

MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 19 AUGUST, 2008 COMMENCING AT 6.32PM.

234. DECLARATION OF OPENING OF MEETING

The Mayor (Presiding Member) declared the meeting open.

234.1 Present

Mayor A Ferris	Presiding Member
Cr D Arnold	
Cr C Collinson	
Cr B de Jong	
Cr S Dobro	
Cr D Nardi	
Cr M Rico	
Cr A Wilson	
Mr S Wearne	Chief Executive Officer
Mr C Warrener	Town Planner
Ms J May	Minute Secretary

235. ACKNOWLEDGEMENT OF COUNTRY

Mayor Ferris 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."

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

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

237. RECORD OF APPROVED LEAVE OF ABSENCE

Nil.

238. RECORD OF APOLOGIES

Cr Olson.

239. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

240. PUBLIC QUESTION TIME

Nil.

241. APPLICATIONS FOR LEAVE OF ABSENCE

241.1 Cr Wilson

Cr Wilson requested leave of absence for the Council Meeting on 16 September 2008.

Cr Rico – Cr Collinson

That leave of absence be granted to Cr Wilson for the Council Meeting on 16 September 2008. CARRIED

241.2 Cr de Jong

Cr de Jong requested leave of absence for the Council Meetings on 2 and 16 September 2008.

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Cr Rico – Cr Collinson

That leave of absence be granted to Cr de Jong for the Council Meetings on 2 and 16 September 2008. CARRIED

241.3 Mayor Ferris

Mayor Ferris requested leave of absence for the Council Meeting on 16 September 2008 as he will be away in Canberra with the South West Group.

Cr Rico – Cr Collinson

That Mayor Ferris be granted leave of absence for the Council meeting on 16 September 2008. CARRIED

242. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

242.1 Council Meeting – 15 July 2008

Cr Nardi – Cr de Jong

That the Minutes of the Council Meeting held on 15 July 2008 be confirmed.

CARRIED

243. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION

Nil.

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

Nil.

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

245.1 Cr Arnold – Plympton Ward – Designated Heritage Area

Cr Rico – Cr Wilson

That this matter be held over until later in the meeting to allow town planning applications to be considered while members of the public were in attendance.

CARRIED

246. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

246.1 T71.4 Sewell Street No 49 (Lot 243)

John Chisholm: Advising he had revised plans for 49 Sewell Street and the first floor plate height had been reduced from 2750mm to 2400mm.

Cr Rico – Cr Wilson

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 248.2).

CARRIED

246.2 T71.6 Clayton Street No 51A (Lot 2)

Simon Bain: Submitting objection, on behalf of owners of 70 View Terrace, regarding the proposed development at 51A Clayton Street.

Cr Rico – Cr Wilson

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 248.4).

CARRIED

246.3 T71.6 Clayton Street No 51A (Lot 2)

Simon Bain: Enclosing plan showing existing front building setbacks for properties in Clayton Street in the vicinity of 51A Clayton Street.

Cr Rico – Cr Wilson

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 248.4).

CARRIED

246.4 T71.7 Alexandra Road No 67

S Buljan: Submitting heritage impact report from Rosemary Rosario relating to heritage buildings at 61-65 Alexandra Road, located adjacent to his development site at 67 Alexandra Road.

Cr Rico – Cr Wilson

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 251.2).

CARRIED

247. ORDER OF BUSINESS

Cr Nardi – Cr de Jong

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

CARRIED

248. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN)

Cr Wilson made the following impartiality declaration in the matter of 67 Petra Street: "As a consequence of my son attending the same school and being in the same class as the applicant's child, 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.

248.1 T71.3 Petra Street No. 67 (Lot 365)

Applicant & Owner: Antonio Cesario Lomma

Application No. P86/08

Mrs Lomma (owner) addressed the meeting requesting Council approve the issue of the building licence for this development.

