

20 November 2007

MINUTES

**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS,  
ON TUESDAY, 20 NOVEMBER 2007 COMMENCING AT 6.35PM.**

**INDEX**

**354. DECLARATION OF OPENING OF MEETING**

*354.1 Present*

**355. WELCOME TO GALLERY AND INTRODUCTION OF ELECTED  
MEMBERS AND STAFF**

**356. RECORD OF APPROVED LEAVE OF ABSENCE**

**357. RECORD OF APOLOGIES**

**358. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS**

**359. PUBLIC QUESTION TIME**

**360. APPLICATIONS FOR LEAVE OF ABSENCE**

*360.1 Cr Dobro*

*360.2 Cr Collinson*

*360.3 Cr Wilson*

**361. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

*361.1 Council Meeting – 6 November 2007*

**362. ORDER OF BUSINESS**

**363. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

*363.1 T118.4 Clayton Street No 70*

**364. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN)**

*364.1 T118.4 Clayton Street No 70*

*364.2 T118.6 Petra Street No 41*

*364.3 T118.7 Philip Street No 8*

*364.4 T118.8 May Street No 22 (Lot 67)*

*364.5 T118.9 View Terrace No 16*

*364.6 T121.1 Walter Street No 18*

*364.7 T118.5 Fortescue Street No 39A*

*364.8 118.2 Review of Council Policy No 139 on Non-Approved Buildings*

364.9      *T121.2 Preston Point Road No 114*

364.10     *T121.3 Municipal Inventory*

364.11     *Appeals & subdivision applications – regular progress updates for Councillors*

**365.      ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION**

365.1      *T & K Burton*

365.2      *K Williams & D Deloub*

365.3      *A & L Woo*

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

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

367.1      *Cr Collinson - Acknowledgement of Country*

367.2      *Cr Collinson – Fair Trade Council*

**368.      FINANCE ITEMS**

368.1      *Audit Committee*

368.2      *Finance Committee*

**369.      HEALTH & GENERAL PURPOSE ITEMS**

369.1      *East Fremantle Festival Progress Report*

369.2      *Fremantle Library Advisory Committee*

**370.      TOWN PLANNING/PUBLIC DOMAIN, WORKS & RESERVES  
ITEMS**

370.1      *Works Operations Report*

370.2      *Application for event on East Fremantle Football ground*

**371.      REPORTS OF CHIEF EXECUTIVE OFFICERS**

371.1      *Annual Report for the year to 30 June 2007*

371.2.      *Review of Delegations to the Chief Executive Officer*

371.3      *Brief Reports of Chief Executive Officer*

(A)      *Health & General Purpose Committee Meeting*

(B)      *Appointment of Delegates*



***20 November 2007***

**MINUTES**

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*(C) Grants*

*(D) Speed Plateaux George Street*

*(E) Installation of Signage at East Fremantle Launching Ramp*

**372. CONFIDENTIAL BUSINESS**

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

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

**374.1 *East Fremantle Yacht Club***

**375. CLOSURE OF MEETING**

20 November 2007

MINUTES

**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON  
TUESDAY, 20 NOVEMBER 2007 COMMENCING AT 6.35PM.**

**354. DECLARATION OF OPENING OF MEETING**

The Mayor (Presiding Member) declared the meeting open.

**354.1 Present**

Mayor A Ferris	Presiding Member
Cr D Arnold	
Cr C Collinson	
Cr S Dobro	
Cr R Olson	
Cr A Wilson	
Mr S Wearne	Chief Executive Officer
Mr C Warrener	Acting Town Planner (To 8.37pm)
Ms J May	Minute Secretary

**355. WELCOME TO GALLERY AND INTRODUCTION OF ELECTED  
MEMBERS AND STAFF**

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

**356. RECORD OF APPROVED LEAVE OF ABSENCE**

Nil.

**357. RECORD OF APOLOGIES**

Apologies were submitted on behalf of Crs de Jong, Rico and Harrington for this meeting.

**358. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS**

Nil.

**359. PUBLIC QUESTION TIME**

Nil.

**360. APPLICATIONS FOR LEAVE OF ABSENCE**

**360.1 Cr Dobro**

**360.2 Cr Collinson**

**360.3 Cr Wilson**

Seeking leave of absence for the Council meeting on 18 December 2007.

Cr Olson – Cr Arnold

That Crs Dobro, Collinson and Wilson be granted leave of absence for the Council Meeting on 18 December 2007. CARRIED

**361. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**361.1 Council Meeting – 6 November 2007**

Cr Dobro – Cr Olson

That the Minutes of the Council Meeting held on 6 November 2007 be confirmed. CARRIED

**362. ORDER OF BUSINESS**

Cr Arnold – Cr Olson

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

20 November 2007

MINUTES

**363. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**363.1 T118.4 Clayton Street No 70**

**M Gadsby:** Submitting reasons why Council should not impose a requirement for screening to the proposed northern balcony of his proposed residence.

**Cr Dobro – Cr Wilson**

That the letter from Mr Gadsby be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 364.1).

CARRIED

**364. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN)**

**364.1 T118.4 Clayton Street No 70**

The letter from Mr Gadsby, referred from Correspondence (MB Ref 363.1) was tabled.

*The Chief Executive Officer left the meeting at 6.47pm.*

Mr Gadsby addressed the meeting in support of his request to delete the condition relating to screening of the proposed northern balcony.

*The Chief Executive Officer returned to the meeting at 6.49pm.*

**Cr Olson – Cr Arnold**

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

- (a) variation to the west side (front boundary) setback pursuant to the Residential Design Codes for a office a porch and bedroom 2 from 6m to 5.7m;
  - (b) variation to the west side (front boundary) setback pursuant to the Residential Design Codes for an upper floor balcony on the north side, a kitchen wall, and a balcony from 6m to 4.8m, 5.6m, and 5 m respectively;
  - (c) variation to the north side boundary setback pursuant to the Residential Design Codes for a ground floor alfresco area from 1.5m to 1.342m;
  - (d) variation to the south side boundary setback pursuant to Local Planning Policy 142 for a store from 1m to 0m;
  - (e) variation to wall height on the west side for an upper floor kitchen wall pursuant to Local Planning Policy 142 from 5.6m to 6.1m;
  - (f) variation to wall height on the east side for an upper floor guest room and living room pursuant to Local Planning Policy 142 from 5.6m to 6.8m and 7.1;
- for the construction of a 2-storey house at 70 Clayton Street with a double garage and store, laundry, bathroom, porch, foyer, office, activity room, 9.2m long X 3m wide below ground swimming pool, 2 bedrooms and a bathroom at ground level, and on the upper floor a freeform living room, balcony, kitchen, master bedroom and en-suite, dressing room, and a guest room and en-suite in accordance with the plans date stamp received on 20 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 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. the proposed works for the swimming pool are not to be commenced until approval from the Water Corporation has been obtained and the building

20 November 2007

## MINUTES

- licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
  6. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
  7. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
  8. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
  9. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
  10. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
  11. 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.
  12. 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.
  13. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
  14. 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.
  15. 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.
  16. 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*

20 November 2007

## MINUTES

*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 condition 1 subject to the design of the redevelopment of the adjoining property at 182 Preston Point Road Council may be prepared to amend this planning approval to remove this condition.*

CARRIED**364.2 T118.6 Petra Street No 41**

The following additional information was provided by the Town Planner:

*At its meeting on 13 November 2007 the Town Planning & Building Committee considered an application for a single storey house at the corner of Petra Street and Fletcher Street. The Committee recommended:*

*"Mayor Ferris – Cr Wilson*

*That the application be deferred to the Council Meeting on 20 November 2007 to allow the applicant to address the Committee's concerns in relation to the dominance of the garage on the streetscape."*

*The applicant has submitted amended plans, which propose to increase the setback of the garage from 6m to 6.96m to bring it into line with the study, and the porch remains at the 6m setback. The garage is therefore moved back behind the "main building line" (the porch) to comply with the spirit of LPP 142, and reduce its dominance on the streetscape.*

*The following recommendation is put to Council in light of the amended plans:*

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

*(a) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25° for the construction of a single storey house at 41 Petra Street with double garage, porch, entry, study, 3 bedrooms, 2 bathrooms, theatre, kitchen, dining room and alfresco in accordance with the plans date stamp received on 15 November 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.*
- 5. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve*

**20 November 2007****MINUTES**

*such works, then this condition cannot be satisfied and this planning approval is not valid.*

- 6. 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.*
- 7. 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.*
- 8. this planning approval to remain valid for a period of 24 months from date of this approval.*

**Footnote:**

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

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

Mr Pirozzi (designer) addressed the meeting in support of the revised proposal.

**Cr Dobro – Cr Wilson**

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

**(a) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25° for the construction of a single storey house at 41 Petra Street with double garage, porch, entry, study, 3 bedrooms, 2 bathrooms, theatre, kitchen, dining room and alfresco in accordance with the plans date stamp received on 15 November 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.**
- 5. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council**



20 November 2007

## MINUTES

refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.

