

16 October 2007

MINUTES

**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS,
ON TUESDAY, 16 OCTOBER 2007 COMMENCING AT 6.38PM.**

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**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS,
ON TUESDAY, 16 OCTOBER 2007 COMMENCING AT 6. 38PM.**

300. DECLARATION OF OPENING OF MEETING

The Mayor (Presiding Member) declared the meeting open.

300.1

Present

Mayor J O'Neill	Presiding Member
Cr S Dobro	
Cr J Harrington	(From 6.39pm)
Cr D Martin	
Cr M Rico	
Cr A Wilson	
Mr S Wearne	Chief Executive Officer
Mr J Roberts	Executive Manager Finance & Administration
Mr C Warrener	Acting Town Planner (To 8.30pm)
Ms J May	Minute Secretary

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

The Mayor welcomed 15 members of the public in the gallery and introduced Council members and staff.

Cr Harrington entered the meeting at 6.39pm.

302. RECORD OF APPROVED LEAVE OF ABSENCE

Nil.

303. RECORD OF APOLOGIES

An apology was submitted on behalf of Cr Ferris who was at a SMRC conference in the eastern states and for Cr Olson who had a work commitment.

304. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

305. PUBLIC QUESTION TIME

Nil.

306. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

307. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

307.1 Council Meeting – 18 September 2007

Cr Martin – Cr Harrington

That the Minutes of the Council Meeting held on 18 September 2007 be confirmed.

CARRIED

308. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION

308.1 Mayor O'Neill

"This is my last meeting as Mayor and I would like to say how proud I was to be the Mayor of the Town of East Fremantle. It really is a great place to live with its heritage, river foreshore and community feel.

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I do not intend to revisit the past apart from it was a privilege to serve the people of East Fremantle and to be part of a harmonious Council, a point I need to stress.

I would take this opportunity to try to wish Councillors and staff the best for the future and acknowledge their support in the past.

In looking to the future of a small local government, it is essential there be positive working relationships between councillors, councillors and staff and the Mayor and Chief Executive Officer. Without that we lose the responsibility we have to the people we serve.

The Town of East Fremantle will only survive if it can be responsive to community needs and desires, caring and helpful, proactive and conciliatory. If we lose that we lose the support of our community and the only people manning the barricades against amalgamation if/when it arises will be those at the front of this chamber. It won't be stopped by Councillors taking around petitions, it will be stopped because the East Fremantle people see the Council (staff and councillors) as being truly representative of their desires, concerns and needs.

I attended functions at the East Fremantle Lawn Tennis Club and the East Fremantle Bowling Club last Saturday and Sunday and I urge all elected members to get out into the community, talk to the people and get feedback. It is important that people can put a face to a name."

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

Nil.

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

310.1 Mayor O'Neill – Hamilton Street Kerbing
Mayor O'Neill – Cr Harrington

Council request from the Chief Executive Officer a brief report regarding kerbing in Hamilton Street that was part of the Hamilton Street footpath upgrade. CARRIED

311. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

311.1 T103.8 Preston Point Road No 162 – Dolphin Design

A Marshall: Submitting information from his architect, Gary Hardman, regarding the proposed upper lift well.

Cr Dobro – Cr Martin

That the letter from Arthur Marshall be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 313.4).

CARRIED

311.2 T103.5 Petra Street No 27B (Lot 9) - Nash & Gersinich

Nash & Gersinich: Submitting revised drawings indicating an increased carport front set back of 6m and the resulting reduced space behind, originally noted as a garage, now becoming a store.

Cr Dobro – Cr Martin

That the correspondence from Nash & Gersinich Architects be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 313.2).

CARRIED

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- 311.3 T103.7 Habgood Street No 10 (Lot 5014)**
Brooking Design: Providing further information regarding roof reflectivity given comments raised at last week's Town Planning & Building Committee (Private Domain) meeting.

Cr Dobro – Cr Martin

That the letter from Brooking Design be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 313.3).

CARRIED

312. ORDER OF BUSINESS

Cr Dobro – Cr Martin

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

CARRIED

313. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN)

313.1 T103.3 Swan Yacht Club (Reserve 27376)

Mr Telfer (Rear Commodore) advised the meeting that he supported the Committee's recommendation.

Cr Martin – Cr Rico

The adoption of the Committee's recommendation which is as follows:

That Council advise the Swan River Trust that it supports the application by the Swan Yacht Club date stamp received on 3 September 2007 to dredge the river bed subject to the following conditions:

- 1. Compliance with the Dredging Environmental Management Plan July 2007, prepared by 360 environmental management consultants.**
- 2. All vehicle movements associated with the removal of spoil from the site are to be confined to Preston Point Road as the main means of access; access to Riverside Road west of the site for these vehicles is not permitted.**

CARRIED

313.2 T103.5 Petra Street No 27B (Lot 9)

The letter from Nash & Ghersinich, referred from Correspondence (MB Ref 311.2) was tabled.

The following additional information was provided by the Town Planner:

At its meeting on 9 October 2007 the Town Planning & Building Committee recommended:

"Cr Martin – Cr Harrington

That Council exercise its discretion in granting approval for a variation to the height of a boundary wall along the south side boundary pursuant to Local Planning Policy 142 from 3m to 3.5m for the construction of a 2-storey house at No. 27B (Lot 9) Petra Street, East Fremantle with a single garage, ground floor living, dining, kitchen, family, bedroom 3, laundry & bathroom, and swimming pool, and upper floor bedrooms 1 & 2, en-suite & study in accordance with the plans date stamp received on 24 August 2007 subject to the following conditions:"

The officer's recommendation stated:

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

- (a) variation to the east side boundary setback pursuant to Local Planning Policy 142 for a double carport from 7.5m to 4.5m;*
- (b) variation to the height of a boundary wall along the south side boundary pursuant to Local Planning Policy 142 from 3m to 3.5m;*

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for the construction of a 2-storey house at No. 27B (Lot 9) Petra Street, East Fremantle with a single garage, ground floor living, dining, kitchen, family, bedroom 3, laundry & bathroom, and swimming pool, and upper floor bedrooms 1 & 2, en-suite & study in accordance with the plans date stamp received on 24 August 2007 subject to the following conditions:"

The Committee were of the view that the carport should be set back further than proposed, so variation (a) was removed from the recommendation.

The applicant has now submitted amended plans for the carport to be at a 6m setback in line with the prevailing building setback along Petra Street, and the garage has been removed.

