



Council Meeting 11 December 2012

MINUTES



MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 11 DECEMBER 2012 COMMENCING AT 6.30PM.

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MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 11 DECEMBER 2012 COMMENCING AT 6.30PM.

313. DECLARATION OF OPENING OF MEETING

The Mayor (Presiding Member) declared the meeting open.

313.1 Present

Mayor A Ferris	Presiding Member
Cr C Collinson	
Cr B de Jong	
Cr R Lilleyman	
Cr S Martin	
Cr R Olson	
Cr D Nardi	
Cr A Wilson	
Mr S Wearne	Chief Executive Officer
Mr L Mainwaring	Executive Manager Finance & Administration
Mr J Douglas	Manager Planning Service (To 10.30pm)
Mr A Malone	Senior Town Planner (To 10.10pm)
Ms J May	Minute Secretary

314. 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.”

315. WELCOME TO GALLERY AND INTRODUCTION OF ELECTED MEMBERS AND STAFF

There were 17 members of the public in the gallery at the commencement of the meeting.

316. RECORD OF APPROVED LEAVE OF ABSENCE

Cr Rico.

317. RECORD OF APOLOGIES

Nil.

318. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

319. PUBLIC QUESTION TIME

Nil.

320. APPLICATIONS FOR LEAVE OF ABSENCE

320.1 Cr Lilleyman

Cr Lilleyman sought leave of absence for the Council Meetings on 19 February and 19 March 2013.

Cr Martin – Cr de Jong

That leave of absence be granted to Cr Lilleyman for the Council Meetings on 19 February and 19 March 2013.

CARRIED

320.2 Cr Collinson

Cr Collinson sought leave of absence for the Council Meeting on 19 February 2013.

Cr Martin – Cr de Jong
That leave of absence be granted to Cr Collinson for the Council Meeting on 19 February 2013. CARRIED

321. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

321.1 Council Meeting – 20 November 2012
Cr de Jong – Cr Collinson
That the Minutes of the Council Meeting held on 20 November 2012 be confirmed. CARRIED

322. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION

322.1 East Fremantle Festival

The Mayor advised that the East Fremantle Festival had been held on Sunday, 2 December 2013 and had incorporated an official opening of the newly redeveloped Glasson Park. The Festival had been an outstanding success with a crowd estimated at approximately 10,000.

322.2 Pioneers' Lunch

The Mayor advised that the annual Pioneers' Lunch had been held on Monday, 3 December 2012 at East Fremantle Yacht Club with all attendees enjoying a delicious lunch and entertainment.

322.3 Swan Yacht Club Lease

The Mayor advised that elected members and staff had been invited to a function at the Swan Yacht Club on Friday 7 December 2012 with respect to the finalisation of a lease between the Club and Council.

322.4 Exercise Equipment

The Mayor read an email from Sue Ashford, a regular user of Council's exercise equipment located along the foreshore, thanking Council for "these wonderful facilities whose popularity grows daily".

323. QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION BY COUNCIL MEMBERS

Nil.

324. MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN BY COUNCIL MEMBERS

Nil.

325. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

325.1 22 View Terrace (Lot 274)

Mr Craig McClure: On behalf of clients, seeking the withdrawal of the development proposal for 22 View Terrace, from this agenda to allow the owner, who is currently overseas, to arrange a site visit by elected members and to address Council.

Cr de Jong – Cr Lilleyman

That the correspondence from Mr McClure be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 333.3). CARRIED

325.2 T126.9 Reynolds Street No 7 (Lot 1)

Joe Algeri: Providing revised plans and copy of email exchange between himself and Kim Miller (representing adjoining owner Penny Johnson) in respect to Ms Johnson's objections to the proposed development.



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Cr de Jong – Cr Lilleyman

That the correspondence from Mr Joe Algeri be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 327.1). CARRIED

326. ORDER OF BUSINESS

Cr Nardi – Cr Lilleyman

That the order of business be changed to allow members of the gallery to address town planning applications. CARRIED

327. TOWN PLANNING & BUILDING COMMITTEE

Cr Martin made the following impartiality declaration in the matter of 7 Reynolds Street: "As a consequence of my friendship with the impacted neighbour at 17 Preston Point Road, 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".

- 327.1 T126.9 Reynolds Street No 7 (Lot 1)**
Applicant: Algeri Planning and Appeals
Owner: V Blagaich
Application No P143/12

The email and plans, referred from Correspondence (MB Ref 325.2) were tabled.

Mr Blagaich (owner) addressed the meeting in support of the revised proposal.

Penny Johnson & Kim Miller addressed the meeting thanking the owner for his efforts in amending the proposal to reduce the overlooking issue however advising that the bulk and scale of the proposal was still a major concern.

328. ADJOURNMENT

Cr Lilleyman – Cr Nardi

That the meeting be adjourned at 7.05pm to allow elected members to further discuss this matter. CARRIED

329. RESUMPTION

Cr Collinson – Cr Lilleyman

That the meeting be resumed at 7.35pm, with all those present prior to the adjournment, in attendance. CARRIED

330. TOWN PLANNING & BUILDING COMMITTEE

- 330.1 T126.9 Reynolds Street No 7 (Lot 1) (Continued)**
Applicant: Algeri Planning and Appeals
Owner: V Blagaich
Application No P143/12
 Cr de Jong – Cr Nardi

That Council approve the application for the construction of single dwelling at No. 7 (Lot 1) Reynolds Street, East Fremantle, as described on the plans date stamped received 11 December 2012, and exercise its discretion in granting approval for the following variations:

- (a) Overshadowing
- (b) Garage Width
- (c) Boundary Setback
- (d) Building on the Boundary
- (e) Visual Privacy
- (f) Height; and
- (g) Roof Pitch

subject to the following conditions:

1. Prior to the issue of a Building Licence the applicant is to provide engineering details to the satisfaction of Council's Building Surveyor and Works Supervisor for the work required to be undertaken in the reserve/verge on the east side of Reynolds Street to provide access to the proposed house.
2. Third floor pool to be suitably screened (as per the Residential Design Codes) from adjoining dwellings to prevent overlooking of 19 and 21 Preston Point Road, prior to occupancy of the dwelling, to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
3. Applicant to demonstrate prior to the issue of a Building Licence, that the planter boxes to first, second and third floors provide suitable screening (as per the Residential Design Codes) from adjoining dwellings to prevent direct overlooking of 17, 19, and 21 Preston Point Road, to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. The works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. The proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. 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.
7. 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.
8. prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (h) below)*
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. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
10. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
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 licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*



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

CARRIED

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

Crs Nardi, Martin, Lilleyman, Olson, de Jong and the Mayor voted in favour of the recommendation with Crs Wilson and Collinson having voted against the motion.

330.2

No. 2 (Lot 3 & 4) Riverside Road, East Fremantle**Applicant: B Williamson****Owner: E Errington****Application No. P161/12**

By Andrew Malone, Senior Planning Officer, on 29 November 2012

PURPOSE OF THIS REPORT

This report recommends the approval of a development application for a five-storey multiple dwelling (4 units) development at 2 (Lot 3 & 4) Riverside Road, East Fremantle, based on the applicant requesting the following variations:

- Building Size (Plot Ratio);
- Bicycle Parking;
- Site Works;
- Setback;
- Visual Privacy;
- Height; and
- Roof Pitch.

These will be discussed in more detail further in the report.

BACKGROUND**Description of Proposal**

The proposed development is a five-storey, four unit development, comprising of under-croft garage for twelve vehicles, and four 3 bedroom units.

Each of the four units have a standard design comprising of 3 bedrooms, ensuite, bathroom, pantry and open plan living, dining and kitchen. Each unit has north and south facing balconies/ courtyard.

A communal outdoor gazebo and swimming pool, with associated landscaping is located to the rear of the property, adjoining Canning Highway. There is dual pedestrian access to the proposed development via Riverside Road and Canning highway, while vehicular access/ egress is obtained via Riverside Road.

Description of Site

The subject sites (Lot 3 and 4) Riverside Road are:

- a combined 1140m² in two freehold blocks
- zoned Residential R20/40
- vacant

- located in the Plympton Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20/40 (TPS3)
Residential Design Codes (RDC)

Local Planning Policies (LPP)

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : New crossover proposed
Footpath : No impact
Streetscape : New five storey multiple dwelling

Documentation

Plans and relevant forms date stamp received on 16 October 2012.