6. 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.
7. 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.
8. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

CARRIED

## 364.3

***T118.7 Philip Street No 8***

The following additional information was provided by the Town Planner:

*The Committee considered an application for 2 storey additions to the rear of the house at 8 Philip Street, and recommended:*

*Mayor Ferris – Cr de Jong*

*That the matter be deferred to allow the applicant to work with Council staff, particularly in relation to wall height and bringing the building into compliance with LPP No 142.*

*In response the applicant has amended the plans to reduce the area of the upper floor additions, which result in the wall on the west side being "brought in" to leave the existing house roofline along this side remaining exposed.*

*The effect of this is to substantially reduce the perceived "bulky" appearance of the proposed additions, and their resultant impact on the neighbouring property.*

*The applicant has met with all adjoining property owners to discuss the plan amendments, and has obtained their endorsements of support for them.*

*Wall height continues to exceed the limit under LPP 142 however this variation has no impact on adjoining or nearby property views, and can be supported. Roof height is below the limit under LPP 142.*

*Based on the amended plans the following recommendation is submitted for Council's consideration:*

**20 November 2007****MINUTES**

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

- (a) variation to wall height on the north side pursuant to Local Planning Policy 142 from 5.6m to 7m;*
- (b) variation to wall height on the east side pursuant to Local Planning Policy 142 from 5.6m to 6.9m;*
- (c) variation to wall height on the west side pursuant to Local Planning Policy 142 from 5.6m to 7m;*
- (d) variation to the north side boundary setback for an alfresco area pursuant to the Residential Design Codes from 6m to 5.8m*

*for the construction of additions to the single storey house at 8 Philip Street comprising:*

- *4.7m long X 3.5m wide X 5.1m high alfresco area at the rear;*
- *convert the ground floor space containing a kitchen, bedroom, bathroom, study and sleep-out into a new kitchen, meals and sitting room, a new bathroom and a stairwell, and*
- *upper floor addition containing a master bedroom, an en-suite and sitting room.*

*in accordance with the plans date stamp received on 16 November 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 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 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) 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).*

Mr Acton (architect) addressed the meeting in support of the revised proposal.

**Cr Dobro – Cr Olson**

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

- (a) variation to wall height on the north side pursuant to Local Planning Policy 142 from 5.6m to 7m;**
- (b) variation to wall height on the east side pursuant to Local Planning Policy 142 from 5.6m to 6.9m;**
- (c) variation to wall height on the west side pursuant to Local Planning Policy 142 from 5.6m to 7m;**

20 November 2007

## MINUTES

(d) variation to the north side boundary setback for an alfresco area pursuant to the Residential Design Codes from 6m to 5.8m for the construction of additions to the single storey house at 8 Philip Street comprising:

- (i) 4.7m long X 3.5m wide X 5.1m high alfresco area at the rear;
- (ii) convert the ground floor space containing a kitchen, bedroom, bathroom, study and sleep-out into a new kitchen, meals and sitting room, a new bathroom and a stairwell, and
- (iii) upper floor addition containing a master bedroom, an en-suite and sitting room.

in accordance with the plans date stamp received on 16 November 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 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 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) *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 Dobro made the following impartiality declaration in the matter of 22 May Street: "As a consequence of the neighbour at 20 May Street previously being the General Manager of my daughter's soccer team (the soccer season has ceased), and whilst I have had no contact with the neighbour nor discussion on this proposal, 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.*

**364.4 T118.8 May Street No 22 (Lot 67)**

Mr McGee (applicant) addressed the meeting thanking those elected members who attended the site inspection held the previous day and hoping any misconceptions with the development had been resolved.

20 November 2007

## MINUTES

Mayor Ferris noted that the Chief Executive Officer had offered to provide advice regarding recommended measures to ensure the retention of the existing residence, should elected members wish to consider including such measures as a condition in the event of any approval of the application.

Mayor Ferris then invited the Chief Executive Officer to speak.

The Chief Executive Officer advised the meeting of research carried out on the use of a restrictive covenant and subsequent discussions he had had with officers of the Heritage Council and the National Trust with regard to the placing of a restrictive covenant on the title.

The Chief Executive Officer further advised that, as a result of that research and discussions, in his view, in the event of an approval of the application, an appropriate restrictive covenant should be applied to both the approval and the associated subdivision.

The Chief Executive Officer then distributed the suggested wording of an appropriate restrictive covenant and informed elected members he had spoken to Mr McGee before the meeting and that Mr McGee was in support of the concept and the proposed wording and also advised he had the authority to represent the owners on this issue.

The words proposed by the Chief Executive Officer were as follows:

*"To ensure the heritage values of the existing dwelling on the front block of 22 May Street are not adversely impacted upon at any time in the future; that the owners agree to the implementation of a Restrictive Covenant, the costs of which are to be met by the owners, and which will be between themselves, Council and the National Trust and which is to Council's satisfaction and designed to ensure that any proposed action which impacts on the heritage values of the property, including any development or demolition of all or part of the property, will require Council's express approval before that proposed action can be implemented."*

Cr Arnold – Cr Olson

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

Existing Residence

- (a) *variation to the length of a boundary wall along the east side boundary for a kitchen, study, atrium and bathroom pursuant to Local Planning Policy 142 from 9m to 13m;*

Unit (1) – Middle Unit

- (b) *variation to percentage of open space pursuant to Residential Design Codes from 45% to 36.2%;*
- (c) *variation to wall height for a garage on the north side pursuant to Local Planning Policy 142 from 3m to 4.7m;*
- (d) *variation to the north side boundary setback for an upper floor terrace pursuant to Residential Design Codes from 7.5m to 3m;*
- (e) *variation to the length of a boundary wall on the east side for a garage pursuant to Local Planning Policy 142 from 9m to 11.2m;*
- (f) *variation to the length of a boundary wall on the west side for bedroom 2, a bathroom and stairwell pursuant to Local Planning Policy 142 from 9m to 9.2m;*
- (g) *variation to the length of an upper floor boundary wall on the west side for a terrace, living room, stairwell and kitchen pursuant to Local Planning Policy 142 from 9m to 13.2m;*
- (h) *variation to the upper floor setback on the east side for a laundry pursuant to the Residential Design Codes from 1.2m to 0m;*
- (i) *variation to the boundary setback on the west side for bedroom 2, a bathroom and stairwell pursuant to Local Planning Policy 142 from 1m to 0m;*
- (j) *variation to upper floor setback on the west side for a terrace, living room, stairwell and kitchen pursuant to Local Planning Policy 142 from 1.6m to 0m;*

Unit (2) – Rear Unit

- (k) variation to percentage of open space recommended pursuant to Residential Design Codes from 45% to 40.7%;
- (l) variation to the upper floor setback on the east side for a kitchen, stairwell, living room and terrace pursuant to the Residential Design Codes from 1.6m to 1.57m;
- (m) variation to the boundary setback on the west side for bedroom 1, an en-suite and entry pursuant to Local Planning Policy 142 from 1m to 0m;
- (n) variation to the length of a boundary wall on the upper east side for a kitchen, stairwell, living room and terrace pursuant to Local Planning Policy 142 from 9m to 14.2m;
- (o) variation to the length of a boundary wall on the west side for bedroom 1, an en-suite and entry pursuant to Local Planning Policy 142 from 9m to 9.2m;

for the construction of two 2-storey grouped dwellings at the rear of No. 22 (Lot 67) May Street, East Fremantle and alterations including restoration works to the single storey house at the front in accordance with the plans date stamp received on 4 October 2007 subject to the following conditions:

1. To ensure the heritage values of the existing dwelling on the front block of 22 May Street are not adversely impacted upon at any time in the future; that the owners agree to the implementation of a Restrictive Covenant, the costs of which are to be met by the owners, and which will be between themselves, Council and the National Trust and which is to Council's satisfaction and designed to ensure that any proposed action which impacts on the heritage values of the property, including any development or demolition of all or part of the property, will require Council's express approval before that proposed action can be implemented.
2. prior to the issue of a Building Licence the owner is to provide an agreement in writing to have the single storey weatherboard and iron house at 22 May Street included on the Heritage List under the Town of East Fremantle Town Planning Scheme No. 3;
3. 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.
4. 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.
5. the proposed grouped dwellings including the single house at the front are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater 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.
7. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. 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.
9. 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.
10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.

20 November 2007

## MINUTES

11. *this planning approval to remain valid for a period of 24 months from date of this approval.*

Footnote:

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

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

Amendment

**Cr Dobro – Cr Wilson**

**That the following become condition 3 of the motion and the subsequent conditions be renumbered accordingly:**

***“3. the balustrading on the northern terraces be opaque.”***

THE AMENDMENT WAS CARRIED AND FORMS PART OF THE MOTION

The motion as amended was put.