The following revised recommendation is submitted for Council consideration:

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

- (a) variation to the east side (front) boundary setback pursuant to Residential Design Codes and Local Planning Policy 142 for a double carport from 7.5m to 6m;*
- (b) variation to the height of a boundary wall along the south side boundary pursuant to Local Planning Policy 142 from 3m to 3.5m;*

for the construction of a 2-storey house at No. 27B (Lot 9) Petra Street, East Fremantle with a storeroom, ground floor living, dining, kitchen, family, bedroom 3, laundry & bathroom, and swimming pool, and upper floor bedrooms 1 & 2, en-suite & study in accordance with the plans date stamp received on 12 October 2007 subject to the following conditions:"

Ms Williams (owner) advised the meeting that she supported the Town Planner's recommendation.

Cr Harrington – Cr Martin

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

- (a) variation to the east side (front) boundary setback pursuant to Residential Design Codes and Local Planning Policy 142 for a double carport from 7.5m to 6m;**
- (b) variation to the height of a boundary wall along the south side boundary pursuant to Local Planning Policy 142 from 3m to 3.5m;**

for the construction of a 2-storey house at No. 27B (Lot 9) Petra Street, East Fremantle with a storeroom, ground floor living, dining, kitchen, family, bedroom 3, laundry & bathroom, and swimming pool, and upper floor bedrooms 1 & 2, en-suite & study in accordance with the plans date stamp received on 12 October 2007 subject to the following conditions

- 1. 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.**
- 2. 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.**
- 3. 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.**
- 4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**

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5. 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.
6. 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.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. 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.
9. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building 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 owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *this is not to be construed as a precedent as it is the particular circumstances of this location that have informed Council's decision in this instance.*CARRIED

313.3

T103.7 Habgood Street No 10 (Lot 5014)

The letter from Brooking Design, referred from Correspondence (MB Ref 311.3) was tabled.

Mr Brooking (applicant) addressed the meeting in relation to roof reflectivity.

Cr Harrington – Cr Wilson

The adoption of the Committee's recommendation which is as follows:

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

- (a) variation to the northeast side cone of vision setback for a deck pursuant to the Residential Design Codes from 7.5m to 5.8m;

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- (b) variation to the northwest side cone of vision setback for a balcony pursuant to the Residential Design Codes from 7.5m to 4m;
- (c) variation to the southeast side cone of vision setback for an upper floor alfresco area pursuant to the Residential Design Codes from 7.5m to 5.6m;
- for renovations including additions to the 2-level house at No. 10 (Lot 5014) Habgood Street, East Fremantle comprising replacement of the current roof with a custom orb curved roof structure to accommodate in the new roof space an upper level balcony, alfresco area, kitchen, dining & living area, master bedroom and ensuite, and outdoor areas comprising an elevated rear deck and swimming pool in accordance with the plans date stamp received on 28 August 2007 subject to the following conditions:
1. 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.
 2. 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.
 3. the proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

313.4 T103.8 Preston Point Road No 162 (Lot 4)

The letter from Mr Marshall, referred from Correspondence (MB Ref 311.1) was tabled.

The Town Planner provided the following additional information:

At its meeting on 9 October 2007 the Town Planning & Building Committee recommended:

"Cr Martin – Cr Harrington

That this matter be deferred to the October meeting of Council to allow the applicant the opportunity to submit more detailed information on the wall height relaxation for the upper floor lift well of Unit (1) and the impact this would have for other viewing corridors in the vicinity.

CARRIED"

The owner has submitted a letter containing comments from his architect in response to the Committee's recommendation.

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The Town Planner has re-inspected the property viewed from behind along Philip Street and Gordon Street, and is of the opinion that view corridors are unaffected because the lift well is within the profile of the proposed roof line.

Mr Marshall addressed the meeting in relation to the lift well. Following a question from an elected member regarding the environmental effectiveness of the proposed roof colours, Mr Marshall advised that he very much wished to have a light blue roof colour on the home that he and his wife would occupy however was happy to change the colour of the roof of the other residence to a colour nominated by Council.

The Town Planner advised that "torres blue" as proposed by Mr Marshall for his own residence was an approved colour under Council's Roofing Policy.

Cr Harrington – Cr Rico

The adoption of the Committee's recommendation which is as follows:

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

Unit 1

- (a) variation to wall height pursuant to Local Planning Policy 142 from 5.6m to 6.7m for an upper floor balcony on the north side;
- (b) variation to wall height pursuant to Local Planning Policy 142 from 5.6m to 6.5m for an upper floor bedroom on the west side;
- (c) variation to wall height pursuant to Local Planning Policy 142 from 5.6m to 6.6m for the upper floor balcony on the east side;
- (d) variation to wall height pursuant to Local Planning Policy 142 from 6.5m to 7.4m for an upper floor lift well on the south side;

Unit 2

- (a) variation to the west side (front) setback for a garage, porch, bedroom 3, and upper floor bedroom 1 pursuant to the Residential Design Codes from 6m to 5.3m, 4.2m, 4.69m, 5.3m, and 4.69m respectively;
- (b) variation to the north side boundary setback pursuant to the Residential Design Codes from 2.8m to 2.4m for an upper floor kitchen/dining room and balcony;
- (c) variation to the south side setback pursuant to the Residential Design Codes from 1.1m to 1m for upper floor bedroom 1 and en-suite;
- (d) variation to wall height on the east side pursuant to Local Planning Policy 142 from 5.6m to 6m for an upper floor kitchen and balcony;

for the construction of a 3-level house and a 2-level house at the southeast corner of Preston Point Road and Gordon Street (Lot 4) in accordance with the plans date stamp received on 14 September 2007 subject to the following conditions:

1. 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.
2. 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.
3. the proposed dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. 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.

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6. 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.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. 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.
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 owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossovers the applicant/builder is to contact Council's Works Supervisor.*
- (g) *it is recommended that the boundary fence between 162 and 164A Preston Point Road be of masonry construction up to 2m high by agreement between the respective property owners*

CARRIED ON THE CASTING VOTE OF THE PRESIDING MEMBER

313.5

T104.5 Sewell Street No 38 (Lot 531)

Mr Beattie (owner) advised the meeting that he had concerns regarding the proposed condition requiring him to reinstate the verandah to this building, given the safety and financial implications.