11 submissions were received during public consultation. The application was also referred to the Department of Planning (DoP), Main Road WA (MRWA) and the Swan River Trust (SRT). Comments were received from both agencies.

Written submissions from applicant date stamped received on 23 November 2012.

Amended plans date stamp received on 30 November 2012.

Date Application Received

16 October 2012.

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

15 September 2009: Application for a four unit development lodged with the Town.

16 February 2010: Application refused by Council.

16 October 2012: New development application received by the Town for a four unit development.

CONSULTATION

Advertising

Referrals for the proposed development were sent to the Department of Planning (DoP) and the Swan River Trust (SRT) and to the Port of Fremantle Port Authority.

The DoP noted the following:

- *Lots 3 and 4 are not affected by the Other Regional Roads reservation for Canning Highway.*
- *Main Road plans do not show any changes to the Canning Highway reservation adjacent to Lots 3 and 4.*
- *The Department has no objection to the proposal on regional transport planning grounds.*

The SRT noted:

- *Trust Officers have assessed the application and you are advised that the Trust has no objections to the proposal, as described in the application and plans received by the Trust dated 30 October 2012, subject to the following conditions.*

The SRT conditions have been included in the officer's recommendation and are considered appropriate.

A response from the Fremantle Port Authority was not available at the time of writing, however it is proposed to apply a condition of any approval which would require development is accordance with the provisions of the LPP – Port Buffer Development Guidelines and any development requirements of the Port of Fremantle.

The application was advertised to surrounding neighbours for a two week period between the 22 October 2012 and 9 November 2012. At the close of advertising 10 submissions had been received and are attached to this report. The submissions are summarised in the following table alongside the applicant’s response and officer’s comment.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<ul style="list-style-type: none"> • J & D Mitchell, 6/1 Riverside Road. • M Chandler, 27/1 Riverside Road. • B Walton & D Westall, 26/1 Riverside Road. • S & S Hill, 6a Glyde Street. • J. W. Kirkness, on behalf of O & R McDermott, 20/1 Riverside Road. • P. N. Glass, 15/1 Riverside Road. • Secretary Council of Owners, Sunnys Riverside Apartments, 1 Riverside Road. • D Green, 21/1 Riverside Road. • S & K de Dan Miguel, 18/1 Riverside Road. • L Anderson, 19/1 Riverside Road. 	<ul style="list-style-type: none"> • R. M Davey & Associates Building Designers, on behalf of B Williamson and T McCourt. • Barry Williamson, Fremantle Furniture Factory, 36 gympie Way, Willetton. 	<ul style="list-style-type: none"> • Noted
<p>Concerns / Objections</p> <ul style="list-style-type: none"> • Front Setback • The front setback is too close to the street. • Not in harmony with street setback. • Is the proposed development consistent with Swan River Trust requirements for setback, building levels, drainage and flooding. 	<ul style="list-style-type: none"> • The individual nature of our submission is to have the building merge both in height and building alignment setback being careful not to impact on either side. • Our designer has been in ongoing consultation with Council at officer level in order to present an application cognisant of Town Planning Scheme requirements, sympathetic to streetscape and harmonious at abutting existing building improvements and characteristics. 	<ul style="list-style-type: none"> • Front setbacks are considered appropriate and can be supported. • The Swan River Trust has no objection to the proposed development. • Front setbacks will be further discussed in the Statutory Assessment section of this report.
<p>Design</p> <ul style="list-style-type: none"> • The design at the front reflects sharp and straight angles/ surfaces which we consider to be out of character to this part of the river, particularly the bend in the river • The proposed development is out of place with the heritage building adjoining the block. • The continuation of such combined scale and vertical height extending from the existing and substantial Sunnys development, suggests a development trend not in the 	<ul style="list-style-type: none"> • The challenge is to try to bridge the two in symphony yet not have a miniature cloning of a Sunnys facade on one hand or a faux design reflecting architectural essence of the heritage home on the other. • The lower cantilevered balconies create a sense of theatre/ drama linking west to east. • I would propose the first floor apartment be left as is. Simply we do not want to compromise the design. 	<ul style="list-style-type: none"> • The height and building alignment are considered appropriate for the streetscape considering the built form of the ‘Sunnys’ development and the setback to the heritage property. • The balcony to unit 1 and 2 are cantilevered, articulating the building horizontally and vertically. The balconies are considered to add to the front facade of the proposed development.

<p>interest of the precinct.</p> <ul style="list-style-type: none"> • Failure to integrate and harmonise with existing streetscape. • The proposed design of the Canning Highway boundary also appears out of keeping with the balance of the building. • The proposal creates a significant dominating effect on the immediate streetscape, broader vista and immediate neighbourhood. 		
<p>Visual Privacy</p> <ul style="list-style-type: none"> • Visual intrusion from the balconies (Units 1 & 2) into apartments and bathroom areas of those residents in the adjoining apartments in Sunnys Complex. • The pool area at Sunnys is frequently used by owners. It is an area for privacy and quiet. I do not want any invasion of my personal space when at the pool and in particular I do not want any intrusion from rear balconies. • Bathrooms of 4 adjoining properties at Sunnys will be overlooked. 	<ul style="list-style-type: none"> • 26 of the 30 Sunnys apartments overlook the pool area. Generally pool facilities in apartment complexes offer 'resort' style living that form part of its social character. 	<ul style="list-style-type: none"> • The visual privacy provisions are considered addressed and the proposed overlooking is considered appropriate and can be supported. • Visual privacy will be further discussed in the Statutory Assessment section of this report.
<p>Views</p> <ul style="list-style-type: none"> • If this development application is approved, we will lose out river view completely. 		<ul style="list-style-type: none"> • The proposed development does impact on views from Glyde Street and Canning Highway. It is considered any development on the subject site will remove the views to the Swan River from Glyde Street and Canning highway.
<p>Precedence</p> <ul style="list-style-type: none"> • We are most concerned that more multi-level buildings might be erected in this area. We feel it could open the door for others in the area to sell their properties only to be developed into similar multiple dwellings. 		<ul style="list-style-type: none"> • Each development application is assessed under the relevant State and Local Planning Legislation and is assessed on its own merits.
<p>Car Parking</p> <ul style="list-style-type: none"> • The proposed development will demand vehicle parking in excess of these regulations and the lack of parking will likely impact heavily utilised public parking available near the lot as there is no street parking at the lot. 	<ul style="list-style-type: none"> • The plans have been amended to increase the number of car parking spaces from 8 spaces to 12 spaces undercroft parking bays and 4 visitor car parking bays. 	<ul style="list-style-type: none"> • The car parking complies with the Acceptable Development Provisions of the RDC.
<p>Security</p> <ul style="list-style-type: none"> • The rear pergola addition in its current form creates a genuine security risk for both Number 1 and 2 Riverside Road. 		<ul style="list-style-type: none"> • Based on the proposed design of the development, it is considered the proposal complies with Crime Prevention Through Environmental Design Principles and the provisions of Clause 6.2.4 on the RDC – Surveillance of the Street.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting held on 13 November 2012. The Panel noted the following:

- Panel commends the application and its response to the constraints of the site.
- A landscape plan with species planting details is requested.

Site Inspection

29 November 2012

STATUTORY ASSESSMENT

The format of this report has been varied from the standard report to allow for individual assessments of each of the planning requirements. The proposal has been assessed against the provisions of TPS3, the RDC and the Town's LPP. 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
5.3.2 Highway frontage dual coding	A

Objectives of the Residential Zone

Clause 5.3.2 Highway frontage dual coding of TPS3 outlines the criteria for Council applying a higher density coding to properties adjoining a Highway. The subject site has dual frontage. The subject site adjoins Riverside Road to the north and Canning Highway to the south. The proposed dwelling is considered to be consistent with the criteria of the Highway frontage dual coding, which states:

5.3.2 Highway frontage dual coding: In the case of those sites with frontage on to Canning Highway and which are designated with a dual density coding, development above the lower density coding is subject to the following requirements:

- (a) Sole vehicular access to the site is to be via a street other than Canning Highway;*
- (b) Noise attenuation measures are to be included in all dwellings, which will in the opinion of the local government, reduce traffic noise to an acceptable level within all habitable rooms;*
- (c) Development is to be designed to face the frontage to Canning Highway, and any other street to which the site has frontage; and*
- (d) The heritage value of any place included on the heritage list under clause 7.1 of the Scheme, is to be maintained, to the satisfaction of the local government.*

- The proposed development has sole vehicular access/egress from Riverside Road.
- The proposed dwellings are setback approximately 18.5 metres from Canning Highway. The proposed development is located behind the communal outdoor living area. It is not considered noise will impact on the proposed development.
- The proposed development is designed to front Canning Highway and Riverside Road. The proposed development has pedestrian access from Canning Highway and Riverside Road through gatehouses, with sole vehicular access/ egress from Riverside Road. The dwellings each have balconies fronting Canning Highway and Riverside Road.
- The adjoining dwelling at 3 Riverside Road is an A category listing on the Town's Municipal Inventory. The proposed development has been designed to maximise views of 3 Riverside Road. The proposed development is not considered to significantly impact on the heritage value of the adjoining property to the east.



