate access and egress on slopping sites. Crossovers to have a concrete edge when abutting the footpath.

With respect to the crossover, the applicant is requesting Council discretion for a proposed 6 metre wide crossover. The applicant has provided the relevant justifications with regard to the Performance Criteria of clause 3.7.14.3 of the Policy, which states:

P2 Footpaths and crossovers to match the existing relevant Precincts.

Applicant's justification:

It is my view that the proposed development is consistent with the desired outcomes for footpaths and crossovers within the Policy, whilst also being consistent with Performance Criteria 'P2' mentioned above for a number of reasons.

Desired Outcome (i) of clause 3.7.14.2 of the Policy requires new footpaths and crossovers to match existing streetscapes. As shown in Attachment 1, the streetscape of Reynolds Street comprises of at least three 6 metre crossovers and a 3 metre crossover with an additional hardstand area (which effectively appears as a 6 metre crossover). As a consequence, it is my view that to allow for a 6 metre crossover at the subject land would be consistent with the existing streetscape and therefore consistent with Desired Outcome (i).

Performance Criteria 'P2' requires any new crossover to match the existing relevant Precincts. It is my view that the Precinct is unusual, or at least not typical for East Fremantle, in that it is dominated by double garages and 6 metre wide crossovers, unlike the more traditional sections of the Policy Area which consist of single crossovers. As outlined above, to allow for a 6 metre crossover would be consistent with the remainder of the street, particularly when the properties immediately to the north and south have crossovers that are 6 metres wide (refer to photos 2, 3 and 4 of Attachment 1).

Additionally, it is my view that given the subject land is proposed to consist of a double garage, I believe that to taper the driveway so that the crossover is a maximum of 3 metres is not necessarily best practice in terms of visibility when reversing out of the property. Notwithstanding that Reynolds Street is not highly trafficable, if the driveway was to taper to a width of 3 metres it would be difficult for a reversing vehicle from the subject land to meet the road pavement at a 90 degree angle, therefore reducing the visibility of oncoming traffic.

The justification provided by the applicant is considered to have merit. An investigation of Reynolds Street has revealed that the prevailing crossover width in the area is 6.0 metres. Reynolds Road is a narrow street that continues into Surbiton Road which ends in a cul-de-sac. Because of its narrow width (5.2 metres) Reynolds Road is considered to have manoeuvrability issues. As noted by the applicant, the adjoining properties have large crossovers. A wider crossover would facilitate vehicular manoeuvrability and vehicular turning. However a 6.0 metre wide crossover is considered excessive. It is proposed a 4.5 metre wide crossover would facilitate manoeuvrability and vehicular turning without excessively impacting on the streetscape. The 4.5 metre crossover would also allow suitable passing points on Reynolds Street without having to mount the curb and damage the verge. Surbiton Road is a cul-de-sac therefore suitable turning areas for vehicles is important to provide suitable traffic flow.

The remaining retained verge will be planted with grass. Appropriate conditions have been included in the Officer's Recommendation.

It is considered the retaining walls, fill and crossover should be supported by Council.

RECOMMENDATION

That Council approve the application for proposed retaining walls and crossover located on Council's verge to provide a suitable crossover to the previously approved at 7 (Lot 1) Reynolds Street, East Fremantle, in accordance with the plans date stamp received on 28 October 2013, subject to the following conditions:

1. All stormwater is to be disposed of on site, clear of all buildings and boundaries. Crossover and verge to be designed to ensure stormwater does not drain onto the road.
2. The works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. Crossover to be a maximum width of 4.5 metres and to comply with the construction and design standards as outlined in Element 3.7.14 of the Residential Design Guidelines – Footpaths and Crossovers
4. The crossover, retaining wall and verge fill to be completed to a standard to the satisfaction of the Chief Executive Officer in consultation with relevant officers. The total cost to be borne by the applicant.
5. Applicant to suitably plant the verge with grass to the satisfaction of the Chief Executive Officer in consultation with relevant officers. The verge and planting to be maintained by the applicant in a suitable condition for a period of 2 years to the satisfaction of the Chief Executive Officer in consultation with relevant officers. The total cost to be borne by the applicant.
6. Where this development requires a street verge tree to be removed, modified or relocated, the total cost to be borne by the applicant and then such works must be approved by Chief Executive Officer in consultation with the Operations Manager. Any replacement tree shall be a mature planting of a size and species to the satisfaction of the Chief Executive Officer. Any verge tree planted shall be maintained for a period of two (2) years after planting to the satisfaction of the Chief Executive Officer
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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.*

(B) **Allen Street No. 68 (Lot 27)**
Owner/Applicant: C & R Ainslie
Application No. P142/2013

By Andrew Malone, Senior Town Planner, on 13 November 2012

PURPOSE OF THIS REPORT

This report considers an application for retrospective partial demolition to the rear shed and cubby house and proposed alteration to shed at 68 (Lot 27) Allen Street, East Fremantle. The proposal is recommended for approval subject to conditions.

BACKGROUND

The applicant submitted a building licence for proposed partial demolition of a cubby house and shed and alterations to the remaining structure of the shed. However, following an archival search, it was discovered the previous additions to the shed and the cubby house did not have Council approval. The alterations to the existing shed and cubby house are illegal structures. As the property had been sold and it is the new owners applying for the proposed works, it was considered no legal action should be taken with regard to the illegal structures, however the new owners were requested to lodge a planning application to formalise the shed. The proposed works comprise:

- Removing the unauthorised component of the extension comprising largely of asbestos
- Removing the unauthorised children's cubby, which sits above the unauthorised shed additions (Condition of the cubby house is considered dangerous).
- Improving the authorised shed/workshop by cladding the external walls in weatherboard and removing the aluminium windows and replacing with timber.
- Shed to be utilised as a shed / workshop and artist studio. The shed will also act as a pool-house with toilet facilities for the existing swimming pool.

Description of site

The subject site is:

- a 1088m² freehold lot
- zoned Residential R12.5
- located in the Woodside Precinct
- developed with a single storey dwelling.
- C+^ category on the Town's Municipal Heritage List.

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

Statutory Considerations

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

Relevant Council Policies

Residential Design Guidelines 2013 (RDG)

Impact on Public Domain

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

Streetscape: No impact

Documentation

Plans and relevant forms date stamped received on 8 October 2013

Date Application Received

8 October 2013

Advertising

The application was not advertised to surrounding neighbours. The proposal is considered minor in nature. The proposed works were required to be undertaken as the asbestos was not considered in a safe or suitable condition. Due to reducing the extent of the shed, it was considered there would be no adverse impact to surrounding neighbours.

Town Planning Advisory Panel

The application was not referred to the Town Planning Advisory Panel as it is not considered to impact the streetscape or detract from the heritage value of the property.

Site Inspection

4 October 2013. Senior Planning Officer met with applicant on-site to view the existing unauthorised works and discuss the proposal.

ASSESSMENT

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%	As existing	A
6.4.2 Outdoor Living	N/A	As existing	A
6.5 Car Parking	2	As existing	A
6.6 Site Works	Less than 500mm	As Existing	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	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	A
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	N/A
3.7.10 Landscaping	N/A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15-20 Precinct Requirements	A

DISCUSSION**Heritage**

The existing dwelling on the subject site is a heritage property assigned the C+ Management Category in the Town's Heritage Survey 2006. The proposed development is to the rear of the subject lot. The proposal includes removal of unauthorised structures and alterations to the existing shed. The proposed partial demolition of unauthorised structure and proposed alterations do not impact on the dwelling. The structure cannot be viewed from the street. No heritage assessment was requested as the proposal has no impact on the heritage dwelling. The shed and cubby house do not hold any heritage significance.

Demolition

The applicant demolished the:

- unauthorised component of the extension to the shed; and
- unauthorised children's cubby.