**Cr Arnold – Cr Olson**

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

Existing Residence

- (a) variation to the length of a boundary wall along the east side boundary for a kitchen, study, atrium and bathroom pursuant to Local Planning Policy 142 from 9m to 13m;**

Unit (1) – Middle Unit

- (b) variation to percentage of open space pursuant to Residential Design Codes from 45% to 36.2%;**
- (c) variation to wall height for a garage on the north side pursuant to Local Planning Policy 142 from 3m to 4.7m;**
- (d) variation to the north side boundary setback for an upper floor terrace pursuant to Residential Design Codes from 7.5m to 3m;**
- (e) variation to the length of a boundary wall on the east side for a garage pursuant to Local Planning Policy 142 from 9m to 11.2m;**
- (f) variation to the length of a boundary wall on the west side for bedroom 2, a bathroom and stairwell pursuant to Local Planning Policy 142 from 9m to 9.2m;**
- (g) variation to the length of an upper floor boundary wall on the west side for a terrace, living room, stairwell and kitchen pursuant to Local Planning Policy 142 from 9m to 13.2m;**
- (h) variation to the upper floor setback on the east side for a laundry pursuant to the Residential Design Codes from 1.2m to 0m;**
- (i) variation to the boundary setback on the west side for bedroom 2, a bathroom and stairwell pursuant to Local Planning Policy 142 from 1m to 0m;**

**20 November 2007****MINUTES**

- (j) variation to upper floor setback on the west side for a terrace, living room, stairwell and kitchen pursuant to Local Planning Policy 142 from 1.6m to 0m;

**Unit (2) – Rear Unit**

- (k) variation to percentage of open space recommended pursuant to Residential Design Codes from 45% to 40.7%;
- (l) variation to the upper floor setback on the east side for a kitchen, stairwell, living room and terrace pursuant to the Residential Design Codes from 1.6m to 1.57m;
- (m) variation to the boundary setback on the west side for bedroom 1, an en-suite and entry pursuant to Local Planning Policy 142 from 1m to 0m;
- (n) variation to the length of a boundary wall on the upper east side for a kitchen, stairwell, living room and terrace pursuant to Local Planning Policy 142 from 9m to 14.2m;
- (o) variation to the length of a boundary wall on the west side for bedroom 1, an en-suite and entry pursuant to Local Planning Policy 142 from 9m to 9.2m;

for the construction of two 2-storey grouped dwellings at the rear of No. 22 (Lot 67) May Street, East Fremantle and alterations including restoration works to the single storey house at the front in accordance with the plans date stamp received on 4 October 2007 subject to the following conditions:

1. To ensure the heritage values of the existing dwelling on the front block of 22 May Street are not adversely impacted upon at any time in the future; that the owners agree to the implementation of a Restrictive Covenant, the costs of which are to be met by the owners, and which will be between themselves, Council and the National Trust and which is to Council's satisfaction and designed to ensure that any proposed action which impacts on the heritage values of the property, including any development or demolition of all or part of the property, will require Council's express approval before that proposed action can be implemented.
2. prior to the issue of a Building Licence the owner is to provide an agreement in writing to have the single storey weatherboard and iron house at 22 May Street included on the Heritage List under the Town of East Fremantle Town Planning Scheme No. 3;
3. the balustrading on the northern terraces be opaque.
4. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. the proposed grouped dwellings including the single house at the front are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
8. 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.
9. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.

20 November 2007

## MINUTES

10. 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.
11. 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.
12. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

CARRIED

*Cr Arnold made the following impartiality declaration in the matter of 16 View Terrace: "As a consequence of my friendship with the owner's consultant, Mr S Fairfowl, of Greg Rowe & Associates, 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.*

**364.5 T118.9 View Terrace No 16**

Mr Trupp (owner) and Mr Fairfowl (Greg Rowe & Associates) addressed the meeting presenting diagrams illustrating impact of non compliant building height with concealed roof design, as proposed, as opposed to a development complying with the building height but with a pitched roof. Mr Trupp advised that although he did not favour the proposal, he was prepared to reduce the ceiling/wall height of the addition on the north side to bring it into compliance with the 8.1m building height limit. Mr Trupp did not favour Council's suggestion to erect framing to illustrate the proposed height of the building given the strong winds experienced in this part of the Town and the possibility of damaging the existing roof during erection.

Mr French, Mr Melvin and Ms Tuba (also representing Ms Nagle) addressed the meeting strongly objecting to the proposal and supporting the Committee's recommendation to defer the matter pending a site inspection.

**Cr Dobro – Cr Arnold**

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

**That the application be deferred pending a site visit and the applicants be requested to erect temporary framing to illustrate the proposed wall height of the additions prior to this inspection.**

CARRIED



20 November 2007

## MINUTES

**364.6 T121.1 Walter Street No 18**

Mr Carrello (representing the owner) addressed the meeting in support of the proposal, however, offering to make minor modifications to the proposal to address some of the concerns.

**Cr Dobro – Cr Wilson**

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

**That the application be deferred pending a revised proposal which addresses:**

- **impact and interaction with streetscape**
- **wall height**
- **open space requirements.**

CARRIED

*Mayor Ferris made the following impartiality declaration in the matter of 39A Fortescue Street: "As a consequence of the neighbours at 36 Dalgety Street being friends, 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."*

**364.7 T118.5 Fortescue Street No 39A**

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

**Mayor Ferris – Cr Olson**

**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 south side ground floor boundary setback pursuant to the Residential Design Codes for an alfresco area from 1.5m to 1.2m;
- (b) variation to the west side upper floor setback for a bathroom & powder room pursuant to Local Planning Policy 142 from 4m to 3.185m;
- (c) variation to the east side upper floor setback for a sitting room pursuant to Local Planning Policy 142 from 4m to 1.9m;
- (d) variation to the north side upper floor setback for a study, bedroom 2, and a bathroom pursuant to Local Planning Policy 142 from 4m to 3.5m, 1.7m, and 3.1m respectively;
- (e) variation to the south side upper floor setback for bedroom 4 pursuant to Local Planning Policy 142 from 4m to 3.84m;

for the construction of 2-storey house on the rear/battle-axe block at 39A Fortescue Street with a double garage, theatre, laundry, powder room, kitchen, dining, living room, master bedroom with en-suite, store, entry and portico on the ground floor, with 3 bedrooms, a bathroom and a study on the upper floor in accordance with the plans date stamp received on 8 November 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.

20 November 2007

## MINUTES

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.*

CARRIED

364.8

**118.2 Review of Council Policy No 139 on Non-Approved Buildings**

Cr Dobro – Cr Olson

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

That Council adopts the following amended Policy 139 including proposed new forms and documentation attached to these minutes:

**COUNCIL POLICY ON NON-APPROVED STRUCTURES***Adopted Council Meeting, held 20 April 2004**Amended Council Meeting held 16 October 2007*

1. Council delegates to the Chief Executive Officer the authority to issue a Certificate of Acknowledgment of Existing Structures in the event that a structure has been constructed prior to the issue of a building licence as required under s374 of the *Local Government (Miscellaneous Provisions) Act 1960* subject to the following conditions:

20 November 2007

## MINUTES

- a) The structure or part complies with all relevant Building, Planning and Health Legislation; including the current Town Planning Scheme, Residential Design Codes, Building Regulations 1989 and the Building Code of Australia.
  - b) Confirmation that the building or part is structurally adequate, is not a hazard and is not in breach of any other legislation;  
Structural confirmation shall take the form of a certificate or letter of structural adequacy from a practising structural engineer.
  - c) Submission of adequate plans detailing the buildings construction and location;  
A Certificate of Acknowledgement of Existing Structures will only be issued upon receipt of adequate design documentation as is required for a building licence application.
  - d) Payment of the required fee to be set out in the Council's Schedule of Fees and Charges.
2. Council notes the above process does not preclude access to the statutory process if parties prefer to follow it.
  3. Until the issue of a Certificate of Acknowledgment of Existing Structures, the Council retains the right to take action under s401 of the *Local Government (Miscellaneous Provisions) Act 1960* against construction work performed without a valid building licence.
  4. The attached forms constitute the documentation relating to the Policy.

CARRIED  
ABSOLUTE MAJORITY

*Cr Wilson declared an interest in the following item as the subject lot abuts her property and left the meeting at 8.30pm.*

**364.9 T121.2 Preston Point Road No 114****Cr Dobro – Cr Olson****That Council exercise its discretion in granting approval for the following:**

- (a) variation to the south side boundary setback pursuant to the Residential Design Codes from 6m to 4.3m;
- (b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 15°39' for the construction of a 2-storey house at 114 Preston Point Road with double garage at the rear, on the ground floor entry, hallway, alfresco, family room, study, 2 bedrooms and a bathroom, and on the upper floor a balcony, living room, dining room, kitchen, larder, bedroom 1, en-suite, built in robe, theatre and laundry in accordance with the plans date stamp received on 13 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 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.