Residential Design Codes Assessment

Design Element	Required	Proposed	Status
7.1.1 Building size	0.6	0.65	D
7.1.5 Open Space	513m ² (45%)	788.6m ² (69%)	A
7.3.1 Outdoor Living	10m ²	62.4m ²	A
7.3.3 Car Parking	5 spaces & 1 visitor	12 spaces & 4 visitor	A
7.3.3 Bicycle Parking	2 spaces & 1 visitor	Nil	D
7.3.7 Site Works	Less than 500mm	1.6m	D
7.4.2 Overshadowing	35% of adjoining lot	Orientation north/ south	A
7.4.6 Drainage		To be conditioned	A

Building Size (Plot Ratio)

The proposed plot ratio of the development is 0.65. The required plot ratio under the Acceptable Development Provisions (**ADP**) of the RDC is 0.60.

The Performance Criteria (**PC**) provisions of the RDC require:

Development of the building is at a bulk and scale indicated in the local planning scheme and is consistent with the existing or future desired built form of the locality.

The proposed development has a similar scale and bulk as the adjoining 'Sunnys' development. The development has been designed with consideration of the streetscape and adjoining properties. The development complies with the ADP provision for open space. The built form and building bulk is not considered excessive therefore it is considered the proposed development can be supported.

Bicycle Parking

The proposed development does not provide any bicycle parking facilities for residents or visitors to the proposed development. Considering the location of the development and the cycle track located on Riverside Road, it is considered appropriate that sufficient bicycle parking should be provided.

A condition has been included in the officer's recommendation for the applicant to provide external bicycle parking for each of the four units and for visitors to the development.

Site Works

It is proposed to place up to 1.6 metre of fill on the lot to the rear of the property at a landscaped area fronting Canning Highway. The proposed development has been assessed as per the provisions of the PC of the RDC, which states:

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

Retaining walls designed or set back to minimise the impact on adjoining properties.

The proposed undercroft garage has been 'cut' into the Riverside Road elevation. The proposed development is consistent with 'Sunnys' and retains the visual impression of the natural level of the site. The proposed development is not seen to impact on the built form of the street or on the streetscape. The building presents as a three storey structure to Canning Highway. Fill is proposed to the communal/ landscaped area fronting Canning Highway. The pool and gazebo do not impact on the visual impression of Canning Highway.

The proposed site works are considered to be appropriate. The gradient of the land has been considered in the design of the development and retains the visual impression of the natural level of the site. It is considered the proposed site works should be can be supported by Council.

Setbacks

Setbacks: Multiple Dwelling							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (north)</i>							
<i>Basement/ Ground</i>	Garage	3.0m	19.2m	N	4.0m	7.3m	A
<i>First</i>	Balcony	3.75m	13.3m	Y	4.0m	6.0m	A
<i>Second</i>	Balcony	6.75m	13.3m	Y	4.0m	6.0m	A
<i>Third</i>	Balcony	9.75m	9.5m	Y	4.0m	6.8m	A
<i>Fourth</i>	Balcony/ Roof	15.75m	9.5m	Y	4.0m	6.8m	A
<i>Rear (south)</i>							
<i>First</i>	Unit 1	1.25m	7.5m	Y	1.5m	18.5m	A
<i>Second</i>	Unit 2	4.25m	12.0m	Y	1.5m	18.5m	A
<i>Third</i>	Unit 3	7.25m	12.0m	Y	1.5m	18.5m	A
<i>Fourth</i>	Unit 4	10.9m	12.0m	Y	1.5m	18.5m	A
<i>Side (east)</i>							
<i>Basement/ Ground</i>	Garage	2.1m	5.1m	N	1.0m	1.8m	A
<i>First</i>	Unit 1	5.0m	13.6m	Y	3.2m	4.6m	A
Second	Unit 2	8.0m	17.5m	Y	5.6m	4.6m	D
Third	Unit 3	11.0m	17.5m	Y	8.5m	4.6m	D
Fourth	Unit 4	14.5m	17.5m	Y	10.8m	4.6m	D

<i>Side (west)</i>							
<i>Basement/ Ground</i>	Garage	2.25m	10.6m	N	1.5m	2.5m	A
First	Unit 1	5.25m	14.9m	Y	3.6m	3.5m	D
Second	Unit 2	8.25m	10.7m	Y	4.5m	3.5m	D
Third	Unit 3	11.25m	10.7m	Y	7.0m	3.5m	D
Fourth	Unit 4	15.0m	10.7m	Y	9.0m	3.5m	D
Overall Wall		15.0m	22.8m	Y	11.0m	3.9m	D

Setbacks: Associated Buildings							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Rear (south)</i>							
Gatehouse	Gatehouse	2.9m	3.0m	N	1.5m	1.4m	D
<i>Gazebo</i>	<i>Gazebo</i>	2.75	4.0m	Y	1.5m	2.2m	A
Boundary wall	Boundary wall	2.0m	24.1m	N	1.5m	1.0m	D
Pergola	Pergola	2.65	10.5	N	1.5m	0.5m	D

The proposed development incorporates a number of variations to setback requirements to the side boundaries. The LPP 142 provides criteria by which to assess proposed variations to setback requirements. These are as summarised below.

(a) *Walls are not higher than 3m and up to 9m in length up to one side boundary;*

The proposed building, requires Council discretion with regard to the PC provisions of the LPP. The boundary walls are a maximum height of 15.0 metres with a maximum length of 17.5 metres. No portion of the development is being proposed on either the eastern or western boundaries. The requested setback variations are considered acceptable, when the proposed development is assessed as a whole, with the streetscape and the adjoining developments.

(b) Walls are behind the main dwelling;

There is a gatehouse fronting Riverside Road in front of the building line. The balconies to Unit 1 & 2 of the proposed development are also situated to the front of the building line. It is considered the gatehouse and balconies are minor projections and can be supported by Council. The proposed balconies comply with the ADP of the RDC for setback requirements.

(c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;

Complies.

(d) In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views;

Clear visual separation between 1, 2 and 3 Riverside Road is maintained. There is no significant impact on view or visual privacy (discussed later in the report). Objections have been raised from adjoining neighbours. The impact on views and visual privacy are considered minor variations and can be supported by Council. The proposed development is considered to address the adjoining 'Sunnys' building and heritage significance of 3 Riverside Road in a scale and bulk that is consistent with the streetscape and character of the existing development in the immediate locality.

(e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.

The western elevation of the proposed development adjoins a similar height building ('Sunnys'). The design of the proposed development has a similar and consistent built form as the 'Sunnys' development.

The front and eastern elevation of the proposed building has been designed to reduce any potential impact to the adjoining heritage property. The built form, proposed setbacks, balcony design and 'cutting' of the subject site, minimises impact to the streetscape and the character and amenity of the area.

Notwithstanding the above LPP requirements, it is further considered that the proposed building does not meet the ADP of element 7.1.4 Side and rear boundary setbacks and must therefore be assessed against the PC for this element with regard specifically to the following provisions:

- *Ensure adequate daylight, direct sun and ventilation for buildings and the open space associated with them;*
- *Moderate the visual impact of building bulk on a neighbouring property;*
- *Ensure access to daylight and direct sun for adjoining properties; and*
- *Assist with the protection of privacy between adjoining properties.*

The proposed development is considered to address the requirements of the PC as follows:

- The proposed development has access to daylight, direct sun and ventilation and complies with the ADP for open space associated with each dwelling.
- The scale and bulk of the property has been ameliorated through 'cutting' into the subject site. The side setbacks require Council discretion, however these are considered not to significantly impact on 'Sunnys' or the adjoining heritage property. The balcony design, articulation of the building and use of materials ameliorates the impacts of building bulk.
- The proposed development has a north/ south orientation and does not impact on the daylight or direct sun received by adjoining properties.