The construction and engineer standards of these structures were unknown and therefore were considered dangerous. These structures also included asbestos. Therefore the applicant (who has small children) applied for a demolition licence to remove the structures. This was considered appropriate. As the construction and engineer standards of the structures were unknown, it was considered the safest option to grant the licence. A site inspection was undertaken by the Planning Officer to ensure these structures had no heritage significance prior to the demolition licence being issued. The removal of these structures is considered acceptable, therefore their retrospective demolition is supported.

Proposed alterations

The proposed alterations to the shed have not been completed. The proposed alterations are consistent with the existing dwelling and shed. The proposed works will not increase the building envelope of the shed. The works include improving the shed / workshop by cladding the external walls in weatherboard and removing the aluminium windows and replacing with timber. The proposed shed will be utilised as a shed / workshop and artist studio. The shed will also act as a pool-house with toilet facilities for the existing swimming pool. These uses do not include habitable rooms, therefore a condition has been included in the Officer's Recommendation to ensure the building is not used for ancillary accommodation.

CONCLUSION

It is considered application for retrospective partial demolition to the rear shed and cubby house and proposed alteration to the remaining shed structure is acceptable. While there is no record of the previous alterations to the shed or cubby house being approved by Council, the structures has been in situ for a number of years, without any concern being raised by adjoining neighbours or without the new owner of the property being aware they were unauthorised. The applicant demolished the cubby house and additions to the shed as they were dangerous structures and included asbestos. The proposed alterations to the shed are to complete that portion of the shed that will remain.

The proposed alterations to the shed have no impact to the dwelling. The demolition of the cubby house and partial demolition of the shed improve the prevailing character of the dwelling. The proposed alterations are considered acceptable. The proposed alterations are considered not to significantly adversely impact adjoining neighbours and are sympathetic to the existing dwelling.

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

RECOMMENDATION

That Council approve the application for retrospective demolition of cubby house and partial demolition to the rear shed and proposed alteration to portion of shed to remain at

68 (Lot 27) Allen Street, East Fremantle, in accordance with the plans date stamp received on 8 October 2013, subject to the following conditions:

1. For the purposes of defining the 'use', the use shall be a shed / artist studio and pool-house with toilet facilities for the existing swimming pool. Should the shed be required for any other purpose, a proposed change of use is to be approved by Council prior to occupation.
2. The shed shall not be used for ancillary accommodation or leased either as a rental property or for short stay accommodation. The shed cannot be used as a habitable room to accommodate members of the immediate family residing in the main dwelling.
3. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
4. The works 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. 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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

- (C) **No. 46A Fraser Street (Lot 1 on Strata Plan 12042) Fraser Street, East Fremantle**
Applicant: Glen Foxtan
Owner: D Newman and S Foxtan as Executors of the Estate of Doris Ellen Woods
Application No. P136/13
By Christine Catchpole, Planning Officer, on 26 November 2013

PURPOSE OF THIS REPORT

The application is for extensions to the existing front strata unit to provide an alfresco area (~18m² - patio) and an additional bedroom with an ensuite bathroom and walk in robe (~30m²). Minor modifications to the existing laundry will also be undertaken and bi-fold doors will provide access to the alfresco area. The extensions are at the rear of the unit, but as the unit faces the access driveway and not the street, the extensions will be adjacent to the side boundary.

It is also proposed to construct a single carport as an extension of the main roof in the front setback area. The carport will be constructed with a roof pitch of 18° and will be supported by three timber posts. This aspect of the additions and alterations will be

positioned behind a solid brick front fence and accessed from the existing driveway along the western side boundary. The construction of the carport will require removal of a wall that provides screening and encloses the front setback area of Unit A.

What appears to be a visitor's car bay is located just within the front boundary adjacent to Unit A and accessed from the main driveway. Access/egress to the proposed carport would require this bay to be vacant as it is positioned directly in front of the carport. At present this bay appears to be used solely by the occupant of Unit A.