Cr Dobro – Cr de Jong

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

That Council advises Antonio Cesario Lomma that it may be prepared to permit the issue of a Building Licence for the additional grouped dwelling at No. 67 (Lot 365) Petra Street subject to consideration of a report on any submissions which might be received during an advertising process undertaken pursuant to Clause 9.4 under Local Planning Scheme No. 3.

CARRIED

Mayor Ferris made the following impartiality declaration in the matter of 49 Sewell Street: "As a consequence of Mr John Chisholm being known to me, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly.

Cr Dobro made the following impartiality declaration in the matter of 49 Sewell Street: "As a consequence of both Mr John Chisholm and Mr Charles Young being known to me, 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.

248.2 T71.4 Sewell Street No. 49 (Lot 243)

Applicant: John Chisholm

Owner: Charles & Catherine Younge

Application No. P125/2008

The letter from John Chisholm, referred from Correspondence, (MB Ref 246.1) was tabled.

Mr Younge (owner) was present, however, did not wish to address Council.

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Cr Dobro – Cr Wilson

That Council exercise its discretion in granting approval for a variation to wall height on the north side pursuant to the Residential Design Codes from 6m to 6.6m for the construction of 2-storey additions to the rear of the single storey house at No. 49 (Lot 243) Sewell Street, East Fremantle comprising:

Ground floor: kitchen, dining & living room, laundry and a verandah;

First floor: master bedroom, en-suite, and study;

in accordance with the plans date stamp received on 18 August 2008 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed extensions 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 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. 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.
6. 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).*

CARRIED

Cr Wilson made the following impartiality declaration in the matter of 23 Fraser Street: "As a consequence of my son attending the same school and being in the same class as one of the neighbour's children, 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."

248.3 T71.5 Fraser Street No 23 (Lot 149)
Applicant: Arkitektura Architects
Owner: MD Paterson
Application No P123/2008

Ms Whitely (neighbour) addressed the meeting in relation to her perceived loss of privacy and amenity should Council approve the development and sought advice on issues of fence security for her dogs during construction and the finish to the parapet wall.

Mr Paterson (owner) and Ms Babic (architect) addressed the meeting in support of the proposal. Ms Babic responded to the queries raised by Ms Whitely.

Cr de Jong – Cr Nardi

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

That Council exercise its discretion in granting approval for additions to the single storey house at No. 23 (Lot 149) Fraser Street, East Fremantle which includes a loft bedroom with:

Ground floor: enlarge the kitchen-living area, incorporate a pantry and laundry, and an en-suite at the front next to bedroom 1;

Upper floor: remove the loft bedroom and make good the existing roof line, construct additions comprising a master bedroom, built in robe, en-suite, and deck at the rear;

in accordance with the plans date stamp received on 24 June 2008 subject to the following conditions:

- 1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. the proposed works are not to be commenced until Council has received an application for a building 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 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. 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.**
- 6. 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).***

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- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.* CARRIED

248.4 T71.6 Clayton Street No. 51A (Lot 2)

Applicant: APG Homes

Owner: David & Jocelyn Boll ands

Application No. P119/2008

Mr Finnigan (neighbour) addressed the meeting opposing the development at 51A Clayton Street.

Mr Bain (Town Planner) and his client, Mr Frodsham (owner 70 View Terrace) addressed the meeting opposing the development.

Mr Fancourt (APG Homes) addressed the meeting in support of the proposal.

An email and letter from Simon Bain, referred from Correspondence (MB Ref 246.2 & 246.3), was tabled.

The following additional information was provided by the Town Planner:

The Town Planning & Building Committee recommended:

"That the application for a two storey residence on Lot 2 (51A) Clayton Street, East Fremantle be deferred pending a site visit and further clarification in relation to the zoning of the property and assessment under R20 density coding."

It is assumed that Crs have conducted the site visit referred.

In relation to the zoning of the property and assessment under R20 density coding the following advice is relevant:

51A Clayton Street is zoned "Residential R12.5".

The property resulted out of the subdivision of 70 View Terrace, a corner lot.