- The applicant is seeking Council discretion for a number of visual privacy requirements. These overlooking issues are considered acceptable, however will be discussed in greater detail in the next section of this report. The areas overlooked are to the 'Sunnys' development.

Visual Privacy

7.1.4 Visual Privacy				
Wall Orientation	Major Opening Type	Required Setback (m)	Proposed Setback (m)	Status
East	Balcony: Unit 1	4.5	2.9	D
East	Balcony: Unit 2	4.5	3.0	D
East	Balcony: Unit 3	6.0	2.5	D
East	Balcony: Unit 4	7.5	7.0	D

Notwithstanding the above, in all other respects the proposed development is considered to comply with the ADP of 7.4.1 Visual privacy of the RDC.

The ADP provisions for visual privacy require major openings which have their floor level more than 0.5 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its setback line, to comply with the following:

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

The proposed development does not comply with the ADP of the RDC.

The PC of 7.4.1 allows for:

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

The overlooking to the west is into 'Sunnys' development. Objections have been received by the owners/ occupiers of the 'Sunnys' development. These objections relate to overlooking of the outdoor balcony, bathroom and swimming pool, however the objections primarily relate to the balcony of unit 1 and 2 of the proposed development. It is noted there is overlooking from units 1-4 to the 'Sunnys' development. The adjoining residents have requested no permanent screening be used for the balcony projection at units 1 and 2, as this would create excessive bulk. It is noted that there is no overlooking of bathrooms into the 'Sunnys' development. It is further noted, direct overlooking can occur from the balcony spaces within the individual units of the 'Sunnys' development.

The balconies for the 4 units are currently screened, however there is a portion of each balcony not screened, therefore overlooks the neighbouring property. It is considered the screening for balconies 3 and 4 is appropriate, as it minimises direct overlooking of active habitable spaces and outdoor living areas of other dwellings. The balcony to unit 1 and 2 are larger and have a design feature that is set forward of the building. This feature allows for overlooking of the neighbours property, however it is noted that the majority of the balcony is screened. This architectural feature is considered to articulate the design of the building and minimise the bulk of the building.

Direct overlooking of 'Sunnys' active habitable spaces and outdoor living areas is minimised by building layout, and the overlooking is to an area that can be actively overlooked from the primary street and from other balconies within the 'Sunnys' development. The splayed balcony is considered a design feature. The active habitable areas within the balconies have been appropriately screened, therefore it is considered the proposed degree of visual privacy can be supported.

Local Planning Policies Assessment

Local Planning Policies:	Issues	
Policy 142	Height and setbacks	D
Roof	Roof pitch less than 28 degrees	D
Solar Access & Shade	Units have openings to north	A
Drainage	To be conditioned	A
Views	Height non-compliant but does not obscure views	A
Crossover	Condition	A
Trees	No verge tree removed	A

Height

Height:	Required	Proposed	Status	Discretion required
Wall South	5.6m	11.1m (max)	D	5.7m
Wall East	5.6m	13.9m (max)	D	8.3m
Wall West	5.6m	14.9m (max)	D	9.3m
Wall North	5.6m	14.9m (max)	D	9.3m
Roof South	8.1m	11.2m (max)	D	3.1m
Roof East	8.1m	12.3m (max)	D	4.2m
Roof West	8.1m	15.2m (max)	D	7.1m
Roof North	8.1m	15.2m (max)	D	7.1m

The proposed development exceeds the maximum height requirements outlined in the LPP 142, as noted above and the height requirements of the RDC.

The subject site is zoned R20/40, with the applicable density being R40. The residential density of the subject site is medium density. The proposed five storey building is not considered excessive in built form or height.

‘Sunnys’ apartment complex fronts East Street and Riverside Road and is visually prominent as viewed from Riverside Road. The proposed development is of a similar height, scale and built form as the ‘Sunnys’ development. The proposed development has been designed to minimise impacts to the adjoining heritage property, through increasing setbacks and articulating the building.

Notwithstanding the above, the proposed dwelling is required to address the PC of 7.1.2 of the RDC, in relation to protecting the amenities of adjoining properties being in particular:

- Adequate direct sun to buildings and outdoor living areas;
- Adequate daylight to major openings to habitable rooms; and
- Access to views of significance from public places;
- Buildings present a human scale for pedestrians;
- Building facades are designed to reduce the perception of height through design measures; and
- Podium style development is provided where appropriate.

The proposed development is considered to address the PC provisions as follows:

- The proposed development has north/ south orientations. The building is designed to front Canning Highway and Riverside Road with each unit having a northern aspect outdoor living. The adjoining properties amenity or outdoor living areas are not impacted.
- The proposed development provides sufficient daylight through major openings to habitable rooms.
- The proposed development does impact on views of significance from public places. Views of the river are available from Glyde Street and Canning Highway, however, the subject site is currently vacant. It is considered any development will remove the views to the Swan River from Glyde Street and Canning highway.

- The proposed building is of a similar height and scale as Sunnys apartment complex. While the adjoining building to the east is to a single scale, 5A Riverside Road is three storey and of a similar scale.
- The proposed building is articulated both vertically and horizontally. The proposed building is not considered excessive or imposing to the streetscape.

Crossover

Given the site encompasses 2 lots, the proposed 6.0 metre vehicles crossover is supported and is consistent with the Town's policy requirements of one 3.0 metre crossover per lot. The proposed 6.0 metre width is considered required to provide safe access and egress to the development.

Roof Pitch

The Local Planning Policy 066 provides that dominant roof elements are to have a minimum pitch of 28 degrees. The proposed roof form is considered contemporary and matches the built form of the 'Sunnys' development. The proposed development and roof form are distinct from the adjoining heritage property and is not considered to impact on the heritage property. Their form is simple and does not detract from the heritage status of the adjoining property.

The proposed roof form is considered a continuation of the 'Sunnys' development roof form, therefore it is considered the proposed additions and pitch of the roof are consistent with the existing streetscape can be supported.

CONCLUSION

The proposed development has been designed to a high standard, with consideration taken for the sensitivity of the area, the streetscape and the adjoining heritage dwelling.

The proposed development as assessed under the ADP and the PC provisions of the RDC and the provisions of the LPP are considered acceptable and appropriate for the area. The proposed development is recommended for approval subject to standard and appropriate conditions.

RECOMMENDATION

That Council approve the application for construction of a four storey, four unit, residential development as No. 2 (Lot 3 & 4) Riverside Road, East Fremantle, as described on the plans date stamped received 16 October 2012 and 30 November 2012, and exercise its discretion in granting approval for the following variations:

- (a) building Size (Plot ratio);
- (b) bicycle Parking;
- (c) site Works;
- (d) setback;
- (e) visual Privacy;
- (f) height; and
- (g) roof Pitch

subject to the following conditions:

1. Prior to the applicant submitting an application for a Building Licence to the Town, the applicant is to comply with the provisions of the Local Planning Policy Fremantle Port Buffer Development Guidelines.
2. Prior to the applicant submitting an application for a Building Licence to the Town, the applicant to comply with the provisions of any conditions or recommendations of the Fremantle Port Authority.
3. Prior to the applicant submitting an application for a Building Licence to the Town, Lots 3 and 4 are to be amalgamated into one lot.
4. Prior to occupancy of the dwellings, the applicant is to provide engineering details to the satisfaction of Chief Executive Officer in consultation with Council's Building Surveyor and Operations Manager for the work required to be undertaken in the reserve/verge on the east side of Reynolds Street to provide access to the proposed house.