It is also proposed to re-roof the dwelling and replace the tiles with Colorbond. The colour has not been indicated. Construction in brick will match the existing dwellings.

An existing flat roofed patio, pergola and lattice screening will be removed to allow for the extensions.

BACKGROUND

Description of site

The subject site is:

- a ~456m² strata lot;
- zoned Residential R12.5;
- located in the Richmond Precinct; and
- one of three strata title dwellings.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Local Planning Strategy – Richmond Precinct (LPS)
Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Residential Design Guidelines 2013 (RDG)

Impact on Public Domain

Tree in verge	:	No impact
Light pole	:	No impact
Crossover	:	No impact
Footpath	:	No impact
Streetscape	:	Limited visibility due to slope of land away from the roadway and erection of solid front fence has been erected. Ulrich Park is located immediately to the west.

Documentation

Plans and relevant forms date stamped received on 26 September and 18 November 2013

Date Application Received

18 November 2013

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

20 July 1983	–	Building permit issued for a single storey dwelling.
10 August 1983	–	Building permit issued for two additional dwellings to comprise a triplex.
3 January 1984	–	Strata Title approved for three dwelling units.
17 February 2004	-	Council approval granted for the construction of a garage & storeroom at Unit C.
16 May 2006	–	Council approval issued for a patio at the rear of Unit C.

Note: Unit C has been rendered and tiled roof replaced with Colorbond roofing.

CONSULTATION**Advertising**

The application was not advertised to the other strata owners or the adjoining land owner to the east as affected landowners were contacted by the applicant and have indicated endorsement of the plans and have no objection to the proposal. The adjoining strata owner of Unit B, however, has commented that the building materials should be complementary to the existing strata units.

Town Planning Advisory Panel Comments

Due to the minor nature of the proposal the application was not referred to the Town Planning Advisory Panel.

Site Inspection

By Planning Officer 24 October 2013

STATISTICS

Key: C = Complies, D = Discretion

5.1.3 - LOT BOUNDARY SETBACK								
RDC C3.1	Buildings setback from the boundary							
	Wall	Length	Height	Major openings	Setback required	Setback proposed	Status	Comments
	South							
	Addition (side east)	6.0m	2.45m	No	1.0m	1.0m	C	
	Front (al fresco)	5.3m	2.45m	Yes	7.5m	7.8m	C	
	Carport	5.3m	2.3m	No	7.5m	3.0m	D	Within front setback but is to be constructed as an extension of the main roof.

5.1.4 – OPEN SPACE				
		Required	Provided	Status
RDC C4	Minimum total (55% of site)	55%	65%	C

5.1.6 – BUILDING HEIGHT					
		Required	Provided	Status	Comments
RDG & RDC C6	Hipped and/or gabled roof				
	Maximum wall height (to top of wall from NGL)	5.6 / 6.5 - RDG 6.0 m / 6.5 m - RDC	2.45m	C	
	Maximum roof height (to top of roof from NGL)	8.1m	3.4	C	

PART 5.2 - STREETScape REQUIREMENTS

ROOF PITCH AND COLOUR					
		Required	Provided	Status	Comments
RDG	Pitch	28°-36° required under RDG	18.5°	D	To match existing pitch
	Colour	N/A	Colorbond		Colour not specified

PART 5.3 - SITE PLANNING AND DESIGN

5.3.1 - OUTDOOR LIVING AREAS					
		Required	Provided	Status	Comments
RDC C1.1	Minimum area (m ²)	Not specified	96m ²	C	
	Minimum length and width	4 m	4.5 x 4.8m	C	
	Behind the street setback area		Yes	C	
	Directly accessible from a habitable room		Yes	C	
	2/3 of the required area without a permanent roof cover		Yes	C	

PART 5.4 - BUILDING DESIGN

5.4.1 - VISUAL PRIVACY						
RDC	Room	Required	Proposed	Overlooking to...	Status	Comments
C1.1- C1.2		No finished floor level is greater than 500mm above the existing natural ground level therefore there are no visual privacy considerations under the R-Codes.			C	

5.4.2 - SOLAR ACCESS FOR ADJOINING SITES						
		Required	Provided	Status	Comments	
RDC C2.1- C2.2	Maximum shadow cast on adjoining property (% of site)	R-Code ≤ R25: 25%	<25%	C	Some overshadowing of the adjoining strata property will occur.	

