



21 June 2011

MINUTES

MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 21 JUNE, 2011 COMMENCING AT 6.32PM.

141. DECLARATION OF OPENING OF MEETING

The Mayor (Presiding Member) declared the meeting open.

141.1 Present

| | |
|----------------|---------------------------------------|
| Mayor A Ferris | Presiding Member |
| Cr C Collinson | |
| Cr R Lilleyman | |
| Cr S Martin | |
| Cr D Nardi | |
| Cr R Olson | |
| Cr M Rico | |
| Cr A Wilson | (From 6.35pm) |
| Mr S Wearne | Chief Executive Officer |
| Mr J Douglas | Manager Planning Services (To 8.35pm) |
| Ms J May | Minute Secretary |

142. ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member made the following acknowledgement:

"On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place."

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

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

144. RECORD OF APPROVED LEAVE OF ABSENCE

Cr de Jong

145. RECORD OF APOLOGIES

Nil.

146. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

147. PUBLIC QUESTION TIME

Nil.

148. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

Cr Wilson entered the meeting at 6.35pm.

149. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Cr Nardi – Cr Collinson

That the Minutes of the Council Meeting held on 7 June 2011 be confirmed.

CARRIED

150. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION

150.1 Army Art

Mayor Ferris read correspondence from Army Art thanking Council for its donation of \$300 towards the annual art exhibition held this year between 12 and 14 August at the Leeuwin Barracks, with proceeds going to charity.



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

Nil.

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

Nil.

153. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

154. ORDER OF BUSINESS

Cr Rico – Cr Martin

That the order of business be changed to allow members of the public to address agenda items. CARRIED

155. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN)

155.1 T63.6 Chauncy Street No 14 (Lot 5032)

Applicant: Paul Meschiati & Associates

Owner: Shawn & Elina D'Cruz

Application No. P236/2010

Ms Amor (17 Habgood Street) reiterated her earlier objections to the proposal and tabled a printed version of her comments. Ms Amor advised that she considered proposed recommendation 2 required the applicant to obtain an approval for the rear boundary fence however did not compel him to actually build it.

Mr D'Cruz (owner) advised that he had agreed to provide a rear boundary fence in limestone as per Ms Amor's request, at considerable expense, and assured the meeting that it would be built.

Mayor Ferris – Cr Nardi

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

- site works up to 0.6 metre at the rear of the site that exceed the R-Code requirements by 0.1 metre;
- the front of the garage to be in line with the upper floor study wall in lieu of the requirements of Local Planning Policy No. 142;

for the construction of a two storey residence at No. 14 (Lot 5032) Chauncy Street, East Fremantle in accordance with the plans date stamp received on 27 May 2011 subject to the following conditions:

1. the rear facing opening of the ground and upper floor areas to be screened for a length of 1.5 metres to meet the visual privacy requirements of the R-Codes to the satisfaction of the Chief Executive Officer.
2. prior to the lodgement of a Building Licence a separate application for the construction of a rear fence which ameliorates impacts on the privacy of both residences (17 Habgood and 14 Chauncy Streets) is to be submitted by the owners of No 14 Chauncy Street which is to be approved to the satisfaction of the Chief Executive Officer in consultation with relevant officers and constructed prior to occupation.
3. prior to the lodgement of a building licence a detailed schedule of materials and finishes is to be submitted to the satisfaction of the Chief Executive Officer.
4. 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.
5. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than



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- where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 7. the proposed residence 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.
 8. all stormwater is to be disposed of on site and clear of all boundaries.
 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.
 11. 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.
 12. 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.
 13. 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.
 14. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
 15. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED**155.2 T63.7 Riverside Road No. 35 (Lot 900)****Applicant: Ross Griffin Homes****Owner: M & L Tonkin****(Application No. P69/2011****Cr Martin – Cr Nardi****The adoption of the Committee's recommendation which is as follows:**

That the application for the construction of a two storey residence with an undercroft at No. 35 (Lot 900) Riverside Road, East Fremantle be deferred to the July round of Committee/Council meetings pending the submission of a streetscape analysis (incorporating photo-montage or rendered 3D drawings or similar) showing the proposed development as it sits upon the site and its impact upon surrounding properties and streetscape.

CARRIED



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- 155.3 T63.10 East Fremantle Oval - Change of Use from Storage Room to Fitness Centre**
Applicant: East Fremantle Football Club
Owner: Town of East Fremantle
Application No. P72/2011

Cr Lilleyman raised issues related to the lease between Council and the East Fremantle Football Club and insurance liability which the CEO undertook to follow up.

