



Town Planning & Building Committee

1 October 2013
6.37pm

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 1 OCTOBER, 2013 COMMENCING AT 6.37PM.

T110. OPENING OF MEETING

T110.1 Present

T111. ACKNOWLEDGEMENT OF COUNTRY

T112. WELCOME TO GALLERY

T113. APOLOGIES

T114. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

T114.1 East Fremantle Oval Recreation Precinct Community Reference Group (CRG)

T115. CONFIRMATION OF MINUTES

T115.1 Town Planning & Building Committee – 3 September 2013

T116. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T116.1 Alexandra Road No. 87 – Conversion of Verandah Roof to a Landing

T116.2 View Terrace No. 22 – Alterations / Additions

T117. REPORTS OF COMMITTEES

T117.1 Town Planning Advisory Panel – 10 September 2013

T118. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL

T118.1 Receipt of Reports

T118.2 Order of Business

*T118.3 Dalgety Street No. 74B (Lot 2 of Strata Plan 13803)
Owner: C Franklin
Applicant: Davley Building P/L T/a Granny Flats WA
Application No. P120/2013*

*Page 2
Agenda Ref. 9.1*

*T118.4 Preston Point Road No. 58 (Lot 800)
Owner /Applicant: J Raffaele
Application No: P118/2013*

*Page 10
Agenda Ref. 9.3*

*T118.5 Alexandra Road No. 87 (Lot 12)
Owner/ Applicant: H & V Preston
Application No. P106/13*

*Page 17
Agenda Ref. 9.5*

*T118.6 Dalgety Street No. 78 (Lot 93)
Applicant/ Owner: Mark Woschnak
Application No. P117/13*

*Page 22
Agenda Ref. 9.6*

- T118.7** *Chauncy Street No. 17 (Lot 5047)*
Applicant/Owner: Dr J Hogan
Application No. P78/13

Page 30
Agenda Ref. 9.9
- T118.8** *View Terrace No. 22 (Lot 274)*
Applicant: A Butcher
Owner: L Giuliani
Application No. P107/12

Page 40
Agenda Ref. 9.11
- T118.9** *Duke Street No. 36-42 (Lots 601 & 602)*
Applicant: The Buchan Group – Architects
Owner: Manotel P/L
Application No. P53/13

Page 51
Agenda Ref. 9.12
- T119.** **ADJOURNMENT**
- T120.** **RESUMPTION**
- T121.** **REPORT’S OF OFFICERS (Cont)**
- T121.1** *Duke Street No. 36-42 (Lots 601 & 602)*
Applicant: The Buchan Group - Architects
Owner: Manotel P/L
Application No. P53/13

Page 66
Agenda Ref. 9.12
- T121.2** *Alexandra Road No. 38A (Lot 801)*
Applicant: Highbury Homes Pty Ltd
Owner: B Putland
Application No. P105/13

Page 66
Agenda Ref. 9.8
- T121.3** *Dalgety Street No. 31 (Lot 62)*
Owner /Applicant: R & M Cox
Application No. P96/2013

Page 75
Agenda Ref. 9.2
- T121.4** *Hubble Street No. 93 (Lot 172)*
Owner: A, M & V Turco
Applicant: J Chisholm Design
Application No. P112/2013

Page 81
Agenda Ref. 9.4
- T121.5** *Fortescue Street No. 51 (Lot 125)*
Applicant/ Owner: K & T Ecclestone
Application No. P107/2013

Page 86
Agenda Ref. 9.7
- T121.6** *Woodhouse Road No. 37 (Lot 304)*
Applicant: Giorgi Exclusive Homes
Owner: T Radich & M Pastorino
Application No. P93/13

Page 93
Agenda Ref. 9.10
- T122.** **CONFIDENTIAL BUSINESS**
- T123.** **URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**
- T124.** **CLOSURE OF MEETING**

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 1 OCTOBER, 2013 COMMENCING AT 6.37PM.

T110. OPENING OF MEETING

T110.1 Present

Cr Alex Wilson	Acting Mayor / Presiding Member
Cr Barry de Jong	
Cr Cliff Collinson	
Cr Siân Martin	
Cr Dean Nardi	
Cr Maria Rico	
Mr Andrew Malone	Senior Town Planner
Mrs Peta Cooper	Minute Secretary

T111. 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."

T112. WELCOME TO GALLERY

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

T113. APOLOGIES

Nil.

T114. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

T114.1 East Fremantle Oval Recreation Precinct Community Reference Group (CRG)

Ms Fiona Winfield (Chairperson – CRG) addressed the meeting by providing an update on progress to date and future directions for the Group.

Ms Winfield advised that all groups currently occupying the land have been heard and have expressed their future needs. She also stated that 'Guiding Principles' have been adopted so as to agree on a direction for future decision making.

One area we are looking at is funding and coming up with a concept plan that best meets the needs of all groups, both active and passive recreation. Ms Winfield stated that the big issue concerning redevelopment would be that of the football facilities and the ability to fund such a project.

In closing Ms Winfield advised that it was hoped that a concept plan and or basic sketch plan would be available by Xmas. She sought guidance from elected members should support or services from within the Council be required and to whom would the Group turn to.

Cr Wilson responded by advising that such a request would need to be considered by Council and thanked Ms Winfield for her involvement with the Group and for making her time available to address the meeting.

Ms Fiona Winfield left the meeting at 7:01pm.

T115. CONFIRMATION OF MINUTES**T115.1 Town Planning & Building Committee – 3 September 2013**

Cr Collinson – Cr de Jong

That the Town Planning & Building Committee minutes dated 3 September 2013 as adopted at the Council meeting held on 17 September 2013 be confirmed. CARRIED

T116. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**T116.1 Alexandra Road No. 87 – Conversion of Verandah Roof to a Landing**

Submission received from adjoining neighbours at 85B Alexandra Road expressing concern that their amenity and privacy will be impacted by the proposed development.

Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T118.5).

CARRIED

T116.2 View Terrace No. 22 – Alterations / Additions

The applicant has provided additional information by way of a streetscape elevation of View Terrace.

Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T118.8).

CARRIED

T117. REPORTS OF COMMITTEES**T117.1 Town Planning Advisory Panel – 10 September 2013**

Cr Wilson – Cr de Jong

That the minutes of the Town Planning Advisory Panel meeting held on 10 September 2013 be received and each item considered when the relevant development application is being discussed.

CARRIED

T118. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL**T118.1 Receipt of Reports**

Cr Martin – Cr Rico

That the Reports of Officers be received.

CARRIED

T118.2 Order of Business

Cr Martin – Cr Rico

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

CARRIED

T118.3 Dalgety Street No. 74B (Lot 2 of Strata Plan 13803)

Owner: C Franklin

Applicant: Davley Building P/L T/a Granny Flats WA

Application No. P120/2013

By Christine Catchpole, Planning Officer, on 20 September 2013

BACKGROUND**Description of Site**

The subject site is:

- a 428m² strata lot;
- zoned Residential R12.5;
- developed as one of two grouped dwellings on-site; and
- located in the Woodside Precinct.

Description of Proposal

It is proposed to construct a single storey, steel framed and fibre cement clad addition to the existing brick and tile grouped dwelling. This will comprise of modifications to the rear of the dwelling and existing rooms to add another kitchen, living room and combined laundry and storeroom. A new bathroom ensuite and walk in robe are also proposed to be added to the southern side of an existing bedroom. The extension will be to the eastern side of the existing dwelling and cover an area of approximately 73m², including the bathroom ensuite and walk in robe.

Statutory Considerations

- Town Planning Scheme No. 3 – Residential R12.5 (TPS 3)
- Residential Design Codes of WA (RDC)

Relevant Council Policies

Residential Design Guidelines 2013 (RDG)

Documentation

Plans and relevant forms date stamped received on 30 August 2013.

“Adjoining Property Owner Comment” form dated 30 August 2013 from the owners of 74A Dalgety Street.

Letter dated 15 September 2013 from the rear neighbour stating objection to the reduced rear setback and overshadowing.

Email dated 13 September 2013 from the owner addressing the issues raised in the submission from the rear neighbour.

Date Application Received

30 August 2013.

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

2 November 1984	An Appeal against Council refusal of the proposal to alter and add to an existing house and to build two additional residential units, to form a two storey triplex on the site, was dismissed.
4 March 1986	Approval of Strata Plan for 74 Dalgety Street.
16 December 1995	No. 74A - Council granted approval for the construction of an additional dwelling at the rear of 74 Dalgety Street subject to conditions.
17 May 1993	No. 74A - Council approval for construction of a bedroom and carport.
15 November 2005	No 74B - Approval of the construction of upper floor alterations and additions to the existing dwelling subject to conditions. (Not constructed)

Site Inspection

By Planning Officer on 19 September 2013.

CONSULTATION**Advertising**

The adjoining strata owner and landowners to the side and rear were advised of the proposal and had the opportunity to comment from 6 to 20 September 2013. One submission from the rear neighbour was received objecting primarily to the reduced rear setback and overshadowing. The other submission from the other strata lot owners stated they had no objections.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>71 Fortescue Street – rear neighbour The character of East Fremantle with large lots of landscaped surrounds and large rear gardens should not be eroded.</p> <p>Given property already constructed in the rear garden the minimum setback for the building should be imposed.</p> <p>Minimum setbacks are essential and should be imposed to:</p> <ul style="list-style-type: none"> - Allow for privacy and preserve health of the environment; - Ensure space between properties; - Preserve the natural environment and reduce the “built up” feel; - Create space between buildings that increases the available light and fresh air to occupants of buildings; - Allow for the use of gardens without adverse impact from adjoining properties; and - Lessen congestion and overcrowding of lots. - The rear garden is used extensively for a number of purposes with an outdoor eating area within a few metres of the adjoining boundary where there are fruit trees and vegetables. The proposed development will have a significant negative impact visually and through overshadowing. <p>A significant visual impact will result, by creating a “built in” feel to the outdoor environment. It will eliminate the possibility of greenery, plants or trees being grown on the boundary, thus negatively affecting the atmosphere of the rear garden.</p> <p>Increased shade on our property from approximately 2pm each day. Essential that the western wall at 13 metres long meet the minimum setback to reduce the shadow projected onto the property. The shadow will be emphasised between March and September (shadow diagrams provided with submission).</p> <p>Request full compliance with R-Codes to minimise impact on property value and lifestyle.</p>	<p>The applicant and resident of the property is physically disabled and requires 24 hour care by a full time carer.</p> <p>Current house does not provide movement for a motorised wheelchair and the owner wishes to reside in the area because of access to medical facilities and services.</p> <p>Need for increased privacy between owner, carer and owner’s children within the same dwelling.</p> <p>Limited impact on side and rear neighbours due to the siting of the proposed additions and the location of outbuildings on adjoining properties.</p> <p>The rear neighbour has limited visibility of the addition. The addition is a significant distance from their house, also:</p> <ul style="list-style-type: none"> - The rear block has been built up and the ground level is higher and the addition is the same height as the existing dwelling, therefore no overshadowing; - House to the rear is ~17m from the rear fence with the living area ~23m from the rear fence; - The existing 1.8m high fence has timber lattice installed atop increasing the height to 2.1m; - There are two trees that are over 20m in height that overhang the rear fence and other fence height shrubs planted on the neighbour’s side of the fence; and - Non-reflective Colorbond roof and the extension is not visible from the street. <p>Numerous other outbuildings constructed on neighbouring properties within the 6 metre rear setback are noted.</p>	<p>Notwithstanding the current density coding of R12.5 the site has been developed at the equivalent of R20 density standards.</p> <p>Given the existing circumstances it is considered reasonable to apply Clause 5.3.3 of TPS 3, which states in summary that where a lot has been developed at a higher density code the Council may permit redevelopment of the lot up to the same density.</p> <p>The outdoor living area of the dwelling at No. 71 Fortescue Street is setback ~23 metres and the pool is setback ~8 metres from the property boundary. There is also a grassed area between the house and the property boundary. The additions proposed are not considered to reduce general amenity of the lot in regard to the outdoor living (entertaining) area and open space of the dwelling.</p> <p>The construction of the addition will not prevent additional plants or landscaping of the rear of the lot. Vegetation and an above standard height fence (lattice attached to fibro panels) provides screening between the properties. It is also noted that a chicken coop and vegetable garden are located adjacent to the fence.</p> <p>Overshadowing of the property at 71 Fortescue Street complies with the provisions of the RDC. The subject site is to the west of 71 Fortescue Street. Therefore the overshadowing impact is primarily on 74B Dalgety Street. The roof height of the addition is lower than the existing roof height therefore additional overshadowing will be minimal.</p> <p>The proposed development complies with the ‘Deemed to Comply’ provisions of the R-Codes with respect to overshadowing.</p>

Town Planning Advisory Panel Comments

The current application was not referred to the Town Planning Advisory Panel as the additions and alterations are located to the rear of the battle-axe lot. Only a small portion of the additions will be visible behind the existing carport at the end of the access leg.

Town Planning Scheme No. 3 Assessment

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	56.6%	A
Outdoor Living	30sqm	30sqm	A
Car Parking	2	N/A	A
Site Works	Less than 500mm	N/A	A
Overshadowing	25%	Less than 25%	A
Drainage	On-Site	On-Site	A

Boundary Setbacks

Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
South							
Ground	Dwelling	2.62m	4.8m	Y	1.5m	5.6m	A
	Ensuite	2.58m	3.8m	N	1.0m	1.0m	A
North							
Ground	Dwelling	2.62m	11.9m	N	1.5m	1.51m	A
East (rear)							
Ground	Dwelling	2.62m	13.0m	N	1.5m*	1.265m	D

*Note: Refer to Clause 5.3.3 of TPS 3 (Development assessed at R20 standards)

Local Planning Policies Assessment

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

Discussion

The site has been developed for two grouped dwellings and development in the rear garden of this site has already taken place. In this instance the owner wishes to add a modest single storey extension to the dwelling.

Rear Setback

The rear grouped dwelling is currently setback approximately 6.0 metres as required under the R-Codes for a Residential 12.5 area, however, the site was developed at the equivalent of R20 density standards, therefore, Clause 5.3.3 of TPS 3 can be applied. This clause states:

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

- (a) in the opinion of the local government, the proposed development will contribute more positively to the scale and character of the streetscape, the improvement of the amenity of the area, and the objectives for the precinct than the existing building; and*
- (b) except where proposed development comprises minor alterations to the existing development which, in the opinion of the local government, do not have a significant adverse effect on the amenity of adjoining land, advertising of the proposed development has been undertaken in accordance with the provisions of clause 9.4.”*

The RDC specify that at a R20 density code the rear and side setbacks are interchangeable, and in this case the required setback would be 1.5 metres in place of 6.0 metres. The proposed setback is 1.265 metres. Notwithstanding the rear neighbour's objections and amenity concerns, it is considered that a required setback of 1.5 metres should be applied and that the application for a reduced setback on this basis be supported based on the following:

- The general amenity of the property to the rear at 71 Fortescue Street and the adjoining properties are not considered to be adversely affected. There are outbuildings located on each side boundary fence and there is considerable separation between the outdoor living area and pools of these properties and the subject property.

Also the very rear of the property at 71 Fortescue Street is used for a vegetable garden and a chicken coop, so it is not part of the outdoor entertaining area immediately adjacent to the house. There is approximately 8 – 23 metres separation between the fence line and the pool and outdoor entertaining area respectively;

- A standard fibro fence with approximately 500mm of lattice (taking the fence height to approximately 2.1 metres) and some trees provide additional screening between the two properties;
- It is considered the claim by the rear neighbour that their garden will be impacted greatly by increased overshadowing is not justified. A site inspection has revealed that due to the orientation of the lots in an east/ west alignment, coupled with the height of the addition not exceeding the height of the existing dwelling, minimal overshadowing will result. Overshadowing will not exceed 25% of the site area on midday on the 21 June as required under the RDC; and
- Should the Council be inclined to support the application it is considered that requesting the applicant to comply with the 1.5 metre setback would be a fruitless exercise in that the setback would only be increased by 235mm. This would not achieve any useful increase in the setback between the two dwellings and would

reduce the living area of the dwelling which is being increased to improve mobility for the owner.

Roof Pitch

The roof pitch does not comply with the provisions of the RDG in that it is not between 28° and 36°, however, the proposed roof pitch and Colorbond roofing will complement the existing dwelling and can be supported.

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

CONCLUSION

It is considered the proposed additions and alterations are compatible with the prevailing scale and bulk of dwellings in the immediate area when assessed under Clauses 5.3.3 and 10.2 of TPS3. The proposal is considered acceptable and can be supported. The proposed design of the addition improves the overall use of the dwelling to meet the current occupant's requirements. Any amendments to the proposal would reduce the living area of the dwelling which is being increased to improve mobility for the owner.

The proposed additions are considered acceptable with regard to setback, building height, scale and overshadowing. It is recommended the additions and alterations can be supported by Council and approved subject to conditions.

RECOMMENDATION

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

- (a) Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes to allow a setback of less than 6 metres to the rear boundary; and
- (b) Clause 3.7.8.3 of Council's Residential Design Guidelines 2013 to allow a roof pitch of less than 28° for the additions and alterations;

for rear additions and alterations, to an existing single storey grouped dwelling at No. 74B (Lot 2 of Strata Plan 13803) Dalgety Street, East Fremantle, as shown on plans date stamped received on 30 August 2013 subject to the following conditions:

1. 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).
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 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.
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. 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.
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. 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).*
- (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".*

Ms Penny Donaldson addressed the meeting in support of the officer's recommendation.

Cr Collinson – Cr Nardi

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

- (a) **Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes to allow a setback of less than 6 metres to the rear boundary; and**
- (b) **Clause 3.7.8.3 of Council's Residential Design Guidelines 2013 to allow a roof pitch of less than 28° for the additions and alterations;**

for rear additions and alterations, to an existing single storey grouped dwelling at No. 74B (Lot 2 of Strata Plan 13803) Dalgety Street, East Fremantle, as shown on plans date stamped received on 30 August 2013 subject to the following conditions:

1. **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).**
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 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.**
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. 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.
 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. 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).*
- (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 6:0

Note:

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

- T118.4** **Preston Point Road No. 58 (Lot 800)**
Owner /Applicant: J Raffaele
Application No: P118/2013
By Christine Catchpole Planning Officer on 20 September 2013

BACKGROUND

Description of Proposal

The lot the subject of this application is on the south east corner of Preston Point Road and Fraser Street. The current retrospective application proposes a secondary street fence facing Fraser Street which will incorporate two entry gates for this frontage and a letterbox (already constructed and in use).

The applicant has also requested Council approval for landscaping of the Fraser Street verge (subject to a separate application and approval by the Chief Executive Officer). It is noted that the planning assessment of the two storey single dwelling approved in 2010 nominated Preston Point Road as the primary street frontage and Fraser Street as the secondary street frontage.

Fraser Street Fence

The base of the wall will be constructed in stone to a height ranging from 400mm to 700mm. Four stone piers varying in height from 1.1 metres to 1.8 metres will be spaced at varying distances apart across the frontage, with three forming the supports for the two entry gates. At the crossover the metal railings form a fence that extends towards the dwelling along the driveway.

The piers will be clad in Karratha stone. Open angled vertical steel railing to a height of approximately 1.8 to 2.1 metres (including the stone base of the fence) will form the infill panels. Spacing between these steel railings varies as the railings are angled in the opposite direction after each second and third grouping of rails, forming more open triangular sections. The ratio of metal railing to open space between piers varies between 1:5 and 1:6, that is, visual permeability of approximately 80% to 84%.

Preston Point Road Fence

The fence/wall along the Preston Point Road frontage was not approved as part of the planning approval for the dwelling. Only a retaining wall comprising a landscaping planter box was approved to a height ranging between ~200mm to 1.9 metres (this forms part of a compliance investigation along with the already constructed letterbox and part of the Fraser Street fence).