5.3.3 - PARKING					
		Required	Provided	Status	Comments
	2+ bedroom dwelling	1-2	2	C	
	Visitor bays	1 per 4 dwellings	1	C	The triplex development appears to have 1 common property parking bay – not required for the three grouped dwellings under current RDC provisions.

5.3.4 - DESIGN OF PARKING SPACES					
		Required	Provided	Status	Comments
R-Codes C4.1	Width	2.4m + 0.3m if confined	2.9m	C	

	Depth	5.4 m (10m tandem)	10.0m	C	
	Manoeuvring depth	6m to impediment	5.0m	N/A – pre-existing	Two bays per unit -tandem arrangement. However, the development was approved prior to the gazettal of the RDC in 1985 and the area of manoeuvring space behind the dwellings does not meet the current requirements of the RDC.

ASSESSMENT

The applicant is proposing alterations and additions to an existing front strata title unit and is seeking variations in regard to front setback, location of carport and roof pitch requirements as specified in the RDC and the RDG.

Front Setback – Residential Design Codes

The RDC requirements state that the front setback in a Residential R12.5 zone is 7.5 metres. The existing dwelling is setback approximately 6 metres from the front boundary and the addition of the carport will result in the carport roof (an extension of the main roof of the house) and supporting posts being setback 3 metres from the front boundary.

Construction of Carport – Residential Design Guidelines

Despite non-compliance with A3 (i) of the “Acceptable Development Provisions”, that is, the carport not being constructed 1.2 metres behind the building line. It is considered the proposal meets the other “Acceptable Development Provisions” in that it does not occupy more than 30% of the frontage of the lot. Notwithstanding the above the proposed carport does meet the “Performance Criteria” for additions and alterations to existing buildings under the RDG (Cl. 3.7.2.3 – P1.2) in that construction of the carport will not obscure the original dwelling.

In relation to the RDG for the Richmond Precinct the construction of the carport will meet the “Desired Development Outcomes” (Cl. 3.7.15.3) in respect to the following provisions:

- Carports shall not visually dominate the dwelling as viewed from the street; and
- Materials should not visually detract from the streetscape.

The “Performance Criteria” (Cl. 3.7.15.3.3 – P 1 & 3) can also be met in that the carport will comply with the recommended building materials and that the carport may be located forward of the building line, if there are no alternatives, provided that it does not:

- visually dominate the streetscape; and
- detract from the heritage character of the building.

In this circumstance the reduced setback and carport within the front setback area, is considered supportable. The finished level of the carport will be the same as the house which is approximately 1.2 metres below street level. Most of the supporting posts and the carport area, will be screened by the solid front wall and shrubs in the front fence truncation. The carport will form an extension of the main roof which minimises its visual impact.

At present the applicant has a dinghy on a trailer in an area of common property at the front of the driveway and a utility vehicle regularly parked on the Council verge adjacent to the driveway. The construction of the carport may result in the vehicle being parked off the verge and/or the dinghy being stored in this carport area. This would be a significant

improvement to the visual amenity of the streetscape in general if this was the result. Each of the units was originally approved with only one carport each.

All things considered the carport in this location is not considered to have a significant impact on the streetscape along this section of Fraser Street, as it is not obscuring the original dwelling, or blocking any surveillance of the street. Ulrich Park is immediately to the west and the house to the east is a corner property on Windsor Road with a substantial area of greenery and landscaping in the front setback. Due to the rise of Fraser Street as it runs eastwards, the solid front fence and the triplex fronting Ulrich Park, essentially only the roof of the units is visible from the street.