5. Prior to occupation of the dwellings, the applicant to provide a secure external bicycle parking area with a minimum of four bicycle parking bays to be provided to the satisfaction of the Chief Executive Officer.
6. The boundary wall adjoining Canning Highway shall be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours.
7. The gatehouse adjoining Canning Highway and Riverside Road shall be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours.
8. The works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
9. The proposed works are not to be commenced until Council has received an application for a Building Licence and the Building Licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
10. 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.
11. 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.
12. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (h) below).
13. Any roof mounted or freestanding plant or equipment such as air conditioning units to be located and/or screened so as not to be visible from beyond the boundaries of the development site.
14. A Rubbish Collection Strategy / Management Plan shall be submitted to and approved by the Chief Executive Officer prior to the commencement of works. Any alterations to the approved plans required as a result of the strategy / plan shall be incorporated into the building licence plans. The approved strategy / plan shall be implemented to the satisfaction of the Chief Executive Officer.
15. A detailed landscaping plan to be submitted and approved by the Chief Executive Officer prior to the commencement of site works. The plan to include location, species and planting details, having regard to water-wise garden practices.
16. All rubbish to be located and/or screened so as not to be visible from beyond the boundaries of the development site.
17. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
18. Maximum width of the crossover not to exceed 6.0 metres.
19. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
20. The applicant shall notify the General Manager, Swan River Trust, in writing not less than seven (7) days prior to the commencement of works.
21. No dewatering shall occur prior to approval by the Swan River Trust of a site Dewatering Management Plan.
22. No fill, building material, rubbish or any other deleterious matter shall be placed in the Trust Development Control Area or allowed to enter the river as a result of the development.
23. The development shall be connected to the reticulated sewerage system prior to occupation.

24. Stormwater drainage shall be contained on site, or connected to the local government stormwater drainage system, to the satisfaction of the Town of East Fremantle on advice from the Swan River Trust.
25. 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 licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) with regard to construction of the crossover the applicant/buildier is to contact Council's Works Supervisor.*
- (f) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*
- (i) The applicant is advised that the selected building materials and colour scheme for the development should be of a low reflective standard, and harmonise with the river environment.*
- (j) The applicant is advised that the Trust recommends planting of locally native species to reduce water and fertiliser requirements.*
- (k) The applicant is advised that the proposal has the potential to be affected by sea level rise. It is recommended applicants understand the implications of potential sea level rise on their site. The onus rests with the applicant to undertake a risk assessment and exercise their judgement in determining the level of risk they are prepared to accept. The Trust's Climate Change Risk Assessment Project (2010) models impact of potential sea levels rise in the Swan and Canning Rivers, and sets out a methodology to assess the vulnerability of foreshore areas. Additional information is available on the website at http://www.swanrivertrust.wa.gov.au/science/climate/content/climate_change_risk_assessments.aspx. While mapping information is available from the Trust, it is also recommended applicants undertake their own research and obtain appropriate independent professional advice relevant to the particular circumstances.*

Mr John Kirkness (representing owners of Unit 20/1 Riverside Road) addressed the meeting advising that his clients were generally not opposed to the overall development however strongly objected to the forward set triangulated balcony elements on the first and second levels due to privacy concerns.

Mr Steve de San Miguel (owner of Unit 18/1 Riverside Road), Ms Robyn McDermott (owner of Unit 20/1 Riverside Road), Ms Leonie Anderson (owner of Unit 19/1 Riverside Road), Gillian Nelson (owner of Unit 19/1 Riverside Road) addressed the meeting

strongly objecting to the forward set triangulated balcony elements of the proposal due to privacy concerns.

Mr Dave Green (Owner of Unit 21/1 Riverside Road) addressed the meeting advising there had been no attempt by the applicants to consult with the owners of the Sunnys Apartments and objecting to the limited time for affected neighbours to assess the officer's report which appeared to contain significant aspects which required clarification.

Ms Sheena Hill (owner of 6A Glyde Street) addressed the meeting advising that the proposal would completely obliterate the view that she and her husband enjoyed from the balcony of their home which they used every day of the year and believed the approval of this development would set a precedent for further development of this size along Riverside Road. She had believed that the former residence at 2 Riverside Road was heritage listed and therefore further development of the lot would be restricted.

Mr Bob Davy (designer) and Mr Todd McCourt and Mr Barry Williamson (owners) addressed the meeting in support of the proposal.

Mr Davy answered various questions raised by elected members in relation to the balconies in question.

331. ADJOURNMENT

Cr de Jong – Cr Nardi

That the meeting be adjourned at 9.15pm to allow elected members to further discuss this application. CARRIED

332. RESUMPTION

Cr Lilleyman – Cr de Jong

That the meeting be resumed at 9.30pm with all those present prior to the adjournment, in attendance. CARRIED

333. TOWN PLANNING & BUILDING (CONTINUED)

333.1 *No. 2 (Lot 3 & 4) Riverside Road, East Fremantle (Continued)*

Applicant: B Williamson

Owner: E Errington

Application No. P161/12

Mr Kirkness and Mr Williamson further briefly addressed the meeting.

Cr de Jong – Cr Martin

That the application be deferred pending:

1. A site visit of the affected neighbours at 5.00pm prior to a Special Council Meeting on Monday, 17 December 2012 at 6.30pm.
2. The submission of amended plans that incorporate design/structural elements which deny direct line of sight from a vertical height of 1.75m above the floor level from the western side of the balconies on the ground and first floor levels. CARRIED

333.2 *T128.1 Glyde Street No. 39 (Lot 139) (Page 61)*

Applicant: Dale Alcock Home Improvements

Owner: G Cole

Application No. P165/12

Cr de Jong – Cr Nardi

That Council in granting approval for the development application for additions and alterations to an existing dwelling at 39 (Lot 139) Glyde Street, East Fremantle in accordance with the plans date stamped received on 18 October 2012 exercises its discretion in granting approval for the following variations:

- (a) setback to northern boundary
- (b) overlooking of adjoining southern carpark

(c) roof pitch

subject to the following appropriate 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 unless there is a valid building licence and the building licence 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 licence 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 licence.
5. The existing crossover is to be retained and maintained to the satisfaction of Council's Works Supervisor.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. 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 (g) below)*
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 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 licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air-Conditioner Noise”.* CARRIED

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

Crs Nardi, Lilleyman, Olson, de Jong and the Mayor voted in favour of the recommendation with Crs Martin, Collinson and Wilson having voted against the motion.

333.3 View Terrace No.22 (Lot 274)

Applicant: A Butcher

Owner: L Giuliani

Application No. P107/12

The email from Mr McClure, referred from Correspondence (MB Ref 325.1) was considered.

Cr Wilson – Cr de Jong

That the development application for 22 View Terrace be withdrawn from tonight's agenda, as per the request of the applicant. CARRIED

Mayor Ferris declared a proximity interest in the item relating to 72,74,76,78 & 80 Duke Street and left the meeting at 10.04pm

In the absence of the Mayor, the Deputy Mayor, Cr Wilson, assumed the Chair.

333.4 No. 72, 74, 76, 78, 80 (Lots 499, 498, 497, 496, 495) Duke Street, East Fremantle

Applicants: R Oxenburgh, G Stevens & M Armstrong

Owners: R Oxenburgh, G Steven, R Travis, D Murdoch & M Armstrong

Application No: P174/12, P179/12, PP187/12

By Andrew Malone, Senior Planning Officer, on 5 December 2012

PURPOSE OF THIS REPORT

This report recommends the approval of a development application for a 3.3 metre high boundary acoustic wall at 72, 74, 76, 78, 80 (Lots 499, 498, 497, 496, 495) Duke Street, East Fremantle involving Council discretion with regard to boundary setbacks.

BACKGROUND

Description of Proposal

The proposed boundary acoustic wall is to the rear of 72, 74, 76, 78, 80 (Lots 499, 498, 497, 496, 495) Duke Street and adjoining Stirling Highway. The wall is approximately 61 metres in length and has a maximum height of 3.3 metres.

Description of Site

The subject sites are:

- 72, 74, 76, 78, 80 (Lots 499, 498, 497, 496, 495) Duke Street
- Each lot is 508m². Combined area 2540m².
- Zoned Residential R20.
- Improved with a dwelling on each of the subject lots.
- Located in the Plympton Precinct.

Statutory Considerations

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

Residential Design Codes (RDC)

Local Planning Policies

Local Planning Policy: Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : New boundary wall to Stirling Highway

Documentation

Plans and relevant forms date stamp received on 8 November 2012.
Plans and relevant forms date stamp received on 20 November 2012.
Plans and relevant forms date stamp received on 3 December 2012.
MRWA submission date stamped received on 3 December 2012.

Date Application Received

8 November 2012.

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

The subject lots do have previous development applications considered by Council, however these are not considered relevant to the subject applications.