The wall/fence on top of the retaining wall (which has not had approval) extends around the corner onto the Fraser Street frontage and ranges in height from approximately 2.0 metres to 3.745 metres from the footpath level due to the slope of the land from east to west. This fence screens the outdoor garden and pool area from the streets.

The wall has been constructed of four separate elements. The lower section is the solid retaining wall with the planter box. The upper section of the wall has been constructed in sections of stepped masonry with a decorative metal grille filling the remaining 7 metre section. The metal grille is approximately 1.8 metres at its highest point. The section closest to Fraser Road has a horizontal glass insert of 5.3 metres in length and 430mm in height. The corner curved section is also solid, but has six vertical gaps (1200mm x 20mm in dimension). It appears that these gaps were to remain open, or perhaps have glass inserts similar to the other panel. However, they have been boarded over and so this has increased the solid appearance of this section of the fence.

The owner has stated in a letter in support of the application that there are four main reasons for the wall/fence:

1. The metal screening was used to allow viewing from outside and inside the property and to complement the style of the home.

2. The wall is used for structural purposes to withstand heavy wind conditions from the south west as well as privacy and a sound barrier from Preston Point Road.
3. A large viewing window has been used to allow for a view to the street.
4. The fence also acts as a pool isolation barrier, allowing the pool to be enclosed within a corner position and glass fencing will then provide the remainder of the barrier.

It is also noted that the current set of plans does not indicate any treatment of the exposed boundary wall on the southern side of the lot facing 56 Preston Point Road. A condition of the July 2010 planning approval specified that all exposed boundary walls were to be finished to the same standard as the rest of the development. This matter will also be pursued as a compliance issue.

Description of Site

The subject site is:

- 549m²;
- zoned Residential R12.5; and
- located in the Richmond Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
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 : The fencing constructed and proposed does have an impact on the streetscape as it partially restricts the view of the dwelling from the street and overall is a considerable length of fencing. The fencing application is being considered alongside an application to landscape the verge. The verge landscaping comprises two stepping stone slab paths leading to the entry gates with the remaining area being grassed and some limestone edging along the wall. Planting will consist of shrubs against the boundary fencing and trees within the lawn area.

Documentation

Plans and relevant accompanying information date stamped received on 27 August 2013.

Date Original Application Received

11 April 2013 Incomplete retrospective planning application – further information requested but not submitted.

Date Application Received

27 August 2013 – retrospective planning application.

ADVERTISING

The proposal has not been advertised due to the minor nature of the application.

Town Planning Advisory Panel Comments

The current application was not referred to the Town Planning Advisory Panel as a previous application for a front fence, of a comparable design, was considered by the Panel its meeting of 14 May 2013 and the Panel was in support of the application.

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

4 July 2001	WAPC approval of the proposal to subdivide No. 58 (Lot 1703) Preston Point Road into two lots.
13 July 2010	Approval for a two storey residence by the Town Planning and Building Committee under delegated authority from Council.
30 April 2012	Landowner advised by letter that a complaint had been received regarding the location of the letterbox facing Fraser Street and advised that as the property had a Preston Point Road address the letterbox should be located facing that road, as amongst other things, its location on Fraser Street may cause confusion for Australia Post and emergency services.
9 May 2012	Owner advised by correspondence from the Town that the request to install a crossover from Fraser Street was subject to the crossover being a maximum of 5 metres wide at the property boundary, 5.5 metres wide at the road and the surface finish to be black asphalt. This crossover has been constructed.
6 June 2012	Advised by correspondence from the Town in response to a complaint that condition 3 of the planning approval for the two storey dwelling had not been fulfilled. The condition required the exposed boundary walls to be finished to the same standard as the rest of the development, details of which were to be provided to, and endorsed by the Chief Executive Officer, prior to the issue of a building licence.
9 July 2013	Letter of Non-compliance and Unapproved Building Works issued by the Town in regard to non-compliance with condition 4 of the planning approval dated 20 July 2010, unauthorised building works that have been undertaken on the property and possible non-compliance with safety barriers (pool fencing).
11 September 2013	Officers of the Town inspected the site and found the property boundary fencing/retaining wall on the Preston Point Road frontage to be non-complying in regard to pool isolation fencing. This issue, along with the treatment of the exposed boundary wall on the southern side of the lot (Planning Approval condition - 20 July 2010), are compliance matters and will be dealt with separately by the Town.

Site Inspection

By Planning Officer on 17 May and 13 September 2013

Discussion

Although Preston Point Road has previously been nominated for assessment purposes as the primary street frontage, fencing along Fraser Street is effectively a "front fence" because the entry to the dwelling is from this frontage and the front of the house faces this street. In addition, this is a prominent corner site where both street frontages and the fencing proposed will be visually permeable. For this reason both fences are classified and assessed as front fences.

Fencing**Fraser Street**

The solid component of the base of the fence, as it appears from the street, will be to an acceptable maximum height of 700mm (the fence is stepped as Fraser Street rises and the higher section of fence is reduced in height to 400mm). The stone piers, to approximately 1.8 metres in height, are spaced a considerable distance apart and will extend above the stone fence base. The piers are primarily required for the installation of the gates. The metal vertical infill rails will extend slightly above the height of some of the piers.

Although the overall height of the fence will exceed the 1.8 metres specified as the maximum height of fencing under the RDG (2.1 metres where the infill panels run alongside the driveway and meet the entry to the house) the majority of the fencing

meets the RDG requirements. Further, the style of fencing is considered acceptable, given it is open in style and the dwelling will still remain visible from the street. Surveillance of the street is also possible from the entry, front windows and balcony.

The RDG state that where the lot has frontage to two streets the wall on the secondary street should not extend to the primary street frontage unless it complements the design of the wall on that frontage. In this case the primary street wall extends fully round the corner curve in order to provide screening and privacy for the pool and outdoor living area.

Although this section of wall is required to be more visually permeable, and the walls are different in design and materials, both fences are considered to complement the design of the house and add interest to the landscaped front garden and verge. Given the remainder of the secondary street frontage is open style fencing this section of the wall is considered acceptable provided the vertical gaps in the wall remain open. A condition of planning approval has been imposed in this regard.

Preston Point Road

The fencing along this frontage does not comply with the RDG as it exceeds the height and permeability provisions for front fences. The original retaining wall (approved with the planning approval for the dwelling) did not include fencing and did not screen this aspect of the house from Preston Point Road. However, with the construction of the house and pool the fencing was installed to screen the outdoor and pool areas. This fencing has now screened most of the ground floor, but the upper floor windows and balcony are still clearly visible.

Overall the proposed fencing of both the Preston Point Road and Fraser Street frontages is considered acceptable. The Fraser Street fencing will complete the unfinished aspects of fencing for the property and the proposed landscaping of the verge will soften the solid appearance of the dwelling's facade and generally improve the appearance of this prominent corner verge.

Although the fencing proposal indicates variations from Council's RDG it is considered that the proposal can be supported on the basis that due to the slope of the land, the need for retaining and the busy nature of Preston Point Road it is difficult to achieve privacy and security on this corner site. However, the impact of the wall and fencing can be reduced by the inclusion of landscaping in the planter box and by ensuring the open "window" inserts are not made solid. Other conditions of planning approval are also recommended to ensure visual permeability and the height indicated on the plans is not exceeded.

Letterbox

Notwithstanding the Town's request of the landowner to relocate the letterbox to the Preston Point Road frontage of the property (dated 30 April 2012) the owner has constructed the letterbox on the Fraser Street frontage. The letterbox has been in use in this location for a considerable amount of time and the current plans show it is now intended to be integrated into the front fence design. Since the time of the initial complaint in April 2012, there have been no further complaints, and neither has Australia Post or any emergency service raised any objections. It is therefore recommended that the letterbox be approved in its current location and be given retrospective planning approval on the condition that the number "58" is prominently displayed.

Compliance

The compliance issues in regard to pool isolation fencing and the southern boundary parapet wall facing the property at 56 Preston Point Road (condition of planning approval) will be dealt with separately by the Town.

RECOMMENDATION

That Council exercises its discretion in granting retrospective approval to vary Clause 3.7.11.5 (Front Fences) of the Council's Residential Design Guidelines to permit:

- (a) a front fence on Fraser Street and Preston Point Road of a maximum height above 1.8 metres;
- (b) a front fence on Preston Point Road that is above 1.2 metres and does not achieve at least 60 per cent visual permeability;
- (c) a fence (along the secondary street frontage – Fraser Street) that is constructed within 6 metres of the front boundary where it does not complement the design of the front fence:

for front fences at No. 58 (Lot 800) Preston Point Road, East Fremantle, in accordance with the plans date stamped received on 27 August 2013, subject to the following conditions:

1. The stone piers on the Fraser Street frontage not to exceed a height of 1.8 metres above natural ground level.
2. The stone fence base on the Fraser Street frontage not to exceed 700mm in height above natural ground level and the steel railings on top of the stone fence base to be visually permeable fencing long the entire length of the fence, with at least 60% visual permeability.
3. The stand alone section of metal rail fencing along the driveway not to exceed 2.1 metres in height.
4. The gates to be of the same open style metal rail infill fencing as for the front fencing as indicated on the plans dated 27 August 2013 with at least 60% visual permeability.
5. The metal grille section of the fence on the Preston Point Road frontage not to be removed or replaced with fencing that is less visually permeable.
6. The planter box on the Preston Point Road frontage being landscaped, reticulated and maintained with healthy plants to the satisfaction of the Chief Executive Officer, in consultation with relevant officers. Planting and reticulation of the planter box to be completed before the issue of a Building Approval Certificate.
7. The vertical openings in the curved section of the fence facing Fraser Street and Preston Point Road remaining unobstructed or fitted with clear glass panels. The solid inserts to be removed before the issue of a Building Approval Certificate.
8. The letterbox to clearly and prominently indicate the number "58" to the satisfaction of the Chief executive Officer, in consultation with relevant officers, to avoid any confusion with delivery of mail and for identification for emergency services.
9. 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.
10. With regard to the plans submitted with respect to the Building Approval Certificate, changes are not to be made in respect of the plans which have received retrospective planning approval, without those changes being specifically marked for Council's attention.
11. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
12. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
13. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
14. 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 Approval Certificate 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.

Mr Bart Raffaele (owner) addressed the meeting and expressed concern with Condition (7) of the officer's report, stating his preference for Karratha Stone.

Cr Rico – Cr Nardi

That Council exercises its discretion in granting retrospective approval to vary Clause 3.7.11.5 (Front Fences) of the Council's Residential Design Guidelines to permit:

- (a) a front fence on Fraser Street and Preston Point Road of a maximum height above 1.8 metres;
- (b) a front fence on Preston Point Road that is above 1.2 metres and does not achieve at least 60 per cent visual permeability;
- (c) a fence (along the secondary street frontage – Fraser Street) that is constructed within 6 metres of the front boundary where it does not complement the design of the front fence;

for front fences at No. 58 (Lot 800) Preston Point Road, East Fremantle, in accordance with the plans date stamped received on 27 August 2013, subject to the following conditions:

1. The stone piers on the Fraser Street frontage not to exceed a height of 1.8 metres above natural ground level.
2. The stone fence base on the Fraser Street frontage not to exceed 700mm in height above natural ground level and the steel railings on top of the stone fence base to be visually permeable fencing long the entire length of the fence, with at least 60% visual permeability.
3. The stand alone section of metal rail fencing along the driveway not to exceed 2.1 metres in height.
4. The gates to be of the same open style metal rail infill fencing as for the front fencing as indicated on the plans dated 27 August 2013 with at least 60% visual permeability.
5. The metal grille section of the fence on the Preston Point Road frontage not to be removed or replaced with fencing that is less visually permeable.
6. The planter box on the Preston Point Road frontage being landscaped, reticulated and maintained with healthy plants to the satisfaction of the Chief Executive Officer, in consultation with relevant officers. Planting and reticulation of the planter box to be completed before the issue of a Building Approval Certificate.
7. The vertical openings in the curved section of the fence facing Fraser Street and Preston Point Road be fitted with 'Karratha Stone' panels as per plans stamp dated received 27 August 2013.
8. The letterbox to clearly and prominently indicate the number "58" to the satisfaction of the Chief executive Officer, in consultation with relevant officers, to avoid any confusion with delivery of mail and for identification for emergency services.

9. 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.
10. With regard to the plans submitted with respect to the Building Approval Certificate, changes are not to be made in respect of the plans which have received retrospective planning approval, without those changes being specifically marked for Council's attention.
11. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
12. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
13. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
14. 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 Approval Certificate 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.*

CARRIED 6:0

Note:

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

T118.5 **Alexandra Road No. 87 (Lot 12)**
Owner/ Applicant: H & V Preston
Application No. P106/13
By Andrew Malone, Senior Planning Officer, 3 September 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval for additions and alterations comprising of new balcony to the rear of an existing dwelling at 87 (Lot 12) Alexandra Road, East Fremantle. The proposal is recommended for approval subject to appropriate conditions.

BACKGROUND

Description of Site

The subject site is:

- 630m² in lot area.
- zoned R12.5
- located in the Richmond 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 : No impact
Footpath : No impact
Streetscape : No Impact

Documentation

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

Site plan date stamped received on 27 August 2013.

Date Application Received

12 August 2013

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

21 Oct 2003 Council grant planning approval for additions and alterations.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a 2 week period between 16 August 2013 and 30 August 2013. No submissions were received during this period.

Town Planning Advisory Panel Comments

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

Site Inspection

By Senior Town Planner on 4 September 2013.

ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

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

6.8 Visual Privacy				
Wall Orientation	Major Opening Type	Required Setback	Proposed Setback	Status
Rear (north)	Balcony	7.5	6.4m	D
Rear (west)	Balcony	7.5	7.2m	D

In all other respects the proposal is considered to comply with the 'Deemed to Comply' provisions of the visual privacy requirements of the RDC.

Local Planning Policies Assessment

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

DISCUSSION

The proposed development incorporates a number of variations to the Town's Local Planning Policies and the Residential Design Codes, as detailed below.

Visual Privacy

The 'Deemed to Comply' provision 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 proposed development does not comply with the 'Deemed to Comply' provisions of the RDC. The proposed balcony overlooks adjoining properties to the north and west.

The Design Principles of Element 5.4.1 Visual Privacy allows for:

- P1.2 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 existing mezzanine area will be modified to include a balcony area comprising of 9m² of which 6.75m² will be usable. The lower gable roof over the existing balcony will be removed. A new gable roof above the balcony will be constructed.

With regard to the above Design Principles the following comments can be made:

- The proposed balcony requires a 0.3 metre variation to the west and a 1.1 metre variation to the north to the Deemed to Comply provisions of the R-Codes. The proposed variation overlooks an adjoining single storey roof to the west and a communal access/ egress area to the adjoining grouped dwelling units to the north.
- In this instance, it is considered the areas overlooked are not into habitable areas, therefore are considered not to impact negatively on adjoining properties.
- The proposed location of the balcony as it relates to the adjoining neighbour's rear yard (north) does not provide direct line of sight into the property. An existing mature tree is located on the northern boundary of the subject lot screens any overlooking. This tree acts to screen the active outdoor area of the adjoining unit.

In conclusion, the proposed balcony is considered to comply with the Design Principles of the R-Codes. The proposed development will overlook the adjoining properties to the north and west, however it is considered the extent of overlooking will not significantly impact on the active habitable spaces and outdoor living areas of other dwellings. The proposed overlooking can be supported.

Roof Pitch

The proposed roof pitch is approximately 20°. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

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

The Performance Criteria states:

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

The roof form is of a pitch and material that is consistent with the existing dwelling. The proposed roof will follow the exact pitch and materials of the existing dwelling, therefore, it is not feasible or practical to alter the roof to ensure it complies with Council's Policy. In this instance due to the form of the existing roof, it is considered the roof pitch at 20° can be supported.

The proposed roof is consistent in design, scale and form with the existing dwelling. The proposed roof form cannot be significantly viewed from the streetscape. The proposed roof is considered appropriate for the area and is consistent with the roof form previously approved by Council. Therefore the proposed roof pitch can be supported by Council.

CONCLUSION

It is considered the proposed addition is designed to be of a bulk, scale and design consistent and complementary to the existing dwelling. There will be no impact on the

streetscape, as the proposed works are to the rear of the dwelling. The proposed overlooking is considered to conform to the Design Principles of Element 5.4.1 Visual Privacy of the R-Codes.

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

RECOMMENDATION

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

(a) element 5.4.1 Visual Privacy of the Residential Design Codes (north and west);
(b) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
for new balcony to an existing dwelling at 87 (Lot 12) Alexandra Road, East Fremantle, in accordance with the plans date stamp received on 12 and 27 August 2013 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
5. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
6. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.
- (g) the patio may not be enclosed without the prior written consent of Council.
- (h) matters relating to dividing fences are subject to the *Dividing Fences Act 1961*.
- (i) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".

Correspondence referred from MB Ref. T116.1 was tabled.

Mr Harold Preston (owner) addressed the meeting in support of the officer's recommendation and responded to the neighbour's concerns regarding amenity and visual privacy.

Mr Malone (Senior Town Planner) advised that the balcony complies with the Deemed to Comply provisions of the R-Codes, and that currently overlooking is of a communal area and a tin roof.

Cr de Jong – Cr Nardi

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

- (a) element 5.4.1 Visual Privacy of the Residential Design Codes (north and west);**
- (b) element 3.7.8 of the Residential Design Guidelines: Roof pitch;**

for new balcony to an existing dwelling at 87 (Lot 12) Alexandra Road, East Fremantle, in accordance with the plans date stamp received on 12 and 27 August 2013 subject to the following conditions:

- 1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
- 5. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
- 6. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
- 7. This planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) the patio may not be enclosed without the prior written consent of Council.*
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

CARRIED 6:0

Note:

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

T118.6

Dalgety Street No. 78 (Lot 93)

Applicant/ Owner: Mark Woschnak

Application No. P117/13

By Andrew Malone, Senior Town Planner on 16 September 2013

PURPOSE OF THIS REPORT

This report considers an application for retrospective planning approval for a replacement shed to the rear of the existing residence at 78 (Lot 93) Dalgety Street, East Fremantle. The proposal is recommended for approval.

BACKGROUND**Description of Site**

The subject site is:

- a 1012m² block.
- zoned Residential R12.5.
- developed with a single two storey dwelling.
- located in the Woodside 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 : No impact
- Footpath : No impact
- Streetscape : No impact.

Documentation

Plans and relevant forms date stamp received on 27 August 2013.
Plans date stamp received on 2 September 2013.