20 November 2007

**MINUTES**

5. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
6. 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.
7. 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.
8. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

CARRIED

*Cr Wilson returned to the meeting at 8.32pm and it was noted she did not speak or vote on the previous motion.*

**364.10 T121.3 Municipal Inventory**

The following information from the Chief Executive Officer was considered:

*With respect to the above Agenda item, I have researched:*

- (i) *properties belonging to elected members on the Heritage Survey referred to in the report.*
- (ii) *the applicable statutory provisions regarding the Disclosure of Financial Interests.*

*With regard to (i) above, I advise the following information:*

48 King Street	Category A↑	Cr Cliff Collinson
90 King Street	Category B+	Cr Stefanie Dobro
88 Hubble Street	Category B+	Cr Dave Arnold
31 Allen Street	Category B↑	Cr Jenny Harrington

20 November 2007

## MINUTES

With regard to (ii) above, I advise that after careful consideration and given that the Heritage Survey lists approximately 1030 properties of approximately 3,000 properties in the Town (ie 34%) that the clear prima facie financial interest involved that in this case is suggested to be an interest common to a significant number of electors or ratepayers and thus 5.63(c) of the Local Government Act, which provides an exemption in such circumstances, would apply.

The provision provides that the interest need not be disclosed at the outset.

(Other provisions provide for the interest to be declared at the outset, however for the remaining elected members to then determine if it is an interest in common and if so, to allow the elected members to then debate and vote on the matter. This alternative approach would however give rise to potential quorum issues in deciding the matter in this case.)

Note however that if an interest is not declared in the current circumstance, as recommended, this issue will still need to be monitored. Thus if, for example, there was a Council resolution which dealt only with Category A properties or even Category A & B properties, that, depending on the number of properties involved, "significant" would arguably no longer apply.

(In this regard note for example that if a matter affected a significant number of electors or ratepayers in a particular Ward (only), this would not constitute an interest common to a significant number of electors or ratepayers of the Town as a whole and a Ward Councillor who was arguably affected by the proposal/matter in question would not be exempt from declaring an interest on this basis.)

**Cr Dobro – Cr Olson**

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

**That the report be received and the Chief Executive Officer continue to progress the finalisation of the Municipal Inventory and to further consider the issue of the inclusion on the Heritage List such of the entries on the Municipal Inventory that Council deems appropriate.** CARRIED

The Town Planner left the meeting at 8.37pm.

**364.11 Appeals & subdivision applications – regular progress updates for Councillors**

The following information was provided by the Town Planner:

*In the light of a suggestion made at the Town Planning & Building Committee the following is a status report on current appeals and subdivision applications. Further reports will be provided on a regular basis as part of the Town Planning & Building Committee Agenda.*

**1 Subdivisions****203 Canning Highway**

*The WAPC has referred an application to subdivide Lot 101 (203 Canning Highway) into 2 lots (1 X 811m<sup>2</sup>, 1 X 860m<sup>2</sup>) to Council for comment.*

*The application complies with the lot size requirements under TPS 3, and Council officers are presently compiling a list of recommended conditions for a response to the WAPC.*

**2 Appeals****83 Canning Highway**

*At its meeting on 21 August 2007 Council decided:*

*Mayor O'Neill – Cr Dobro*

*That:*

- 1. Council refuses to grant approval for the construction of a 4-storey Mixed Use development comprising an existing ground floor commercial building divided into 3 shops, with new development comprising 4 offices, and*

20 November 2007

MINUTES

two 2-bedroom residential apartments on 3 upper levels on Lot 123 (No. 83) Canning Highway, East Fremantle in accordance with the plans date stamp received on 17 May 2007 on the grounds that the proposal does not accord with the purpose for which the land is reserved.

2. Given the property's B<sup>A</sup> rating in the Draft Town of East Fremantle Municipal Inventory the Chief Executive Officer in consultation with relevant officers, enter into negotiations with Main Roads WA and the Department for Planning & Infrastructure.

Footnote:

Council does want this building restored and retained and would support some redevelopment of the site with retention and restoration of the existing building as an integral factor. CARRIED

The applicant submitted an 'application for review' of Council's decision (an appeal) with the State Administrative Tribunal (SAT).

The Town Planner (TP) attended a Directions Hearing (DH) at SAT on 28 September 2007.

The Deputy President of SAT Judge Chaney (JC) ordered that the matter be adjourned to a further DH on 19 October 2007.

JC made 3 orders pursuant to the DH on 19 October.

On 9 November 2007 the Town Planner attended Mediation (M) pursuant to DH Order no. 2.

SAT Member James Jordan made the attached Order following M.

Order No. 1, which requires advice from DPI to be provided to Council by 23 November 2007 is pending.

A further M is scheduled for 3 December 2007.

13 Angwin Street

At its meeting held on 18 September 2007 Council decided:

"Cr Dobro – Cr Ferris

That:

1. Council refuses to amend its Planning Approval dated 2 March 2004 for the removal of rear balcony screens for the following reasons:
  - (a) non compliance with the Acceptable Development criteria given in section 3.8.1 of the R Codes
  - (b) non compliance with clauses 10.2(a), 10.2(c), 10.2(j), 10.2(o), 10.2(p) and 10.2(z) of the Town of East Fremantle Town Planning Scheme No 3
2. Pursuant to Town Planning Scheme No 3 sub-clause 8.4.1 Council grant planning approval for modifications to the front fence at 13 Angwin Street in accordance with the plans date stamp received on 31 August 2007 subject to the following conditions:
  - (a) a retrospective acknowledgement being obtained from Council's Building Surveyor for the unauthorised works to the front fence.
  - (b) the applicant/owner is to provide screening along the south side boundary in the front setback to the satisfaction of Council; and
  - (c) 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:

20 November 2007

MINUTES

- (a) *this decision of Council does not include acknowledgement or approval of any other 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 retrospective acknowledgement is to conform with the approved plans unless otherwise approved by Council.*
- (c) *in regard to the condition relating to the finish of the neighbour's side of the boundary wall for the rubbish bin recess area it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*

*The applicant submitted an 'application for review' with SAT.*

*The Town Planner (TP) attended a DH at SAT on 31 October 2007.*

*Following this DH the Town Planner wrote to SAT querying whether or not the application for review constituted a Class 2 appeal.*

*On 19 November 2007 the TP attended an on site M, which he had requested to provide the applicants and Member Marie Connor with the opportunity to experience the issues of privacy from "both sides of the fence".*

*A further M is arranged for 19 November 2007.*

**Cr Dobro – Cr Olson**  
**That the information be received.**

CARRIED

**365. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION**

**365.1 T & K Burton**

Mayor Ferris read an email from Mr & Mrs Burton thanking Council for the excellent presentation of Locke Park and the rotunda for their son's recent wedding. They advised they could not have wished for a better location for the ceremony which went off beautifully.

**365.2 K Williams & D Deloub**

Mayor Ferris read correspondence from K Williams and D Deloub thanking Council's Town Planner, Chris Warrener, for his support, advice and efficient management of their development proposal for 27B Petra Street. They advised Mr Warrener's manner had made what could be an emotionally fraught experience less so.

**365.3 A & L Woo**

Mayor Ferris read correspondence from Mr & Mrs Woo thanking Council for the new paint job at Gourley Park which looks fantastic.

**365.4 D Westera**

Mayor Ferris read an email from Mr Westera thanking Council's Town Planner, Chris Warrener, and Principal Building Surveyor, Paul Busby, for their assistance in processing his planning approval and building licence for 67 Fortescue Street.

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

Nil.

20 November 2007

## MINUTES

**367. MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN BY COUNCIL MEMBERS****367.1 Cr Collinson - Acknowledgement of Country****Cr Collinson – Cr Wilson****That at the commencement of all Council Meetings there be an acknowledgement of country.** CARRIED**367.2 Cr Collinson – Fair Trade Council**

The Chief Executive Officer provided the following advice regarding this matter:

*At Council's meeting of 6 November 2007 Cr Collinson submitted the following proposed motion under "Notices of Motion by Elected Members for Consideration at the Following Meeting":*

*"That the Town of East Fremantle become a Fair Trade Council."*

*Cr Collinson has subsequently spoken with me about a preferred new motion, as follows:*

*"That the East Fremantle Council gives in principle support to becoming a Fair Trade Council and that Shona Hunter be invited to address council to explain how other councils have implemented becoming a Fair Trade Council."*

*I have advised Cr Collinson that under the Standing Orders, in order to progress this matter he would need to move his foreshadowed (original) motion (and obtain a seconder) – otherwise the motion will lapse as under the relevant agenda item there is no scope for moving an alternative motion at least in the first instance.*

*I believe however it would then be permissible for another elected member to move an amended motion, such as the alternative motion Cr Collinson is now proposing.*

*Cr Collinson has asked if he could also move the amended motion if his original motion was moved by him and seconded.*

*In terms of the Standing Orders I cannot specifically see why not, however such a process would:*

- (i) be unusual (and)*
- (ii) would arguably mean that as his foreshadowed motion had now lapsed, the entire item could not be proceeded with.*

*Thus it would be far preferable, if at least two other elected members are in agreement with the "new" motion, for the two elected members to be ready to alternatively move and second the new (amended) motion to allow the matter to proceed.*

*For the record, in terms of officer advice, I believe the "new" motion satisfactorily addresses the concerns I had about the original motion in respect of elected members being asked to support an action, on Council's part, possibly without knowing the implications of becoming a Fair Trade Council, eg the financial or practical implications. I say "possibly" because I accept Cr Collinson may have intended to explain the implications and answer any other questions elected members may have had, in speaking to his motion. Regardless, in the "new" motion the "become a Fair Trade Council" has been replaced by a preliminary proposal involving an address by someone reportedly very knowledgeable on the subject. This addresses the abovementioned concern.*