Cr Olson – Cr Nardi

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

That Council as landowner consents to the application and grants planning approval for a Fitness Centre at the East Fremantle Football Club's Clubrooms, Moss Street in accordance with the plans and information date stamp received on 13 May 2011 subject to the following conditions:

1. The business hours of the fitness centre shall not exceed:
 - .. 6.00am to 8.00pm Monday to Friday
 - .. 8.00am to 5.00pm Saturday
 - .. 9.00am to 5.00pm Sunday
2. The maximum number of clients and staff to be accommodated in the area at designated proposed premise for "Young for Life" on the approved plans shall not exceed 30 persons at any one time.
3. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

Footnote:

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

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

CARRIED

- 155.4 T63.11 Hubble Street No. 36 (Lot 200)**
Owner: L Francis
Applicant: Westral Outdoor Centre
Application No. P60/2011

In response to a query raised by Cr Martin at the recent Town Planning & Building Committee meeting as to whether or not the affected adjoining owner was invited to comment on the proposal, a copy of Appendix 3 – Variation to the Residential Design Codes form duly signed by the owner of No. 34 Hubble Street had been circulated to elected members.

Cr Martin – Cr Wilson

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

That Council exercise its discretion in granting approval for a discretion to allow a setback of 0.5 metres in lieu of 1.0 metres required under the R-Codes 2008 for the northern boundary setback for the construction of a patio at the rear and side of No. 36 (Lot 200) Hubble, East Fremantle in accordance with the plans date stamp received on the 27 & 29 April 2011 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.



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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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED**155.5 EN BLOC RECOMMENDATIONS**

Cr Olson – Cr Lilleyman

That Council adopts en bloc the following recommendations of the Town Planning & Building Committee Meeting of 14 June 2011.

CARRIED**(A) T63.3 Fraser Street No. 87 (Lot 1)**

*Applicant/Owner: Jason & Rebecca O'Keefe
Application P45/2011*

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

- (a) a discretion to allow site works up to 0.58 metres in lieu of the 0.5 metres permitted by the R-Codes;
- (b) a discretion to allow a setback of 0.5 metres in lieu of 1.5 metres required under the R-Codes 2008 for the secondary street setback (between the deck and Clayton Street);

for the construction of alterations and additions to the single storey residence at No. 87 (Lot 1) Fraser Street, East Fremantle in accordance with the plans date stamp received on the 17 May 2011 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be submitted as part of a building licence.
6. This planning approval to remain valid for a period of 24 months from the date of this approval.



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Footnote:

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

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

(B) T63.4 Walter Street No. 25 (Lot 1)

Applicant: Kerry Chong Design

Owner: Claire Werner

Council approve the application for partial demolition, alterations and additions to a residence at No. 25 (Lot 1) Walter Street, East Fremantle in accordance with the plans date stamped received 28 April 2011 by an exercise of discretion in respect to the following:

- (a) a single car parking bay in lieu of the 2 car bays required under the 'acceptable development' standards of the R-Codes;**
- (b) a nil setback for the rear and side boundary wall in lieu of the 1.5 m required under the 'acceptable development' standards of the R-Codes;**
- (c) a maximum wall height of 3.7 m. in lieu of the 3m required under the 'acceptable development' standards of the R-Codes;**

and subject to the following conditions:

- 1. the proposed bull nosed verandah to be redesigned to incorporate a skillion roof to the satisfaction of the Chief Executive Officer.**
- 2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 5. 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.**
- 6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 7. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 8. all parapet walls are 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. 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.**



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10. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
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) *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.*

(C) T63.5 Marmion Street No. 136 (Lot 1141)

Applicant: Tangent Nominees T/as Summit Homes Group

Owner: Gail Mounsey

Application No. P73/2011

That Council exercise its discretion in granting approval for a reduced setback of 4.05 metres to Marmion Street for the construction of a single-storey residence and double garage at No. 136 (Lot 1141) Marmion Street, East Fremantle in accordance with the plans date stamp received on 16 May 2011 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed residence is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site and clear of all boundaries.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



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(D) T63.8 Duke Street No. 21 (Lot 12)
Owner/Applicant: Geoffrey Petit
Application P24/2011

That Council exercise its discretion in granting approval for a setback of 2.5 metres in lieu of the 2.8 metres required under the R-Codes 2008 for the upper floor setback to the northern boundary of Unit 1 for the construction of two grouped dwellings and a swimming pool at No. 21 (Lot 12) Duke Street, East Fremantle in accordance with the plans date stamp received on the 7 June 2011 subject to the following conditions:

1. the two jacaranda trees are to be retained as part of the development.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater is to be disposed of on site, clear of all buildings and boundaries.
7. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be submitted as part of a building licence.
8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. all parapet walls are 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.
10. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
11. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
12. 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.
13. 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



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costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.