Mayor O'Neill – Cr Martin

That Council exercise its discretion in granting approval for a variation to the parking shortfall pursuant to Town Planning Scheme No 3 from 9 on site spaces to 3 for the construction of single storey additions to the property at No. 38 (Lot 531) Sewell Street, East Fremantle comprising 2 shops (one an extension to an existing corner shop), and a renovated weatherboard and iron cottage for residential use in accordance with the plans date stamp received on 28 August 2007 subject to the following conditions:

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1. in lieu of the shortfall for 3 on-site car parking spaces the applicant is to pay the cost of purchase and installation of 3 stainless steel "U-rail" bicycle parking racks in front of, and near the premises;
2. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. 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.
4. the proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. 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.
7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
8. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
9. 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.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *the applicant be requested to revisit the issue of the reinstatement of the original verandah on the corner facing intersection, in 12-18 months.*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (d) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (e) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

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- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.* CARRIED

Cr Wilson made the following impartiality declaration in the matter of 67 Petra Street: "As a consequence of my son attending school with the applicant's son, 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.

313.6 T105.1 Petra Street No 67 (Lot 365)

Mr Pirozzi (designer) advised the meeting that his clients were prepared to reduce the double garage to a single garage to increase the open space component to 52%.

Elected members expressed concern that they were not able to view drawings which illustrated the revised single garage front elevation.

Mayor O'Neill – Cr Rico

That the matter be held over and the applicant be requested to submit revised drawings indicating increased open space of 52% for consideration at the Council Meeting on 6 November 2007. CARRIED

313.7 T105.2 Gill Street No 22 (Lot 301)

Mr Grierson addressed the meeting in support of his proposal advising that he was prepared to modify the garage door to reduce its impact to the street.

Mayor O'Neill

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

- (a) *variation to the west side (front) boundary setback for an office and a double garage pursuant to the Residential Design Codes from 7.5m to 6m and 6.36m respectively;*
 - (b) *variation to the east side (rear) boundary setback for bedroom 3 pursuant to the Residential Design Codes from 6m to 4.05m;*
 - (c) *variation to the north side boundary setback for a porch pursuant to the Residential Design Codes from 1.5m to 1.3;*
 - (d) *variation to the provision of open space pursuant to the Residential Design Codes from 55% to 49.8%;*
 - (e) *variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25°;*
- for the construction of a single storey house at No. 22 (Lot 301) Gill Street, East Fremantle comprising 3 bedrooms, 2 bathrooms, laundry, double garage, office, porch, foyer, living and meals area in accordance with the plans date stamp received on 28 August 2007 subject to the following conditions:*
1. *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.*
 2. *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.*
 3. *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.*
 4. *all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.*
 5. *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.*

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6. 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.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. 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.
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 owner.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.
- (g) in regard to retaining works along the south side boundary next to 20 Gill Street the builder is to ensure that all works are undertaken to maintain the right of support to the adjoining p property.

LAPSED FOR WANT OF A SECONDER

Cr Martin – Cr Wilson

The adoption of the Committee's recommendation which is as follows:

That the application for a single storey residence on Lot 301 (No. 22) Gill Street be deferred to allow the applicant the opportunity to submit revised plans showing compliance with the open space requirement of 55% pursuant to the Residential Design Codes and to address the following issues raised by the Town Planning Advisory Panel:

- appearance of overbearing garage door
- not much amenity to the street concerning front entrance
- little interaction with the street.

CARRIED

313.8 Town Planning & Building (Private Domain) Committee – 9 October 2007 - Adoption Cr Martin – Cr Rico

That the recommendations contained in the Minutes of the Town Planning & Building (Private Domain) Committee meeting held on 9 October 2007 be adopted except for the recommendations pertaining to the following, which will be considered separately or have already been dealt with

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T103.3	MB Ref 313.1	Swan Yacht Club (Reserve 27376)
T103.4	MB Ref 313.9	Hubble Street No 44 (Lot 3)
T103.5	MB Ref 313.2	Petra Street No 27B (Lot 9)
T103.7	MB Ref 313.3	Habgood Street No 10 (Lot 5014)
T103.8	MB Ref 313.4	Preston Point Road No 162 (Lot 4)
T104.5	MB Ref 313.5	Sewell Street No 38 (Lot 531)
T105.1	MB Ref 313.6	Petra Street No 67 (Lot 365)
T105.2	MB Ref 313.7	Gill Street No 22 (Lot 301)

CARRIED

313.9 T103.4 Hubble Street No 44 (Lot 3)

Cr Martin – Cr Rico

That Council exercise its discretion in granting approval for a change of use of the premises at No. 44 Hubble Street (cnr George Street) from “Buddhist Centre and residential” to “Shop for the purposes of retailing swimwear and gym wear, and residential” in accordance with the application date stamp received on 6 September 2007 subject to the following conditions:

1. in lieu of the shortfall for 3 car parking spaces the applicant is to pay the cost of purchase and installation of 3 stainless steel “U-rail” bicycle parking racks in front of the premises;
2. hours of operation are limited to:
 - Monday to Friday - 9:00am to 5:00pm
 - Saturday - 9:00am to 1:00pm
3. the proposed shop and residence are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

Footnote:

The following is not a condition but a note of advice to the applicant/owner:

This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.

CARRIED

The Town Planner left the meeting at 8.30pm.

Mayor O'Neill declared an interest in the following item as the matter may involve costs to himself and the meeting at 8.31pm.

In the absence of the Mayor, the Deputy Mayor (Cr Dobro) assumed the Chair.

313.10 Review of Council Policy 139 on Non-Approved Buildings

By Paul Busby, Principal Building Surveyor, on 11 October 2007

PURPOSE

The primary purpose of this report is to recommend to Council amendments to Policy 139 and in association with this purpose for Council to consider updated forms and documents to be applied to the Policy in the event of the Town becoming aware of unauthorised building work.

PREFACE

The purpose of this policy is to provide a mechanism for the Town to confirm that it will not instigate legal action against builders or owners in the event of:

- construction of a structure without a required building licence, or
- deviation from a building licence

when the Town is not aggrieved by the continued existence of the structure.

The underlying intent is to:

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- i) create a means for property owners of resolving the grievance caused to the Town when there is a structure on their land for which no required building licence has been issued.
- ii) ensure that such structures that have been constructed or altered without a building licence comply with the Building Code of Australia.
- iii) ensure that proper construction documentation is held by the Town for buildings that have been constructed or altered without a building licence.
- iv) revise fee arrangements to better reflect actual costs involved.
- v) discourage construction or alteration of structures without an appropriate licence.