Under TPS 3 development on lots resulting out of a corner lot subdivision has historically been (consistently) assessed based on applying the standards applicable under the R20 density code to both new lots. Their assessment on this basis is enabled pursuant to sub-clause 5.3.1 of TPS 3, which states:

5.3.1 Density Bonus for Corner Lots: In areas with a density coding of R12.5, the local government may approve development up to a density of R20 on corner lots where the dwellings are designed to face each of the two street frontages, and in the opinion of local government, there will be an improvement in the overall amenity of the streets as a result of the development.

I understand that this provision was included in TPS 3 at the request of the Minister for Planning to permit the subdivision of corner lots provided they comprised land areas which would result in new lots with areas that complied with the R20 density code.

The subsequent development of these lots would then be assessed based on applying the R20 density code. This is a logical approach to take given that the resultant lot sizes and lot frontages correlate with lots that are zoned Residential R20. Decisions by the WAPC to approve corner lot subdivision in East Fremantle have been based on the application of 5.3.1.

While I consider that 5.3.1 is not particularly well worded, the intent and interpretation has been consistently applied, in that assessment of development on the lots that result out of a corner lot subdivision is based on their development at an R20 density.

It is worth noting that the development of the adjoining property at 70 View Terrace was assessed having regard to this provision, notwithstanding that it is similarly zoned Residential R12.5 and, in addition, Council exercised discretion to permit building wall and roof height, and setback variations for the house that is presently under construction on that property.

51A Clayton Street is zoned Residential R12.5, and its development has been assessed in accordance with the application of sub-clause 5.3.1 at a density of R20.

It would not be in the interests of orderly and proper planning for Council to change the way it has, with the support of the WAPC, consistently interpreted and applied 5.3.1.

I trust that the above information and advice satisfactorily answers the query raised in the Committee recommendation.

249. ADJOURNMENT

Mayor Ferris – Cr de Jong

That the meeting be adjourned at 8.10pm to allow further discussion on the development proposal for 51A Clayton Street. CARRIED

250. RESUMPTION

Cr Dobro – Cr Wilson

That the meeting be resumed at 8.15pm with all those present prior to the adjournment, in attendance. CARRIED

**251. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN)
(CONTINUED)**

251.1 T71.6 Clayton Street No. 51A (Lot 2) (Continued)

Cr de Jong – Cr Nardi

That Council exercise its discretion in granting approval for a variation to the east side (front) boundary setback pursuant to the Residential Design Codes for a garage, porch and verandah, and on the upper floor, a balcony from 6m to 4.5m and 3.06m respectively for the construction of a 2-storey house at No. 51A (Lot 2) Clayton Street, East Fremantle, comprising:

Ground floor: double garage & store, porch, entry, verandah, activity room, study, 3 bedrooms, bathroom, laundry and stairwell;

First floor: bedroom, 2 built-in-robos, en-suite, powder room, kitchen, dining & living room, library, wine cellar, and balcony;

in accordance with the plans date stamp received on 21 July 2008 subject to the following conditions:

1. prior to the issue of a building licence, amended plans be submitted indicating a 1 metre setback to the southern boundary.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. 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.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.

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6. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
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) *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) *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.*

CARRIED

251.2

T71.7 Alexandra Road No. 67 (Lot 12)

Applicant & Owner: Dalmatia Developments Pty Ltd

Application No. P121/2008

Ms Kirkwood (representing owners of 61, 63 & 65 Alexandra Road) addressed the meeting in opposition to the proposal.

Mr Greenough (representing his mother) addressed the meeting, opposing the development.

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

An email from Mr Buljan, referred from Correspondence (MB Ref 246.4) was tabled.