20 November 2007

MINUTES

*However in my view the “new” motion still has a slightly premature element in that it proposes Council adopts a position of in-principle support to becoming a Fair Trade Council, prior to receiving the abovementioned advice from Shona Hunter, which is intended to allow Council to make a more informed decision on the matter.*

*Thus whilst I personally understand and endorse the Fair Trade movement and have some understanding of at least some of its initiatives, such as some of the Fair Trade products I regularly buy – on the basis that they are Fair Trade products, I believe the more orderly approach, if Council wishes to proceed to receive an address on the matter, would be reflected in a motion along the following lines:*

*“That Shona Hunter be invited to address Council at its meeting of 6 December 2007 with regard to the Fair Trade concept and in particular how other local governments have implemented becoming a Fair Trade Council.”*

*Following the address, Council could then decide at that meeting or a subsequent meeting, and possibly subject to officer advice, whether it wished to become a “Fair Trade Council”.*

Cr Collinson – Cr Wilson

*That the Town of East Fremantle become a Fair Trade Council.*

Amendment

**Mayor Ferris – Cr Arnold**

**That Shona Hunter be invited to address Council at its meeting of 4 December 2007 with regard to the Fair Trade concept and in particular how other local governments have implemented becoming a Fair Trade Council, with a view to East Fremantle becoming a Fair Trade Council.**

THE AMENDMENT WAS CARRIED AND BECOMES THE MOTION

The motion, as amended, was put.

**Cr Collinson – Cr Wilson**

**That Shona Hunter be invited to address Council at its meeting of 6 December 2007 with regard to the Fair Trade concept and in particular how other local governments have implemented becoming a Fair Trade Council, with a view to East Fremantle becoming a Fair Trade Council.**

CARRIED

**368. FINANCE ITEMS**

**368.1 Audit Committee**

**Cr Olson – Cr Dobro**

**That the recommendations contained in the Minutes of the Audit Committee held on 14 November 2007 be received and adopted.**

CARRIED

**368.2 Finance Committee**

**Cr Dobro - Cr Olson**

**That the recommendations contained in the Minutes of the Finance Committee held on 14 November 2007 be received and adopted.**

CARRIED

20 November 2007

**MINUTES****369. HEALTH & GENERAL PURPOSE ITEMS****369.1 East Fremantle Festival Progress Report**

*By Shelley Cocks Principal Environmental Health Officer on 15 November 2007*

**PURPOSE**

The purpose of this report is to update Council on the progress of the Festival and the endeavours of the Festival Committee and Festival Coordinator, Cynthia Williamson.

**BACKGROUND**

The East Fremantle Festival Committee comprising 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 and the planning is finally reaching a conclusion. After months of hard work and organisation, the East Fremantle Festival 2007 is to be held within a few weeks. At the last Festival Committee meeting held on 7 November, it was decided that no further sub-committee meetings were required prior to the Festival, however, a final report to Council would be appropriate. A post Festival sub-committee meeting will be held after the 2 December 2007, and a final Festival Coordinator report presented to Council following the event. The most recent Festival Committee Report is attached.

**ATTACHMENT****ISSUES**

Some of the issues which have been challenging during the planning of the Festival include major drainage and road works in George Street, which, although inconvenient in the interim will result in a beautiful new street in the near future. The imminent demolition of the Mitchell Dry Cleaners at 90 George Street (which has been delayed) has been a source of angst for residents, Council staff and the Festival Coordinator. The owner has assured Council staff that this premises will be in an acceptable condition at the time of the Festival. There has been an increase in graffiti along George Street both on private properties and public utilities, which have led to more than the usual number of reports to City of Fremantle who have (under a financial arrangement with the Town of East Fremantle) been cleaning up the graffiti on a weekly basis. Many thanks to all the depot staff who have been spending lots of time in George Street to ensure all is well in time for the Festival, and thanks to Simon who has been painting out graffiti on Council property and has also painted over park signage including the Glasson Park sign which was looking a bit tired.

An effective request for a \$4,000 increase in Council's Festival funding has been received from the Festival Coordinator.

**ATTACHMENT**

The primary causes of the shortfall are these:

- cost increases for Festival infrastructure which have in some cases more than doubled
- lack of cash sponsorship

The budgeted income was \$20,000 comprising stallholder fees of \$5,000 & sponsorship of \$15,000.

The anticipated Lotterywest grant of \$9,720 has been received however not the balance of \$5,280 expected from George Street and other East Fremantle businesses.

In fact only \$2,000 has been received, from:

Commercial Cleaning Equipment (another business of Cynthia Williamson)	\$1,000
Happening Events Management (Cr Harrington's business)	250
Cr Dave Arnold	250
Kailis Organic Olive Grove	250
Jill Birt Residential Design (a Glyde Street resident)	\$ 250
	<b>\$2,000</b>

**20 November 2007****MINUTES**

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Particularly considering the reaction of local businesses to the Council not having a Festival last year, it has been disappointing to note that no business in George Street has offered to sponsor the Festival and nor have previous sponsors such as The Trade Winds Hotel, The Left Bank Bar and Café, Acton Real Estate, Caporn Young Real Estate and Lime Flowers renewed their sponsorship this year, thus far.

As indicated by Cynthia Williamson the overall shortfall would have been even worse had it not been for her success in "contra" sponsorship deals totalling \$6,100. These are listed in her report.

The lack of sponsorship has hampered the ability to afford some of the more expensive entertainment options, although the existing line-up looks very impressive, and should make for a great day. The enthusiasm and desire by performers, especially previous Festival participants, to play at the Festival was heartening, and the reaction of stall holders, both artisan and foods has been equally enthusiastic.

**DISCUSSION**

In discussion with the Chief Executive Officer it is proposed that Council agree in principle at this point to a further \$4,000 in grant funding and if such agreement is obtained that a further officer report on a 2007/08 Budget variation be submitted at the 18 December 2007 Council meeting.

This will allow a further review of actual income and expenditure of the, by then completed, Festival.

**RECOMMENDATION(S)**

That:

1. the Festival update report of November 2007 by Cynthia Williamson report be received.
2. Council agree in principle to an increase in Festival funding of \$4,000, subject to a report to the 18 December 2007 Council Meeting.

**Cr Dobro – Cr Olson**

That:

1. the Festival update report of November 2007 by Cynthia Williamson report be received.
2. Council agree in principle to an increase in Festival funding of \$4,000, subject to a report to the 18 December 2007 Council Meeting. CARRIED

**369.2*****Fremantle Library Advisory Committee***

Cr D Arnold (Council's deputy delegate) advised the meeting that he had attended a meeting of the Fremantle Library Advisory Committee on Wednesday 14 November 2007 where the following issues had been discussed:

- 1700 East Fremantle members – only 194 parking permits issued
- library opening hours changed to accommodate Friday night trading
- development of a project to market library services in Hilton and Samson being developed by Murdoch students. If successful, may be applied to East Fremantle.
- numerous promotions during the quarter including sock knitting and writers group
- the Local History Collection is undertaking microfilming of the Fremantle Herald and Fremantle Gazette
- toy library's relocation to Hilton and advice that East Fremantle members had been surveyed with regard to the new location and were quite content with this new arrangement. RECEIVED

20 November 2007

## MINUTES

**370. TOWN PLANNING/PUBLIC DOMAIN, WORKS & RESERVES ITEMS****370.1 Works Operations Report***By Pat Garrity, Acting Operations Manager on 12 November 2007***MAINTENANCE ACTIVITIES - GARDENS**

Due to the current economic/job climate, positions in both the Parks & Maintenance areas have to be supplemented by contract labour hire firms. This has put the mowing of our parks behind schedule although I would commend the fantastic job our parks crew have done under these circumstances. With the addition of two experienced labourers to the parks crew I can report that we are now back on schedule with the mowing & maintenance of our parks.

**MAINTENANCE ACTIVITIES - WORKS**

The maintenance crew have been extremely busy due to the existing work schedule as well as the redevelopment of George Street. Eight new crossovers have been installed with concrete edge beams and bitumen wearing course. Through to the latter stages of winter a considerable amount of bitumen potholing has been undertaken on our streets and over the summer months these patches will be cut out and reinstated.

Several areas of footpath have received urgent repairs along with the continued works from the footpath hazard report. New kerbs have been installed to sections of Moss Street and Fraser Street with the kerbing program set to begin in December.

The upgrade of our drainage infrastructure has begun with the replacement of drainage inspection covers in the footpath of Locke Crescent and Munro Street with further works to proceed through out the Town.

**TREE REPLACEMENT**

A total of seventy new trees were planted in the verges throughout the Town and the watering contractor has now commenced his schedule of watering twice weekly. Any trees appearing under too much stress will be watered by outside staff in between the contractor's set days.

**STREET SIGNAGE**

The Town has had a run of vandalism in which our street signs have been either damaged beyond repair or stolen. Over the last 3 months in excess of 30 street signs have had to be replaced. Unfortunately this is also occurring to our neighbouring councils, effectively slowing down supply from the manufacturers. It is anticipated that the majority of missing signs will be replaced by mid December.