BACKGROUND

Description of Proposal

Council's existing policy (attached) has been reviewed and is considered in need of updating (note reference to TPS No 2 for example).

ATTACHMENT

Under s374 of the Local Government (Miscellaneous Provisions) Act 1960 a building licence is required by any person prior to constructing or altering a structure. It is an offence against the Act to construct without a licence and the resultant building work is illegal. The term "building" is not a defined term in the Act and a building remains illegal even in the event of a change of ownership. The Act does not provide for the issue of a building licence retrospectively. s401 of the Act provides the Town with a resolution mechanism in the event that the Town is aggrieved when a structure has been constructed without a licence or when there has been a deviation from a licence. A s401 Notice requires the removal of the offending structure regardless of whether or not the current owner caused the illegal building work to occur.

The mechanism is that a s401 Notice is issued by the Town requiring the removal or alteration of the structure and then the Town supports an appeal to the Minister against that Notice. Upholding of the appeal by the Minister effectively legalises the offending structure. The Town receives no fees for this time consuming work and has no means to cause for the lodgement of design documentation of the work in place. There is no penalty or cost to the appellant under the s401 Notice system even for the value of the licence fees that would have been payable if legislation was followed.

The Department of Housing and Works has advised of its strong objection to the use of the s401 Notice as a means of resolving the legalising of structure when the Town is not aggrieved by the existence of the structure other than because it was built without approval. It is not the intention of that section of the Act. Having said this, the Department acknowledges that the wording of the legislation that has left local governments with little choice other than to take the course of action outlined above. After years of foreshadowing such legislation, provisions which will allow a local government to issue a "Building Approval Certificate" to the owner to approve unauthorised building works, via amendments to the Local Government (Miscellaneous Provisions) Act 1960, is due to come into force on 1 January 2008. When passed this legislation will result in further changes to the policy. Meanwhile, as an interim measure, this proposed policy 139 changes the focus to confirming that the Town will not be taking action in the future in relation to the building without approval.

The policy and administrative documentation has been developed in accordance with legal advice.

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

Adoption of the original policy 139 on 20 April 2004

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REPORT**Introduction**

The policy is intended to apply to any construction that would require approval by the Town under the Local Government (Miscellaneous Provisions) Act 1960. This includes the main elements of the policy as follows:

1) Certificate of Acknowledgement

In the event that a structure has been erected without the required approval under s374 of the Local Government (Miscellaneous Provisions) Act 1960 the Town may issue a Certificate of Acknowledgement of Existing Structures. The certificate has the purpose of confirming that the Town will not take action under the s401 of the Act to have the structure removed only for the reason of it's having been constructed without a valid building licence. Until the issue of a Certificate the Town retains the right to take action under s401 of the Act against construction work performed without a valid licence.

In other words, where Council has no objection to the structure remaining, subject to:

- satisfactory certification
- alterations being carried out where required
- payment of required fees etc.

a retrospective approval may be issued.

It is important to note however, that even in the event of a retrospective approval being issued, owners or builders who carry out unauthorised building work may still be prosecuted under the Act and/or the Builders' Registration Board under the Builders Registration Act 1939. It should be noted however that the offences for these breaches continue to apply only to the person who commits the offence ie the builder or original owner who commences unauthorised building work or who allows an unauthorised building to be occupied, not a person who may subsequently become the owner.

2) Limitation

A Certificate of Acknowledgement of Existing Structures will only be issued upon receipt of satisfactory design documentation as is required for a building licence application for new works and only when the existing structure complies with Council's Town Planning Scheme, Residential Design Codes, Building Regulations 1989, the Building Code of Australia and any other relevant legislation.

3) Fees

A fee will be charged for the service in accordance with the schedule of fees and charges in the annual budget. This is to be set in line with the proposed Building Regulations Amendments as referred to above which set the licence fee for unauthorised applications at 3 times the building licence fee, which means for small works the minimum fee should be set at \$300.00.

4) Relevant Documentation

- Application form Acknowledgement of Existing Structures
- Certificate - Acknowledgement of Existing Structures
- Processing Check sheet - Acknowledgement of Existing Structures
- Pro forma letter - Acknowledgement of Existing Structures

ATTACHMENTS**CONCLUSION**

The Acknowledgement of Existing Structures Policy will give a means to property owners of resolving a grievance by the Town when there is a structure constructed in the district for which no building licence has been issued. The current method of resolution is by issue of a Notice under s401 of the Local Government (Miscellaneous Provisions) Act

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1960 which results in no fees and generally no documentation for the Town, little discouragement to offenders, and potential hardship to any future owners who "inherit" the problem through purchase of the property. The update procedure will require a level of documentation to be submitted equal to that under a valid building licence application.

Adoption of the updated policy will provide four benefits to the Town.

1. Discourage building without a licence because a higher fee will be attached to the application for Acknowledgement of Existing Structures certification.
2. Improved cost recovery for processing applications for acknowledgement of structures.
3. Full documentation will be received by the Town of the existing work in place whereas currently only a certificate of structural adequacy is generally received.
4. Treats the relationship with most "offenders" as a technical issue rather than as a legal infringement matter.

It is concluded the attached amended Policy as attached should be adopted.

ATTACHMENT

RECOMMENDATION

That Council adopts the following amended Policy 139 including the proposed new forms and documentation:

Absolute Majority Resolution Required

Cr Dobro – Cr Harrington

That this matter be held over and considered at the next Town Planning & Building Committee (Private Domain) meeting to be held on 13 November 2007. CARRIED

Mayor O'Neill returned to the meeting at 8.32pm, resuming the Chair, and it was noted he did not speak or vote on the previous motion.

314. FINANCE ITEMS

314.1 Accounts for Payment

By John Roberts, Executive Manager Finance & Admin on 12 October 2007

PURPOSE

To endorse the list of payments for the period 1 September 2007 to 30 September 2007.

BACKGROUND

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

ATTACHMENT

REPORT

Comments/Discussion

The List of Accounts for the period beginning 1 September 2007 and ending 30 September 2007 require endorsement by the Council.