The Town Planner provided the following additional information:

The Town Planning & Building Committee recommended:

“That the application for a two storey residence on Lot 12 (67) Alexandra Road, East Fremantle be deferred pending clarification on the following:

- (a) overshadowing to adjoining properties ie whether overshadowing is calculated on the whole of the strata lot or the individual dwellings that comprise the strata plan.*
- (b) advice be sought from a heritage professional on any impact the proposed development may have on the terraced houses in relation to their heritage value and contribution to the streetscape.”*

In regard to item (a) the following advice is submitted:

The property which contains the 3 dwelling units adjacent to the subject land is a single lot/property, which is defined in Appendix 1 under the Residential Design Codes (RDC) as follows:

“Lot

For single houses, a lot as defined under the Planning and Development Act 2005, and therefore for multiple or grouped dwellings, the parent lot, inclusive of common areas, on which the strata scheme relates as defined under the Planning and Development Act 2005.”

Under the RDC, 6.9 Design for climate requirements, the relevant acceptable development provision states:

“A1 Notwithstanding the boundary setbacks in design element 6.3, development in climatic zones 4, 5 and 6 of the state shall be so designed that its shadow only cast at midday 21 June onto any other adjoining property does not exceed the following limits:

- on adjoining properties coded R25 and lower – 25 per cent of the site area;*
- on adjoining properties coded R30 to R40 inclusive – 35 per cent of the site area; or*
- on adjoining properties coded R-IC or higher than R40 – 50 per cent of the site area.*

Note:

In this context site area refers to the surface of the adjoining lot and is measured without regard to any building on it but taking into account its natural ground levels.”

Based on the above-stated RDC provisions the applicant has correctly assessed the percentage of overshadow of the adjoining property.

It is also worth including the following RDC Explanatory Guidelines relevant to this particular matter:

“Protecting solar access for neighbouring properties

Development should be designed so that it does not seriously affect solar access for neighbours. In most cases, this means avoiding very tall walls close to southern boundaries, so that excessive shadows are not cast across the north-facing areas adjacent. In some cases, overshadowing by west or east-facing walls may also be important.

As with overlooking, but even more so, the potential for a building to overshadow a neighbouring site, or be overshadowed itself, varies enormously from case to case.

The variables are several and complex:

- the density of development (determined in the first place by the R-Code);*
- the height of buildings, existing and proposed;*
- the position of buildings, existing and proposed, in relation to boundaries;*

- the orientation of the development site and its neighbours, that is, the relative position of the sun;
- the relevant dimensions and shape of the development site and of affected neighbouring sites; and
- the degree and orientation of slope of the land.

It is clear that the sites most vulnerable to overshadowing are narrow east-west orientated sites, on the south side of a development site, especially if they are also lower or on a southfacing slope. In such cases, even a relatively low building may cast mid-winter shadow over a greater proportion of the site than allowed under acceptable development provision 6.9.1 of the codes.

In other cases a shadow cast by a proposed building may exceed the allowable limits in theory, but in practice may simply be casting a shadow on to a boundary wall or roof or both, with minimal adverse effect.

A shadow may not exceed the limit but may fall over the only available outdoor living area, or living room window, of an adjoining house.

Calculation of overshadowing

The assessment of the shadow cast by a building at midday on 21 June is straightforward. The methodology for determining the shade so cast is to be found in the *Sunshine and Shade in Australasia*, Phillips, R.O., Commonwealth Scientific and Industrial Research Organisation (Australia), Division of Building Construction and Engineering, CSIRO, Canberra, ACT 1992.

Reference should be made to the specific tables in this document.

In general terms the shadow cast is calculated by:

- selecting the vertical sun angle from the following chart that lists the major urban centres from Albany to Wyndham; and
- transposing the length of shadow on to the site plan, taking care to correctly orientate the building and allow for the slope of the land, if any.

City/Town	Latitude (S)	Vertical sun angle
Albany	35	31
Perth	32	34
Kalgoorlie	31	35
Geraldton	28	38
Carnarvon	25	42
Port Hedland	20	47
Broome	18	49
Wyndham	15	52"

The situation that applies to the attached grouped dwelling at 65 Alexandra Road is unfortunate (it is on an east-west oriented property that is on the south side of the proposed development), and overshadow of the northern wall of this dwelling is largely unavoidable if the property at 67 Alexandra Road is developed for residential purposes.