Date Application Received

27 August 2013

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

An investigation of Council records did not provide evidence that the original shed was approved by Council. This retrospective application is for a replacement shed, however it would appear that the original shed was not approved by Council.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 1 July and 15 July 2013. 3 adjoining neighbours have indicated they do not object to the proposal. At the close of advertising one (1) submission was received. The submission, the applicant’s response and Planning Officer’s comments are summarised in the below table and is attached to this report.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>We are very concerned about the height at which the structure is being built. The roof is not like for like with the previous garden shed, which we believe was erected in such a way as to offset the apex of the roof so that is was further towards the front of the shed and away from the boundary line. This minimised the impact of the original structure being built on the boundary. The new construction centralises the apex of the roof to the middle of the roof and this has a profound impact on the immensity of the construction as it sits on the boundary line.</p> <p>We are concerned that the structure will not be utilised as a garden shed. The original structure was a tin, windowless garden shed. The proposed construction is one that resembles more of a habitable structure, with glass French doors for access, as well as a number of full length windows. This is obviously not a 'like for like' replacement and due to the extreme closeness to the boundary, has raised a number of concerns about what the 'shed' is really going to be used for once</p>	<p>The Height: In the initial construction, I had raised the roof height (as it sits currently) by approximately 0.4m, on the basis that my builder had stated that this was inside all height and pitch guidelines given the structure. Upon the feedback from neighbours, I have agreed to lower the shed from 3.2m to 2.8m, which will be the same as what was previously in place. The shed is like for like with regard to the dimensions and height. The photos and physical ground presence demonstrate this, as well as the lines in the tree.</p> <p>Upon a number of conversations with the adjoining rear neighbour, it is my personal opinion that this is a matter of perspective. The combination of the different materials used in construction, the fact that it is not yet complete (and hence the aesthetics not blended into the landscape which make it more unattractive than it will be), and that part of the vegetation originally hiding the shed, which has since gone, have all combined to</p>	<p>The height of the shed complies with Council and R-Code requirements with regard to a building on the boundary.</p> <p>The proposed use is considered to be a shed. 2 conditions have been included in the Officer’s Recommendation to ensure the use of the structure will not be used for habitable purposes.</p> <p>With regard to, fire retardation, drainage, overhangs and compliance of the structure, the applicant is required to submit a certificate of building compliance signed by a registered building surveyor. This will confirm the building complies with the relevant Building Codes of Australia construction requirements.</p> <p>The matter regarding the Dynabolts is a civil matter.</p> <p>The new structure has been assessed on its individual merits and a full assessment has been undertaken with regard to the Town’s RDG and the R-Codes. This will be addresses in greater detail in the Assessment and Discussion section of this report. Any</p>

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>completed (particularly as it sits alongside the pool area).</p> <p>We have concerns about fire retardation of the clad timber framed structure existing less than a foot from the boundary.</p> <p>We have concerns about the potential overhang from the roof eaves and guttering to the boundary and the ability for the structure to maintain storm water within the boundary.</p> <p>We also have concerns about the compliance of the structure to any other relevant planning and policy requirements due to the fact that construction was initiated without any approvals or licences in place.</p> <p>The owner @ no.78 recently constructed a pergola structure directly on the same boundary fence (to the side of the building currently being constructed. It has been attached to the boundary fence (this we know due to the damage that was created by the dynabolts that blew holes in our side of the boundary wall). With the two structures up against the boundary, there is now less distance along the boundary that doesn't have a structure abutting it than the distance that does. We are concerned that this total length exceeds any restrictions in place for the total length of structure that may be allowed to be built along the boundary.</p> <p>We are unsure if this new structure will have an impact on future development plans for our property (sub-division etc).</p> <p>Although not directly related to the structure in question, we would like to make mention of the damage that has been created to the wall on our side of the boundary by the owner of no.78 Dalgety Street without any regard to the impact this has had on our property.</p>	<p>make it appear different, whilst it is not. I can also understand that it is difficult to imagine the height being lower at 2.8m when looking at it currently at the higher height of 3.2m, which alters all perspective.</p> <p>I also note that the shed does not create any over shadowing or light restriction, and is significantly lower than what could have been built with a different usage purpose.</p> <p>Usage: The shed is for storage and shed usage purposes.</p> <p>It is not fit or designed for accommodation purposes, it has no plumbing, and all but one of the windows do not open. The shed does not have door or open window entry to the pool area. It is not a cabana.</p> <p>The fact that I choose to make the shed look attractive like many sheds in East Fremantle, keeping with a stylish heritage look of excellent construction, is my choice, and should in my humble opinion be welcomed, given that most of the neighbours really like the design, and where it may be noticeable, it will be done so with delight, as it is much nicer than looking at the old rotting tin shed.</p> <p>I have stated and applied for a shed purpose. If I really wanted it to be for accommodation, I would have amended the plans and construction to make it as such, making the construction, likely higher and bigger. I haven't done this, it is for a shed.</p> <p>Building Code Approval I fully expect the shed to be compliant with all building code requirements, and the builder has accommodated for these requirements. I will obtain a Surveyor's certificate of approval upon completion.</p> <p>I have already obtained an approval certificate from a registered Structural Engineer.</p> <p>Building Code Approval See comment 3a As the shed sits now, there is sufficient clearance from the boundary to install guttering, without</p>	<p>future development by the adjoining neighbour will be assessed on their own merits and as per the proper legislation.</p> <p>The matter concerning damage to the neighbour's property is a civil matter.</p>

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
	<p>crossing over the boundary. The downpipe will be connected to a soak well.</p> <p>The course of events and construction, were conducted in good faith, professionally and with consultation with Council at the time regarding replacement of the shed I had given the owner my own courtesy of written notice of my intentions at least 3 weeks prior to construction (via a letter on the doorstep of the rear property). It was unknown to me at that time that the tenants in the house were away and that the owner didn't get this notice until after construction had commenced. Furthermore, I went around again as a matter of courtesy after having not heard, which is when I got the details of the owner and rang him. I have had nothing to hide from the rear owner, or from council in all requests.</p> <p>Please see point 8. Also, I do not believe this matter to be relevant or founded.</p> <p>To my knowledge, Council has not approved any sub-division or zoning changes for development of such blocks, nor change easement requirements. The shed construction doesn't in any way compromise his future/possible factual requirements and will meet all requirements that exist today, hence I find no validity in this statement.</p> <p>Dynabolts I was unaware of the 4 dynabolts having gone through the wall until I went with the rear owner to have a look at these upon being told about this</p> <p>It is unclear to me why this matter has arisen again. No regulations were abused, and when I became aware of this, I offered immediate understanding and compensation by way of having his wall patched where the dynabolts are, or an offer of \$500 cash so that he could address this or plant some bushes/trees etc. At that time, the owner stated his acknowledgement and thanks for this.</p> <p>I have accommodated all requests of the rear owner, at the cost of time, trades people grief and</p>	

1 October 2013

MINUTES

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
	<p>money, to make a happy solution where I possibly didn't need to. I have done this willingly, openly and with full respect for the recommendations of Council, and for all the neighbours' feedback.</p> <p>I believe the revised plans comply with all feedback and requirements, and welcome approval by council.</p>	

Town Planning Advisory Panel Comments

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

Site Inspection

By Senior Town Planner on 17 September 2013.

ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	308 (69%)	A
Outdoor Living	30sqm	N/A	A
Car Parking	2	N/A	A
Site Works	Less than 500mm	N/A	A
Overshadowing	25%	N/A	A
Drainage	On-Site	On-Site	A

Local Planning Policies Assessment

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

DISCUSSION

The applicant replaced an existing structure (shed) to the rear of the lot. This was based on a 'like for like' basis. The proposed shed however was approximately 0.4 metres higher than the original shed and was constructed in a different material. Also the shed included windows to the western and southern elevation. Neighbours raised concerns with regard to the structure and on 8 August the Planning Officer inspected the shed and lot for relevant compliance issues. The applicant was advised a retrospective development application was required to be lodged to Council.

The applicant undertook neighbour and Council consultation prior to submitting the retrospective development application with Council. The applicant proposed amended plans to reduce the height of the shed. The proposed revised height is considered sympathetic with the adjoining neighbours and consistent with the original shed.

The proposed development requires Council discretion with regard to a setback variation to the eastern boundary. The adjoining neighbour to the east has raised concerns with regard to the existing structure.

Building Setbacks

The applicant is seeking Council discretion with regard to the ADP of Element 3.7.7 of the Residential Design Guidelines - Building Setbacks and Orientation for the eastern elevation setback requirements. The shed is located 0.23 metres from the eastern lot boundary. The proposed addition is required to be set back 1.0 metres from the side boundary, alternatively the R-Codes states the term 'up to a boundary' means *a wall, on or less than 600mm, from any lot boundary, other than a street boundary* and as such the shed should be assessed as per a building on the boundary.

Element 3.7.7 of the Acceptable Development Provisions of the RDG states:

- A3** *A wall may be situated closer to an adjoining residential boundary than the standards prescribed in Tables 1, 2a or 2b of the Residential Design Codes where the following are observed:*
- i. Walls are not higher than 3m and up to 9m in length up to one side boundary;*

The shed is considered to comply with the above requirements therefore it is considered the proposed shed complies with the Acceptable Development Provisions of the RDG. It is considered the shed does not significantly impact on the existing dwelling, the streetscape or adjoining neighbours and therefore it is considered that the proposal can be supported by Council.

Roof Pitch

The proposed roof pitch is to be amended from that of the existing structure to be approximately 18°. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

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

The Performance Criteria states:

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

The roof form is of a pitch consistent with the original shed. The roof pitch at 18° is considered to minimise building height, scale and bulk. The applicant has reduced the wall height to 2.35 metres and the overall height of the shed is 2.8 metres, therefore the proposed roof height will be 0.45 metres.

The proposed roof is consistent in design, scale and form with the original shed. The proposed roof form cannot be viewed from the streetscape. The built form of the proposed addition does not conflict with the existing dwelling or adjoining dwellings. The proposed roof minimises the height of the shed.

There are no issues with regard to overshadowing of adjoining lots.

The proposed roof is considered appropriate for the area and does not impact on adjoining neighbours, therefore the proposed roof pitch can be supported by Council.

CONCLUSION

It is considered the proposed shed is designed to be compatible with the previous shed. While there is no record of the original shed being approved by Council, it has been in situ for a number of years, without any concern being raised by adjoining neighbours.

The proposed addition has minimal impact to the dwelling and improves the residential amenity for the current owners. The proposed addition is fully compliant with the 'Deemed to Comply' of the R-Codes. The proposed addition is sympathetic to the streetscape and is deemed appropriate for the area and to the dwelling. The proposed addition is considered not to significantly adversely impact on the adjoining neighbours and is a sympathetic and considerate design.

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

RECOMMENDATION

That Council exercise its discretion in granting approval to vary element 3.7.8 of the Residential Design Guidelines - Roof pitch for retrospective planning approval for a replacement shed to the rear of the existing residence at 78 (Lot 93) Dalgety Street, East Fremantle, in accordance with the plans date stamp received on 27 August & 2 September 2013, subject to the following conditions:

1. For the purposes of defining the 'use', the use shall be a shed. 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. The wall height of the shed is to be maximum of 2.45 metres as measured from the existing ground level.
4. The roof height of the shed is to be maximum of 2.8 metres as measured from the existing ground level.
5. A certificate of building compliance signed by a registered building surveyor all to the satisfaction of Chief Executive Officer in consultation with the Building Surveyor is to be submitted upon final completion of any construction work on the shed.
6. With regard to the plans submitted with respect to the certificate of building compliance, 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.
8. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) with regard to construction of the crossover the applicant/builders is to contact Council's Works Supervisor.
- (g) the patio may not be enclosed without the prior written consent of Council.
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (i) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".

Mr Mark Woschnak (owner) addressed the meeting in support of the officer's report.

Cr Rico – Cr de Jong

That Council exercise its discretion in granting approval to vary element 3.7.8 of the Residential Design Guidelines - Roof pitch for retrospective planning approval for a replacement shed to the rear of the existing residence at 78 (Lot 93) Dalgety Street, East Fremantle, in accordance with the plans date stamp received on 27 August & 2 September 2013, subject to the following conditions:

- 1. For the purposes of defining the 'use', the use shall be a shed. 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. The wall height of the shed is to be maximum of 2.45 metres as measured from the existing ground level.**
- 4. The roof height of the shed is to be maximum of 2.8 metres as measured from the existing ground level.**
- 5. A certificate of building compliance signed by a registered building surveyor all to the satisfaction of Chief Executive Officer in consultation with the Building Surveyor is to be submitted upon final completion of any construction work on the shed.**
- 6. With regard to the plans submitted with respect to the certificate of building compliance, 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.**

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

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

CARRIED 6:0

Note:

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

Cr Wilson made the following impartiality declaration in the matter of 17 Chauncy Street: "As a consequence of the owners being known to me as neighbours when I resided at my former residence in Locke Crescent, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T118.7 Chauncy Street No. 17 (Lot 5047)

Applicant/Owner: Dr J Hogan

Application No. P78/13

By Andrew Malone, Senior Town Planner on 26 August 2013 and as amended 24 September 2013

PURPOSE OF THIS REPORT

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

Council at the Town Planning and Building Committee meeting on 3 September 2013 resolved:

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

The applicant on 24 September 2013 provided 3D illustrated perspectives of both Locke Crescent and Chauncy Street which shows the new development and its impact upon the streetscape. The proposed additions and alterations are recommended for approval subject conditions.

Description of Site

The subject site is:

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

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Variation to the building from the front setback. Front landscaping will be amended. See 3D illustrated perspectives.

Documentation

Plans and relevant forms date stamp received on 4 June 2013.
Justification Letter and neighbours consent form date stamp received on 26 June 2013.
Amended plans and supporting documentation date stamp received on 19 August 2013.
3D illustrated perspectives date stamp received on 24 September 2013.

Date Application Received

4 June 2013

CONSULTATION

Advertising

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

Town Planning Advisory Panel

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

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

Site Inspection

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

STATUTORY ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

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

Local Planning Policies Assessment

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

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

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

Discussion

Built Form of Additions and Alterations

The proposed amended additions and alterations are setback 4.5 metres from the front boundary to the ground floor and 5.2 metres to the first floor. The additions are visible from Chauncy Street. The proposed development does not adhere to Clause A1.2 ii of Element 3.7.2 of the RDG. The ADP of Element 3.7.2 of the RDG requires:

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

The proposed additions and alterations are required to be assessed as per the PC of the RDG. This requires:

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

- P1.2** *Replacement of, or construction of, elements such as carports shall not obscure the original dwelling.*

The subject dwelling is not listed on the Town's Municipal Heritage List. The additions and alterations are not to a contributory building, therefore P1.1 cannot be used for assessment purposes. As such the PC cannot be used to assess the development application.

The proposed additions have been designed to reduce the overall bulk and scale of the existing building and have been designed to align with the new dwelling located on the corner of Locke Crescent and Chauncy Street. The addition is proposed within the front

setback area, however the proposed dwelling complies with Element 5.1.2 C2.1 iii which states buildings setback from the front boundary:

reduced by up to 50 per cent provided that the area of any building, including a carport or garage, intruding into the setback area is compensated for by at least an equal area of open space between the setback line and line drawn parallel to it at twice the setback distance (refer Figure 2a, 2b and 2c)

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

Building Setbacks

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

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

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

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

When assessed as per the prevailing traditional built form and setbacks of buildings in the immediate locality, the proposed addition is considered to significantly match the immediate locality of Chauncy Street. The incursion into the front setback area is considered a variation to the 7.5 metre setback requirement, however due to the proximity of the dwelling to Locke Street, the proposed design of the additions are considered to match the adjoining dwelling to the north and provide a consistent built form. Notwithstanding the prevailing front setback requirements, in some instances there are minor incursions into the street setback area. These are generally to carports/garages and are single storey. The proposed additions are however considered to articulate the front of the dwelling. The applicant further proposes improve the front of the lot and revert a previously retained area back to natural ground level. New stepped landscaped retaining walls are proposed, set back 3.0 metres from the front lot boundary. This will reduce the overall impact of the reduced setback to the additions with regard to scale and bulk.

It is noted that the applicant has indicated that there are no alternatives with regard to providing additional accommodation in the building.

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

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

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

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

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

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

There are no intrusions into view corridors for surrounding neighbours.

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

Visual Privacy

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

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

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

Roof Pitch

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

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

The Performance Criteria states:

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

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

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

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

CONCLUSION

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

RECOMMENDATION

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

- (a) variation to the front setback requirements (eastern elevation) – required setback 7.5 metres. Proposed setback is 4.5 metres (ground floor) and 5.2 metres (first);

- (b) variation to the setback requirements of the side setback (northern elevation) – required setback 4.7 metres. Proposed setback is 2.7 metres;
- (c) element 3.7.8 of the Residential Design Guidelines: Roof pitch; and
- (d) ‘deemed to comply’ element 5.4.1 Visual privacy of the R-Codes;
- for additions and alterations comprising of ground a floor bedroom, first floor alfresco and a rear alfresco area at 17 (Lot 5047) Chauncy Street, East Fremantle, in accordance with the plans date stamp received on 19 August 2013 subject to the following conditions:
1. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant’s expense.
 2. Area located in front of new retaining wall to be suitably planted/ landscaped. Landscaping to be no higher than 0.75m when within 1.5m of where the Vehicle Access Point (driveway) meets a street.
 3. Where this development requires that any facility or service within a street verge trees to be removed, modified or relocated then such works must be approved by Council and to the satisfaction of the Chief Executive Officer.
 4. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (i) below*)
 5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council’s further approval.
 6. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 7. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council’s attention.
 8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 11. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.
- (g) the patio may not be enclosed without the prior written consent of Council.
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (i) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".

Mr Brent De Pledge (designer) accompanied by the owner, Dr Jennifer Hogan, addressed the meeting in support of the officer's recommendation.

Cr de Jong - Cr Rico

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

- (a) variation to the front setback requirements (eastern elevation) – required setback 7.5 metres. Proposed setback is 4.5 metres (ground floor) and 5.2 metres (first);
- (b) variation to the setback requirements of the side setback (northern elevation) – required setback 4.7 metres. Proposed setback is 2.7 metres;
- (c) element 3.7.8 of the Residential Design Guidelines: Roof pitch; and
- (d) 'deemed to comply' element 5.4.1 Visual privacy of the R-Codes;

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

1. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
2. Area located in front of new retaining wall to be suitably planted/ landscaped. Landscaping to be no higher than 0.75m when within 1.5m of where the Vehicle Access Point (driveway) meets a street.
3. Where this development requires that any facility or service within a street verge trees to be removed, modified or relocated then such works must be approved by Council and to the satisfaction of the Chief Executive Officer.
4. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.

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

Footnote:

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

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

Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.

CARRIED 6:0

Note:

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

T118.8 View Terrace No. 22 (Lot 274)

Applicant: A Butcher

Owner: L Giuliani

Application No. P107/12

By Andrew Malone, Senior Town Planner on 16 September 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval for additions and alterations to an existing two storey single dwelling at 22 (Lot 274) View Terrace, East Fremantle. The application is recommended for approval subject to conditions.

BACKGROUND

This application was originally received by Council on 29 June 2012. Previous Planning Officers and the Manager of Planning have undertaken extensive discussions with the applicant of this development. In May 2013 revised plans were submitted to Council. Concerns were raised by adjoining neighbours. The applicant submitted further amended plans dated 14 August. The proposed amended proposal has taken into account previous Council, Panel and neighbour’s comments to address the areas of non-compliance. The proposed additions and alterations dated 14 August 2013 have been assessed against the Town of East Fremantle Town Policies, and Residential Design Codes.

Description of Site

The subject site is:

- a 769m² green title lot
- zoned Residential R12.5
- located in the Richmond Hill Precinct
- improved with a two-storey, single dwelling

Statutory Considerations

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

Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : No impact
 Light pole : No impact
 Crossover : No impact
 Footpath : No impact
 Streetscape : Alterations to existing dwelling. New front facade, landscaping and front fence.