RECOMMENDATION TO COUNCIL

That the List of Accounts for the period beginning 1 September 2007 and ending 30 September 2007 be received, as per the following table:

September 2007		
Voucher Nos	Account	Amount
2976 – 3000	Municipal (Cheques)	\$24,468
EFT8375 – EFT8460	Electronic Transfer Funds	\$419,474
Payroll	Electronic Transfer Funds	\$107,601
	Municipal Total Payments	\$551,545

Cr Dobro – Cr Harrington

That the List of Accounts for the period beginning 1 September 2007 and ending 30 September 2007 be received. CARRIED

314.2

Monthly Financial Report for Period Ending 30 September 2007

By John Roberts Executive Manager Finance & Admin on 12 October 2007

PURPOSE

To provide financial information to the Council in the form of management accounts for revenues and expenditures, both operating and capital in accordance with statutory requirements.

BACKGROUND

The monthly financial statements for the period ending 30 September 2007 are appended and include the following:

- Capital Works/Major Capital Project Status Report
- Monthly Statement of Financial Activity
- Management Schedules Report
- Schedule of Investments
- Schedule of Rating information

ATTACHMENTS

The attached Management 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 explanatory information on the attached financial information:

1. **Capital Works/Major Capital Project Status Report**
This report details Council's capital projects with the following information:
 - A timeline showing the estimated completion date.
 - Who the responsible Officer is.
 - The current status in the detail section of the report.
 - The budget and actual expenditure.
2. **Monthly Statement of Financial Activity (Appendix 1)**
This information is in line with statutory requirements.
3. **Management Schedules (Appendix 2)**
This report shows all income and expenditure accounts throughout the schedules.

If income/expenditure was allocated evenly, then 25.00% of the budget would be expended.

4. **Schedule of Investments (Appendix 3)**

The information provides Council with details of Municipal, Trust and Reserve Fund balances and a summary of investments held by Council. The report also shows the investments that are redeemed during each month.

5. **Schedule of Rating Information (Appendix 4)**

This report details rates raised and received.

Statutory Requirements

Local Government Act 1995 (As amended)

Local Government (Financial Management Regulations 1996 (As amended)

Relevant Council Policies

Significant accounting policies adopted by Council on an annual basis. These are included in the Statutory Reports submitted to Council on a monthly basis

Strategic Plan Implications

Nil

Financial/Resource/Budget Implications

The Monthly Financial Statements show Councils income and expenditure in line with budget estimates.

Conclusion

The attached Management Accounts for the period 1 September 2007 to 30 September 2007 are presented to the Council for information.

RECOMMENDATION

That the Monthly Statement of Financial Activity for the period ending 30 September 2007 be received.

Cr Dobro – Cr Martin

That the Monthly Statement of Financial Activity for the period ending 30 September 2007 be received. CARRIED

315. HEALTH & GENERAL PURPOSES COMMITTEE ITEMS

315.1 East Fremantle Festival Progress Report

By Shelley Cocks Principal Environmental Health Officer on 10 October 2007

PURPOSE

The purpose of this report is to update Council on the progress of our Festival Coordinator Cynthia Williamson and her endeavours in respect of the East Fremantle Festival 2007

BACKGROUND

The East Fremantle Festival Committee comprising Cr Jenny Harrington (Presiding Member), Cr Maria Rico, Cr Stefanie Dobro, Cr Alex Wilson, Cr Richard Olson, Shelley Cocks and Cynthia Williamson have been meeting regularly since March 2007. Many aspects of the Festival have been considered at these meetings including:

1. Concept planning in relation to the feel and style of the event,
2. A key focus to be an artisans market to improve the quality of goods offered for sale and provide a theme i.e., hand crafted goods preferably sold by the artiste, and preference given to locally produced craft.

3. Site inspections to best locate the entertainment, children's activities, food stalls, Artisans Market and other infrastructure.
4. The scope of musical entertainment including children's bands and school choirs, as well as the traditional groups.
5. Risk management in relation to traffic flow, access for larger infrastructure and location of essential services.
6. Impacts on and the inclusion of residents and businesses surrounding George Street.
7. The potential for sponsorship of the festival by East Fremantle businesses in a way that is mutually beneficial and gives locals a sense of ownership.

REPORT

The following outline forms part of the concept plan and particular detail of the Festival. It will be held in George Street on Sunday 2nd December from 2pm until 8pm. The main feature will be an artisan market, where the artists who make the art and craft will sell their range of wares at the festival. The market will also incorporate local produce where possible.

Local businesses (especially in George Street) will be encouraged to showcase their range of products and services in front of their premises (on George Street) during the festival.

The local primary schools, sporting clubs and community groups will also be invited to participate in the festival with fundraising stalls, promotional stalls and performances.

Festival Location

The East Fremantle Festival will be held in George Street, East Fremantle. George Street will be closed to vehicular traffic between East Street and Duke Street between the hours of 9am and 10pm on the day of the festival.

Both East and Duke Streets will remain open to traffic throughout the festival, in an effort to reduce the disruption to local residents and other people passing through East Fremantle on festival day.

Festival Program

Main Stage:

The main stage will be located on the south side of the intersection of George and Hubble Streets (near the kindergarten). This stage will have ongoing entertainment between the hours of 2.00pm and 8.00pm.

The second last act on stage will be the Aussie Blues Brothers and the last act will be WaSamba, Fremantle's Carnival Drummers which have been favourites in past festivals.

Busker's Platform:

A busker's platform will be located at the intersection of George and King Streets (TBC). A small stage will be set up for entertainers busking on the street with the intention of creating a vibe similar to the paved area outside the Freo Markets.

Buskers will be asked to register their interest to perform by mid November and will be paid a small retainer fee and then asked to put their 'hats out' for contributions from the community.

Street Entertainment:

A number of roving performers will be asked to perform from 3.00pm to 7.00pm to add more of a 'carnival' flavour to the festival. This street entertainment will feature stilt walkers, clowns and perhaps a mimmer .

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Children's Entertainment:

The children's rides and amusements will be located in Glasson Park. This park is fenced off and will be a safe area for children to play on the playground, bounce on the bouncy castles, play in the gymbus or navigate their way up the climbing wall.

Glasson Park will also host Incredible Creatures (baby animal farm), Bubblemania workshops, face painting, temporary tattoos and story telling. Other children's activities will be developed as the festival planning progresses.

Artisan Market:

There will be between 50 and 60 artisan market stall holders located along George Street. Every effort will be made to only include quality art and craft stall holders in the artisan market.

All stall holders will be required to supply their own shade shelter, tables, chairs, display stands, extension cords etc. There will only be limited power available to the stall holders. Due to daylight saving, lights for the stall holders will not be required.