The CEO has previously taken up the issue of a Main Roads constructed acoustic wall along Stirling Highway in East Fremantle, on several occasions, however to no avail. Recently however the CEO received advice that the matter was under consideration with a decision expected around May 2014, although even if it was decided to build such a wall, to be subject to funding.

CONSULTATION

Advertising

Referrals for the proposed development were sent to the MRWA. MRWA has no objection to the proposed wall, subject to the following condition:

- *The wall and footings shall not encroach onto the Stirling Highway road Reserve.*

The MRWA condition has been included in the Officer's Recommendation and is considered appropriate.

The application was advertised to surrounding neighbours for a two week period between the 19 November 2012 and 3 December 2012. At the close of advertising no submissions had been received.

The application was not referred to the Town Planning Advisory Panel. It is considered the boundary wall is not a significant structure and will not impact on a streetscape, character of the area or on adjoining neighbours.

Site Inspection

6 December 2012

STATUTORY ASSESSMENT

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



11 December 2012

MINUTES

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

ASSESSMENT

The following table clarifies the proposal's performance in respect to the RDC and RDG.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	N/A	N/A	A				
Site Works	Less than 500mm	Less than 500mm	A				
Local Planning Policies:	Issues						
Residential Guidelines							
Roof	N/A		A				
Solar Access & Shade	N/A		A				
Views	N/A						
Verge Trees	N/A		A				
Other:	Issues		Status				
Overshadowing	N/A		A				
Privacy/Overlooking	N/A		A				
Height:	Required	Proposed	Status				
Wall (concealed roof)	5.6	3.3	A				
Roof Pitch	N/A	N/A	A				
Roof type	N/A						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
East (Rear)	Stirling Highway	3.3	61	N/A	1.5	Nil	D

The proposed acoustic boundary wall adjoins Stirling Highway road reserve. There is an approximate 2.9 metre gradient down from the proposed boundary wall to Stirling Highway. There is approximately 15 metres separating the proposed boundary wall and the Stirling Highway road reserve. The reserve is heavily vegetated, thereby screening the boundary wall from view from the Highway.

The subject sites have dual frontages, to Duke Street and Stirling Highway. As such the proposed fence is a fence on a secondary street. The Town's Fencing Policy is not considered to be applicable in the assessment of this wall, as the wall does not directly address the street. The Stirling Highway road reserve is approximately 15 metres in depth and is heavily vegetated, therefore the proposed wall does not implicitly address Stirling Highway. The wall is a rear fence, on a heavily trafficked highway. The wall will not significantly impact on the streetscape or character of the area.

Notwithstanding the RDG and the front fence requirements, it is further considered that the proposed building does not comply with the Acceptable Development Provisions (ADP) of 6.3.1 Building setback from the boundary of the RDC, therefore the proposed development has been assessed as per the requirements of the Performance Criteria (PC) with regard specifically to the following provisions:

- Provide adequate direct sun and ventilation to the building;
- ensure adequate direct sun and ventilation being available to adjoining properties;
- provide adequate direct sun to the building and appurtenant open spaces;

- *assist with protection of access to direct sun for adjoining properties;*
- *assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *assist in protecting privacy between adjoining properties.*

The proposed development is considered to address the requirements of the PC of the RDC. The boundary wall is minor in nature. Adjoining property owners are not impacted. The proposed wall does not impact on direct sun, ventilation, building bulk or privacy of the subject lots or adjoining properties.

The proposed boundary wall will improve the residential amenity of the subject lots. The wall will assist in ameliorating the impacts of noise from Stirling Highway.

CONCLUSION

The proposal is for a 3.3 metre rear boundary wall which will be unseen from Duke Street and will be screened from view from Stirling Highway by vegetation. The wall will not detract from the existing dwellings or the character of the area. The side boundary setback variation will have no material impact upon the neighbours or on Stirling Highway. Accordingly it is recommended for approval.

RECOMMENDATION

That Council approve the development application for a 3.3 metre high boundary acoustic wall at 72, 74, 76, 78, 80 (Lots 499, 498, 497, 496, 495) Duke Street, East Fremantle in accordance with the plans date stamped received on 8 November 2012, 20 November 2012 and 3 December 2012 by exercising discretion in respect to the following:

- variation to the Residential Design Codes to allow a zero setback to the eastern side boundary (Stirling Highway). Required setback is 1.5 metres.

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 unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. The boundary wall and footings shall be constructed wholly within Lots 499, 498, 497, 496, 495 and not encroach onto the Stirling Highway road Reserve.
4. The boundary wall shall be finished or rendered to a high standard to the Stirling Highway facade, to the satisfaction of the Chief Executive Officer.
5. The boundary wall shall be kept clean and free of graffiti and vandalism at all times and any such vandalism to be remedied within 24 hours.
6. With regard to the plans submitted with respect to the building licence 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 licence.
8. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



11 December 2012

MINUTES

Cr Olson – Cr de Jong

That Council approve the development application for a 3.3 metre high boundary acoustic wall at 72, 74, 76, 78, 80 (Lots 499, 498, 497, 496, 495) Duke Street, East Fremantle in accordance with the plans date stamped received on 8 November 2012, 20 November 2012 and 3 December 2012 by exercising discretion in respect to the following:

- variation to the Residential Design Codes to allow a zero setback to the eastern side boundary (Stirling Highway). Required setback is 1.5 metres.

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 unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. The boundary wall and footings shall be constructed wholly within Lots 499, 498, 497, 496, 495 and not encroach onto the Stirling Highway road Reserve.
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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.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

CARRIED

The Mayor returned to the meeting at 10.10pm and resumed the Chair. It was noted he neither spoke nor voted on the previous item.

The Senior Planner left the meeting at 10.10pm.

333.5

Royal George Hotel Update

By Jamie Douglas, Manager Planning Services on 5 December 2012

PURPOSE OF THIS REPORT

The purpose of this report is to provide elected members with an update on the National Trust's endeavours to conserve and redevelop the Royal George Hotel.

DISCUSSION

It is apparent from recent enquires made of staff of the National Trust that the Trust has not pro-actively pursued options for conservation and redevelopment of the building since Council's approval of a redevelopment proposal on 1 February 2011.

Unfortunately, the Trust's preferred developers declined to proceed with the development approval. The Trust has not actively sought alternate developer interest in this approved development concept. The only action undertaken by the National Trust that the author is aware of, is to receive an approach from Architect Clinton Matthews for a conceptual proposal which differed substantially from the approved development application.

Elected members may recall that on 4 September 2012 the Chief Executive Officer and Manager Planning Services met with Mr Matthews to discuss options for facilitating his proposal to establish his professional offices and other uses including the proposed Council funded community space in the basement. Subsequent to this meeting and at the request of Mr Matthews, the CEO wrote to Mr T Perrigo, Chief Executive Officer of the National Trust on 21 September 2012. The purpose of this letter was to advise of the discussions with Mr Matthews and indicate that Council officers 'in-principle support' for the progression of the initial concept to a staged development application.

Neither Mr Perrigo nor Mr Matthews subsequently advised the CEO of the outcomes of their discussions or any progress towards the conservation of the building. Accordingly the CEO recently contacted Mr Matthews, who advised that he was still involved in discussions with the Trust however wasn't in a position to say much more than that. In addition, the author has made more recent informal enquiries of relevant National Trust staff and confirmed that the Trust was still in discussion with Mr Matthews and 'expects a proposal from him before Christmas'. Further advice was that the Trust was also in discussion with various other parties should Mr Matthews proposal not proceed. The staff member concluded: "Please be assured the Royal George is most definitely on our radar and has not been forgotten".

No other information is known at this time.

RECOMMENDATION

That the report be received.

Cr Martin – Cr Wilson

That:

1. **the report be received**
2. **the Mayor write to the State Government and electoral candidates regarding this building.** CARRIED

333.6

Delegation to Chief Executive Officer

By Jamie Douglas, Manager Planning Services on 6 December 2012

INTRODUCTION

As elected members will be aware, there are no meetings scheduled for the Town Planning & Building Committee nor Council during January 2013 with the next meetings scheduled for 5 and 19 February 2013 respectively. Currently, there are six planning applications that could otherwise be determined in January (this does not include deferred applications where we are awaiting additional information etc). Accordingly, elected members may wish to consider either:

- *Providing delegation to the Chief Executive Officer to determine planning applications that may otherwise have been determined by the Town Planning & Building Committee and/or Council; or*
- *Scheduling meetings in January.*

DISCUSSION

Delegation to the Chief Executive Officer to determine planning applications currently considered by both the Town Planning & Building Committee and Council, particularly where there is no adverse comment received from either members of the Town Planning Advisory Panel nor adjoining landowners, would be appropriate in order to avoid a backlog of applications that may be lodged during this period and to also avoid a 'Deemed Refusal' under Clause 10.9 of TPS3 given that the closing date for the December 12 round of meetings was 23 October.