Documentation

- .. Plans and relevant forms date stamped received on 29 June 2012
- .. Amended plans date stamped received on 17 September 2012
- .. Additional drawings date stamped received on 5 November 2012

- .. Amended plans date stamped received on 15 May 2013
- .. Plans and relevant forms date stamped received on 14 August 2013
- .. Further information/ Plans date stamped received on 28 August 2013
- .. Applicant's response to submissions date stamped received on 12 September 2013
- .. Applicant's response to Panel's comments date stamped received 19 September 2013

Date Application Received

29 June 2012

CONSULTATION

Advertising

The application was advertised to surrounding neighbours including a sign located on site for a two week period between 20 August and 5 September 2013. At the close of advertising two (2) submissions have been received and are attached to this report. The issues raised in the submissions are summarised in the following table alongside the applicant's response and officer's comment.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>T Milsom 24 View Terrace</p> <p>Excessive roof height of 54.490 why is deemed necessary</p> <p>Proposed extension to roof height will diminish views from 24 View Terrace</p> <p>Effect of shadowing on 24 View Terrace of the proposed extension</p> <p>Privacy issue on extension looking back on to 24 View Terrace especially as we have our master bedroom on the back which 22 will be able to look in to?</p> <p>Shadowing of pool of 24 view terrace our pool is currently not heated and any shadowing will have a detrimental effect on our usage.</p> <p>Building will occupy more than 55% of allotted space</p> <p>The pitch of the roof is to high</p> <p>I still believe the proposal is out of character with the other houses on View Terrace.</p>	<p>The roof height is consistent with the local town policies in correspondence with the existing natural topography of the lot. Also note, due to comments from the surrounding neighbourhood and council, the overall height of the proposed design has been reduced significantly from that of the two original submissions to council.</p> <p>As per the above point regarding ridge heights, the proposed design is compliant and reflects local council policies.</p> <p>A shadow diagram was provided with the revised submission to council clearly showing the extent of shadowing at 3pm on the winter solstice (21 June). 3pm was shown on the solar diagram in lieu of 12noon to indicate that the proposed development is in keeping with the residential design codes (R-codes) and is compliant with the acceptable development 6.9.1 Solar Access of Adjoining Sites. The solar diagram June 21 at 12noon has no overshadowing on #24 View Terrace because of the north--south orientation. If the additional solar diagram is required for 12noon on 21 June to indicate this, a plan will be provided.</p> <p>All windows located in proximity to the neighbouring boundary mentioned that are located in a position of overlooking are designed to be highlight windows, and have also been designed in accordance with the privacy requirements of the residential design codes 6.8 Privacy</p>	<p>The proposed ridge and eaves height of the additions require Council discretion with regard to the Acceptable Development Provisions. The proposed roof and eaves height is considered consistent with the town's Policies. This will be discussed in the Discussion section of this report.</p> <p>The only portion of the ridge height above the Acceptable Development Provisions requirements of the RDG is located to the front of the dwelling and is not considered to impact of the views of 24 View Terrace.</p> <p>The proposed development complies with the 'Deemed to Comply' provisions for overshadowing requirements of the R-codes with regard to solar access of adjoining sites.</p> <p>The proposed development complies with the Deemed to Comply' provisions for overlooking requirements of the R-codes with regard 24 View Terrace. There is overlooking to the rear of the lot, however this will be addressed in the Discussion section of this report. .</p> <p>The proposed development complies with the Deemed to Comply' provisions for overshadowing requirements of the R-codes with regard to solar access of adjoining sites.</p> <p>The proposed development complies with the Deemed to Comply' provisions for open space requirements of the R-codes. 66% open space is provided.</p>

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
	<p>Requirements. All areas of overlooking justifications required for the proposed design from outdoor areas are clearly shown on the architectural plans.</p> <p>See prior comments regarding overshadowing concerns.</p> <p>The proposed design is compliant with the residential design codes zoning for Lot #274. The site has an area of 768.99m², and the building has a site cover area of 268.02m², this includes the basement floor area, any additional area of the ground floor where the building extrudes on the southern elevation, and the garage. This then equates to a site cover of 34.85%. If we then also add in the area of the ground floor above the basement level turning circle (which is open on 2 sides), with an additional area of 69.24m², we get a total site cover of 43.85%; well under the 55% maximum.</p> <p>The pitch of the roof is reflective of the desired architectural style and is a request from the client to reflect traditional architectural heritage roof forms and pitched of Fremantle residential homes in the local area. Also refer comments regarding height restrictions as per previous comments.</p> <p>The architectural style and proposed streetscape is in keeping with local town policies and the residential design codes.</p>	<p>Council requires a roof pitch of 28° to 36°. The proposed roof pitch is 27°. The 1° roof pitch variation to the Acceptable Development Provisions is considered negligible and acceptable.</p> <p>The proposed additions complement the traditional form of surrounding dwellings in the immediate locality and are consistent with the character of the area.</p>
<p>C Soh 19 Woodhouse Road</p> <p>There are only two points I would like to raise in the new plans</p> <p>(1) The roof structure north side is overhanging the minimum setback of 6 m from the back fence, and this should be rectified to comply</p> <p>(2) Is the Maximum height of roof RL at 54.490 comply with maximum gazetted height, OK if it is.</p>	<p>The setback as outlined above is taken from the wall structure and not the roof line as per the residential design codes. The eave overhang is minimal and will not have any adverse impact on the neighbouring property. The neighbouring property will not have any overshadowing issues and no reduction in northern sunlight.</p> <p>The roof height is consistent with local town policies in correspondence with the existing natural topography of the lot.</p>	<p>The proposed rear setback variation to the garage requires Council discretion with regard to the 'Deemed to Comply' provisions of the R-Codes and the Acceptable Development Provisions of the RDG.</p> <p>The proposed ridge and eaves height of the additions require Council discretion with regard to the Acceptable Development Provisions.</p> <p>Both these issues will be discussed in detail in the Discussion section of this report.</p>

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel on 10 September 2013. The issues raised by the Panel are summarised in the following table alongside the applicant's response and officer's comment.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
Panel appreciates design response to previous comments; however still query the compliance of the proposal.	The new design complies with all Town of East Fremantle Town Policies, and R-codes and has taken into account great consideration from previous council and neighbours comments. There is a slight variation with regard to the front and rear setbacks which we have provided a justification for as we believe it will not have any adverse affect on the neighbouring properties.	The compliance issues relating to this development will be discussed in detail in the Discussion section of this report.

Site Inspection

By Senior Town Planner on 11 September 2013.

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

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	66%	A
Outdoor Living	30sqm	45sqm	A
Car Parking	2	3	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	N/A	A
Drainage	On-Site	On-Site	A

Boundary Setbacks

Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Proposed Setback	Status
Front (south)							
Ground	Dwelling	3.9m	13.0m	Y	7.5m	7.0/6.0m	D*
Rear (north)							
Basement	Garage	4.2m	10.6m	N	6.0m	5.0m	D
<i>Ground</i>	Outdoor Liv	7.0m	8.0m	Y	6.0m	7.1m	A
Side (east)							
<i>Basement</i>	Dwelling	3.0m	11.1m	Y	1.5m	3.7m	A
<i>Basement</i>	Garage	4.2m	7.2m	N	1.1m	1.1m	A
<i>Ground</i>	Dwelling	6.0m	12.1m	N	1.6m	3.6m	A
<i>Ground</i>	Scullery	6.2m	5.7m	N	1.2m	1.6m	A
<i>Ground</i>	Outdoor Liv	7.0m	5.6m	N	1.2m	3.6m	A
Side (west)							
<i>Basement</i>	Dwelling	2.7m	10.7m	N	1.5m	1.5m	A
<i>Ground</i>	Dwelling	6.1m	10.7m	N	1.5m	1.5m	A

**The proposed setback from the primary street is 6.0 metres to the entry porch and 7.0 metres to the ground dwelling. The proposed setback to the addition complies to the averaging provision for front setback as outlined in 'Figure Series 2 – Street Setbacks' Element 5.1.2 'Deemed to Comply' C2.1 iii of the R-Codes, which allows for the front setback to be averaged across the entire lot frontage.*

Visual Privacy				
Wall Orientation	Major Opening Type	Required Setback	Proposed Setback	Status
Rear (north)				
	Outdoor Living	7.5	7.1	D

Local Planning Policies Assessment

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

DISCUSSION

Building Setbacks

The proposed development incorporates a front setback variation to the Acceptable Development Provisions of Element 3.7.7 of the RDG (front boundary) setback requirements. The proposed set back from the front boundary is required to be 7.5 metres. The proposed ground floor is situated 6.0 metres to the entry porch and 7.0 metres to the dwelling from the front lot boundary. The proposed facade amendments are considered to improve the overall design of the existing dwelling by articulating the front of the building.

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

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

The proposed setback from the primary street is 6.0 and 7.0 metres respectively. The proposed development complies with the averaging provision for front setback as outlined in 'Figure Series 2 – Street Setbacks' Element 5.1.2 C2.1 iii of the R-Codes, which allows for the front setback to be averaged across the entire lot frontage. The average lot setback is greater than 7.5 metres and therefore complies with the 'Deemed to Comply' requirement of Element 5.1.2 of the R-Codes.

When assessed as per the prevailing traditional built form and setback of the immediate locality, the proposed addition is considered to significantly match the immediate locality of View Street. The 0.5 metres (dwelling) and 1.0 metres (entry porch) incursions into the front setback area are considered minor variations and will not adversely impact on the streetscape. The proposed design of the additions is considered to match the adjoining dwelling and the prevailing built form of the area.

Notwithstanding the prevailing front setback requirement of 7.5 metres from the front boundary, the minor incursion into the street setback area of the entry porch will articulate the front building. The proposed setback is to a single storey building as viewed from View Terrace, thereby ameliorating any scale or bulk issues. The overall design will not adversely impact on the streetscape and is considered to significantly comply with the traditional building set back of the immediate locality.

A condition has been included in the Officer's recommendation to ensure the verge tree is maintained and protected during the construction of the dwelling, thereby further protecting the streetscape and dwelling

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

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

The proposed addition is considered not to have a significant adverse impact to the visual presence of the streetscape and of adjoining dwellings.

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

The set back to the side boundaries comply with the R-Code requirement. The applicant is seeking Council discretion with regard to a rear setback variation. The garage is required to be set back 6.0 metres from the rear boundary. The proposed rear setback is 5.0 metres and therefore the set back variation is 1.0 metre. The adjoining properties to the rear at 19, 21 and 23 Woodhouse Road all have structures on the rear boundary. The proposed location of the garage presents as single story. The proposed setback is considered to have no adverse impacts to adjoining neighbours and the scale/ bulk is sympathetic to the adjoining neighbours.

There are no intrusions into view corridors for surrounding neighbours.

In conclusion, the proposed front setback variation to the Acceptable Development Provisions is considered acceptable, as the proposed development is considered to comply with the Performance Criteria of the RDG. The variation to the rear setback is also considered acceptable. The proposed set back variations to the front and rear boundaries can be supported by Council.

Visual Privacy

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

The 'Design Provisions' (P) 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 outdoor living area located above the basement garage is located 7.1 metres from the northern boundary has been designed to maximise views to the river, however, the outdoor living area does not comply to the requirements of the 'Deemed to Comply' provisions of the R-Codes. No screen devices are proposed to minimise overlooking.

It is considered the proposed extent of overlooking and area overlooked is not to an active habitable area (adjoining structure: roof) and as such minimal direct overlooking of active habitable spaces and outdoor living areas of the adjacent dwelling is achieved. Therefore it is concluded, the proposed major opening to the alfresco area can be supported from the aspect of overlooking. In conclusion the proposed outdoor living area and proposed variation of 0.4 metres is considered acceptable and can be supported.

Roof Pitch

The proposed additions and alterations to the dwelling have a roof pitch of 27°. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

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

The Performance Criteria states:

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

The 1° roof pitch variation to the Acceptable Development Provisions is considered negligible. The roof form is of a pitch and material that is consistent with the existing streetscape and adjoining dwellings. The proposed additions do complement the traditional form of surrounding developments in the immediate locality and therefore is considered to comply with the Performance Criteria of the RDG. It is considered the proposed roof pitch can be supported.

Building Height Requirement

The Acceptable Development Provisions of the RDG for the building height 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 is two storey to the rear of the lot and has a maximum height of 9.6 to the top of the roof and 7.0 metres to the underside wall of the eaves. The existing dwelling form has a consistent eaves height to the proposed additions and alteration. The proposed development does not comply with the provisions of A1.4 building height of the R-Codes.

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.*

It is noted the northern portion of View Terrace has a significant fall towards the river. All dwellings developed to the northern side of View Terrace have been constructed to a similar format to the proposal. It is noted the proposed dwelling presents as single storey from View Terrace with the development comprising of a basement development. It is considered the proposal is consistent with the prevailing development in the locality and is 2 storey only.

The proposed roof pitch is 27°. The roof form is consistent with the Council's requirements for roof form and pitch. A reduced overall ridge height could be achieved by amending the roof ridge, however this is considered to impact on the streetscape. The proposed ridge height and design, considering the overall design, scale and bulk of the building is considered appropriate.

The proposed additions and alterations are considered consistent with the prevailing built form, bulk and scale of the locality. The proposed dwelling is considered to have minimal impact to the streetscape when assessed as per the adjoining properties on the street. The roof form and dwelling design is sympathetic to the character of the area and has been designed to minimise potential impacts. The applicant has undertaken significant redesigns to respond to Council's and adjoining neighbour's comments. The proposed current design is considered appropriate to the area and sympathetic to adjoining neighbours.

The existing ground level is stepped to the rear of the lot, with an approximate 1.2 metre retaining wall required for the garage and upper outdoor living area. The proposed 7.0 metre height to the eaves is located to the rear of the lot and presents as 2 storey from adjoining neighbours. The gradient of the lot constrains a compliant development on this lot, however the proposal is considered to minimise potential adverse impacts to neighbours. The dwelling is considered to be appropriately setback from the front, side and rear boundaries, considering, thereby minimising the scale and bulk of the development. The proposed roof form hides the rear of the dwelling and as such reduces the scale and bulk of the dwelling.

The dwelling will not significantly impact on the adjoining neighbours views. The proposed development complies with the PC of the R-Codes for Element 9 – Design for Climate and Element 8 – Privacy.

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

CONCLUSION

It is considered the proposed dwelling is designed to be of a bulk and scale that is sympathetic to existing dwellings in the street and minimises impacts to adjoining neighbours. The proposed eaves height of the dwelling is consistent with the existing dwelling. The proposed roof height is of a form and pitch that matches the prevailing form in the street. The roof form and pitch 'hide' the rear additions. The proposed set back variations and overlooking are not considered to have an adverse impact to adjoining neighbours or to the streetscape.

The proposed development is considered to comply with the Performance Criteria of the RDG and the Design Principles of the R-Codes. Based on this it is considered the proposal merits approval subject to appropriate conditions.

RECOMMENDATION

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

- (a) variation to the setback requirements of the rear setback (northern elevation) – required setback 6.0 metres (garage). Proposed setback is 5.0 metres;
- (b) visual Privacy of the Residential Design Codes;
- (c) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- (d) element 3.7.17 of the Residential Design Guidelines: Building Height;

for two storey dwelling at 22 (Lot 274) View Terrace, East Fremantle, in accordance with the plans date stamp received on 14 August 2013 subject to the following conditions:

1. Existing verge tree and canopy to be retained and protected. It is the owners' responsibility to ensure that at all stages during the construction of the dwelling the tree is protected from damage. Where damage occurs Council is to be notified immediately.
2. The proposed privacy screen to the eastern elevation to be a minimum of 1.6 metres in height above the finished floor level and to fully screen the eastern elevation opening to the outdoor living area. Screening to be designed to comply with the 'Deemed to Comply' provisions and Explanatory Guidelines Element 5.4.1 of the Residential Design Codes
3. Crossover width to be a maximum width of 3.0 metres.
4. 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.
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. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

Correspondence referred from MB Ref. T116.2 was tabled.

Mr Lui Giuliani (owner) addressed the meeting in support of the officer's recommendation.

Cr Nardi – Cr de Jong

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

- (a) **variation to the setback requirements of the rear setback (northern elevation) –required setback 6.0 metres (garage). Proposed setback is 5.0 metres;**
- (b) **visual Privacy of the Residential Design Codes;**
- (c) **element 3.7.8 of the Residential Design Guidelines: Roof pitch;**
- (d) **element 3.7.17 of the Residential Design Guidelines: Building Height;**

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1. **Existing verge tree and canopy to be retained and protected. It is the owners' responsibility to ensure that at all stages during the construction of the dwelling the tree is protected from damage. Where damage occurs Council is to be notified immediately.**
2. **The proposed privacy screen to the eastern elevation to be a minimum of 1.6 metres in height above the finished floor level and to fully screen the eastern elevation opening to the outdoor living area. Screening to be designed to comply with the 'Deemed to Comply' provisions and Explanatory Guidelines Element 5.4.1 of the Residential Design Codes**
3. **Crossover width to be a maximum width of 3.0 metres.**

4. 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.
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. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
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- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*

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CARRIED 6:0

Note:

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

T118.9

Duke Street No. 36-42 (Lots 601 & 602)**Applicant: The Buchan Group - Architects****Owner: Manotel P/L****Application No. P53/13**

By Andrew Malone, Senior Planning Officer on 19 September 2013

PURPOSE OF THIS REPORT

This report constitutes an assessment of an application for a penthouse apartment to be erected on top of the proposed performance space and existing heritage building at the 'Brush Factory (former Lauder & Howard building), 36-42 Duke Street. In addition it considers an application which has been presented to Council with regards to a review of the opening times for the Jazz Club.

BACKGROUND**Description of Site**

The subject site is:

- a 1440m² freehold lot
- zoned Mixed Use
- Warehouse/ Industrial site.
- located in the Plympton Precinct
- Building located on the Town's Municipal Heritage Inventory as a category A[^]. The building is list 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 property is listed on the Town's Heritage List pursuant to Clause 7.1.7 of Town Planning Scheme No.3

Description of Proposal

The current proposal incorporates a two storey penthouse above the Brush Factory. comprises of 4 bedrooms, WIR, ensuite and bathroom located immediately above the 'Brush Factory' and a second floor of an open plan kitchen/ dining/ living, laundry and a fifth bedroom/ study. The penthouse has a total area of 219sqm.

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Documentation

Plans, Heritage Assessment, relevant justifications and relevant forms date stamp received on 16 August 2013.

Further information date stamp received on 11 September 2013.

Further information date stamp received on 18 September 2013.

Justification and further information date stamp received on 20 September 2013.