All festival stall holders will be required to have public liability (PL) cover to participate in the festival. The Festival Coordinator will organise a public liability insurance policy to cover those festival stall holders who do not have their own insurance. The majority of this insurance fee will be recouped from those stall holders requiring the PL cover. It is anticipated an additional fee of \$20 per stall holder (above the standard stall holder fee of \$42) will be paid by those stall holders requiring PL insurance cover for the day.

Food Stalls:

Up to 20 food providers will be asked to express their interest in selling their food at the festival. These food stall holders will be chosen from past East Fremantle Festivals and through the Festival Coordinator's own supplier list.

Food stall holders will be required to abide by food and safety standards for outdoor events and will be assessed for public health and safety compliance prior to the festival (by the Town's Principal Environmental Health Officer) and throughout the duration of the festival.

Stall holders selling healthy food will be more desirable than the stall holders selling less healthier foods. Foods likely to be on offer at the festival will include cultural food from different countries (eg Thailand, India, Mexico), healthy salads, low fat ice creams, fruity drinks and other cold drinks. It is expected that at least one dozen healthy food stalls will be at the festival.

It is important to note that there is a limit to how many food stalls can be accommodated at the festival, to ensure that each food supplier makes a sufficient profit and this in-turn encourages them to participate in future festivals.

Local Business Stalls:

Cynthia has approached the businesses along George Street to introduce herself and invite their participation in the festival. It is hoped that many of the restaurants and eateries on George Street will set up special displays and road side stalls on the day.

Cynthia has met with representatives of The Old Royal George Arts Foundation to confirm their participation on the day.

School and Community Group Stalls:

Local schools and P&C committees will be invited to contribute to the Festival in some way, either with a presentation, special arts display, performance by students or a fund raising stall.

In past festivals, a number of community service groups have booked stalls to promote their services and to distribute information to the community. This is an important function of this annual event, as it provides a forum for local interest and service providers to raise the awareness of the public and attract new members and volunteers for their community initiatives.

Individual members of the local community will also be invited to participate in the festival through personal invitations and Expression of Interest (EOI) advertisements in the local newspaper.

Financial/Resource/Budget Implications

It is important that the Festival be achieved within Budget. The 2007/08 budget allocation includes expenditure of \$37,500, coordinator's fee of \$12,500 and an anticipated income of \$20,000. Any sponsorship monies raised in excess of this amount will be invested back into the Festival.

Conclusion

Arrangements for the Festival are progressing well and the next month should see finalisation of the finer details. A further progress report will be presented to Council at this time, and a final report following the event.

Attachments

- Progress Report on the East Fremantle Festival by Cynthia Williamson
- Promotional Opportunity Fremantle Herald by Cynthia Williamson
- Sponsorship opportunities at the East Fremantle Festival by Cynthia Williamson
- Draft Festival Budget
- Health requirements for one day events

RECOMMENDATION(S)

That this report and the progress report on the East Fremantle Festival 2007 by Cynthia Williamson be received.

Cr Rico – Cr Dobro

That this report and the progress report on the East Fremantle Festival 2007 by Cynthia Williamson be received. CARRIED

315.2 Left Bank Bar Café & Restaurant – Application for Use of Car Park for Christmas Eve & New Year's functions

By Shelley Cocks, Principal Environmental Health Officer, on 3 October 2007

PURPOSE

The purpose of this report is to assist Council in assessing an application from the Manager of the Left Bank Café Bar and Restaurant, seeking Council approval for the use of the car park adjacent to the Left Bank courtyard, which is leased from Council, to extend the licensed area on Christmas Eve and New Year's Eve. Additionally, to enable elected member comment on an application currently before the Department of Racing, Gaming and Liquor in relation to an extended trading permit on New Year's Eve.

Correspondence from the Manager of the Left Bank is attached.

ATTACHMENTS

BACKGROUND

1. Increase in licensed area

The management of the Left Bank have utilised the car park on Christmas Eve and New Years Eve for the last 7 years with Council approval. Last year an application to increase the licensed area was sought and approved for Christmas Eve resulting in an extra 700 patrons attending the Left Bank on that occasion. Additionally, 430 extra patrons were catered for by utilising part of the car park on New Years Eve.

2. Increase in trading hours

The Left Bank Bar and Café has an existing liquor license that allows them to trade until midnight. The applicants have been granted an extended hours permit by the Department of Racing, Gaming and Liquor for New Year's Eve for at least the previous several years. No extraordinary conditions have been placed on the special license in the past. Last year approval was sought and gained for an extended hours permit until 2 am.

The Department of Racing, Gaming and Liquor normally requests a comment from Council regarding applications for extended hours of operation which only applies to the extended hours of 12.00am to 2.00am on the 1 January 2008. Comment from Council is not binding on the decision made by the Department, however it is always sought.

3. Application for sea containers for use as cool rooms

The management of the Left Bank have sought permission to utilise 3 sea containers (6 metres x 2.5 metres) as cool rooms in the car park area for the following time periods:

- Container 1 – from 31 October 2007 to 7 January 2008
- Container 2 – from November 19 2007 to 7 January 2008
- Container 3 – from December 10 2007 to 7 January 2008

The conditional approval of the Swan River Trust has been obtained, as attached. Note that a condition of Swan River Trust approval is the approval of the Town of East Fremantle.

ATTACHMENT**REPORT****Introduction**

The applicants have proposed in their application that 795 square metres of car park be utilised for the following activities on Christmas Eve 2007 between the hours of 3 pm and midnight.

- Stage/dance floor for the annual finale to the "Summer Style" fashion parades for men and women.
- A small marquee to be used as a change room.
- A DJ will provide audio entertainment
- Temporary toilets
- Bar area

The applicants have further proposed that 442 square metres of car park be utilised on New Years Eve celebrations between the hours of 6 pm and 2 am.

Issues

The applicants propose a contingency plan to cater for off site impacts and patrons safety, comprising the following :

- The embankment area adjacent to the car park will be fenced off to ensure foliage is protected from patrons.
- Equipment will be assembled on Christmas Eve and New Year's Eve and disassembled by mid morning on Christmas Day and New Years Day respectively. All precautions will be taken to ensure noise legislation is complied with.
- Permission will be obtained from Office of Racing, Gaming and Liquor for the extended licensed area.
- Extended licensed area will be enclosed with a 1.8 metre high mesh fence.
- All access and egress points will be clearly marked.
- Alcohol will be served responsibly and the proponents state they are active members of the Fremantle Accord.
- Crowd Control Security Officers will be employed at a rate of 100 to 1.