**TOWN VERGE MOWING**

The Town engaged the services of a mowing contractor to complete a full mowing circuit of our verges, which was initially scheduled to commence mid August. The actual mowing did not start until some 4 weeks later. The reason given by the contractor was the late rain pattern for this time of year constricting their work as wet grass does not easily mow. Further delays occurred when 2 of the contractor's staff suffered injuries requiring medical treatment, extending a two week operation into a stop start affair spanning some 5 weeks. This delay has left certain areas around the Town with longer grass than usual and as such our street maintenance crew of 2 have been set up with the duche mower and brush cutter and the task of mowing verges included into their work schedule.

**GEORGE STREET RECONSTRUCTION**

The reconstruction of George Street commenced on 15 October with the profiling machine milling out the asphalt from East Street to Hubble Street. Works progressed in three stages with the road being milled out to a lower depth then resealed ready for the new bitumen to be laid. The installation of 13 new drainage side entry pits to alleviate the

20 November 2007

**MINUTES**

congestion of water to the corner of Hubble Street encountered some minor problems that delayed the scope of works but were rectified and are now completely operational. With the addition of the new traffic islands and the relocating of the traffic holding stop signs further into George Street enhancing the view of oncoming traffic, the motorist concerns regarding traffic infringements will be reduced. Pram ramps at the intersections of Glyde, Hubble & King Streets were upgraded due to the location of the new traffic islands to wider design with a longer grade, offering a more comfortable transition from path to road for those with personal motorised transport as well as wheelchairs. The bitumen works are set to start on Tuesday morning the 20<sup>th</sup> November and are programmed to proceed over a 2 day period.

Reinstatement of the footpath is progressing and it is anticipated that work will be completed by December 1st 2007.

**FOOTPATH AND KERBING PROGRAM**

The following progress has been made on the footpath program since the last report.

Road	From	To	Cost	Status
FORTESCUE ST	MARMION ST	FLETCHER ST	\$23,366	Complete
DALGETY ST	FLETCHER ST	CANNING HWY	\$24,575	Complete
FLETCHER ST	ALLEN ST	HAMILTON ST	\$9,557	Completed
CAR PARK No 4	RIVERSIDE RD	POS	\$33,750	Completed
HUBBLE ST	GEORGE ST	CANNING HWY	\$17,760	Awaiting report on engineering assessment
LOCKE CR	WOODHOUSE RD	MUNRO ST	\$1,240	Completed
CHAUNCY ST	WOODHOUSE RD	LOCKE CR	\$9,874	Completed
HABGOOD ST	WOODHOUSE RD	LOCKE CR	\$1,589	Completed
HABGOOD ST	WOODHOUSE RD	LOCKE CR	\$9,510	Completed
W.H. KITSON PARK	RIVERSIDE RD	STIRLING HWY	\$661	Removed due to works by MRD
MAY ST	SAINT PETERS RD	CANNING HWY	\$5,872	April 07
DALGETY ST	FLETCHER ST	CANNING HWY	\$22,626	Removed from program due to other priority footpath works (pedestrian Ramp construction Canning Highway)
ANGWIN ST	BOLTON ST	CANNING HWY	\$11,562	May 08
ANGWIN ST	BOLTON ST	CANNING HWY	\$2,495	May 08
ANGWIN ST	BOLTON ST	CANNING HWY	\$4,878	May 08
VIEW TCE	CLAYTON ST	VIEW TCE SERVICE	\$1,762	March 08
PIER ST	EASTON ST	PRESTON POINT RD	\$14,765	Completed

**DRAINAGE/COUNCIL MAIN DRAIN**

The upgrade work to the main Council drain under Stirling Bridge and the installation of the Gross Pollutant Traps is finally nearing completion. These works undertaken by MRWA encountered unforeseen and significant problems (in particular capstone which necessitated a redesign and relocation of some works) and it was unfortunate that this project took a great deal longer to be completed than expected. I have been informed by the Project Manager for MRWA that the re-instatement of the footpath to Stirling Highway is currently being carried out, the temporary fencing will be removed Friday 16<sup>th</sup> November 2007 and the site will be once again opened to public access.

There will be a few minor tasks to finish that are expected to be completed before the end of November.

20 November 2007

MINUTES

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**RECOMMENDATION**

That Council:

- receives the works operational report
- endorses the current and proposed actions of the officer contained in the report.

**Cr Olson – Cr Wilson**

That Council:

- receives the works operational report
- endorses the current and proposed actions of the officer contained in the report.

CARRIED

370.2

***Application for event on East Fremantle Football ground****By Pat Garrity Acting Operations Manager, on 14 November 2007***PURPOSE**

The purpose of this report is to obtain Council approval for an event to be held in February 2008 on East Fremantle Football ground.

**BACKGROUND**

Application has been received from Mr Alan Erdman of "Big Al's Poker Run". The application is seeking to use East Fremantle Football ground on the second Saturday of February 2008. Council gave approval for the "Big Al's Poker Run" to held in February of this year at the EFFC and by all accounts it was a great success. Mr Alan Erdman has been in contact with the East Fremantle Football Club and has been given their approval to use the premises for staging the event on 9 February 2008.

**Description of Proposal/Application/Submission**

Copy of correspondence is attached.

**ATTACHMENT****REPORT****Introduction/Comments**

The reporting officer has received an application from Alan Erdman for use of the East Fremantle Football ground to hold an event that uses a static display of hot rod vehicles presented by car enthusiasts. The event starts at the Burswood Parklands and finishes at East Fremantle Oval. It is expected that approximately 600 vehicles will be displayed in a static display with vehicle arriving on site at approximately 5 or 6pm on the day. Members of the public can view the vehicles followed by a barbeque picnic for the participants of the event and a presentation of awards for the event. After the presentation of awards participants will continue with entertainment into the night by way of a rock and roll band playing music of the sixties until approximately 11.00pm. The participants of the event are mainly families displaying early American classics, Australian Holdens and Fords and classical cars and hot rods.

**Issues**

The event poses a few issues that have to be managed as follows:

- **Impact of vehicles accessing the playing field**  
As the vehicles access the ground and remain stationary, issues of weight are not considered to be of concern. A bond would be taken from the event organisers to cover any cost of turf replacement due to oil leakage from vehicles. It would be anticipated that a bond of \$2000 would be sufficient to cover any costs Council may incur. The bond would be refundable should it not be necessary to replace any turf or irrigation. Irrigation would be turned off for this event over the weekend.
- **Noise management**  
As there will be a rock and roll band playing during the night it is planned to finish the playing of music at 11pm in order that disturbance to local residents is kept to a minimum. Notification would need to be given to residents of Allen Street and Moss

20 November 2007

**MINUTES**

Street as the most directly affected residents in order that they have the opportunity to make alternative arrangements for that evening if they wish. Residents living in these streets would have been aware of the possibility of event like these when purchasing their homes next to a major public venue. All live band and recording generated noise will cease at 11:00pm

- **Waste & refuse management**

As some 2000 people are expected to attend the event the management of refuse and rubbish is to be addressed through the supply of rubbish bins placed strategically around and throughout the ground to minimise the issue of litter. Costs associated with this will be paid for by the promoter of the event through the payment of the fee for the event.

- **Parking**

During the football season between 2000 and 3000 people attend football games and this event is expected to attract some 2000 people. This will bring with it a need for parking and as the event has provided parking for all the participants, the impact of parking around the football ground is expected to be minimal. The area has coped with these numbers of people previously for football games and with all participants parking their vehicles on the oval in a display situation, parking around the ground is not expected to be high impact and will cause little or no problems. Costs associated with Rangers and the enforcement of local parking laws is to be covered by the event organiser in the fee for the use of the ground.

- **Event fees and charges**

Anticipated costs for the event are listed in a table below and this should form the basis of the fee.

<b>EVENT COSTS – EAST FREMANTLE OVAL</b>				
<b>Item</b>	<b>Qty</b>	<b>Unit Type</b>	<b>Unit Cos</b>	<b>Total Cost</b>
Ground hire fee as per sched of fees & charges	1	Lot	304	304
Rubbish bins collection disposal	45	Each	3	177
Staff costs for placement collection of bins	2	Hours	81	162
Ranger Services parking con	6	Hours	52	316
Final cleanup of site	4	Hours	123	495
General administration fee 25% of costs	1	Lot	843	843
Contingencies				300
			Sub Total	2,599
			GST	259
			Total (rounded)	2860

As demonstrated in the above table, costs that Council will incur as a direct result of this event should form part of the fees and charges to be passed onto the event organiser with a \$2,000 bond, refundable should no damage to the ground occur.

Elected members may consider that as this event is partially a charity event and some of the proceeds are donated to charity, they may wish to waive or discount the fees and charges.

- **East Fremantle Football Club**

The East Fremantle Football Club was originally approached for this event and in conversations held with the Chief Executive Officer of the Club he has stated the Club is supporting the event and will be providing some minor catering and availing the licensed area to the event.