Date Application Received

16 August 2013

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

1897	Building at 36 Duke Street starts use as a 'Brush Factory';
20 May 1983	Council approves the use of 36 Duke Street for restoration and sale of furniture;
14 June 1983	Council approves use of the building at 42 Duke Street for the manufacture of decorative glass (Freedom Glass);
21 November 1983	Council grants conditional approval for the erection of two signs at 36 Duke Street;
16 April 1984	Council advises Lauder & Howard that it has no objections to repainting the exterior of the building at 36 Duke Street;
16 July 1984	Council approves signs on the façade of 36 Duke Street;
24 April 1986	CEO advises Lauder & Howard that signage on the east wall of the building at 36 Duke Street is approved;
19 June 1995	Council endorses a proposal for an opening to the front wall of the building at 42 Duke Street;
10 July 1995	Building Permit 100/2309 approved for installation of new door frame, doors and side-lights at 42 Duke Street;
24 July 1996	Building Surveyor approves removal of a chimney and portion of a parapet wall from the building at 36 Duke Street;
19 August 1996	Council decides to advise the WAPC that it supports the subdivision and amalgamation of Lots 1, 2 & 3;
10 December 1996	WAPC grants conditional approval to the subdivision & amalgamation;
25 February 1997	Council resolves to rezone 36 Duke Street to Residential Area 2;
June 1997	Conservation Plan prepared for Main Roads Department for 36 & 42 Duke Street;
16 December 1997	WAPC endorses for final approval Diagram 94449 for the subdivision & amalgamation;
21 July 1998	Council resolves to reconsider a proposal to convert existing workshop at 42 Duke Street into 2 workshops;
18 August 1998	Council grants special approval for 2 workshops at 42 Duke Street;
5 May 1999	Building Licence 93/2833 approved for alterations to the building at 42 Duke Street to form 2 separate workshops;
25 August 1999	Storm damages building; roof ends up on Stirling Highway;
3 August 2001	Premier Gallop, MPs, Mayor and CEO & VIP's join in the reopening of Lauder & Howard's antiques;

- 9 December 2008 Planning Approval granted to redevelop the buildings at 36-42 Duke Street from antique furniture showrooms and workshops to 7 x 1 bedroom apartments, and 5 x 3 bedroom apartments.
- 15 March 2011 Planning Approval granted to redevelop the buildings at 36-42 Duke Street for a change of use, partial demolition, redevelopment and new construction to accommodate a mixed use residential/arts and entertainment venue.
- 12 February 2013 Planning Approval granted to amendments to a previously approved planning application, date stamped Approved on 15 March 2011 (Application (P199/10) and to extend the previous planning approval P199/10 for a further 2 years. The previously approved application was for a change of use, partial demolition, redevelopment and new construction to accommodate a mixed use residential/arts and entertainment venue.
- 16 July 2013 Planning Approval granted to amendments to a previously approved planning application, date stamped Approved on 15 March 2011 (Application (P199/10) for 2 storeys of commercial offices above the approved Jazz Club/ Performance space. Council refused the penthouse apartment located above the 'Brush Factory'.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 10 September 2013 and the following comments were made:

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>Option A (White Mansard Roof)</p> <p>The panel felt that this design did not have any relationship with the original former simple warehouse building. Although Section 22 of the Burra Charter encourages new works to be easily recognisable, it also adds that this should not be used as an excuse to distort the original intent of the building.</p> <p>Materials and finishes would need to be of a very high quality to carry the bold design of Option A.</p> <p>Some members of the Panel did not believe that Option A reflects any other architectural character within George Street.</p>	<p>The Design Team appreciates that a relationship of this design with the original building is not readily recognisable.</p> <p>However, historically, in Europe - where Victorian and Edwardian style facades originate from - mansard style roof additions were a common way of vertically extending buildings.</p> <p>The original Brush Factory facade is expressed as a traditional Victorian/Edwardian Facade.</p> <p>We therefore do not see that a mansard roof would distort an original intent or lack of as such.</p>	<p>A detailed assessment of the proposal has been undertaken regarding the core architectural components of the development, as assessed under the Town's Town Planning Scheme, and the Residential Design Codes.</p>
<p>Option B: (modern design with bronze metallic fascia detail).</p> <p>Some Panel members preferred Option B to Option A due to the horizontal elements addressing the Royal George verandahs and the mouldings on the existing building.</p> <p>In terms of respecting the streetscape, the landmark buildings, and acknowledging the factory building beneath it, some members of the Panel were of the view that no addition at all could be considered the best outcome.</p>	<p>In fact the domed mansard it is a response to historical forms and context – including a reference to the Royal George cupola – raised as a possibility by the Town of East Fremantle Councillors (at the review and rejection of the previously proposed design).</p> <p>To ensure clarity of new work with reference to Section 22 of the Burra Charter the traditional mansard dome concept is interpreted and presented as a light and abstracted object.</p> <p>The relationship of the openings in the mansard roof have been designed to reflect the piers</p>	

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
	<p>between window openings in the Brush Factory façade below.</p> <p>Both the Design Team and the Client feel that Option A is an opportunity to create a memorable, unique yet volumetrically unobtrusive vertical extension to the Brush Factory Building.</p> <p>The design team agrees with this point, and would certainly ensure that the proposed domed roof is not only crafted of high quality and lasting materials, and detailed accordingly.</p> <p>George Street contains buildings of a very diverse nature with widely divergent architectural expression.</p> <p>The design team considers the immediate context of the Brush Factory and the Royal George Hotel to be the most relevant context, and hence this is what has informed the architectural character of our proposal.</p> <p>This is a reasonable preference, as both Options are underpinned with a valid design logic, it is understandable that some Panel members preferred Option B to Option A, as that logic would be more evident to them. Please refer to the Heritage Architect's report on these Panel comments for further detail of the design principles.</p> <p>In order to bring economic viability to this predominantly community use oriented redevelopment the inclusion of the two storey Heritage Apartment element is critical.</p> <p>Comments by the State Heritage Office and the National Trust of Australia unanimously stated that this design would not negatively impact on either the significant local land mark, the Royal George or the Brush Factory building itself.</p>	

Other Agency/Authority

Heritage Council of Western Australia (HCWA)
 Main Roads WA (MRWA)
 National Trust of Australia
 Fremantle Ports

Main Roads WA

Main Road indicated that the development was acceptable to them subject to relevant conditions.

Applicant's response:

The design team will ensure the requirements of the MRD, which are consistent with the previous approvals for this site, are complied with. Normally, lodgement of Acoustic Reports and glazing treatments for acoustic benefits will be completed as part of the Building Certification process, not this Development Approval Phase.

The State Heritage Office

The State Heritage Office has advised Council of the following:

The impact on the landmark status of the Royal George Hotel is minor and there is no objection to the proposed penthouse apartment.

The State Heritage Officer further state:

It is noted that the design rationale for Option A references the adjacent Royal George Hotel, which is not considered an appropriate response to the cultural significance of the place.

The State Heritage Office's comments are noted and have been considered in the assessment of this application.

Applicant's response:

*This design team agrees with the determination of the State Heritage Office, succinctly stated as:
"The impact on the landmark status of the Royal George Hotel is minor and there is no objection to the proposed penthouse apartment."*

Fremantle Ports

Fremantle Ports have provided Council with the standard response for Area 2 of the Fremantle Port Buffer Zone.

Applicant's response:

The design team will ensure the requirements of the Fremantle Ports are complied with including the applicable requirements of "Town of East Fremantle Port Buffer Development Guidelines"

Normally, this will be completed as part of the Building Certification process, not the Development Approval Phase.

National Trust of Australia

The National Trust of Australia has advised Council of the following:

Thank you for the opportunity to comment on the proposed penthouse apartment development at the former Swan Brush Factory located at 36-42 Duke Street, Fremantle. The proposed apartment addition to the former Swan Brush Factory is unlikely to visually or physically impact upon the heritage significance of the nearby Royal George Hotel, which is a significant National Trust property. The height and bulk of the addition is not considered excessive in relation to the Royal George Hotel and can be comfortably accommodated within this context.

In regard to a preferred design; Option B appears to present a more sympathetic heritage outcome. The form and setback of the addition responds positively to the horizontal emphasis of the existing building and along with the materials including bronze metallic finish fascias, frameless glass and low pitched metal decking roof, overall it results in a more visually cohesive development. The curved mansard roof of Option A, while referencing the dome at the Royal George Hotel, it presents

a much greater departure from the existing form of the former Swan Brush Factory. This curved mansard roof also presents a slightly larger form and bulk which appears to overwhelm the original building.

Applicant's response:

This design team agrees with the determination of the National Trust which may be succinctly summarised as:

The proposed apartment addition to the former Swan Brush factory is unlikely to visually or physically impact upon the heritage significance of the nearby Royal George Hotel, which is a significant National Trust property. The height and bulk of the addition is not considered excessive in relation to the Royal George Hotel and can be comfortably accommodated within this context.

Public Submissions

The application was advertised to surrounding neighbours including a sign located on site for a two week period between 28 August 2013 and 16 September 2013, and an advertisement was placed in the local newspaper. One submission was received.

The submission from 49 Duke Street East Fremantle raises the potential of traffic issues with regard to the wider development. These issues have been previously addressed. This application is for a penthouse apartment. This proposal is not considered to increase the traffic movements in the area.

The applicant's response is:

This submission from 49 Duke Street East Fremantle (possibly Chris Maclean as signature was not clearly legible) raises the potential of traffic issues.

This proposal is for one Apartment over the Heritage Brush Factory Building, with its own on site car parking allocation.

Hence this resident's submission is irrelevant to this Development Application.

Site Inspection

By Senior Planning Officer on 25 June 2013, 15 August 2013 and 19 September 2013.

ASSESSMENT

Design Options

The applicant has provided the following description and information with regard to the proposed designs options.

Option A

Option A expresses the proposed apartment envelope as a traditionally inspired mansard domed roof. In line with the Burra Charter's guidelines, the proposed detailing of this traditional form would be expressed as a contemporary faceted glass skin with LED back lighting for a subtle night glow.

This 'mansard style' domed form addresses the historical context of both the Brush Factory and Royal George buildings, but - due to its glass like skin - would also present as a light and contrasting architectural element to the heavy, traditional masonry fabric of the Brush Factory. We note the absolute roof height of this option is 1.5 metres lower than the original design. The receding form of the 'mansard style' dome ensures that the existing brick and limestone heritage facade remains strongly dominant.

Another feature of the glassy mansard domed skin - is the new openings are purposely and directly related to the negative spaces between the existing Brush

Factory windows. This in turn cradles a 'wrap around' veranda, behind which the proposed apartment envelope is set back. These setbacks are 4.4 metres from the Duke and George Street corners, and an average of 3 metres from the Duke Street lot boundary (i.e. existing Brush Factory building facade)

Option B

Option B is expressed as a contemporary glass box atop the existing heritage facade with a significantly lower and finer silhouette than the original proposal. The top of the rectilinear fascia is 2.5 metres lower than the previous scheme and the apartment glass line is set back an average of 3 metres from the existing Duke Street facade. The glass line break up directly relates to the window rhythms of the original Brush Factory facade, which resides below this new structure.

These setbacks are also 4.4 metres from the Duke and George Street corners, and an average of 3 metres from the Duke Street lot boundary (i.e. existing Brush Factory building facade) This Option B is very slightly lower in absolute height than Option A, however is appreciably lower at the eaves/fascia line.

The decision making process on a particular design can often be a subjective process based on the perspective of the individual. An assessment on the building design is difficult because of the variety of answers possible, all of which seem to have perfectly good arguments for and against the development, as is illustrated by the Panel's varied comments. Both of the design briefs above however have a core architectural footprint. Both options comprise of 4 bedrooms, WIR, ensuite and bathroom located immediately above the 'Brush Factory' and a second floor of an open plan kitchen/ dining/ living, laundry and a fifth bedroom/ study, comprising a total of 219sqm.

The design process the applicant and architect have undertaken with regard to this proposal is to be commended. The overall scale and bulk of the proposal has been reduced from the previous proposal. The applicant and owner have confirmed their willingness to considered alternative materials, notably copper or zinc to ensure the highest standard of finish is created. Historically, in Europe (where the Mansard roof originates - Option A), mansard style roof additions were a common way of vertically extending buildings and were commonly finished in copper, oxidising over time to create green roofs, minimising the overall impact of the building. More traditionally, in Australia, additions have been commonly finished in zinc. Both options are considered quality designs and both are considered to have merit.

What follows is an objective review of the core architectural components of the development, as assessed under the Town's Town Planning Scheme, and the Residential Design Codes. An architectural component can be quantified and measured whilst design aspects are debateable. Removing the design of option A and B from the core architectural design of the development provides a quantifiable assessment of this project.

Heritage

The proposed development has been assessed to require a number of 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"* where it is considered desirable to facilitate the conservation of a heritage place listed in the Heritage List under the Scheme.

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.

The retention and restoration of the original building without substantial alteration will contribute to the George Street Precinct streetscape. External and internal conservation

works were recommended for the 1901 building in Section 9.0 *Policies Arising from the Physical Condition of the Place* of the Conservation Plan date stamp received 25 November 2008. The Conservation Plan was prepared in 1997 by the Heritage and Conservation Professionals on behalf of Main Roads, the then owner of the building. These works are required to be implemented in full as per the Council Resolution 16 July 2013.

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.

The State Heritage Office and National Trust of Australia have both commented that the proposed development is considered not to have an adverse impact of the Royal George Hotel. The penthouse as proposed is considered may have an adverse impact to the likely future development of the locality. The proposed development is considered to improve the amenity of the area.

The following sub-clauses to Clause 10.2 are considered of particular relevance:

- (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;*

Subject to the relevant Scheme Clauses, the existing building is listed on the Town's Heritage List as a consequence of Clause 7.1.7 of Town Planning Scheme No 3.

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 10.2 and Clause 5.6.3 (b).

Council on 16 July 2013 resolved to refuse the proposed penthouse, as it was considered excessively bulky and impacted on the heritage building and surrounds. The applicant's two options will be addressed in detail in the Discussion section of this report.

Heritage Impact Statement

The buildings on the subject site have not been entered on the Heritage Council Register of Heritage Places. The original factory building is included on the Town's Heritage List by virtue of its inclusion in the George Street Precinct and on the Town's Municipal Inventory with an A[^] management category.

A Heritage Impact Statement has been undertaken by Rosemary Rosario on behalf of the applicant. The report concludes specifically with regard to the penthouse:

The design of the proposed penthouse respects the significance of the original 1901 building. The facades of the penthouse floors have been setback and are of visually light materials that will not compete with the strong masonry facade of the original building. The use of the fascia that approximately aligns with the parapet of the

heritage building provides a design element that visually integrates the old and the new structures.

Overall the new and the original components form a visually well integrated development that respects the character of Duke and George Street.

A supplementary report has been submitted to Council with regard to the design options A and B. The report concludes:

The design of the proposed apartment has been significantly modified from the previous proposal. The apartment has increased setbacks, is lower in height, and both Options provide a lighter touch in terms of bulk, scale and proportion.

Option A provides some referencing to the form of the adjacent Royal George Hotel, while Option B retains the rectangular form and aesthetic of the Brush Factory.

Option A introduces a curved mansard roof that to some degree softens the rectangular form of the previously approved office building on the eastern side of the site and improves the overall composition.

By contrast, Option B provides a rectangular form similar to the Brush Factory, but as a visually lighter element that also provides a transition from the office building to the Brush Factory.

Both options provide a visual link between the office and the Brush Factory that serves to reduce the overall impact of the office building. The reduced height of the apartment in both Options significantly improves the overall massing of the new development.

Options A and B are both contemporary designs that leave the original 1901 building clearly evident. Both fulfil the requirements of Article 22 of the Burra Charter.

A further report was prepared in response to the Panel's comments and concludes:

The design and articulation of both options has been carefully considered. Although they are very different responses, both respect the significant building, represent a high level of architectural design and both propose a high quality finish using materials designed to stand the test of time.

They both represent a significant reduction in bulk and scale over the previous proposal rejected by the Town of East Fremantle.

The question of whether an addition to the Brush Factory is acceptable or whether no addition is the best outcome; requires a consideration of many factors, including the impact of the addition on the physical fabric of the building, the impact of the addition on the physical appearance of the building, within the streetscape, and long term adaptive reuse benefits to the Community.

In terms of impact on the physical fabric of the building, the addition will require the removal of some of the internal fabric of the building; however the main areas of significance are the external masonry walls and internal volumes. Internal fabric in this case is capable of adaptation without loss of overall significance. Over the years the interiors have been adapted and altered as required for the use of the day. Architecturally the two options both represent high quality responses to the external form and detail of the heritage building. Neither overwhelms the aesthetic significance of the place and both are derived from different aspects of their design, form and proportions.

The scale of the proposed addition contributes to the form and massing of the proposed development overall and to the streetscape at the eastern end of George Street. The Brush Factory building is considerably lower than the Royal George Hotel and the addition helps to balance the relationship of the two. The addition is a contributing element that helps to improve the overall relationship of the existing to the previously approved addition on the eastern side of the site.

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.*

The proposed development is for the inclusion of a two storey penthouse apartment above the Heritage List building known as the 'Brush Factory'. The dwelling has been designed to be a 4 bedroom (fifth bedroom/ Office) penthouse apartment.

With regard to specific design the TPAP views were varied and a specific consensus with respect to the design could not be reached (see TPAP comments above).

The proposed development is considered to significantly adhere to the above objectives, however it is considered the proposed development is unsympathetic with the desired future character of each area. The scale, height and plot ratio of the proposed penthouse is considered excessive and aligned to the requirements of the Town Centre Zone and not a 'Mixed Use Zone'. The height of the proposal is approximately 13 metres, with a plot ration of close to 1:1.5. The proposal is considered to increase the development built form of the subject site to a scale exceeding the requirements of the area.

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 in a mixed use zone are outlined below. The proposed development does require Council to exercise discretion with regard to height and scale of the development.

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. The proposed penthouse is set back a minimum of 1.2 metres from the western boundary (Duke Street) (lower floor) and a maximum of 4.4 metres to the (upper floor), located on the corner of George Street and Duke Street. The proposed building is located 1.1 from the northern boundary.

Height

Clause 5.8.2 of TPS3 specifies that maximum height in the 'Mixed Use Zone' is to be 5.5 metres for walls and 8.0 metres overall.

Option A is approximately 13.2 metres for the overall height of the building to the Duke Street elevation (penthouse) located above the 'Brush Factory'. Option B is approximately 13.13 metres for the overall height of the building to the Duke Street elevation (penthouse) located above the 'Brush Factory', both in excess of 5 metres above the overall building height permitted within the 'Mixed Use Zone'.

Plot Ratio

Clause 5.8.3 specifies that the maximum Plot Ratio in the 'Mixed Use' zone is 0.5:1. This means that the net floor area (discounting service areas etc.) shall not exceed half the area of the subject site. The subject site is 1440m². The maximum floor area of the development allowable under Clause 5.8.3 is 720m². The previously approved development has an aggregate net floor area of approximately 1923m² and an overall plot ratio of 1.34:1, exceeding the maximum allowable plot ratio under the scheme.

The proposed penthouse apartment increases the overall net floor area by a further 219m². The proposed amended development will have an aggregate net floor area of approximately 2142m² thereby increasing the overall plot ratio to 1.49:1, exceeding by close to triple the maximum allowable plot ratio.

Residential Design Codes

The proposed development is required to comply with the following 'Deemed to Comply' provisions of Table 4 of the R-Codes:

	Max Plot Ratio	Min Primary Street Boundary Setback (m)	Secondary Street Setback (m)	Maximum Height (m)	
				Top of External Wall	Top of Pitched Roof
R40	0.6	4 m	1.5m	6m	9m
Proposal A	1.49	1.2m	1.1m	8.4m	13.2m
Proposal B	1.49	1.2m	1.1m	11.9m	13.1m

The proposed development exceeds the development requirements for the 'Deemed to Comply' R40 density provisions.

Discussion

The applicant and owner have responded to Council's previous comments at the Council Meeting dated 16 July 2013.

Whilst the applicant has sought to justify the height, scale and bulk of the building, the Panel's comments and the height requirements of Clause 5.8.2 of TPS 3 have been given due regard and it is considered the proposed penthouse has an adverse impact to the heritage character of the area (Plympton Precinct) and to the streetscapes of George

Street and Duke Street. The proposal increases the already excessive built form, plot ratio, height and scale of the development. The following tables outline several developments that have been recently approved in the Town Centre versus the current proposal.

Proposed Penthouse

	Permissible	Option A	Option B
Plot Ratio	0.5:1	1.49:1	1.49:1
Height	8.0 metres	13.2m (4 Storey)	13.13m (4 Storey)

Recently Approved Developments (Town Centre)

	Permissible	Richmond Quarter	19 May Street
Plot Ratio	3.5:1	1.68:1	2.37:1
Height	3-5 storey	18.9m* (6 Storey)	13.3m** (4 Storey)

*Note: Height taken at the corner of Canning Highway and Council Place.

**Note: Height taken on May Street. Proposed development does increase in height to rear of lot. (Maximum 5 storeys).

It is considered the proposed amended design of the penthouse does attempt to recognise the significance and character of the existing building (Brush Factory) and its contribution to the character of the Precinct however is still considered to impact negatively on the existing heritage building in terms of height, scale and bulk.

The State Heritage Office and National Trust have both commented on the proposal. Both prefer Option B as a design option. The applicant has indicated his preference for Option A. The applicant has stated:

With advisory panel comments on possible concern with roof finish for Option A apartment I have advised Lou Cotter I would be prepared to consider another finish. He suggested zinc or copper.

Option A or Option B give same layout with lift set back and lower etc. However I believe Option A is much more interesting and more appropriate for a "performing arts centre" where creative people will congregate. It will be more expensive than Option B but the extra cost would be worth it to create something "interesting" (Cliff Collinson) and exciting for George St. I note some comments have a "slight preference" for Option B but I feel they are not considering the whole working concept for "The Brush Factory" and it is a "safe" decision option.