A large amount of the overshadow will be of the roof of this dwelling because of the close proximity of its north side wall to the common property boundary.

Overshadow of this wall will result from a standard 1.8m high boundary fence, and even a single storey dwelling constructed on 67 Alexandra Road with a standard 3m wall height will overshadow the windows in the north side wall of the dwelling at 65 Alexandra Road.

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It is worth noting that the applicant in an effort to reduce the impact of overshadow has increased the setback from the common boundary, and the maximum height of the proposed development is at 7.3m. The allowable height in this area of East Fremantle is 9m. The overshadow that will result from the amended plans is calculated to be 12.2% of the adjoining property/lot.

By limiting the height of the proposed development to 7.3m, and increasing its setback from the south side boundary, the proposed development is considered to have taken into consideration the effect on the adjoining property and the impact on the building that would be most affected.

252. ADJOURNMENT**Cr Arnold – Cr de Jong**

That the meeting be adjourned at 8.52pm to allow further discussion on the application. CARRIED

253. RESUMPTION**Cr de Jong – Cr Rico**

That the meeting be resumed at 9.45pm with all those present prior to the adjournment, in attendance. CARRIED

254. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) (CONTINUED)**254.1 T71.7 Alexandra Road No. 67 (Lot 12) (Continued)***Mayor Ferris – Cr de Jong**That Council exercise its discretion in granting approval for the following:*

- (a) variation to the east side (front) boundary setback for a double garage, stairwell and porch on the ground floor and a stairwell on the upper floor pursuant to the Residential Design Codes from 6m to 4.5m and 4.3m respectively;*
- (b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 9° 5';*
- (c) variation to the visual permeability of fence panels pursuant to Local Planning Policy 143;*

for the construction of a flat and skillion roofed 2-storey house and front fence at No. 67 (Lot 12) Alexandra Road, East Fremantle comprising:

Ground floor: double garage & store, porch, entry, office, alfresco, 2 bedrooms, bathroom, powder room, laundry, living room, stairs and a lift;

First floor: bedroom, built in robe en-suite, powder room, stairs, lift, lobby, store, kitchen, dining room & lounge, and a balcony;

in accordance with the plans date stamp received on 31 July 2008 subject to the following conditions:

- 1. prior to the issue of a building licence, amended plans be submitted indicating a front fence in compliance with fencing height.*
- 2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.*
- 3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.*
- 4. 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.*
- 5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.*
- 6. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to*

prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
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) 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) 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.

LOST

Cr Dobro – Cr Wilson

That the applicant be invited to submit a revised proposal that better addresses the comments of the Town Planning Advisory Panel, particularly in relation to the bulk of the building and its impact on the adjoining property to the south.

Amendment

Cr Collinson – Cr Rico

That the motion be amended to include the addressing of the Alexandra Road streetscape. THE AMENDMENT WAS CARRIED & FORMS PART OF THE MOTION

The motion, as amended, was put.

Cr Dobro – Cr Wilson

That the applicants be invited to submit a revised proposal that better addresses:

1. **the comments of the Town Planning Advisory Panel, particularly in relation to the bulk of the building and its impact on the adjoining property to the south**
2. **the Alexandra Road streetscape.**

CARRIED

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254.2 T71.8 Wolsely Road No 20 (Lot 11)
Cr Arnold – Cr Wilson

That this application be deferred to allow the applicants to submit revised plans that better address:

- 1. the comments of the Town Planning Advisory Panel, particularly in relation to the bulk of the building and its impact of the adjoining property to the south**
 - 2. the Wolsely Road streetscape.**
- CARRIED

Prior to consideration of the following item, the applicant's representatives left the meeting. Before doing so, one of the representatives, Mr Steve Buljan, directed several comments of an abusive nature towards the Council representatives and some members of the public present.

The Presiding Member requested Mr Buljan to cease making such comments.

Cr Arnold and the Chief Executive Officer left the meeting at 10.05pm, returning at 10.10pm.