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- Courtesy bus service will transport patrons to and from the venue with extensive advertising prior to the events.
- A letter drop to surrounding residents will be undertaken for both events.
- A copy of current complaints procedure was provided to Council officers.
- Clean up of Riverside Road verges will be undertaken on the night by Left Bank staff.
- Approval by the Swan River Trust and the police will be sought prior to the events taking place.
- Public Liability insurance is current to \$10 million dollars.

Consultation

Ms Jacqui Gill, Manager of Left Bank Café Bar and Restaurant

Statutory Requirements

Liquor Licensing Act 1988
Health (Public Building) Regulations 1992
Health (Food Hygiene) Regulations 1993
Food Safety Standards 2000
Environmental Protection (Noise) Regulations 1997

Charging situation, implications and options

Charges for the use of car parking area in a licensed capacity

The fees and charges approved by Council for the 2007/2008 budget provides for a charge of \$27.50 per square metre for a licensed area and \$17.00 for an unlicensed area. This translates to \$21,465.00 for the Christmas Eve event inclusive of GST, and \$12,155.00 for the New Year's Eve event. The cost for the 2 events is thus \$33,620.00

Application of Council fees and charges for the unlicensed use of car parking areas (\$17.00 per square metre per day) results in the following charges in relation to the sea containers:

Container 1 – 15metres x \$17.00 x 70 days = \$17,850.00
Container 2 – 15 metres x \$17.00 x 49 days = \$12,495.00
Container 3 – 15 metres x \$17.00 x 28 days = \$7,140.00

Totalling \$37,485 for the current application.

Total charge = \$33,620.00 + \$37,485.00= \$71,105

RECOMMENDATION(S)

1. Approval is granted for Christmas Eve and New Year's Eve functions subject to the following conditions:
 - (a) Approval of Swan River Trust and police;
 - (b) A bond of \$5,000 to ensure the site is satisfactorily managed, being paid to Council prior to Friday 14th December 2007;
 - (c) Bus service being advertised comprehensively by The Left Bank management;
 - (d) The Left Bank to provide advice to adjacent residents located within a 100 metre radius of the premises and all previous complainants;
 - (e) Amplified music in the extended area to cease by 11.00 pm on 24 December 2007 and 1.00am on the 1 January 2008;
 - (f) A complaint procedure be in place, with a minimum of two telephone numbers constantly attended and a register of all complaints being lodged with Council after the event;
2. Payment of charges totalling \$71,105.00 in accordance with Town of East Fremantle Fees and Charges 2007/8.
3. The applicant to comply with the following legislation-
 - (a) Liquor Licensing Act 1988

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- (b) Health (Public Building) Regulations 2002
 - (c) Health (Food Hygiene) Regulations 1993
 - (d) Food Safety Standards 2000
 - (e) Environmental Protection (Noise) Regulations 1997
4. The applicant to provide written verification of insurance coverage, including a Certificate of Currency to the Town of East Fremantle.
 5. Council inform the Department of Racing, Gaming and Liquor Licensing that it approves of the extended trading permit application submitted by the Left Bank management for Christmas Eve and New Year's Eve provided that all reasonable measures are undertaken to reduce the impact of noise on nearby residential properties.

Cr Martin – Cr Rico

1. **Approval is granted for Christmas Eve and New Year's Eve functions subject to the following conditions:**
 - (a) **Approval of Swan River Trust and police;**
 - (b) **A bond of \$5,000 to ensure the site is satisfactorily managed, being paid to Council prior to Friday 14th December 2007;**
 - (c) **Bus service being advertised comprehensively by The Left Bank management;**
 - (d) **The Left Bank to provide advice to adjacent residents located within a 100 metre radius of the premises and all previous complainants;**
 - (e) **Amplified music in the extended area to cease by 11.00 pm on 24 December 2007 and 1.00am on the 1 January 2008;**
 - (f) **A complaint procedure be in place, with a minimum of two telephone numbers constantly attended and a register of all complaints being lodged with Council after the event;**
4. **Payment of charges totalling \$71,105.00 in accordance with Town of East Fremantle Fees and Charges 2007/8.**
5. **The applicant to comply with the following legislation-**
 - (a) **Liquor Licensing Act 1988**
 - (b) **Health (Public Building) Regulations 2002**
 - (c) **Health (Food Hygiene) Regulations 1993**
 - (d) **Food Safety Standards 2000**
 - (e) **Environmental Protection (Noise) Regulations 1997**
4. **The applicant to provide written verification of insurance coverage, including a Certificate of Currency to the Town of East Fremantle.**
5. **Council inform the Department of Racing, Gaming and Liquor Licensing that it approves of the extended trading permit application submitted by the Left Bank management for Christmas Eve and New Year's Eve provided that all reasonable measures are undertaken to reduce the impact of noise on nearby residential properties.**

CARRIED**316. REPORTS OF CHIEF EXECUTIVE OFFICERS****316.1 Brief Reports of Chief Executive Officer***By Stuart Wearne, Chief Executive Officer, on 14 September 2007***(A) Induction of new elected members**

Cr Maria Rico and Crs-elect Cliff Collinson and Barry de Jong attended an "in-house" induction program on Tuesday, 9 October, involving respective briefings by the Chief Executive Officer, Chris Warrener, John Roberts and Cr Ferris (on the SMRC).

Apologies were received from the Mayor, Cr Dobro and Cr Harrington.

Cr-elect Dave Arnold was not able to attend on this date and a separate briefing for Cr-elect Arnold will be held at a later date.

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Cr Ferris (who participated in all of the briefings) and the staff involved (including Janine May who prepared notes on agenda and other meeting processes) are thanked for their contributions.

Elected members are advised Cr Rico and the three newly elected members have also all enrolled in the WALGA Elected Member Development Program; Module 1A: An Introduction to Local Government.

RECOMMENDATION

That the information be received.

Cr Dobro – Cr Martin

That the information be received.

CARRIED

(B) 3rd Party Appeals

Dr Janet Woollard MLA, Member for Alfred Cove, has discussed with the Chief Executive Officer a Private Member's Bill which Dr Woollard is formulating in regard to 3rd Party Appeals in relation to planning applications.

Dr Woollard has asked to address Council in the near future on the issue.

The issue is of interest to the Town in both a current and historic sense.