Whilst the Town Planning Advisory Panel will meet on 12 December they are not scheduled to meet again until 11 February although Panel members have been advised that should any application received following their December meeting require comment, this will be sought via email.

The Chief Executive Officer has advised that should such delegation be agreed to, he is unlikely to exercise the delegation with respect to granting approval, where substantial concerns have been raised by adjoining landowners.

RECOMMENDATION

That for the period 12 December 2012 to 18 February 2013 Council delegates to the Chief Executive Officer, under Clause 11.3 of the Town Planning Scheme No 3, the power to determine planning applications in accordance with the terms of delegation currently attributable to a 5 member majority of the Town Planning & Building Committee.

Absolute Majority Resolution Required

Cr de Jong – Cr Olson

That this matter be held over to the Special Council Meeting to be held on Monday, 17 December 2012 to allow clarification of the delegation process. CARRIED

333.7

George Street Access & Parking Management Plan

The following memo previously circulated to elected members was considered:

In response to comments received following their presentation of the draft Plan to the November meeting of the Town Planning & Building Committee, the consultants GHD, are making a number of changes to the report and are further testing the practicality of their proposals. As part of this process the consultants will shortly be surveying local residents to gauge their support for a residents' parking scheme.

A copy of the draft survey form is attached for information. I have required some changes in respect to the period and method for responses which are listed below;

- *Date for the return of the questionnaire to be extended to 9 January 2013,*
- *Replies to be emailed, faxed or posted direct to GHD*
- *A drop box to be located at a local business should residents wish to respond with a hard copy instead of Council offices.*

ATTACHMENT

This additional round of consultation is considered to be necessary given the relatively poor response to the initial survey and will provide valuable feedback on community support for the proposed parking scheme. The survey form will be delivered to each residence in the study area.

Cr Martin drew attention to the information previously provided by the CEO in relation to resident parking permits and requested this information be contained in the survey documentation.

The Manager Planning Services advised that the consultants GHD had been provided with additional information regarding the scheme and this would be incorporated in the survey leaflet.

The Manager Planning Services left the meeting at 10.30pm.



11 December 2012

MINUTES

334. FINANCE**334.1 Audit Committee Meeting – 6 December 2012**

Cr Olson – Cr de Jong

That the Minutes of the Audit Committee Meeting held on 6 December 2012 be received. CARRIED

(i) A18.1 Financial Management Review Report 2011-2012

Cr Olson – Cr Lilleyman

That Council:

1. receive the Financial Management Review Report 2011-2012
2. implement actions to the recommendations as provided in the report. CARRIED

(ii) A18.2 Annual Financial Report 2011-2012

Cr Olson – Cr de Jong

That Council:

1. receives the CEO's Report relating to the 2011-2012 annual financial audit.
2. receives the annual financial report and management report dated 31 October 2012.
3. accepts the annual financial report.
4. allocates \$130,199 of the net operating surplus to the following for the purposes of:

\$44,000	E11673 Glasson Park Project
\$ 6,000	E11259 Raceway Park BBQ
\$65,000	E11246 East Fremantle Oval Master Plan
\$15,199	carried forward as an operating surplus

CARRIED
ABSOLUTE MAJORITY

334.2 Accounts for Payment – October/November 2012

By Les Mainwaring, Executive Manager Finance & Administration on 4 December 2012

PURPOSE

To endorse the list of payments for the period 1 October to 31 October and 1 November to 30 November 2012.

BACKGROUND

It is a requirement of the Financial Management Regulations that the monthly Accounts for Payment are endorsed by the Council. The Lists of Accounts are attached.

ATTACHMENT

REPORT**Comments/Discussion**

The List of Accounts for the periods beginning 1 October and ending 31 October 2012 and 1 November and ending 30 November 2012 require endorsement by the Council.

RECOMMENDATION TO COUNCIL

That the Lists of Accounts for the period beginning 1 October and ending 31 October and 1 November and ending 30 November 2012 be received, as per the following tables:

<i>October 2012</i>		
Voucher Nos	Account	Amount
4437 – 4451	Municipal (Cheques)	\$19,371.07
EFT 16347 – EFT 16446	Electronic Transfer Funds	\$670,924.26
Payroll	Electronic Transfer Funds	\$230,077.86
	Municipal Total Payments	\$920,373.19



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November 2012		
Voucher Nos	Account	Amount
4452 – 4475	Municipal (Cheques)	\$24,012.02
EFT 16447 – EFT 16620	Electronic Transfer Funds	\$1,140,808.64
Payroll	Electronic Transfer Funds	\$177,475.36
	Municipal Total Payments	\$1,342,296.02

Cr Martin queried EFT16478 in relation to street tree costs in Fletcher Street.

Cr Wilson queried EFT16380 in relation to the artificial cricket wicket works at Henry Jeffery Oval.

The CEO undertook to provide clarification in relation to the street tree costs and agreed to request the Operations Manager to prepare a report in relation to costs associated with the artificial cricket wicket at Henry Jeffery Oval.

Cr Martin – Cr Olson

That the Lists of Accounts for the period beginning 1 October and ending 31 October and 1 November and ending 30 November 2012 be received. CARRIED

334.3

Monthly Financial Activity Statement for Periods Ending 31 October and 30 November 2012

By Les Mainwaring Executive Manager Finance & Administration on 07 December 2012

PURPOSE

To provide financial information to Elected Members. This statement compares actual performance against budget estimates, and summarises operating and capital results in accordance with statutory requirements.

BACKGROUND

This report comprises the financial results from the two monthly periods of October and November with commentary focussing on the position as at 30 November 2012.

The monthly Financial Activity Statement for the period ending 30 November 2012 is appended and includes the following:

- Financial Activity Statement
- Notes to the Financial Activity Statement including schedules of investments, rating information and debts written off.
- Capital expenditure Report

ATTACHMENT

The attached Financial Activity Statements are prepared in accordance with the amended Local Government (Financial Management) Regulations 1996; with additional material to provide Council with easy to understand financial information on Council activities undertaken during the financial year.

REPORT

Introduction/Comments

The following is a summary of information on the attached financial reports:

Revised Budget Forecast

The draft budget forecast for the 30 June 2013 is a \$60,520 surplus.

There have been no revisions to the budget forecast during the period ending November 2012.

Operating YTD Actuals

Operating Revenue 91%; is \$695,000 less than the YTD budget. (Unfavourable)

Operating Expenditure 87%; is \$427,000 less than the YTD budget. (Favourable)

After non-cash adjustments, the total operating cash forecast is \$204,000 less than the YTD budget (Unfavourable).

The main reason for the significant unfavourable variance in Operating revenue is the timing of capital grant revenue items that will not be claimed until completion of the associated projects, which includes the final \$412,500 grant for the Leeuwin Launching Ramp project, \$120,000 for the Plympton Parking project and \$92,000 for the Preston Point Road roundabout. Interest on investments is \$94,000 unfavourable because of the timing of investments maturing in December and January.

Favourable variances for Operating Expenditure are generally related to timing variances of accounts to be paid or project progression.

All capital activities have been set forward in the budget so that they can be easily monitored in terms of progress; hence revenues aligned with capital projects have also been set forward which will present timing differences until projects are completed.

Other details can be found in the attached notes to the financial activity statement.

Capital Programs YTD Progress Summaries after 25% of the year has elapsed

Land & Buildings 6% expended

Infrastructure Assets 50% expended

Plant & Equipment 12% expended

Furniture & Equipment 0% expended

Capital expenditure is \$3,168,000 less than the YTD budget (Favourable) which represents the balance of capital programs to be completed. The report provides details on individual capital works in progress as at 30 November 2012.