By setting up a performing arts centre I am making a bold investment decision which will hopefully become a community icon for many years to come. When Lou and I met with Jamie while you were away he actually suggested a copper roof but I was concerned about the cost. It is not the end of the world if Council only will accept Option B but I feel it will be a lost opportunity for the area and the building.

The design of both Options are considered to have design merit that could add to the character of the area, however based on a technical assessment of the proposed development under the Town Planning Scheme, the proposed penthouse is considered to add to the overall built form, scale, bulk and mass of the locality. In considering the merit of any variation, Council is required to consider the requirements of Clause 5.6.3(b) and Clause 10.2 of the Scheme.

The proposed development is considered to exceed the local height requirements of the area by 5.0 metres (overall height approximately 13 metres). The overall plot ratio of the development will be 1.49:1, approximately 3 times the plot ratio permitted in a mixed use zone. This is considered an overdevelopment of the subject lot.

Clause 5.6.3(b) of TPS3 requires:

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.

The proposed development is considered may have an adverse effect upon the inhabitants of the locality and the likely future development of the locality. George Street comprises a mix of single and multi-storey buildings, however in this context the proposed height and bulk of the building are considered out of context with the wider character of the Precinct.

The following sub-clauses to Clause 10.2 of TPS3 are considered of particular relevance:

- (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;*

Subject to the relevant Scheme Clauses, the existing building is listed on the Town's Heritage List as a consequence of Clause 7.1.7 of Town Planning Scheme No 3. 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 10.2 and Clause 5.6.3 (b).

The proposed penthouse is considered not to comply with the provisions of the Scheme and does not comply with the orderly and proper planning of the area pursuant to Clause 10.2 (c), (l), (o) and (p) of TPS3. Therefore the proposed penthouse is not supported and is recommended to be refused.

It is considered the western elevation, the commercial space should be redesigned to include windows and to appropriately front/ address Duke Street and the owner be notified specifically of the importance of condition 2 (d), (e) and (f) of Council's resolution on 16 July 2013 which states:

- (d) The applicant to submit amended plans which delete the proposed penthouse and amends the overall design of the western elevation of the commercial offices to address Duke and George Streets prior to a Building Licence being lodged with the Town.*
- (e) The AC E/X Plant Deck to be appropriately relocated so as not to impact on the street elevation of Duke and George Streets prior to a Building Licence being lodged with the Town.*
- (f) The applicant to submit a schedule of conservation works prepared by a heritage professional and based on, but not limited to, the policies outlined in Section 9.0 of the Conservation Plan, to the satisfaction of the Town of East Fremantle. The applicant to implement these in full to the satisfaction of the CEO in consultation with relevant officers.*

Pursuant to the above discussion, it is concluded that the application fails to comply with the criteria which must be considered if the variations to the Scheme which the applicant

is seeking under Clause 7.5 are to be approved. Accordingly it is recommended that Council refuse the application due to the proposed development's non compliance with the Scheme provisions.

Opening Hours

Council on 16 July 2013 resolved:

- (a) *The hours of operation for the commercial office to be between the hours of 7.00am and 6.00pm Monday to Friday.*
- (b) *The hours of operation for the Dance Studio and Performing Arts to be between the hours of 7.00am and 10.00pm Monday to Friday and between the hours of 7.00am and 1.00pm on Saturday.*
- (c) *The hours of operation for the Jazz Club to be between the hours of 5.00pm and 11.00pm Monday to Thursday. The hours of operation for the Jazz Club to be between the hours of 5.00pm and 12.00am Friday. The hours of operation for the Jazz Club to be between the hours of 12.00pm and 12.00am Saturday. The hours of operation for the Jazz Club to be between the hours of 12.00pm and 10.00pm on Sunday.*

The applicant has provided Council with correspondence requesting:

the Jazz Bar trading closing time on Wednesday and Thursday nights be 12 midnight (previously 11pm) – this is more commercially realistic and consistent with other venues in George St.

In light of the above request an analysis of the opening times of the precinct has been undertaken. The following opening times apply:

- *Barque: Wednesday to Saturday 8.00am to 11.00pm*
- *Limonas: Tuesday – Saturday (Evening service) 5.30pm to last orders 9.30pm*
- *Wine Store condition: Wine bar/restaurant customers shall not occupy the premises after twelve midnight, except on Sunday, Monday and Tuesday nights when customers shall not occupy the premises after 10.00pm.*

George Street is a mixed use zone and the proposed Jazz Club will have the same characteristics as the Wine Store. So as to ensure consistency within the approval process, it is considered the Jazz Club opening times are amended, so customers shall not occupy the premises after twelve midnight on Wednesday and Thursday. A condition has been included in the Officer's Recommendation.

CONCLUSION

The applicant is seeking significant variations with regard to building height and plot ratio. As can be seen the proposal represents a substantial 'over development' of the site in terms of the Scheme provisions normally applied standards relating to height and plot ratio.

The proposed penthouse is considered to add to the scale and bulk of the building and subsequently has a negative impact on the streetscape. The proposed penthouse is considered overbearing on the heritage building and to the character of the George Street Precinct. Whilst both options of the revised plans are considered an improvement on the previous plans, the proposed height, bulk and scale of the penthouse are still considered excessive.

The proposed penthouse is considered to have an adverse impact to the likely future development of the locality. The proposed penthouse does not comply with the following requirements of the Town Planning Scheme No.3 Clause 5.6.3 (b), Clause 5.8.2 (Height), Clause 5.8.3 (Plot ratio) and Clause 10.2 (c), (l) (o), and (p) with respect to the orderly and proper planning of the locality and the preservation of the amenities of the locality.

Accordingly it is considered it would be inappropriate to allow the variations being sought under Clause 7.5 and the application should be refused.

RECOMMENDATION

That Council:

1. Refuse the proposed two storey penthouse development at the former Brush Factory building, 36-42 Duke Street, East Fremantle as the proposed development does not comply with the following requirements of Town Planning Scheme No.3:
 - (a) The proposed development conflicts with Clause 5.8.2 Building Height.
 - (b) The proposed development conflicts with Clause 5.8.3 Plot Ratio.
 - (c) The proposed development conflicts with Clause 5.6.3(b).
 - (d) The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (c), (l), (o) and (p) because it is incompatible with adjoining development and would detrimentally impact upon the amenity of the area.
 - (e) The proposed development does not comply with the orderly and proper planning of the area.

2. Approve the proposed amendment to the operating hours of the Jazz Club 36-42 Duke Street, East Fremantle with regard to the plans date stamp received on 26 April 2013 subject to the following:
 - The hours of operation for the Jazz Club to be between the hours of 5.00pm and 11.00pm Monday and Tuesday.
 - The hours of operation for the Jazz Club to be between the hours of 5.00pm and 12.00am Wednesday and Thursday. *Patrons shall not occupy the premises (Jazz Club) after twelve midnight, Wednesday and Thursday.*
 - The hours of operation for the Jazz Club to be between the hours of 5.00pm and 12.00am Friday.
 - The hours of operation for the Jazz Club to be between the hours of 12.00pm and 12.00am Saturday.
 - The hours of operation for the Jazz Club to be between the hours of 12.00pm and 10.00pm on Sunday.

Mr Peter Jackson and Mr Charles Maclean (residents of Duke Street) addressed the meeting expressing concern with the advertising process, the many concessions already granted for the redevelopment and noise emanating from the jazz club including the exiting of patrons onto Duke Street.

Mr Peter Unsworth (owner) reiterated that the whole essence of the project was directed towards community arts and it was not intended that the redevelopment interfere with peoples comfort or amenity. Mr Unsworth advised that patrons would enter and exit the Jazz Club via George Street.

Mr Lou Cotter (architect) provided an updated presentation for the benefit of elected members and stated that the officer's report was both comprehensive and thorough.

Discussion ensued on the preferred material for the Mansard roof of the apartment and it was agreed that the new proposal/s were more respectful and more courteous to the building than the previous proposal.

Mr Unsworth indicated his preparedness to consider an alternate material for the Mansard roof.

T119. ADJOURNMENT

Cr Nardi – Cr Rico

That the meeting be adjourned at 8.59pm.

CARRIED

T120. RESUMPTION

Cr Rico – Cr Collinson

That the meeting be resumed at 9.21pm with all those present at the adjournment in attendance. CARRIED

T121. REPORT'S OF OFFICERS (Cont)

- T121.1** *Duke Street No. 36-42 (Lots 601 & 602)*
Applicant: The Buchan Group - Architects
Owner: Manotel P/L
Application No. P53/13

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

1. That the application for a proposed two storey penthouse development at the former Brush Factory building, 36-42 Duke Street, East Fremantle be deferred to full Council to allow the officer and applicant to provide a response to preferred material choice for the external 'Mansard' feature including appropriate conditions for the approval of Option 'A'.
2. That Council approve the proposed amendment to the operating hours of the Jazz Club 36-42 Duke Street, East Fremantle with regard to the plans date stamp received on 26 April 2013 subject to the following:
 - The hours of operation for the Jazz Club to be between the hours of 5.00pm and 11.00pm Monday and Tuesday.
 - The hours of operation for the Jazz Club to be between the hours of 5.00pm and 12.00am Wednesday and Thursday. *Patrons shall not occupy the premises (Jazz Club) after twelve midnight, Wednesday and Thursday.*
 - The hours of operation for the Jazz Club to be between the hours of 5.00pm and 12.00am Friday.
 - The hours of operation for the Jazz Club to be between the hours of 12.00pm and 12.00am Saturday.
 - The hours of operation for the Jazz Club to be between the hours of 12.00pm and 10.00pm on Sunday. CARRIED

Reason for not Supporting Officer's Recommendation

The Committee were agreed that whilst the officer's report was comprehensive, Option 'A' would add significant value to the already heritage aspect of the building and in the way it responds to the George Hotel and that of the Precinct.

- T121.2** *Alexandra Road No. 38A (Lot 801)*
Applicant: Highbury Homes Pty Ltd
Owner: B Putland
Application No. P105/13

By Andrew Malone, Senior Planning Officer, 9 September 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval for a proposed two storey single dwelling at 38A (Lot 801) Alexandra Road, East Fremantle. The proposal is recommended for conditional approval subject to appropriate conditions.

BACKGROUND**Description of Site**

The subject site is:

- a 1018m² vacant lot
- zoned R12.5
- located in the Richmond 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 : No impact
Footpath : No impact
Streetscape : No Impact

Documentation

Plans and relevant forms date stamp received on 13 August 2013.

Date Application Received

13 August 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 2 week period between 16 August 2013 and 30 August 2013. No submissions were received during this period.

Town Planning Advisory Panel Comments

This application was emailed to the Town Planning Advisory Panel for consideration. The Panel were allowed until the 14 August to provide comment to Council. The following comments were made:

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
The south-facing element of the balcony is marked for screening by owner prior to occupation. It is hard to assess from the drawings what overlooking issues there are from this balcony.	No Comment provided.	There proposed balcony is required to be located 7.5 metres from the southern boundary. The balcony is only located 6.8 metres from the boundary. Therefore screening is required to comply with the 'Deemed to Comply' R-Codes privacy requirements. A condition has been included in the Officer's Recommendation to ensure the screen is constructed.

Site Inspection

By Senior Town Planner on 9 September 2013.

ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	71%	A
Outdoor Living	30sqm	32m ²	A
Car Parking	2	2	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	N/A	A
Drainage	On-Site	On-Site	A

Local Planning Policies Assessment

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

5.1.3 Lot Boundary Setback							
Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Proposed Setback	Status
Front (west)							
Ground	Garage	3.4m	6.8m	N	1.0m	Nil	D*
Ground	Dwelling	3.2m	9m	Y	1.5m	9.6m	A
Upper	Dwelling	6.0m	11.5m	Y	3.3m	7.5m	A
Rear (east)							
Ground	Dwelling	4.2m	13.7m	Y	3.0m	12.4m	A
Upper	Dwelling	5.3m	5.0m	Y	2.5m	20.9m	A
Side (north)							
Ground	Garage	1.9m	9.8m	N	1.5m	1.0m	D
Ground	Dwelling	1.7m	17.6	Y	1.5m	1.5m	A
Upper	Dwelling	4.2m	10.8m	N	1.5m	2.0m	A
Side (south)							
Ground	Dwelling	4.6m	13.4m	Y	3.2m	3.9m	A
Upper	Dwelling	6.0m	8.9m	N	1.2m	6.7m	A

* Note: The applicant is seeking Council discretion with regard to the 'Deemed to Comply' provisions of Element 5.1.3 Lot boundary setback for the west elevation setback requirements of the R-Codes and the Town's RDG.

DISCUSSION**Building Setbacks**

The proposed development incorporates a side setback variation (northern 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 1.5 metres from the northern boundary as per the R-Codes. The proposed garage is located 1.0 metre from the northern 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 development is to a battleaxe lot. The proposed development does not impact on the primary street setback.

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

Not applicable, the subject lot is vacant. The lot is located on a battleaxe lot and therefore will not have any visual presence to adjoining dwellings or to the wider streetscape.

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

The proposed side setback to the northern boundary is required to be 1.5 metres to the garage. The proposed setback is 1.0 metres. Council discretion for a 0.5 metre setback variation to the 'Deemed to Comply' provisions of the R-Codes is required. The proposed development has a side setback complementary with the predominant streetscape and prevailing side setback of buildings in the locality.

The proposed dwelling is considered to have no impact on the streetscape. The garage cannot be viewed from the street. The proposed length of the garage is 9.8 metres. The garage is excavated into the lot. The wall height from the natural ground level is 1.9 metres. The proposed garage height minimises the bulk and scale of the building. The orientation of the dwelling is considered not to overshadow any adjoining lot. The proposed excavation of the northern elevation of the garage reduces the potential impact on views. It is considered adjoining properties are not impacted with regard to light or ventilation.

The variation is considered minor, considering the height of the garage as perceived from the adjoining lot. There is no significant impact to surrounding neighbours. The proposed setback variation is considered appropriate and is considered should be supported by Council.

Building on the Boundary

The applicant is seeking Council discretion with regard to the 'Deemed to Comply' provisions of 5.1.3 Lot boundary setback for the west elevation parapet wall requirements of the R-Codes and the Town's RDG. The proposed parapet wall is 3.4 metres in height and 6.8 metres in length. The proposed parapet wall is considered a minor variation and is considered not to impact on in the streetscape or adjoining property. The wall length complies with the 'Deemed to Comply' provisions, however a 0.4 metre variation to the average wall height requirements of the R-Codes is required.

The garage parapet wall to the western elevation does not comply with the 'Deemed to Comply' provisions of Element 5.1.3 Lot boundary setback, therefore there is a requirement for it to be assessed as per the Design Principles of the R-Codes. P2 states:

P3.2 *Buildings built up to boundaries (other than the street boundary) where this:*

- *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*
- *does not compromise the design principle contained in clause 5.1.3 P3.1;*
- *does not have any adverse impact on the amenity of the adjoining property;*
- *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*

- *positively contributes to the prevailing development context and streetscape.*

The above points are addressed as follows:

- The garage (western elevation parapet wall) is considered to make effective use of the lot, without compromising the amenity of the neighbour or being an overdevelopment of the lot. This design is considered important in ensuring an active, habitable and articulated building and frontage.
- The design principle contained in clause 5.1.3 P3.1 has been assessed as per the proposed parapet wall. It is considered the proposed wall will not have an adverse impact in terms of scale, bulk, and loss of direct sunlight, ventilation and privacy.
- The proposed development is considered not to have any adverse impact on the amenity of the adjoining properties, specifically to the property to the west.
- The proposed parapet ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted. The proposed parapet wall is to the western boundary and therefore will not impact on the provisions of Element 5.4.2 Solar access for adjoining sites of the R-Codes.
- The proposed parapet wall is considered a minor variation. The wall positively contributes to the prevailing development context of the surrounding locality. The wall does not impact on the streetscape

The proposed development is appropriate and is considered should be supported by Council.

Roof Form

The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch of the Residential Design Guidelines 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 proposed roof does not adhere to the ADP of the RDG. The PC requirements for the roof pitch allows for:

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

The proposed roof pitch of the primary dwelling is 24°. The rear of the dwelling has a 15° roof pitch and the garage has a 3° roof pitch. The proposed roof pitch and built form of the proposed dwelling is designed be consistent with the prevailing built form of the locality. The proposed design incorporates three different roof pitches. These pitches ensure viewing vistas are maintained. This is considered to minimise the bulk of the building and articulate the dwelling design. In this context the proposed roof forms add to the overall architectural character of the dwelling.

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 Precinct states:

- A1.5** *In localities where views are an important part of the amenity of the area and neighbours existing views are to be affected, or the subject site is a 'battle axe' lot, then the maximum building heights are as follows:*
- *8.1m to the top of a pitched roof*
 - *6.5m to the top of an external wall (concealed roof)*
 - *5.6m to the top of an external wall; and where the following apply:*

- i. *The proposal demonstrates design, bulk and scale that responds to 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 maximum height to the top of the pitched roof is 7.9 metres. The maximum height to the top of the external wall is 6.0 metres. Based on the proposed wall and roof heights the development requires Council's discretion. The proposed development does not comply with the provisions of A1.4 building height of the RDG. The proposed overall ridge height complies with the Acceptable Development Standards of the RDG, however the proposed wall height requires a 0.4m height variation.

The proposed wall height to the eaves 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 lot slopes approximately 2.0 metres from north to south. The dwelling is required to be cut into the lot and filled. Due to the nature of the lot, the proposed dwelling will exceed the ADP requirements for wall height of the RDG.

The dwelling is considered a sympathetic design that is compatible with form, bulk and scale to traditional development in the immediate locality. Alexandra Road does not have a prevailing built form. The streetscape includes a range of single and two storey dwellings. The height of dwellings varies significantly on the street to accommodate the existing slope of Alexandra Road. The proposed dwelling is considered to comply with Element 3.7.6 construction of new dwellings. The proposed dwelling has been designed to be sympathetic with the adjoining dwellings and to maintain viewing vistas for adjoining neighbours.

The overall height of the development complies with Council's requirements, therefore the proposed development is considered to appropriately comply with the protection of view corridors. The proposed discretion with regard to the wall height has been designed appropriately to the topography of the landscape. The wall height discretion is considered not to have an adverse impact to surrounding neighbours.

The proposed height variation does not impact on the streetscape.

The proposed development complies with the PC 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 RDG. Accordingly, 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 a minimal impact on adjoining dwellings and does not impact 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 Acceptable Development Provisions of the RDG can be supported and conform to the provisions of the Design Principles and Performance Criteria 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 (northern elevation) – required setback 1.5 metres (garage). Proposed setback is 1.0 metre;
- (b) element 5.1.3 Lot boundary setback of the Residential Design Codes : Garage (western elevation);
- (c) element 3.7.8 of the Residential Design Guidelines : Roof pitch;
- (d) element 3.7.17 of the Residential Design Guidelines : Building Height

for a proposed two storey single dwelling at 38A (Lot 801) Alexandra Road, East Fremantle. in accordance with the plans date stamp received on 13 August 2013 subject to the following conditions:

1. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
2. The proposed privacy screen to the southern elevation balcony to be a minimum of 1.6 metres in height above the finished floor level and to be designed to comply with the 'Deemed to Comply' provisions and Explanatory Guidelines Element for visual privacy of the Residential Design Codes
3. This approval does not include the swimming pool. A separate planning application is required to be submitted to Council for the swimming pool.
4. 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.
5. All externally mounted air-conditioning plant, to comply with the Environmental (Noise) Regulations 1997, 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 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. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) with regard to construction of the crossover the applicant/builders is to contact Council's Works Supervisor.
- (g) the patio may not be enclosed without the prior written consent of Council.
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (i) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise".

Ms Karen Barry (mother of owner) addressed the meeting in support of the officer's recommendation.