Previously 3rd party appeals were originally allowed under Town Planning Scheme No 2 however the provision was removed via a Scheme amendment which was initiated by Council in 1993 and came into force in July 1994.

The Chief Executive Officer's research indicates the precipitating factor was a 3rd party appeal which was current at the time.

It appears the Town of East Fremantle was at that time the only local government in the State with a Scheme which provided for 3rd party appeals.

What slight documentation exists with respect to the basis of Council's decision to remove the third party appeal right, indicates the then Town Planner, Greg Smith, advised Council:

- the provision was "an anomaly" (*presumably suggesting it was either an unintended consequence of the wording of the section of the Scheme referring to appeal rights, or was unique in WA, or both*)
- the provision was "costly" to Council (*notwithstanding the number of appeals, was generally less at that time – the particular third party appeal referred to above appears to have been costly to Council, both financially and in terms of staff resources*)
- the provision had the "capacity to cause significant and unnecessary obstacles to Council's capacity to make town planning decisions" (*by the same logic Council could have also have opposed an applicant's appeal rights*).

Notwithstanding the above, currently, WA is understood by Dr Woollard to be the only State which does not provide for 3rd party appeals, despite Planning Minister MacTiernan, soon after she became Planning Minister, suggesting that she would introduce such a provision.

It is an interesting issue. If Council approves a development and does not give due consideration to its detrimental effect on a neighbouring property, should that neighbour be able to appeal against Council's decision? Such an appeal right would, arguably, have the effect of making Council more careful and accountable in its decision making.

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However whilst such principles of accountability tend to support 3rd party appeal rights, if such appeal rights *are* introduced, particularly in an unqualified manner, this would undoubtedly cause an increased number of appeals which would in turn give rise to significant financial and staff resource issues, already a significant and increasing problem since the introduction of the State Administrative Tribunal.

On the other hand if Council were to oppose a development, say, on the basis of its detrimental effect on neighbour amenity, and the applicant appealed Council's decision, third party appeal provisions could potentially assist Council if the neighbour was able to be legally "joined" in Council's action.

In respect of the above comments it is of considerable interest to learn more of what Dr Woollard is proposing.

It should also be noted that it is very rare for local governments to be directly consulted by Members of Parliament in respect of legislation they are proposing and Dr Woollard should be congratulated for this.

RECOMMENDATION

That Dr Woollard be invited to address Council to discuss her proposed Private Member's Bill on 3rd party appeals, with the issue of the timing of the presentation delegated to the Chief Executive Officer.

Cr Dobro – Cr Martin

That Dr Woollard be invited to address Council to discuss her proposed Private Member's Bill on 3rd party appeals, with the issue of the timing of the presentation delegated to the Chief Executive Officer. CARRIED

(C) Address by Stuart McAll

Stuart McAll, Chief Executive Officer of the SMRC, has requested making a presentation to Council on outcomes, of the last two years, in respect of the SMRC's Key Performance Indicators and the RRRC generally.

It is envisaged the presentation, including questions and answers, would take approximately 45 minutes.

The request is consistent with wishes expressed by Council in terms of feedback by the SMRC at the earlier time of the odour problem based temporary closure of the RRRC and is strongly supported.

The Chief Executive Officer earlier discussed the request with Cr Ferris, as SMRC delegate, and Cr Ferris concurred that it was appropriate to have a presentation once the new elected members were on board.

RECOMMENDATION

Council agrees to the request and delegates to the Chief Executive Officer the issue of the timing of the presentation.

Cr Dobro – Cr Martin

Council agrees to the request and delegates to the Chief Executive Officer the issue of the timing of the presentation. CARRIED

(D) Finance Committee Meeting – 17 October 2007

Following discussions between John Roberts and the Presiding Member, Cr Olson, (see attached memo) it has been decided to recommend postponing the Finance Committee Meeting scheduled for Wednesday, 17 October 2007 to Wednesday 14th November so it coincides with the Audit Committee meeting tentatively arranged for that evening.

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Mr Roberts advises that as Cr Ferris had wished to raise at the next Committee meeting, the issue of changes to Council's financial reporting formats and he will be away next week, this new date will allow his input into this matter.

RECOMMENDATION

That an Audit Committee Meeting be held on Wednesday, 14 November 2007 at 5.30pm and the Finance Committee Meeting scheduled for 17 October 2007 be postponed to 14 November 2007 at 7.00pm with a meal being provided between 6.30-7.00pm.

Cr Dobro – Cr Martin

That an Audit Committee Meeting be held on Wednesday, 14 November 2007 at 5.30pm and the Finance Committee Meeting scheduled for 17 October 2007 be postponed to 14 November 2007 at 7.00pm with a meal being provided between 6.30-7.00pm. CARRIED

317. CONFIDENTIAL BUSINESS

Nil.

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

Nil.

319. MOTIONS WITHOUT NOTICE OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING**319.1 Cr Dobro – Mayor O'Neill****Cr Dobro – Cr Martin**

That this Council expresses its sincere gratitude to Mayor Jim O'Neill for his passionate and enduring commitment to the Town of East Fremantle and its people over the past 12 years, six as Councillor from the Woodside Ward and the past six as Mayor.

We thank Mayor O'Neill for continuously upholding the values of the Town and its people, particularly in relation to the protection of the heritage that is an integral part of East Fremantle for fostering and presiding over a well functioning council and for working hard to reconcile competing interests in the Town, including balancing heritage conservation and public and private amenity with development.

This Council thanks Mayor O'Neill's wife, Suzanne, and his four daughters Hannah, Molly, Bess and Matilda for the support they have given to the Town.

Councillors wish Mayor O'Neill every success in his future endeavours. CARRIED

319.2 Cr Martin – Policy Regarding Lift Wells**Cr Martin – Cr Rico**

That the Chief Executive Officer in consultation with relevant officers report to Council on policy options in respect to lift wells and compliance with wall and roof height. CARRIED

319.3 Mayor O'Neill – Cr Martin**Mayor O'Neill - Cr Dobro**

That Council wishes to thank and recognise Cr David Martin's contribution to the Town of East Fremantle, especially his thorough approach to all of his Council work, particularly in relation to often contentious town planning matters, over the 4½ years of his term. CARRIED

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320. CLOSURE OF MEETING

There being no further business, the meeting closed at 8.55pm.

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **16 October 2007**, Minute Book reference **300.** to **320.** were confirmed at the meeting of the Council on*

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Presiding Member