254.3 T71.9 Gill Street No 5 (Lot 5)

Applicant: Greg Rowe & Associates

Owner: The Commissioners of the Presbyterian Church in Western Australia

Application: No P136/2008

Mr Armstrong of Greg Rowe & Associates addressed the meeting in support of the proposal.

The Town Planner provided the following additional information:

In regard to the application by Greg Rowe & Assoc to amend the town planning scheme to allow 5 Gill Street to be used as an office, if Council decides that it is prepared to initiate this amendment, the following resolution needs to be made:

"That Council, pursuant to Section 75 of the Planning and Development Act 2005, resolves to initiate an amendment to the Town of East Fremantle Town Planning Scheme No 3 by:

- 1. Replacing the 'Description of Land' of 'Additional Use Site No. 14' under Schedule 2 of the Scheme Text with the following:*
"Lot 57 (No. 10) Windsor Road, East Fremantle, and Lot 5 (No 5) Gill Street East Fremantle."
- 2. Modifying the Scheme Map to reflect the new boundaries of 'Additional Use Site No. 14.'*

Cr de Jong – Cr Collinson

That Council, pursuant to Section 75 of the Planning and Development Act 2005, resolves to initiate an amendment to the Town of East Fremantle Town Planning Scheme No 3 by:

- 1. Replacing the 'Description of Land' of 'Additional Use Site No. 14' under Schedule 2 of the Scheme Text with the following:**
"Lot 57 (No. 10) Windsor Road, East Fremantle, and Lot 5 (No 5) Gill Street East Fremantle."
 - 2. Modifying the Scheme Map to reflect the new boundaries of 'Additional Use Site No. 14.**
- CARRIED

255. ADJOURNMENT

Cr Dobro – Cr Nardi

That the meeting be adjourned at 10.15pm to allow concerned members of the gallery to be escorted to their vehicles.

CARRIED

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256. RESUMPTION

Cr Dobro – Cr Nardi

That the meeting be resumed at 10.20pm with all those present prior to the adjournment, in attendance. CARRIED

257. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) (CONTINUED)**257.1 T71.10 Glyde Street No 38 (Lot 72)****Applicant & Owner: Mathew James Coleman****Application No. P113/2008****Cr Wilson – Cr de Jong**

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

That Council grants approval for the fixing of six (1.58m long x 0.808m wide x 0.045m thick) solar panels in series (south to north) to the skillion roof at the rear of the single storey house at No. 38 (Lot 72) Glyde Street, East Fremantle in accordance with the plans date stamp received on 6 June 2008 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:*The following 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

257.2 T71.11 Wolsely Road No. 23 (Lot 304)**Applicant: Deane Barker****Owner: John Richard & Patricia Olive Westaway****Application No. P115/2008****Cr Wilson – Cr de Jong**

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

That the application for alterations/additions to the residence at No. 23 (Lot 304) Wolsely Road, East Fremantle be deferred pending the receipt of amended plans as discussed with applicant on 23 July 2008. CARRIED

Cr Wilson having declared an interest in the following item as her property at 46 Locke Crescent adjoins the rear of the subject property, left the meeting at 10.21pm

257.3 T71.12 Preston Point Road No. 114 (Lot 4965)**Applicant: Danmar Homes****Owner: Linley Michelle Morris****Application No. P124/2008****Cr de Jong – Cr Nardi**

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

That Council grants approval for a variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 7° for the construction of a 2-storey house at No. 114 (Lot 4965) Preston Point Road, East Fremantle with flat and skillion roofs comprising:

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Ground floor: double garage & store, porch, entry, 2 bedrooms, 2 built in robes, bathroom, laundry, family room, 2 patios and alfresco;

First floor: 2 bedrooms, en-suite, kitchen, pantry, living and dining room, and 2 balconies;

in accordance with the plans date stamp received on 30 June 2008 subject to the following conditions:

1. prior to the issue of a building licence amended plans be submitted showing the rear setback to the alfresco area at 6.0m pursuant to the Residential Design Codes.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. 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.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
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) *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) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) the patios and alfresco area may not be enclosed without the prior written consent of Council.*
- (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

Cr Wilson returned to the meeting at 10.24pm and it should be noted that she neither spoke nor voted on the foregoing item.