Car Parking

The car parking provided on-site meets the current RDC requirements in that each dwelling unit has one carport/garage and one additional car bay either located adjacent to Unit C or in a tandem arrangement for Units A and B. There appears to be an additional visitor's bay located at the front of the property adjacent to the driveway entry from Fraser Street.

If the proposed carport is to be accessible at all times this car parking bay would need to remain vacant. In effect, approving the carport would result in the loss of this visitor parking bay as it would be converted to the driveway for the carport. This additional bay, however, is not required under current RDC requirements; visitor bays are only required for complexes of four or more dwellings.

The sole use of this bay by the occupant of Unit A and general use of common property by residents has been raised by one of the owners, however, these strata management matters are not planning issues the Town would involve itself with and the use and management of common property on strata title land is not controlled by the Council.

Roof Form

A pitched roof of 18.5° is existing and with the re-roof from tiles to Colorbond the pitch will remain the same. Given the roof is the most visible element of the triplex it is considered appropriate that the roof pitch remain in accord with the other two strata units. Council approval is therefore required to support a variation from the required roof pitch of between 28° and 36° for this Precinct. It will also be necessary to impose a condition of planning approval relating to reflectivity should zincalume be the preferred colour.

Patio (alfresco) and Bedroom Addition

The addition of the alfresco area and bedroom are supported. This will result in removal of a flat roof patio and several other garden shade structures. These additions will also form part of an extension of the main roof of the dwelling and comply with setback and height provisions. The additions will be behind the front setback line and although they will be visible from the street, they will not impact on the existing streetscape character or any heritage elements in the Precinct.

CONCLUSION

The variations proposed in regard to front setback, location of the carport and roof pitch are supported in this instance due to the particular site circumstances and the location of this property in the street block. Generally a carport in the front setback area would not be supported, however, in this situation the extension of the roof to accommodate the carport will not significantly alter the appearance of the dwelling to the street and the carport itself is screened from the street, due to the level difference between the road and the dwelling, as well as being behind a solid front fence. Removal of the vehicles from the verge and front setback area would also improve the streetscape. The property sits between Ulrich Park and a house with a well landscaped front garden on the corner of Windsor Road and Fraser Street, and as such a uniform front setback is not evident along this section of Fraser Street.

The application can therefore be supported subject to a number of conditions relating to building materials and colours and retention of vegetation in the front fence truncation.

RECOMMENDATION

That Council exercise discretion in granting planning approval to vary:

- (a) Clause 5.1.2 – Street Setback of the Residential Design Codes of WA to allow a front setback of less than 7.5 metres for the carport;
- (b) Clause 3.7.15.3 - Garages, Carports and Outbuildings of the Council's Residential Design Guidelines 2013 to allow a carport to be setback less than 1.2 metres behind the building setback line;
- (c) Clause 3.7.8.3 – Roof Form and Pitch of Council's Residential Design Guidelines 2013 to allow a roof pitch of less than 28°,

for additions and alterations including a carport for the front grouped dwelling at No. 46A (Lot 1 of Strata Plan 12042) Fraser Street, East Fremantle, in accordance with the plans date stamped received on 26 September and 18 November 2013 subject to the following conditions:

1. The existing vegetation within the front fence truncation area to be retained and maintained. If damaged or destroyed during construction or removal of part of the wall it is to be replaced with mature planting of a size and type to be determined by the Chief Executive Officer, in consultation with relevant officers, prior to an occupancy certificate being issued.
2. If requested by Council within the first two years following installation, zincalume roofing, if selected for the alterations and additions to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
3. A detailed schedule of external materials and finishes, including paint colours, brick type and roof colour details to be submitted for all work the subject of this planning approval to the satisfaction of the Chief Executive Officer in consultation with relevant officers, prior to the issue of a building permit.
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. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. The proposed additions/carport are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
8. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (f) below*)
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. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *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”.*

T150. REPORTS OF OFFICERS – STRATEGIC PLANNING (CONTINUED)

Cr Martin made the following impartiality declaration in the matter of Review of TPS No 3 and Local Planning Strategy: “As a consequence of one of the submitters Marie Mills of Mills Wilson, being 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”.