Cr de Jong – Cr Nardi

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

- (a) variation to the setback requirements of the side setback (northern elevation) – required setback 1.5 metres (garage) – proposed setback is 1.0 metre;**
- (b) element 5.1.3 Lot boundary setback of the Residential Design Codes : Garage (western elevation);**
- (c) element 3.7.8 of the Residential Design Guidelines : Roof pitch;**
- (d) element 3.7.17 of the Residential Design Guidelines : Building Height**

for a proposed two storey single dwelling at 38A (Lot 801) Alexandra Road, East Fremantle. in accordance with the plans date stamp received on 13 August 2013 subject to the following conditions:

- 1. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
- 2. The proposed privacy screen to the southern elevation balcony to be a minimum of 1.6 metres in height above the finished floor level and to be designed to comply with the 'Deemed to Comply' provisions and Explanatory Guidelines Element for visual privacy of the Residential Design Codes**
- 3. This approval does not include the swimming pool. A separate planning application is required to be submitted to Council for the swimming pool.**
- 4. 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.**
- 5. All externally mounted air-conditioning plant, to comply with the Environmental (Noise) Regulations 1997, 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 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. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".* CARRIED 6:0

Note:

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

T121.3

Dalgety Street No. 31 (Lot 62)

Owner /Applicant: R & M Cox

Application No. P96/2013

By Christine Catchpole, Planning Officer on 20 September 2013

PURPOSE OF THIS REPORT

This report considers an application for a proposed new alfresco area, extension of deck, new patio roof over the deck and new shed all situated in the rear garden of the existing dwelling. The proposal is recommended for approval subject to conditions.

BACKGROUND

Description of Proposal

The planning application comprises three elements as follows:

Shed

Garden shed towards the north west corner at 1.9 metres high, with a width of 1.6 metres and a length of 3.95 metres. The shed is setback 750mm from the northern boundary and 5.0 metres from the rear boundary.

Patio/Deck

The patio has a flat roof and the applicant proposes to remove this and replace the structure with a pitched roof of 22° to match the pitch of the dwelling. It is also proposed to extend the decking which is approximately 1.0 metre above ground level. The deck area currently has a setback greater than 3.0 metres. However, it is proposed to extend the deck area to the north so that the setback is reduced to 1.83 metres from the northern boundary. A set of stairs will also be constructed adjacent to the side of the house to access the deck area.

The newly constructed dividing fence, towards the front of the property, is over 2.0 metres in height and the section of fence adjacent to the deck area is higher as Colorbond lattice has been attached to the top of the fence increasing the height by 300 to 400mm.

Outbuilding for Alfresco

The proposed alfresco area is an outbuilding with a nil setback to the northern boundary. It is approximately 20 square metres in area being 3.37 metres x 5.54 metres. It is fully enclosed on three sides, with bi-fold glass doors opening to a small paved verandah with timber posts. It faces south to the rear garden. It is equipped with a shower, toilet and wash basin.

The outbuilding is at a lower level than the floor level of the existing house and has an overall height to the top of the pitched roof of 3.5 metres and a wall height of 2.4 metres. It will replace an existing fibro structure of a slightly smaller height and scale. The roof will be metal and the cladding is not specified.

Description of Site

The subject site is:

- 1088m²;
- zoned Residential R12.5;
- a single heritage dwelling; and
- located in the Woodside Precinct.

Statutory Considerations

Town Planning Scheme No. 3 (TPS 3)

Local Planning Strategy – Woodside Precinct (LPS)

R12.5 Residential Design Codes (RDC)

Municipal Heritage Survey 2006 Form – 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 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 outbuilding (alfresco) and a small portion of the extended deck is visible from the street.

Documentation

Plans and relevant forms date stamped received on 19 July 2013.

Email dated 11 September 2013 from adjoining owners of 29 Dalgety Street.

Date Application Received

19 July 2013.

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

- 15 November 2004 Council approval for a bathroom ensuite addition to the northern side of the main bedroom.
- 25 May 2010 Retrospective Approval issued for roof replacement.
- 25 October 2010 Retrospective Planning Approval for roof replacement.
- 19 July 2010 Building Approval Certificate 2010160 for roof replacement.
- 30 May 2013 Building Permit 2013042 issued for replacement of dividing fence between 29 and 31 Dalgety Street.

CONSULTATION**Advertising**

The owners of 29 Dalgety Street were notified of the application as one aspect of the proposal directly affected the dividing fence between the two properties and variations to the RDC were proposed.

The adjoining owners have stated in email correspondence (dated 11 September 2013) that they approve of the deck extension and renovation of the alfresco area provided the renovation to the outbuilding (alfresco) does not impact on the dividing fence. They have stated this has been discussed with the applicants and agreed upon.

Town Planning Advisory Panel

The application was not referred to the Panel due to its minor nature and as it was not considered to have an impact on the streetscape or the heritage value of the property.

Site Inspection

By Planning Officer on 16 August 2013.

STATUTORY ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	50%	50%	A
Outdoor Living	30sqm	38sqm	A
Car Parking	2	2	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	N/A	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	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

Boundary Setbacks								
Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Proposed Setback	Status	
Front (east)								
As existing								
Rear (west)								
	Ground	Shed			6.0m	5.0m	D	
		Alfresco			6.0m	20.8m	A	
		Deck			6.0m	13.5	A	
Side (north)								
	Ground	Shed	1.9m	3.9m	N	1.0m	0.75m	D
		Alfresco	1.9m	5.7m	N	1.0m	Nil	D

Boundary Setbacks							
Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Proposed Setback	Status
	Deck	3.4m	4.4m	Y*	1.0m	1.8	A
Side (north)							
	As existing						

**Note: the proposed deck will be assessed for overlooking*

Discussion

Planning approval is sought to erect a modified garden shed, extend the decked area from the rear of the house and replace the flat roof with a pitched roof patio, as well as to construct an outbuilding to be used for an alfresco area.

There are various aspects of the planning application that do not comply with the RDC or the RDG, in regard to rear and side boundary setbacks, privacy provisions and roof pitch.

Overlooking / Privacy

In this instance and as there are no objections from the property owners to the north, in regard to setbacks and privacy, the variations to the RDC and the RDG can be supported. The reduced setbacks will not affect the amenity of the adjoining property and there is no objection to a reduced setback of the alfresco outbuilding, providing the portion of the dividing fence, currently forming part of the alfresco building, remains intact. This has been applied as a condition of planning approval (see further discussion below).

The reduced setback in regard to visual privacy from the decked patio can also be supported as the raised patio is already in this location and is being extended toward the rear boundary not the side boundary. A new Colorbond fence at greater than 2.0 metres in height has been erected and this will provide screening between the properties. In the area of the deck the major opening has been screened with the increased fence height (lattice attachment).

Roof Pitch

The roof pitch, although not between 28° and 36°, as required under the RDG, will match the existing residence and the alfresco outbuilding will also have the same roof pitch.

Side Boundary Setbacks

The adjoining neighbours have objected to any change to the existing fencing in the area of the alfresco outbuilding. This is because the rear wall of the outbuilding forms part of the dividing fence and there are some substantial trees located on their property. They have no objection to the renovation of this building in this location provided the brick wall intended to replace this section of fencing is built wholly within the property boundaries of 31 Dalgety Street. Discussions with the applicant have indicated they are satisfied with this required alteration to the plans and for this section of fencing to remain intact.

Given the neighbour's concerns it is necessary to impose a condition of planning approval that requires the rear wall of the proposed alfresco outbuilding to be constructed within the property boundary and for this to be indicated on plans the subject of the building permit application.

The construction of the wall up to the boundary, in this instance, is considered to comply with the Design Principles of Clause 5.1.3 of the RDC in that it minimises the extent of overlooking and loss of privacy for the adjoining property and subject site, makes for more effective use of outdoor living space and does not reduce the amenity of the property at 29 Dalgety Street.

Heritage

The outbuilding (alfresco) is currently visible from the street through the side setback area, however, the renovation of this building will improve its appearance from the street. Its visibility is not considered to have a negative bearing on the heritage value of the dwelling.

In conclusion, based on the above considerations the application can be supported subject to conditions concerning the rear wall of the new and existing alfresco outbuilding on the boundary, reflectivity of building materials and occupancy of the outbuilding.

RECOMMENDATION

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

- (a) Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit the construction of a wall up to a lot boundary for the outbuilding (alfresco) on the northern (side) boundary;
- (b) Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit the 750mm setback for the garden shed on the northern (side) boundary and a setback of less than 6.0 metres from the rear boundary;
- (c) Clause 5.4.1 – Visual Privacy of the Residential Design Codes of WA to permit the extended deck area to be constructed closer than 7.5 metres from the northern boundary of the lot; and
- (d) Clause 3.7.8.3 of the Residential Design Guidelines 2013 to allow a roof pitch of less than 28° for all outbuildings (alfresco and shed) and the patio roof,

for the construction of an outbuilding (alfresco) area, extension of outdoor deck, patio roof and outbuilding (shed) at No. 31 (Lot 62) Dalgety Street, East Fremantle, in accordance with plans date stamped received on 19 July 2013, subject to the following conditions:

1. The brick (northern) boundary wall of the outbuilding (alfresco) being constructed within the property boundary of 31 Dalgety Street and not on the property boundary and designed by a structural engineer and approved by a building surveyor.
2. The dividing fence forming part of the rear wall of the existing outbuilding (alfresco) to remain intact as a fence between the two properties.
3. The outbuilding (alfresco) shall not be used for ancillary accommodation or leased either as a rental property or for short stay accommodation unless otherwise approved by Council. This type of use would be subject to a separate planning application to be submitted for Council's consideration.
4. If requested by Council within the first two years following installation, any zincalume roofing for the patio or outbuildings to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The proposed works are not to be commenced until Council has received an application for a building permit and the building permit issued is 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. 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 (c) below)
9. 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).
- (e) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".

Cr Rico – Cr Nardi

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

- (a) **Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit the construction of a wall up to a lot boundary for the outbuilding (alfresco) on the northern (side) boundary;**
- (b) **Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit the 750mm setback for the garden shed on the northern (side) boundary and a setback of less than 6.0 metres from the rear boundary;**
- (c) **Clause 5.4.1 – Visual Privacy of the Residential Design Codes of WA to permit the extended deck area to be constructed closer than 7.5 metres from the northern boundary of the lot; and**
- (d) **Clause 3.7.8.3 of the Residential Design Guidelines 2013 to allow a roof pitch of less than 28° for all outbuildings (alfresco and shed) and the patio roof, for the construction of an outbuilding (alfresco) area, extension of outdoor deck, patio roof and outbuilding (shed) at No. 31 (Lot 62) Dalgety Street, East Fremantle, in accordance with plans date stamped received on 19 July 2013, subject to the following conditions:**
 1. **The brick (northern) boundary wall of the outbuilding (alfresco) being constructed within the property boundary of 31 Dalgety Street and not on the property boundary and designed by a structural engineer and approved by a building surveyor.**
 2. **The dividing fence forming part of the rear wall of the existing outbuilding (alfresco) to remain intact as a fence between the two properties.**
 3. **The outbuilding (alfresco) shall not be used for ancillary accommodation or leased either as a rental property or for short stay accommodation unless otherwise approved by Council. This type of use would be subject to a separate planning application to be submitted for Council's consideration.**
 4. **If requested by Council within the first two years following installation, any zincalume roofing for the patio or outbuildings to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
 5. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
 6. **The proposed works are not to be commenced until Council has received an application for a building permit and the building permit issued is 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. 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 (c) below)
 9. 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).*
- (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 6:0

Note:

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

T121.4

Hubble Street No. 93 (Lot 172)

Owner: A, M & V Turco

Applicant: J Chisholm Design

Application No. P112/2013

By Christine Catchpole, Planning Officer on 13 September 2013

PURPOSE OF THIS REPORT

This application seeks planning approval for replacement of an existing sleep out, laundry and storage facility at the rear of an existing heritage dwelling.

BACKGROUND**Description of Proposal**

Extensive rectification and restoration works have been commenced on the property and a retrospective planning approval has been submitted for these works and is currently being assessed. In summary, works have or will involve the following:

Works Undertaken

- Removal of asbestos;
- All damaged interior linings to be replaced;
- Kitchen refitted;
- Electrical rewiring; and
- Interior door sealed and door built into bedroom wall to create ensuite bathroom.

Works Required to the Building

- Replace linings above dado level and trim with timber battens to match existing;
- Fix new timber weatherboards to match existing, repair and renovate existing boards;
- Remove and replace timber balustrade and bring into compliance with the Building Code of Australia;
- Remove existing galvanised metal roofing, replace with zincalume;
- Connect rain water pipes to storm water tanks;
- Replace all architraves and skirtings;
- Paint all wall surfaces and timber trims to the front steps; and
- Replace painted timber battens to sub-floor area.

A separate planning application, the subject of this report, has been submitted involving a proposal to replace the laundry and storage facility at the rear of the property. Work is also indicated as being required for the outside toilet and the plans show the removal of the sleep out (enclosure of part of front verandah) and replacement with new materials and window, as well as restoration of the remaining verandah to the side of the dwelling.

Description of Site

The subject site is:

- a 508m² block;
- zoned Residential R20;
- a single heritage dwelling; and
- located in the Plympton Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes (RDC)

Fremantle Port Buffer Zone Area 2

Heritage Listing – B^A Management Category:

Considerable heritage significance at a local level; places generally considered worthy of high level of protection, to be retained and appropriately conserved; provide strong encouragement to owners under the Town of East Fremantle Planning Scheme to conserve the significance of the place. A Heritage Assessment / Impact Statement is required as 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 : Overall the works on-site will have a considerable street impact. The house was in a dilapidated state and the works proposed will contribute to the restoration and conservation of a moderately rated heritage dwelling in a Precinct where conservation of the housing stock is an important aim for the Town. However, the replacement of the laundry and storage area is at the rear of the property and is only partly visible from the street as viewed from the driveway.

Documentation

Plans date stamped received 20 August 2013

Date Application Received

20 August 2013

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

5 August 2013 Advice by correspondence from the Acting CEO that all unauthorised works on the site must stop and the site be secured and made safe until approved or otherwise by Council.

CONSULTATION**Advertising**

The application was advertised to two rear property owners and the adjacent property owner to the north from 23 August to 6 September 2013 and no submissions were received.

Town Planning Advisory Panel

The application has not been referred to the Town Planning Advisory Panel due to the nature of the application being primarily for restoration works. It is very unlikely that the works proposed will have a negative impact on the streetscape and/or the adjoining property owners.

Site Inspection

By Planning Officer on 30 August 2013

ASSESSMENT**Rectification and Restoration Works**

Council's RDG specify the "desired outcomes" for development in the Plympton Precinct as being:

- retention of the original building fabric;
- restoration of contributory buildings to their original or earlier form;
- removal of intrusive elements to contributory buildings and not have their prominence reduced;
- updating of services to existing buildings with the least amount of change to the fabric; and
- replacement of deteriorated building fabric to match original detail.

The proposed restoration and rectification works will be clearly visible from the street and will significantly rectify the facade of the heritage dwelling. It is acknowledged that restoration and renovation work of this nature can occur in a sympathetic manner that does not have an undue impact on the heritage values of a building. The intended work is not altering the scale or height of the dwelling and it respects the predominant street pattern in terms of roof pitch, orientation and articulation. It is also considered to address and achieve the "desired outcomes" for development listed above. Once the restoration work is complete the original dwelling will be restored and intact. It will also significantly contribute to the Hubble Street heritage streetscape and character of the Precinct.

Replacement of Laundry and Storage

The architect has recommended removal of the laundry/storage area, immediately to the rear of the dwelling, as they are in a poor state of repair and structurally unsound. He has recommended the buildings be replaced with a new timber framed or rendered brick structure, and that the remaining outside toilet is in reasonable order and should be preserved.

Setbacks and Open Space

The replacement of these buildings will result in a new laundry and store both of approximately 5 square metres in area. The footprint of the buildings will not be increased and therefore there is no change to open space on the site. Both buildings will

be setback 2.96 metres from the northern side boundary; in line with the existing building setback, which meets the requirements under the RDC of 1.5 metres.

The replacement of the front verandah sleep out walls and louvres with new fibro sheeting and weatherboards, and a large front window, will result in a new frontage for the dwelling. The building will be closer to the front boundary than the 6 metres required under the RDC. A 3.9 metre setback is proposed and this is considered acceptable given this is the building's current setback and it is in keeping with the setbacks in the immediate surrounds and in Hubble Street.

Roof Replacement

The proposed main roof pitch is 30° and is therefore in compliance with the RDG requiring a roof pitch of between 28° and 36°. The zincalume roofing material proposed is considered to be a satisfactory replacement of the existing galvanised iron. However, it will be necessary to impose a condition of planning approval that addresses any reflectivity concerns that may arise with the new roof.

The roof of the new laundry and storage area will be flat and as such, whilst considered acceptable, will not comply with the RDG. The shed and laundry are ancillary buildings to the original cottage and although partly visible from the street, will only be replacing existing structures. The fabric of the dwelling will therefore essentially remain unchanged.

Heritage

The architect has provided information which would appear to ensure a sound heritage outcome. So with the exception of replacing the outside laundry/storage structure and removal of the sleep out, the house will not undergo any major external changes to the facade, setbacks or height.

The unauthorised works at the rear of the house are considered not to impact on the heritage values of the dwelling. The work primarily involved the sealing of a door from the kitchen to the old bathroom and the bathroom becoming an ensuite to the master bedroom, with a new internal bedroom door providing the connection. This did not alter the external fabric or structure of the dwelling and is therefore supported.

It is also noted that the plans indicate the sleep out facing the street will be retained and the verandah will remain enclosed. However, the original weatherboard and louvred front facade will be replaced with a single window above new weatherboards. The design and dimensions of the proposed window are not in keeping with the original front window, however this is considered acceptable given this part of the dwelling is not being restored in keeping with its original appearance. The distinction between the original and the new is therefore more obvious and this is considered preferable in this situation, as the design is not attempting to replicate the original building form.

Although the B Management Category guidelines state that a heritage impact statement will be required with a development application, it was not considered necessary in this instance. The owners and the architect are proposing to restore the Federation cottage in keeping with its original architecture and although new materials will be used, they will replicate original construction materials. This is considered to achieve a desirable conservation outcome, particularly given the state of disrepair of the building.

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 also 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.

It is therefore recommended that the application be supported subject to conditions.

RECOMMENDATION

That Council exercises its discretion in granting retrospective planning approval to vary:

- (a) Clause 5.1.2 – Street Setback of the Residential Design Codes of WA to permit a street (front) setback of less than 6.0 metres; and
- (b) Clause 3.7.8.3 of the Council's Residential Design Guidelines 2013 to allow a roof pitch of less than 28° for the replacement laundry and storage areas;

for the replacement of the existing laundry, storage and front verandah sleep out area at No. 93 (Lot 172) Hubble Street, East Fremantle, in accordance with plans date stamped received on 20 August 2013, subject to the following conditions:

1. Retention and restoration of the outside toilet. A separate planning application to Council is required if demolition of the outside toilet is proposed.
2. All materials, colours, and finishes for the replacement works (i.e. the laundry, storage and sleep out) being to the satisfaction of the Chief Executive Officer in consultation with relevant officers prior to the issue of a building permit.
3. 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.
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. The proposed works are not to be commenced until Council has received an application for a building permit and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. All stormwater is to be disposed of on site and clear of all boundaries.
8. This planning approval to remain valid for a period of 24 months from the date of this approval.
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 by the Chief Executive Officer. (*refer footnote (c) below*).
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 licence.
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. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0 metres, 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.
14. The proposed dwelling 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.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building permit is to conform with the approved plans unless otherwise approved by Council.
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (d) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (e) 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.