257.4 T72.1 Design Guidelines – Plympton Ward

Cr Arnold – Cr de Jong

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

That Mayor Ferris discuss the matter of Design Guidelines for the Plympton Ward with the Chief Executive Officer.

CARRIED

258. FINANCE

258.1 Accounts for Payment

By John Roberts, Executive Manager Finance & Administration on 15 August 2008

PURPOSE

To endorse the lists of payments for the periods 1 June 2008 to 30 June 2008 and 1 July 2008 to 31 July 2008.

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 Lists of Accounts for the periods beginning 1 June 2008 and ending 30 June 2008 and 1 July ending 31 July 2008 require endorsement by the Council.

RECOMMENDATION TO COUNCIL

That the Lists of Accounts for the period beginning 1 June 2008 and ending 30 June 2008 and 1 July 2008 ending 31 July, be received, as per the following tables:

<i>June 2008</i>		
Voucher Nos	Account	Amount
3229 – 3252	Municipal (Cheques)	\$19,537.14
EFT9296 – EFT9426	Electronic Transfer Funds	\$413,315.79
Payroll	Electronic Transfer Funds	\$106,864.52
	Municipal Total Payments	\$539,717.45

July 2008		
Voucher Nos	Account	Amount
3253 – 3275	Municipal (Cheques)	\$40,803.42
EFT9427 – EFT9527	Electronic Transfer Funds	\$435,240.63
Payroll	Electronic Transfer Funds	\$136,122.38
	Municipal Total Payments	\$612,166.43

Cr Collinson – Mayor Ferris

That the Lists of Accounts for the period beginning 1 June 2008 and ending 30 June 2008 and 1 July 2008 ending 31 July 2008, be received. CARRIED

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

259.1 Cr Arnold – Plympton Ward – Designated Heritage Area

The Chief Executive Officer provided the following background information to this issue:

The objective of the motion has not been explained (it is expected this will occur at the meeting) therefore this aspect is not commented on.

If the motion were to be adopted, it would generate considerable work at an officer level. Attached are the relevant Scheme requirements. This needs consideration as a resource issue.

If the motion were to be adopted it would represent a departure from the previously adopted position of Council, which has been to consider individual places “within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme” rather than the Heritage Area approach, at least at this stage.

With respect to the above, Council’s consultant, John Kirkness, whom Council engaged to compile the Municipal Inventory which Council had previously decided would be the key basis of Council’s Heritage List, had discussed a Heritage Area approach and even included some preliminary work in his report, however indicated more work would be needed.

Mr Kirkness’ comments were however of interest:

“Individual listings that do not dovetail with designated heritage areas reflecting this broad heritage basis may be seen to lack substance or credibility, particularly where development controls that the Council might seek to exercise may be directed at preserving the wholeness of an area or streetscape rather than simply the significance of the place itself. On the other hand, broad heritage area listings are commonly seen as generic and therefore the lowest level of heritage listing and protection for individual places. Moreover, the individual characteristics of a place may be at least as important as its value within a collective of places.”

It should be noted that Mr Kirkness did not propose Ward based heritage areas, but precinct based heritage areas, as attached. **ATTACHMENT**

One aspect which may not have been considered is the unintended “message” which could arise from designating Plympton Ward a Heritage Area, however no other Ward of the Town. For example, whilst Plympton has the highest number of properties, it is not

significantly higher than Woodside or in terms of Category A properties, not significantly higher than Richmond.