Statutory Requirements

Local Government Act 1995 (As amended)

Local Government (Financial Management) Regulations 1996 (As amended)

Relevant Council Policies

Significant accounting policies are adopted by Council on a periodic basis. These policies are used in the preparation of the statutory reports submitted to Council.

Strategic Plan Implications

Nil

Financial/Resource/Budget Implications

The October and November 2012 Financial Activity Statement shows variances in income and expenditure when compared with year to date budget estimates.

Conclusion

The attached Financial Activity Statement for the period 1 July 2012 to 30 November 2012 is presented to the Council for information.

RECOMMENDATION

That the Financial Activity Statements for the periods ending 31 October 2012 and 30 November 2012 be received.

Cr Olson – Cr de Jong

That the Financial Activity Statements for the periods ending 31 October 2012 and 30 November 2012 be received. CARRIED

335. REPORTS OF ELECTED MEMBERS

Nil.

336. REPORTS OF CHIEF EXECUTIVE OFFICER**336.1 *Renewal of CEO's Contract of Employment***

By Stuart Wearne, Chief Executive Officer, on 7 December 2012

By virtue of the fact this report relates to the CEO's contract of employment, the author declares a financial interest in the matter, pursuant to Clause 5.70 of the Local Government Act.

PURPOSE

The purpose of this report is to serve initiate discussions with regard to renewing the CEO's Contract of Employment following the expiry of the term of the CEO's existing contract.

REPORT

The CEO's existing Contract of Employment expires on 11 January 2014.

Clause 5.39(4) of the Local Government Act stipulates that a CEO's contract "is to be renewable" and Clause 5 of the CEO's contract contains the relevant provisions for effecting this.

Clause 5 of the contract reads:

5. Further Contracts

There is no compulsion on either the Council or the CEO to agree to an extension of the Term, or a new Contract. However either the Council or the CEO shall initiate discussions not later than 12 months prior to the expiry of the Term for the parties to enter into a new Contract for a further term with the intent of the Council making a decision to finalise those discussions not later than 9 months prior to the expiry of the term of this Contract. In the event that the Council and the CEO agree to an extension of the Term, this Contract shall continue to apply unless varied in writing by the parties. In the event that the Council and the CEO agree to a new Contract, a new Contract will be executed."

Pursuant to the CEO liaison role prescribed to the Mayor under clause 2.8(1)(f) of the Local Government Act, whilst a letter from the CEO to the Mayor, or vice versa, delivered prior to 11 January 2013, would have been sufficient to satisfy the "initiate discussions not later than 12 months prior to the expiry of the Term" provision, the CEO has elected to report to full Council on the issue, hence this report. In short, this report is simply intended to fulfil the "initiate discussions" requirement as set out in the abovementioned Clause 5. The issue requires no discussion, effectively it is advice to Council to be received. Following this report, the CEO intends a further report to the Special Council Meeting which Council has already decided will be held in February 2013 to deal with the CEO's Performance Appraisal.

RECOMMENDATION

That:

1. the report be endorsed and deemed to constitute the initiation of discussions, pursuant to Clause 5 of the CEO's Contract of Employment.
2. the CEO report further on this issue to a Special Council meeting to be held on Wednesday, 13 February 2013.
3. the report to include information on the process for contract negotiation and the option of using a facilitator to assist elected members in this process.
4. the CEO report for the Special Council meeting against the Performance Criteria in the contract be provided to elected members by 31 January 2013.

The Mayor advised that following discussions with the CEO, and with the concurrence of the CEO, a slightly amended recommendation had been tabled for elected member consideration and this was reflected in the above report.

Cr Martin stated that the process undertaken last year in relation to the CEO's Performance Appraisal and again proposed for the next review, was not done properly.

The Mayor stated he disagreed.

Cr Martin reiterated her claim and the Mayor again disagreed.

Cr Wilson stated that she welcomed the 2 week period for consideration of the CEO's report, given elected members had received the CEO's Performance Appraisal on the night of the meeting in May 2011 and had had to read through the document as they conducted the Appraisal.

Cr Martin stated agreement with Cr Wilson.

The Mayor stated that no elected member had objected to the process used for the CEO's 2011 Performance Appraisal at that time or since, until now, and queried what elected members were seeking, given they would have the self assessment two weeks prior to the meeting.

Cr Collinson advised that the WALGA CEO Performance Appraisal training he had attended had devoted a considerable time to the interview process that should take place with the CEO and the framing up of the relevant questions.

The CEO advised that the report at issue regarding his contract renewal had no relevance to the issues regarding the Performance Appraisal process being raised by elected members and further noted none of these issues were raised when the report on his planned Performance Appraisal was considered at the last Council Meeting.

The CEO further advised he was very concerned at Cr Wilson's claims regarding when the last performance appraisal was provided to elected members and stated he would follow up on this matter and report back to Council.

Mayor Ferris – Cr Olson

That:

1. **the report be endorsed and deemed to constitute the initiation of discussions, pursuant to Clause 5 of the CEO's Contract of Employment.**
2. **the CEO report further on this issue to a Special Council meeting to be held on Wednesday, 13 February 2013.**
3. **the report to include information on the process for contract negotiation and the option of using a facilitator to assist elected members in this process.**
4. **the CEO report for the Special Council meeting against the Performance Criteria in the contract be provided to elected members by 31 January 2013.**

CARRIED

336.2 Annual Report 201011 – Annual Electors’ Meeting

By Stuart Wearne, Chief Executive Officer, on 27 November 2012

Under s5.54 of the Local Government Act, the annual report for a financial year is to be accepted by the local government no later than 31 December after that financial year.

ATTACHED SEPARATELY

The Electors’ Meeting must be held no more than 56 days after Council accepts the annual report for the previous financial year. It is proposed that this meeting be held on Monday, 4 February 2013.

RECOMMENDATION

That Council:

1. accept the 2011/2012 Annual Report
2. hold the Annual Electors’ Meeting on Monday, 4 February 2013 at 6.30pm.

Absolute Majority Resolution Required

The CEO advised that elected members had been provided this evening with a copy of his annual report which had not been circulated with the agenda containing the remainder of the document. He, along with the Mayor and Cr Rico, had detected some typographical errors in the document which had been amended and elected members would receive a final copy prior to the Electors’ Meeting.

Cr Collinson – Cr de Jong

That Council:

1. **accept the 2011/2012 Annual Report**
2. **hold the Annual Electors’ Meeting on Monday, 4 February 2013 at 6.30pm.**

CARRIED
ABSOLUTE MAJORITY

336.3 Local Government Reform – WALGA

The CEO circulated a copy of correspondence from WALGA seeking feedback from local governments to enable the preparation of a submission in respect to the Metropolitan Local Government Review Panel’s Final Report. To this end a ‘Submission Structure and Indicative Response for Consultation’ had been prepared for completion.

The CEO offered the following four options to progress this matter:

Option 1

Council declines to provide a response.

Option 2

The CEO circulates the document to elected members and provides a response, on behalf of Council, by 23 January, taking into consideration any comments received from elected members.

Option 3

The CEO is delegated the authority to provide a response on behalf of Council, which reflects any previously indicated views of Council.

Option 4

A Special Meeting of Council is called, prior to 23 January 2013, to consider the document and determine a response.

Following discussion, elected members agreed to adopt option 2 and to provide feedback to the CEO by Friday, 11 January 2013.

336.4 Ian Maitland

The CEO advised that Ian Maitland, who is currently engaged in the restoration and conservation of the Town Hall and Old Police Station, had recently been awarded the

John Monash Medal for 2012. This medal was Engineers Australia's highest honour to an individual who has made an outstanding contribution to the cause of engineering heritage.

At the CEO's suggestion, elected members agreed that a letter of congratulations be forwarded to Mr Maitland.

336.5 Newsletter

The CEO tabled a draft copy of the Council newsletter which was planned to be finalised and distributed to all residents shortly

337. CONFIDENTIAL BUSINESS

338. NOTICES OF MOTION BY ELECTED MEMBERS FOR CONSIDERATION AT THE FOLLOWING MEETING

Nil.

339. MOTIONS WITHOUT NOTICE OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil.

340. CLOSURE OF MEETING

There being no further business, the meeting closed at 11.35pm.

I hereby certify that the Minutes of the meeting of the Council of the Town of East Fremantle, held on 11 December 2012, Minute Book reference 313. to 340. were confirmed at the meeting of the Council on

.....

Presiding Member