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

That the application for the replacement of the existing laundry, storage and front verandah sleepout area at No. 93 (Lot 172) Hubble Street, East Fremantle, in accordance with plans date stamped received on 20 August 2013 be deferred to the October meeting of Council pending the receipt of a Heritage Impact Statement. CARRIED

T121.5

Fortescue Street No. 51 (Lot 125)**Applicant/ Owner: K & T Ecclestone****Application No. P107/2013**

By Andrew Malone, Senior Planner on 5 September 2013

BACKGROUND**Purpose of this Report**

This report considers an application for planning approval for demolition of existing carport and proposed additions and alterations to an existing dwelling at 51 (Lot 125) Fortescue Street, East Fremantle.

BACKGROUND**Description of Site**

The subject site is:

- a 1012m².
- zoned R12.5
- located in the Woodside 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 : No impact
 Footpath : No impact
 Streetscape : Demolition of carport. Alterations to front garden, new porch and front fence. Streetscape will be improved.

Documentation

Plans and relevant forms date stamp received on 14 August 2013.

Justification letter date stamped received on 29 August 2013.

Date Application Received

14 August 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 2 week period between 21 August 2013 and 4 September 2013. No submissions were received during this period.

Town Planning Advisory Panel

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

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
Front fence is too high and appears non-compliant from a streetscape perspective, and according to council's fence policy.	The applicant has provided justification with regard to the front fence. This is discussed in detail in the Discussion section of this report.	It is considered the proposed fence complies with the Performance Criteria of the RDG and therefore Council can support the proposed fence. This is discussed in detail in the Discussion section of this report.

Site Inspection

By Senior Town Planner on 9 September 2013.

ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	73%	A
Outdoor Living	30sqm	75.5m ²	A
Car Parking	2	2	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	N/A	A
Drainage	On-Site	On-Site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision.	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	D

LPP Residential Design Guidelines Provision.	Status
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	D
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

Roof Pitch

The proposed roof pitch of the garage, alfresco and verandah all have a flat roof. The proposed roofs do not negatively impact on the dwelling or the streetscape. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

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

The Performance Criteria states:

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

The maximum height of the garage is 3.5 metre, alfresco area 3.0 metres and 3.0 metres to the replacement front verandah. The dwelling and roof form of the dwelling remains the dominant feature of the lot. The proposed roof forms and pitch ensure the roof does not exceed the eaves height of the existing dwelling, therefore minimising the impact of the structures and maintaining the dominance of the dwelling to the streetscape. It is considered the proposed garage and alfresco area will not be visible from the street and therefore have no impact on the streetscape and prevailing character of the area.

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

Front Fence

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

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

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

The existing ground level to the front of the lot has been altered (RL 24.27). The existing house is elevated from street level, therefore the front garden ground level is considered

consistent with the dwelling and with the surround locality. The proposed fence is 1.8 metres above this existing ground level on the lot, however from the street elevation the proposed fence is a maximum height of 2.6 metres, comprising of 0.8 metres retaining wall, 0.8 metres solid wall and 1.0 metre permeable fencing. The maximum height of the fence is to the northeast corner of the lot. The fence is considered to still retain views of the dwelling from the street. The top 1.2 metres of the proposed fence will be visually permeable, thereby maintaining significant views to the dwelling. The streetscape will not be adversely impacted.

The applicant has noted:

We request an exemption to build a front fence at this location higher than 1800 (at approximately 2400 from footpath level on the north east corner of the block) for the following reasons:

- *Our front yard is level and as such elevated within our boundary by approx 600 in the north east corner of the block compared to the footpath level - we'd like to build out front fence to be 1800 from our natural ground level so that we can have a consistent 1800 high front fence as viewed from within our front yard - this will ensure a safe and consistently enclosed area for our 2 young children Jack (3 years old) and Lola (1 year old).*
- *This approach of building a 1800 high fence from front yard natural level as opposed to from footpath level is consistent with other front fences in the street - indeed our neighbours front fence (at 53 Fortescue) is constructed in this way.*
- *The top 1200 will be constructed semi-permeable to provide adequate vision to/from the street.*
- *The proposed front fence will improve the streetscape, as we will construct a front fence of design that is rendered and more in keeping with the period of our home and the streetscape.*
- *Since our house is elevated it will not impact the views of the house from the street.*
- *It will not adversely impact the view to/from the street for any of our neighbours.*

The applicant is considered to have had due regard for the Town's requirements relating to residential front fences, as well as the requirements outlined within the R-Codes. The applicant has demonstrated a need to have a fence as proposed and it is considered that the proposed fence has merit. It has been demonstrated that the applicant complies with P4.1 iii as noted above, as the difference in levels between the front garden and street warrant consideration of a higher fence due to the required retaining wall. The proposed fence is sympathetic to the character of the area and the fence is considered to improve the visual character of the streetscape.

The proposed fence is visually permeable. The development is not considered to impact on the streetscape or character of the locality. There are no access/ egress concerns. Overall, the fence is considered appropriate and therefore can be supported by Council.

CONCLUSION

The application is for additions and alterations comprising demolition of carport, and proposed construction of front fence, verandah, alfresco and rear garage at 51 (Lot 125) Fortescue Street, East Fremantle. The proposed application seeks minor Council discretion with regard to the front fence and proposed roof pitch. The proposed fence is considered to comply with the PC provisions of the RDG. The additions and alterations to the existing dwelling are considered to improve the dwelling and the overall character of the locality.

Therefore it is recommended the minor variations requested by the applicant can be supported by Council.

RECOMMENDATION

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

- (a) element 3.7.8 of the Residential Design Guidelines - Roof Pitch;
 - (b) variation to 3.7.11 Front Fence of the Residential Design Guidelines;
- for the additions and alterations comprising demolition carport, and proposed front fence, verandah, alfresco and rear garage at 51 (Lot 125) Fortescue Street, East Fremantle, in accordance with the plans date stamp received on 14 August 2013 subject to the following conditions:
1. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
 2. the existing crossover is not to be altered or amended without the prior approval from Council.
 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. All externally mounted air-conditioning plant, to comply with the Environmental (Noise) Regulations 1997, 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 a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 7. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 11. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

Cr Nardi – Cr Rico

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

- (a) element 3.7.8 of the Residential Design Guidelines - Roof Pitch;**
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 - 4. All externally mounted air-conditioning plant, to comply with the Environmental (Noise) Regulations 1997, 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 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.
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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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- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
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CARRIED 6:0

Note:

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

Cr Wilson made the following impartiality declaration in the matter of 37 Woodhouse Road: "As a consequence of the owner, Mr Mark Pastorino, being known to me as he is my dentist, 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 Nardi made the following impartiality declaration in the matter of 37 Woodhouse Road: "As a consequence of the owner, Mr Mark Pastorino, being known to me through our sons' association with water polo, 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".

T121.6 Woodhouse Road No. 37 (Lot 304)

Applicant: Giorgi Exclusive Homes

Owner: T Radich & M Pastorino

Application No. P93/13

By Andrew Malone, Senior Town Planner on 2 September 2013

PURPOSE OF THIS REPORT

This report considers the demolition of an existing dwelling and proposed development application for double storey dwelling at 37 (Lot 304) Woodhouse Road, East Fremantle. The proposed demolition and proposed new two storey dwelling is recommended for approval subject to conditions.

BACKGROUND

Description of Site

The subject site is:

- a 759m² 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 5 July 013.

Plans and further information date stamp received on 8 July 2013

Plans and further information date stamp received on 9 September 2013

Date Application Received

5 July 2013

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

Nil.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours and sign for a two week period between the 15 July 2013 and the 5 August 2013. At the close of advertising two (2)

submissions were received. The submissions, applicant's response and Planning Officer's comments are summarised in the below table and are attached to this report.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>Peter Paino 46 View Terrace</p> <p>We are advised that the existing GF level is at 39.88 and the proposed new GF level is at 40.543. We feel the new level should not be higher than the existing level.</p> <p>If the existing GF level is assumed to be the Natural Ground level and the roof height should be no higher than 8.1 metres above this level as required by Council, then this makes the maximum roof level as 47.98. The proposed new residence has a roof height of 48.463 which makes it 483mm above the permissible height.</p> <p>We feel the building should be lowered to comply with the permissible height requirements as the views from 36 View Terrace are impacted greatly by even small amounts over permissible levels.</p> <p>Further we contend that the existing building was built higher than approved by Council and the natural ground level now appears at a higher level. We request that Council does not approve any increase in building height above 47.98 and preferably lower.</p>	<p>The approved plans for the existing residence show a FFL of 12.93 when converted to AHD (see attached site plan). By adding the difference between the two datum points of 27.2m, will give you a AHD FFL of 40.13. Therefore the proposed FFL is only 413mm above (within the 500mm allowance).</p> <p>If measured from the same NGL of 40.16, then the wall height is 5.783m. Although this is 283mm above the allowance 5.6m there is no impact on the adjoining properties or amenities as the heights are consistent within the streetscape.</p> <p>As the block rises to the rear, we have raised the remainder of the house and garage by 4 courses to a level of 40.543 to suit these levels where the garage is. Based on these existing levels of 40.16 AHD and then a maximum roof height of 8.1m, then the overall height allowed by Council should be 48.26 AHD.</p> <p>The new proposed ridge height is lower than the existing ridge height that currently runs across the lot. Our proposed roof design has this position of ridge running front to back. This will further help reduce any impact on the adjoining properties.</p>	<p>The proposed height of the dwelling in relation to the Council's Residential Design Guidelines requirement will be addressed in detail in the Discussion section of this report. The proposed variations are considered under the Performance Criteria of the Guidelines.</p> <p>It is considered viewing vistas for adjoining properties will not be impacted by the proposed height variation of the Acceptable Development Provisions of the Residential Design Guidelines.</p> <p>The neighbour's contention that the existing building was built higher than approved by Council and the natural ground level now appears at a higher level has been investigated. The existing dwelling was constructed as per the previous planning approval. There appears to be no alterations to the natural ground level.</p>
<p>Ian Hart 40 View Terrace</p> <p>Views are an important part of the amenity of the area and for us as rear neighbours. In support of this statement refer Figure 1 attached. Unfortunately insufficient information has been provided in the drawings available for inspection to ascertain whether views would be affected.</p> <p>It is requested that in accordance with <3.7.17.4.1.1> of the East Fremantle Residential Design Guidelines 2013 that the applicant demonstrate the form, bulk and scale of the development is compatible with the existing and surrounding residences. It is considered that this could best be achieved by applicants providing</p>	<p>Submission as above.</p> <p>A feature survey plan has been provided.</p> <p>The applicant has provided a streetscape elevation.</p>	<p>Viewing vistas for adjoining properties will be maintained. The proposed dwelling is lower than the existing dwelling.</p> <p>The proposed height of the dwelling in relation to the Council's Residential Design Guidelines requirement will be addressed in detail in the Discussion section of this report. The proposed variations are considered under the Performance Criteria of the Guidelines.</p>

1 October 2013

MINUTES

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
1) the full feature survey, carried out by a license surveyor, of the existing property as part of the submission. 2) providing reduced level of the roof line of the existing property on the new development elevation drawings so as to provide a point of reference. 3) clearly indicating the level of the natural ground surface used as basis for siteworks. It is noted that the top of slab ground floor level RL is shown as 40.543 and 40.200 with external wall heights of 5.915m and 5.743.		

Town Planning Advisory Panel

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

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
Unremarkable design. Panel has no objection to the proposed dwelling.	No submission received.	The Panel's comments are acknowledged.

Site Inspection

By Senior Town Planner on 8 August 2013 and 30 August 2013.

STATUTORY ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	67%	A
Outdoor Living	30sqm	38sqm	A
Car Parking	2	2	A
Site Works	Less than 500mm	1.5mm	D
Overshadowing	25%	N/A	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

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

LPP Residential Design Guidelines Provision				Status
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
Visual Privacy				
Wall Orientation	Major Opening Type	Required Setback	Proposed Setback	Status
Front Elevation	Family	6.0	4.3	D
	Alfresco	7.5	3.5	D
Wall Height Requirement		Required	Proposed	Status
Building Height (wall) (Council Policy)		5.6m	5.783m	D
Building Height (ridge) (Council Policy)		8.1m	8.26m	D

DISCUSSION

Site Fill

The existing dwelling was approved with alteration to the natural ground levels. Alterations to the front of the property are proposed to establish a new access leg and entrance and also to provide uniformity over the front setback area. At the existing pedestrian entrance to the lot, it is required to fill approximately 1.5 metres to establish a finished ground level of AHD 40.20m. The proposed 1.5 metre fill does not adhere to 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.*

It is proposed to fill approximately 1.5 metres to the front of the lot. The proposed fill is considered to have no significant impact on the scale and bulk of the dwelling which, while constructed with an increased finished floor level (ffl) does have a lower roof height. All fill located within the dwelling will be determined by the overall building height. The applicant is seeking a minor discretion with regard to wall and ridge height, however this is considered acceptable in the overall context of the development and the streetscape. The height variation to the Acceptable Development Provisions of the RDG will be assessed later in this report.

It is considered the proposed dwelling and retained front garden is consistent with the immediate locality and shall not negatively impact on the streetscape character or amenity. The proposed pool/ front garden and alfresco area will improve the visual surveillance of the street and does not impact on the visual privacy of the adjoining lots.

The streetscape elevation is considered to have a consistent scale with the adjoining dwellings (two storeys) and has a ffl that is appropriate the gradient of the streetscape. The overall proposed fill will therefore retain the visual impression of the existing ground level of the site as seen from the street and from the adjoining property.

No alterations to the existing ground level are proposed to the rear of the lot.

The proposed development is considered to comply with the Design Principles of Element 5.3.7 Site Works and therefore 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 family room and alfresco are considered to overlook the adjoining property to the east and west. The areas overlooked are within the front setback of the adjoining properties. The proposed family room and alfresco are considered not to have an adverse impact on the amenity of the neighbours, including no direct overlooking of habitable areas. However, the proposed development does not comply with the 'Deemed to Comply' provisions of the R-Codes.

The 'Design Provisions' of 6.4.1 allows for:

1. *Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:*
 - *building layout, location;*
 - *design of major openings;*
 - *landscape screening of outdoor active habitable spaces; and/or*
 - *location of screening devices.*
2. *Maximum visual privacy to side and rear boundaries through measures such as:*
 - *offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
 - *building to the boundary where appropriate;*
 - *setting back the first floor from the side boundary;*
 - *providing higher or opaque and fixed windows; and/or*
 - *screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).*

The proposed family room and alfresco does overlook the side of the adjoining lot to the east and west, into the front setback areas, however this area is not currently considered as an active habitable space. It is not necessary to screen these areas. The proposed family room and alfresco openings are proposed to maximise views to the river. The neighbour's amenity is considered to be protected. There is no overlooking into habitable areas or into the rear of the adjoining lots. It is considered the proposed design complies with the Design Principles of Element 5.4.1 Visual privacy of the R-Codes.

The front setback area of the adjoining properties is clearly visible from the streetscape and therefore offers no privacy protection, therefore the proposed family room and alfresco overlooking is considered acceptable and can be supported.

Roof Form and Pitch

Acceptable Development Provisions states:

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

The Performance Criteria states:

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

The proposed roof pitch of the dwellings is 16°. The proposed 16° pitch requires a 12° variation to Council Policy. The variation in the overall roof pitch reduces the overall height of the dwelling to 8.26 metres, a height below the existing building height. The proposed overall reduction in height to the new ridge height is considered of greater importance to the streetscape and maintaining viewing vistas, than the overall pitch of the roof. The proposed roof pitch is considered to reduce any perceived bulk of the dwelling to adjoining neighbours and to the streetscape. Woodhouse Road is considered to comprise of many design types and roof forms. There is no traditional prevailing built form to the locality. The proposed roof form is considered to complement the traditional form of surrounding development in the immediate locality, and therefore complies with the Performance Criteria of the RDG.

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 is a two storeys dwelling on Woodhouse Road. The maximum height of the dwelling is 5.783 metres (0.183 metre variation) to the eaves and 8.26 metres (0.16 metre variation) to the ridge. The Acceptable Development Provisions state a wall should have a maximum height of 5.6 metres to eaves and 8.1 metres to the roof ridge. The wall/ roof 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.*

P2 *Form and bulk of new developments to be designed appropriately to the topography of the landscape.*

The streetscape perspective clearly illustrates the proposed dwelling is consistent with the prevailing built form, bulk and scale of the locality and of the traditional development in the area. The proposed development has been designed appropriately to the topography of the landscape. The built form in Woodhouse Road is predominantly two storey with fill in the front setback area and retaining walls to the front boundaries. The dwelling is considered to be appropriately setback from the front, side and rear boundaries, minimising the bulk, scale and impact of the dwelling to the streetscape and adjoining neighbours.

The dwelling is considered to not significantly impact on the adjoining neighbours views to the side or rear of the subject site. The proposed development complies with the ADP of Design for Climate requirements and with the Design Principles of the Privacy requirements of the R-Codes.

The proposed height of the dwelling is considered to be not excessive and does not impact on adjoining properties or on the streetscape. The proposed height of the wall and ridge is consistent with the streetscape and is considered to protect existing viewing vistas. It is considered the front outdoor space will improve the activity to the street and will add to the visual amenity of the area therefore it is considered the proposed dwelling can be supported by Council.

CONCLUSION

The density, scale and setback of adjoining properties are considered to guide the development of the street. It is considered acceptable and appropriate to develop a two storey dwelling, excavated into the lot for reduced visual impact to be developed on the lot. It is proposed to significantly maintain existing levels, thereby maintaining the amenity and views of adjoining neighbours. The proposed fill to the front of the lot are to provide a consistent front garden/ entertainment area. A condition has been included in the Officer's Recommendation to require any additional fence above the retaining wall to comply with Acceptable Development Provisions of Element 3.7.11 of the Town's Residential Design Guidelines.

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

RECOMMENDATION

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

- (a) variation to Element 5.3.7 Site Works of the Residential Design Codes and Element 3.7.4 of the Residential Design Guidelines Site Works;
- (b) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy;
- (c) element 3.7.8 of the Residential Design Guidelines: Roof pitch; and
- (d) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements; for demolition of existing two storey dwelling and construction of proposed two storey single dwelling at 37 (Lot 304) Woodhouse Road, East Fremantle, in accordance with the plans date stamp received on 26 August 2013 subject to the following conditions:
 1. Any proposed fencing on top of the retaining wall located to Woodhouse Road elevation to comply with the requirements of the Acceptable Development Provisions of Element 3.7.11 of the Town's Residential Design Guidelines.
 2. No front fence/ pool fencing is to be constructed without the prior approval of Council to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 3. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (i) below*)
 4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 5. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 6. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive

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

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) the patio may not be enclosed without the prior written consent of Council.*
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

Cr Rico – Cr Nardi

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

- (a) variation to Element 5.3.7 Site Works of the Residential Design Codes and Element 3.7.4 of the Residential Design Guidelines Site Works;**
- (b) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy;**
- (c) element 3.7.8 of the Residential Design Guidelines: Roof pitch; and**
- (d) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements;**

for demolition of existing two storey dwelling and construction of proposed two storey single dwelling at 37 (Lot 304) Woodhouse Road, East Fremantle, in accordance with the plans date stamp received on 26 August 2013 subject to the following conditions:

1. Any proposed fencing on top of the retaining wall located to Woodhouse Road elevation to comply with the requirements of the Acceptable Development Provisions of Element 3.7.11 of the Town's Residential Design Guidelines.
2. No front fence/ pool fencing is to be constructed without the prior approval of Council to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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.
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Footnote:

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

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- (c) *it is recommended that the applicant provides a Structural Engineer’s dilapidation report, at the applicant’s expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour’s side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council’s Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.*

CARRIED

Note:

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

T122. CONFIDENTIAL BUSINESS

Nil.

T123. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T124. CLOSURE OF MEETING

There being no further business the meeting closed at 9:59pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **1 October 2013**, Minute Book reference **T110. to T124.** were confirmed at the meeting of the Committee on*

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Presiding Member