A combination of Council's (in-principle) adopted Municipal Inventory and its existing Heritage List contains the following numbers of listed properties, by Ward:

Ward	Number of Listed Properties
Plympton	407
Woodside	326
Richmond	207
Preston Point	87

This can be further broken down as follows:

Ward	Number of Category A Properties	Number of Category B Properties	Number of Category C Properties	Number of Category E Properties
Plympton	38	267	99	3
Woodside	13	191	122	
Richmond	28	124	53	2
Preston Point	8	37	39	3

The Chief Executive Officer believes it would be more appropriate to refer this matter for an officer's report, and that for the foreshadowed motion to be adopted without an officer's report would be quite inappropriate. This is a specialist area and external advice would be required prior to an officer's report being prepared. There are also issues with respect to why the Town Planning & Building Committee (Private Domain) and the Town Planning Advisory Panel, not to mention the general public would not be given the opportunity to consider the matter.

It should be noted that the adoption of Heritage Areas has been quite contentious for some local governments and care is needed in terms of managing the issue.

Finally the Chief Executive Officer draws the attention of elected members to the Financial Interest provisions of the Local Government Act.

Departmental advice with respect to an analogous situation (also involving Plympton Ward) was that even if a matter involved on entire Ward, this was not deemed to represent an interest in common.

Cr Dobro declared a financial interest in this item as she owns property in Plympton Ward and left the meeting at 10.46pm

Crs Arnold & Collinson declared a financial interest in this item as they own property in Plympton Ward. Prior to vacating the room at 10.47pm both members requested permission to participate in any debate and decision making on this matter as they considered the extent of their financial interest to be insignificant and trivial.

Mayor Ferris – Cr Wilson
That Council considers Crs Arnold and Collinson's financial interest to be sufficiently trivial and insignificant to legitimately allow both elected members to participate in any debate and decision making on the matter. CARRIED

Crs Arnold & Collinson returned to the meeting at 10.50pm.

Cr Arnold – Cr Nardi
 That Plympton Ward be designated a 'Heritage Area' under the Local Planning Scheme.

Amendment

Cr Collinson – Mayor Ferris

That the matter of Plympton Ward being designated a Heritage Area be deferred pending a report from the Chief Executive Officer.

THE AMENDMENT WAS CARRIED AND BECOMES THE MOTION

The motion, as amended, was put.

Cr Arnold – Cr Nardi

That the matter of Plympton Ward being designated a Heritage Area be deferred pending a report from the Chief Executive Officer. CARRIED

The Town Planner left the meeting at 11.20pm.

Cr Dobro returned to the meeting at 11.20pm and it was noted she did not speak or vote on the previous motion.

260. REPORTS OF CHIEF EXECUTIVE OFFICER

260.1 *East Fremantle Oval Master Plan*

Noting the lateness of the meeting and earlier events of the meeting, the Chief Executive Officer suggested the matter be held over to the next meeting of Council.

Mayor Ferris – Cr Dobro

That this matter be deferred to the next meeting of Council. CARRIED

260.2 *East Fremantle Lawn Tennis Club*

The Chief Executive Officer reminded elected members that the East Fremantle Lawn Tennis Club had invited elected members to inspect the tennis club premises and that elected members had requested at the Strategic Planning briefing that such inspection constitute one of the 4th Tuesday Informal Briefings. The CEO sought feedback on whether they wished to arrange this inspection for next Tuesday, 26 August 2008 in lieu of this month's Informal Briefing.

Elected members agreed to a site visit taking place at the East Fremantle Lawn Tennis Club next Tuesday, 26 August 2008 from 6.30pm. Cr Dobro advised that she would be unable to attend the inspection however this was not an issue.

261. CONFIDENTIAL BUSINESS

Nil.

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

Nil.

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

263.1 *Membership – East Fremantle Festival Committee*

Cr Rico advised that both she and Cr Wilson wished to nominate for membership on the East Fremantle Festival Committee.

Cr Dobro – Mayor O'Neill

That Cr Rico and Cr Wilson be appointed to the East Fremantle Festival Committee. CARRIED

264. CLOSURE OF MEETING

There being no further business, the meeting closed at 11.30pm

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **19 August 2008**, Minute Book reference **234. to 264.** were confirmed at the meeting of the Council on*

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Presiding Member