Cr McPhail made the following impartiality declaration in the matter of Review of TPS No 3 and Local Planning Strategy: “As a consequence of one of the submitters, Warren Giddens being known to me professionally, 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”.

T150.1 Review of TPS No 3 and Local Planning Strategy

By Jamie Douglas, Manager Planning Services on 21 November 2013

PURPOSE OF THIS REPORT

This report details a proposed Community Engagement Program to explain the endorsed revised Local Planning Strategy and proposed Scheme Amendment 10 and the selection of a preferred consultant to undertake the Program. It is recommended that the proposed Community Engagement Program be endorsed.

BACKGROUND

At its meeting on 14 May 2013, Council endorsed the following recommendation from the Town Planning and Building Committee

That:

1. *The Town of East Fremantle Local Planning Strategy 2013 be forwarded to the Western Australian Planning Commission seeking approval to advertise the Strategy in accordance with Regulation 12B of the Town Planning Regulations 1967 (as amended)*
2. *Council endorses the proposed Amendment 10 to the Town of East Fremantle Town Planning Scheme No 3 for the purposes of public notification and agrees that:*
 - (a) the amendment should be advertised concurrently with the 2013 Local Planning Strategy once the Western Australian Planning Commission has granted approval to the advertising of the Local Planning Strategy.*
 - (b) a copy of the draft amendment be forwarded to the Western Australian Planning Commission in support of the 2013 Strategy.*
 - (c) a Community Engagement Program shall be developed to explain the Local Planning Strategy and proposed Scheme Amendment 10 prior to the statutory public advertising of the documents. The community engagement program shall be the subject of a separate report and determination by Council.*

EXPLANATION OF THE APPROACH FOR THE PLANNING REVIEW

The *Planning and Development Act 2005* requires local governments to either consolidate existing town planning schemes or prepare a new town planning scheme every five years. As the existing Town Planning Scheme No 3 was gazetted in December 2004, the deadline under the Act, to commence either the consolidation or review of the Scheme is overdue.

In addition to the Town Planning Scheme, the Council is also required to prepare and adopt a Local Planning Strategy that supports and provides the rationale for the (revised) Town Planning Scheme. The existing LPS was finalised in 2003 and is therefore also in need of review.

Although it is considered the current Scheme and Strategy are generally operating effectively, it is recognised that neither of these documents reflect current regional policies set by the State Government through the Western Australian Planning Commission. Accordingly, the review of the LPS gives the Council the opportunity to examine long term options for the Town and provide a strategy that meets both local and regional requirements and expectations.

Following on from the Strategy, an omnibus amendment to the Town Planning Scheme (Amendment No 10) has been prepared which will implement the recommendations of the draft Strategy. The omnibus amendment also provides the opportunity to undertake other minor changes to the Scheme to address inconsistencies, typographical errors and necessary updates.

In an effort to simplify the community engagement and consultation processes, it is proposed that both Amendment 10 and the LPS will be advertised concurrently. This will provide the opportunity for the community to see the entire package of changes proposed to the Town's planning framework.

Under the Planning and Development Act, Council can initiate Amendment 10 and commence the advertising process upon clearance from the Environmental Protection Authority (which was received on 3 July 2013), however the LPS must be approved by the Western Australian Planning Commission prior to public advertising. The draft LPS was submitted to the Western Australian Planning Commission on 22 May 2013 and briefings on the LPS and draft Scheme Amendment were also provided to relevant Department of Planning staff at that time. The DoP initially advised that the WAPC would consider the matter in September 2013. In October 2013 the DoP further advised the matter would now unlikely be considered by the WAPC until February 2014.