20 November 2007

MINUTES

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- **Public liability insurance**

The event organiser has indicated that all relevant insurance policies will be in place prior to the event and copies of these will be provided to the town for verification.

- **Emergency Management plan**

An emergency management plan is currently being developed in accordance with relevant legislation and will be presented to the Town for its endorsement prior to the event. The event will not proceed without this plan.

- **Public entrance fees**

Fees for ground entrance to the general public will be \$10.00. Surrounding affected residents will be offered complimentary entrance tickets.

**Statutory Requirements**

Nil

**Relevant Council Policies**

Council Policy No 102 Use of East Fremantle Oval and hours of use states as follows:

*"The East Fremantle Football Club and other prospective users of the East Fremantle Oval be advised that any activity on the oval which may adversely affect the amenity of the locality, that is by the use of the lights on the oval or by the generation of noise as part of training activities or competitive games, later than 9:00pm at night or earlier than 7:00am on Monday to Saturday or 9:00am Sundays, is not permitted."*

As this event has noise generation after 9:00pm at night and uses the ground's lights, an absolute majority of Council must approve the variation to the Policy to allow the event to proceed.

**Principal Activity Plan Implications**

Nil

**Strategic Plan Implications**

Nil

**Financial/Resource/Budget Implications**

No financial implications are expected on the budget for this event as all costs associated with the event incurred by Council will be charged to the organiser in the fees charged for holding the event.

**Conclusion(s)**

That the event should be supported by Council as the event is of low impact with minimal disturbance to residents and is generally a family orientated event.

**RECOMMENDATION(S)**

That Council approve the relaxation of Policy No 102 "Use of East Fremantle Oval" to allow the "Big Al's Poker Run" event to be held at the East Fremantle Football ground on 9 February 2008 subject to the following:

1. payment of bond of \$2,000 to Council and fees of \$2,860
2. all lighting associated with the event is terminated at 11:00pm
3. all noise generated by the playing of live and recorded music be in accordance with relevant noise abatement regulations and is to cease by 11.00pm on the day of the event.
4. this approval is subject to the provision of satisfactory public liability insurance documentation being presented to the satisfaction of the Chief Executive Officer.
5. this approval is subject to the satisfactory approval of an emergency management plan being present to the Chief Executive Officer prior to the events commencement.

**Absolute Majority Resolution Required**



20 November 2007

## MINUTES

Cr Wilson – Cr Dobro

That Council approve the relaxation of Policy No 102 “Use of East Fremantle Oval” to allow the “Big Al’s Poker Run” event to be held at the East Fremantle Football ground on 9 February 2008 subject to the following:

1. payment of bond of \$2,000 to Council and fees of \$2,860
2. the issue of lighting associated with the event be delegated to the Chief Executive Officer
3. all noise generated by the playing of live and recorded music be in accordance with relevant noise abatement regulations and is to cease by 11.00pm on the day of the event.
4. this approval is subject to the provision of satisfactory public liability insurance documentation being presented to the satisfaction of the Chief Executive Officer.
5. this approval is subject to the satisfactory approval of an emergency management plan being present to the Chief Executive Officer prior to the events commencement.

CARRIED  
ABSOLUTE MAJORITY

**371. REPORTS OF CHIEF EXECUTIVE OFFICERS****371.1 Annual Report for the year to 30 June 2007**

*By Stuart Wearne, Chief Executive Officer, on 15 November 2007*

**PURPOSE**

To accept the 2006/2007 Annual Report and appoint a date and time to hold the annual general meeting of electors.

**REPORT**

The 2006/07 Annual Financial Statements have been completed by staff for audit purposes. The statements have been presented to the auditors in accordance with the Local Government Act and Financial Regulations. An independent audit report has been received from the

An Audit Committee meeting was held on Wednesday, 14 November 2007 with Council’s auditors in attendance. That Committee recommended that Council accept the 2006/07 Annual Financial Statements

It is requested that Council endorse the annual report (which includes the Annual Financial Statements) and appoint the date and time for the general meeting of electors.

**ATTACHMENT**

**Statutory Requirements**

Section 5.27 of the Local Government Act requires that Council hold a general meeting of electors within 56 days after the acceptance of the annual report for the previous financial year.

Matters to be discussed at the Electors’ Meeting include:

- the contents of the annual report
- any other general business

Section 5.29 of the Local Government Act requires the Chief Executive Officer to give at least 14 days:

- local public notice of the meeting
- notice to each council member

20 November 2007

MINUTES

**RECOMMENDATION(S)**

That

1. Council accept the Annual Report for the 2006/2007 financial year
2. the Electors' General Meeting be held on Monday, 10 December 2007 commencing at 6.30pm.

Attention was drawn to the fact a South West Group meeting had been scheduled for the 10 December 2007 which would require attendance by the Mayor and Chief Executive Officer.

**Cr Olson – Mayor Ferris**

**That:**

1. Council accept the Annual Report for the 2006/2007 financial year
2. the Electors' General Meeting be held on Monday, 17 December 2007 commencing at 6.30pm.

CARRIED

**371.2. Review of Delegations to the Chief Executive Officer**

*By Stuart Wearne, Chief Executive Officer on 15 November 2007*

**PURPOSE**

To approve the delegation of designated powers and functions to the Chief Executive Officer under Section 5.42 of the Local Government Act 1995.

**BACKGROUND**

Various powers and duties currently delegated to the CEO must, under Section 5.18 of the Act, be reviewed by Council annually.

**ATTACHMENT**

The delegations were last reviewed by Council on 21 November 2006.

**REPORT**

**Comments/Discussion**

Under Section 5.42 of the Local Government Act, Council may resolve to delegate some of its powers and duties to the Chief Executive Officer. This is normally done in order to improve customer service and reduce the time spent by Council in considering matters of a more operational nature.

Such delegations of authority are consistent with references to Customer Service in the Strategic Plan. These include:-

Core Values

"We are committed to providing a professional service that is timely and meets or exceeds customer expectations and needs."

Strategic Goals

"To ensure the operations and functions of the Town are carried out in an efficient, effective and timely manner."

Any of the duties designated in the Local Government Act may be delegated to the CEO except for those shown in Section 5.43 which are:

- Any duty requiring an absolute or higher majority of Council
- Accepting a tender greater than an amount set by Council
- Appointing an auditor
- Disposing of property valued higher than an amount set by Council
- Deciding fees payable to elected members
- Borrowing money
- Determining objections to a Council decision of a kind referred to in Section 9.5

20 November 2007

**MINUTES**

Powers delegated to the CEO may be further delegated (with or without conditions) by the CEO to other officers, as deemed appropriate by the Chief Executive Officer.

The delegation of any power from Council to the Chief Executive Officer and from the Chief Executive Officer to any other officer must be in writing and when the delegated power is used it must be recorded by the officer exercising it.

A Chief Executive Officer cannot exercise delegated powers or duties if the CEO has an interest in the matter. The nature of the interest must be disclosed to the Mayor as soon as practicable after the CEO becomes aware of the interest.

Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 and subject to the annual review –

- a delegation has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
- any decision to amend or revoke a delegation by a local government is to be by an absolute majority.

**Financial/Budget Implications**

Nil

**Discussion**

Other than some minor "wording" changes designed to correct typographical errors, or clarify the delegation at issue, or to correct statutory references following legislative amendments, or reflect other changed circumstances such as the National Trust's acquiring ownership of the Royal George Hotel (see D40), all of the attached delegations were previously approved by Council, with the following exceptions.

- (i) D11 - This is a new delegation involving mooring pen leases. These have for many years been signed by the Chief Executive Officer and the Mayor however it was recently realised that, technically, each mooring pen lease actually required full Council's approval under Delegation D10.

In the case of mooring pen leases this is considered an unnecessary requirement for what is essentially an administrative exercise involving a waiting list of boat owners and the imposition of Council's prescribed mooring pen charges.

Proposed D11 is considered similar to current D41 involving Royal George tenants.

- (ii) Three new building related delegations (D55, D56 & D57) as proposed by the Principal Building Surveyor.

**RECOMMENDATION**

It is recommended that the Delegations of Authority to the Chief Executive Officer attached to and forming part of these minutes be approved.

**Absolute Majority Required**

**Cr Arnold – Cr Olson**

**The Delegations of Authority to the Chief Executive Officer attached to and forming part of these minutes be approved.**

CARRIED  
ABSOLUTE MAJORITY

371.3

**Brief Reports of Chief Executive Officer**

*By Stuart Wearne, Chief Executive Officer, on 15 November 2007*

**(A) Health & General Purpose Committee Meeting**

Further to a meeting with Cr Collinson at which Cr Collinson raised a number of environment/climate change related issues and related initiatives which Cr Collinson

20 November 2007

## MINUTES

would like Council to consider, it is proposed that a meeting of the Health & General Purposes Committee be convened for Wednesday 12 December 2007.

It has further been arranged that Dr Stephanie Jennings, Council's Greenhouse Strategic Researcher, be in attendance if the meeting is held on that date. Council's Principal Environmental Health Officer and Regional CCP officer, Shelley Cocks, would also be in attendance.

Dr Jennings is already involved in some of the areas raised by Cr Collinson and seems an ideal person to have present a report on current and potential future initiatives and to answer related questions. For example a copy of the agenda of the most recent Regional Greenhouse Gas Abatement Project Regional Cities for Climate Protection Officers Committee meeting is attached.

**ATTACHMENT****RECOMMENDATION**

That a Health & General Purposes Committee Meeting be held on Wednesday, 12 December 2007 and Dr Stephanie Jennings be invited to address the Committee on the projects the Regional CCP officers are currently involved in and also discuss and answer questions on current and possible future projects.

**Cr Collinson – Cr Wilson**

**That a Health & General Purposes Committee Meeting be held at 6.30pm on Wednesday, 12 December 2007 and Dr Stephanie Jennings be invited to address the Committee on the projects the Regional CCP officers are currently involved in and also discuss and answer questions on current and possible future projects.**

CARRIED**(B) Appointment of Delegates**

At the Council meeting of 6 November 2007 it was resolved to hold over the appointment of delegates for the following external committees:

South West District Planning Group

*Group considers regional planning issues. Normally meets bi-monthly (currently 4<sup>th</sup> Thursday of month) at 5.30pm.*

*Crs Collinson & de Jong indicated an interest in serving on this Committee.*

Fremantle Ports Inner Harbour Community Liaison Group

*Group considers issues relating to the Fremantle Port. Normally meets quarterly (generally second Tuesday of month) at 5.30pm.*

*Crs Harrington, Wilson and de Jong indicated an interest in serving on this Committee.*

South West Corridor Planning & Infrastructure Committee

*Committee considers transport, land release and regional planning issues & provides advice to the South West Group. Normally meets bi-monthly on the 2<sup>nd</sup> or 3<sup>rd</sup> Thursday of the month at 4.00pm.*

**RECOMMENDATION**

That Council appoint delegates to the above Committees.

**(i) South West District Planning Group**

Mayor Ferris advised that an email had been received from Cr de Jong advising that discussions with Cr Collinson had resulted in Cr de Jong wishing to nominate for the delegate position and Cr Collinson agreeing to nominate for the deputy delegate position. Cr Collinson concurred with this advice. No other nominations were received.

**Cr Dobro – Cr Wilson**

**That Cr de Jong be appointed as Council's delegate to the South West District Planning Group with Cr Collinson being appointed the deputy delegate.** CARRIED

20 November 2007

MINUTES

(ii) **Fremantle Ports Inner Harbour Community Liaison Group**

Mayor Ferris advised that Crs Wilson, Harrington and de Jong had previously indicated their desire to nominate as Council's delegate to this Group.

The Mayor read an email from Cr de Jong setting out his reasons for nominating for the position.

Cr Wilson addressed the meeting in support of her nomination.

Ballot papers were distributed and collected by the Chief Executive Officer/Returning Officer.

Following the counting of votes by the Chief Executive Officer and the Minute Secretary, Mayor Ferris declared Cr Wilson elected as Council's delegate to the Fremantle Ports Inner Harbour Community Liaison Group with Cr de Jong elected as the deputy delegate.

(iii) **South West Corridor Planning & Infrastructure Committee**

Mayor Ferris called for nominations to this Committee.

Cr Collinson submitted his nomination for this Committee

**Cr Wilson – Cr Olson**

**That Cr Collinson be appointed Council's delegate to the South West Corridor Planning & Infrastructure Committee.** CARRIED

(C) ***Grants***

Council has recently been the recipient of two Lotterywest Board grants, both of which required the approval of the Hon Ljiljanna Ravlich MLC as Minister for Local Enterprises.

The first grant was \$10,000 for an upgrade of the Niergarup Track on the basis of a grant application and accompanying submission prepared by the Chief Executive Officer.

The second grant, on the basis of a grant application by the Festival Coordinator and as advised in a separate report by Shelley Cocks, was for \$9,271 for the George Street Festival.

The Hon Ljiljanna Ravlich is also the Minister for Local Government.

The Chief Executive Officer believes it would be appropriate to write both to the Minister and Lotterywest thanking them for the respective grants.

**RECOMMENDATION**

That Council write to the Minister for Local Enterprises and Lotterywest expressing thanks for the grants provided to Council for the Niergarup Track upgrade and the 2007 East Fremantle Festival.

**Cr Dobro – Cr Olson**

**That Council write to the Minister for Local Enterprises and Lotterywest expressing thanks for the grants provided to Council for the Niergarup Track upgrade and the 2007 East Fremantle Festival.** CARRIED

(D) ***Speed Plateaux George Street***

Council previously approved the installation of four speed plateaux in George Street in February 2007, again in June 2007 when the detailed drawings were unanimously approved by elected members and further endorsed the installation by virtue of specifically allocating the necessary funds in the current budget, adopted in July 2007.

**20 November 2007****MINUTES**

As advised at the Council Meeting of 6 November 2007, Main Roads recently requested the plateaux be located midblock and as a consequence a new design was submitted to Council, now involving five plateaux due to the midblock approval.

Council did not endorse the design and resolved instead as follows:

*"That Council defer a decision on the matter of speed humps in George Street pending a site visit and a report addressing the impact of the proposed speed humps on streetscape and parking in George Street, and the implications on the flow of traffic in the Plympton Ward."*

This was a unanimous decision of Council and it was noted the discussion (as reflected in the resolution) was not confined to the location issue, but rather the whole notion of having *any* speed plateaux installed in George Street, ie in *any* location, ie whether they were considered necessary at all.

In response to the Chief Executive Officer's perception that elected members may ultimately not wish to have any speed plateaux installed in George Street, the Chief Executive Officer proposes that the issue be deferred indefinitely at this stage, pending:

- (i) completion of the current works
- (ii) an assessment in due course (ie after a settling in period) of whether the new traffic and parking modifications (and possibly other developments in George Street such as the increased number of businesses, being an issue which Cr Dobro referred to) have obviated the previously perceived desirability of the plateaux. Such an assessment would include new traffic counts and a site visit by elected members.

If the Chief Executive Officer's perception of the position of elected members is incorrect and that it is in fact only the issue of *location* which is in question, an alternative would be to return to Main Roads and seek their endorsement of the original plan (ie 4 plateaux, involving intersections) which Council had previously unanimously approved.

**RECOMMENDATION**

That the issue of the installation of speed plateaux in George Street be deferred pending:

- (i) completion of the current works
- (ii) an assessment of whether the new traffic and parking modifications and any other relevant developments in George Street have obviated the previously perceived need for the plateaux.

**ALTERNATIVE RECOMMENDATION**

The Chief Executive Officer request Main Roads to review its position of opposition to speed plateaux being placed at intersections in George Street, with a view to Council implementing the original plan as approved by Council.

**Cr Olson – Cr Dobro**

**That the issue of the installation of speed plateaux in George Street be deferred pending:**

- (i) **completion of the current works**
- (ii) **an assessment of whether the new traffic and parking modifications and any other relevant developments in George Street have obviated the previously perceived need for the plateaux.** CARRIED

**(E) Installation of Signage at East Fremantle Launching Ramp**

Attached is a copy of signs which the Chief Executive Officer has approved for installation at the Town's launching ramp.

**ATTACHMENT**

20 November 2007

**MINUTES**

Attached also is an extract from a letter from Rockingham Wild Encounters, which, with support from the WA Department of Environment and Conservation (DEC) and local marine biologists, requested permission from the Town of East Fremantle for the signs, as part of a federally (Envirofund) sponsored program to implement a community awareness program to manage the harmful effects of hand-feeding dolphins around Rockingham-to-Fremantle waters. **ATTACHMENT**

Attached also is a copy of an email from the Coordinator of the project, thanking the Town. The complimentary comments regarding Andrew Driver are particularly noted.

**RECOMMENDATION**

That the Chief Executive Officer's report be received.

**Cr Olson – Cr Wilson**

**That the Chief Executive Officer's report be received.**

CARRIED

**372. CONFIDENTIAL BUSINESS**

Nil.

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

Nil.

**374. MOTIONS WITHOUT NOTICE OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING****374.1 East Fremantle Yacht Club**

Mayor Ferris advised of a meeting he and the Chief Executive Officer had had with the Commodore and General Manager of the East Fremantle Yacht Club that afternoon. At the meeting a number of issues were discussed including progress of the new lease and parking issues. With respect to parking issues, Condition 26 of the Swan River Trust's marina expansion approval required the Club to open their boom gate when functions were being held in the evening. This condition had reportedly caused great consternation amongst Club members and Council had been asked for its support in having the condition revoked.

**Mayor Ferris – Cr Olson**

**That Council delegate to the Chief Executive Officer the authority to deal with the East Fremantle Yacht Club objection to Swan River Trust marina development approval condition no 26.**

CARRIED

ABSOLUTE MAJORITY

**375. CLOSURE OF MEETING**

There being no further business, the meeting closed at 10.17pm.

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **20 November 2007**, Minute Book reference **354. to 375.** were confirmed at the meeting of the Council on*

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**Presiding Member**