With Council amalgamation likely to occur in the near future, priority is being given to the expedition of the Scheme Review and revising the Municipal Inventory and Heritage Listings in order to provide protection for the Town's heritage, 'sense of place' and development certainty into the future (these statutory documents will still apply post amalgamation and when eventually reviewed any changes will require justification and consideration of community views). Accordingly it is proposed to commence public consultation in respect to the draft Scheme Amendment and the draft LPS in February/March 2014 with an acknowledgement that the draft LPS is being released as an informal document (to explain the rationale behind the draft amendment) but is yet to receive formal endorsement of the WAPC.

SELECTION OF CONSULTANTS TO UNDERTAKE THE COMMUNITY ENGAGEMENT PROGRAM

Due to the extent of the planning review and its importance for the future of the Town, it has been decided that an informal and informative Community Engagement Program should be conducted prior to the formal statutory public notification process associated with Scheme Amendments. It is intended through this process that the community will be given the opportunity to understand the extent and implications of the proposed planning changes and provide feedback before they are released formally for comment. It is envisaged that the community will be empowered by the Program and will be better prepared to engage in the statutory process for public commentary.

In accordance with the Town's purchasing policy, three submissions and quotations to undertake the Community Engagement Program were requested from consultants.

The assessment of these submissions is contained in a Confidential Attachment to this report. Elected Members are advised that the submissions are provided on a 'commercial in confidence' basis, accordingly this Attachment is to be regarded as a confidential document and is not therefore in the public domain. **CONFIDENTIAL ATTACHMENT**

It has been recommended that the Chief Executive Officer endorse the appointment of "Consult wg" (Warren Giddens) to undertake the Community Engagement Program.

PROPOSED COMMUNITY ENGAGEMENT PROGRAM

"Consult wg" has prepared the attached activity schedule detailing the proposed engagement program. It is not desirable to commence the program over the Christmas/school holiday period, accordingly this time will be used for preparation with the program targeted to commence in mid February 2014. **ATTACHMENT**

RECOMMENDATION

It is recommended that the Community Engagement Program proposed by "consult wg" to explain the draft Revised Local Planning Strategy and proposed Scheme Amendment 10, be endorsed.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

That the Community Engagement Program proposed by "consult wg" to explain the draft Revised Local Planning Strategy and proposed Scheme Amendment 10, be endorsed. CARRIED

T150.2 Budget Allocation for valuation update of the Development Parcel contained in the 2008 Draft Masterplan

The following information from the Manager Planning Services was considered:

"Arising from discussion at the East Fremantle Oval Recreation Precinct Community Reference Group meeting on 28 October 2013 and the matter being raised by Cr Rico at the November Council meeting, elected members are requested to give consideration to providing a budget allocation of \$10,000 to commission a valuation of the parcel of land

facing Marmion Street between Allen and Moss Streets which had been proposed for mixed use development in the 2008 Masterplan.

CRG members were of the view that this was necessary given the Group had been tasked with arriving at a funding proposal and needed to ascertain the value of the land and the role this would play in funding of a larger proposal.

The Executive Manager Finance & Administration advises that should Council determine to commission this work, the East Fremantle Oval Masterplan currently has a budget of \$90,000. The first option would be to estimate whether the valuation expenditure can fit within this budget. Otherwise, as an alternative, funds can be accessed from the annual forecasted closing surplus of \$23,000, reported at the November Council Meeting.”

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Rico

That Council authorise expenditure of up to \$10,000 for a valuation of the development parcel contained in the 2008 Draft Masterplan, as per the Community Reference Group’s request.

CARRIED

T151. CONFIDENTIAL BUSINESS

Nil.

T152. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T153. CLOSURE OF MEETING

There being no further business the meeting closed at 10.45pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **3 December 2013**, Minute Book reference **T139. to T153.** were confirmed at the meeting of the Committee on*

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Presiding Member