14. 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.
15. 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.
16. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
17. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

(E) T63.9 Walter Street No. 12 (Lot 53)

Applicant: Rochelle Williams

Owner: Rochelle & Aled Williams

Application No. P104/2010

That Council exercise its discretion in granting approval for a nil setback to the northern boundary in lieu of the required 1.0 metre setback for the construction of a gazebo at No. 12 (Lot 53) Walter Street, East Fremantle, in accordance with the plans dated 11 May 2011 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



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(F) T63.12 Walter Street No. 34 (Lot 306)**Applicant: Dale Alcock Homes****Owner: Malcolm O'Dell & Marzia Molendi****Application No. P28/2011**

That Council grant approval for the construction of alterations and additions at No. 34 (Lot 306) Walter Street, East Fremantle in accordance with the plans date stamp received on 20 May 2011 subject to the following conditions:

1. prior to the issue of a Building Licence revised plans are to be submitted to the satisfaction of the Chief Executive Officer in consultation with relevant officers, which identify the front of the carport being located behind the front wall of the residence as shown on the approved plans.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. 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.
6. all stormwater is to be disposed of on site and clear of all boundaries.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

(G) T63.13 George Street No. 88 (Lot 534)**Applicant: Peter Broad - In House Building Design****Application No. P83/2008**

That the report be received.

(H) T63.14 George Street No. 76B (Lot 602)**Applicant: Tim Petherbridge****Owner: Christopher Tolcan****Application No. P 213/2010**

That Council grant approval for demolition and a change of use at No. 76B (Lot 602) George Street, East Fremantle from 'residential building' to 'car parking' and an extension to the shop area, in accordance with the plans date stamp received on 1 June 2011, 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. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

(I) T66.1 Proposed Local Planning Policy - Design Guideline Signage

That pursuant to clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3, the Council resolves to adopt the draft 'Local Planning Policy - Design Guideline – Signage' which is Attachment 1 to this report and that a notice of the adopted Policy be publicly advertised.

(J) T66.2 Town of East Fremantle Town Planning Scheme No. 3

Proposed Scheme Amendment No. 9 – Demolitions and Exemptions

That Council approve the submission of the draft Scheme Amendment No. 9 to the Town of East Fremantle Planning Scheme No 3 to the Minister for the approval of the Minister pursuant to s87 of the Planning and Development Act 2005 following referral of the Scheme amendment to the Town Planning Advisory Panel for consideration and comment.

(K) T67.1 George Street - Design Guidelines

That Design Guidelines covering lighting, street furniture, signage and landscaping etc be drafted for George Street.

155.6

Duke Street No. 34 (Lot 303)

Applicant: The National Trust of Australia (WA)

Owner: National Trust

Application No. P49/2009

By Jamie Douglas – Manager Planning Services on 13 June 2011

PURPOSE OF THIS REPORT

The State Administrative Tribunal (SAT) has ordered that Council reconsider its determination in respect to the proposed redevelopment of the Royal George Hotel. The Order has been made in response to the offer by the National Trust to settle the matter by consent on the basis of alternative conditions of approval. This report describes the proposed changes to the approval conditions, the changed circumstances relating to the proposal and the implications in respect to the reconsideration.

It is recommended that Council accept the alternative conditions of approval to allow the SAT review to be finalised.

BACKGROUND

On Tuesday 31 May, 2011 the applicant's lawyer advised Council that the National Trust was now prepared to settle the matter by consent without a Hearing, based on the alternative conditions set out in the respondent's Statement of Issues, Facts and Contentions.

The matter was the subject of a SAT Directions Hearing on Friday 3 June at which Council was 'invited' to reconsider its decision (in regard to the conditions of planning approval) pursuant to s.31(1) of the SAT Act. Council was briefed on the Trust's offer to settle on Tuesday 7 June and requested a further briefing by Council's legal advisor on Thursday 9 June.

At a further Directions Hearing on 10 June the SAT agreed to schedule a further Directions Hearing on 24 June 2011 to allow time for Council to formally consider the matter at its meeting on 21 June 2011.

DESCRIPTION OF PROPOSED CHANGES TO THE CONDITIONS OF APPROVAL

The Trust has advised that it is now prepared to accept the alternate proposals put forward by the Town to the SAT in the case that SAT decided to uphold the appeal against the requirement for deck parking. The Trust also now accepts the proposed reworded conditions 5 and 8. The proposed changes to Council's determination of 1 February 2011 are detailed as follows:

1. Replace Condition 1

The submission of amended plans incorporating sufficient on-site car parking such that the shortfall of on-site car bays as concluded in the report by Donald Veal Consultants P/L, December 2010 does not exceed nine (9) spaces. The design of the proposed car parking and access areas shall conform with relevant Australian Standards and traffic engineering guidelines and shall be submitted to the satisfaction of the Chief Executive Officer and approved by the Chief Executive Officer prior to the issue of a Building Licence.

With the Following Conditions 1 & 3

1. The maximum capacity of all restaurant areas not associated with dining for guests utilising the accommodation units is not to exceed sixty-five (65) persons.
3. Prior to the grant of a building licence the owner of the land shall pay to the Town of East Fremantle (Town) \$100,000, representing the owner's contribution (Contribution) to a future George Street Precinct Access and Parking Study (the Study). No use of the subject of this approval may be commenced prior to the receipt of the Contribution by the Town.

The Contribution is to be held in trust by the Town, and may be used for the purposes of funding in whole or in part the Study and carrying out works consequent on the Study.

In the event that the Council of the Town does not resolve to commence the Study within 2 years following the date of this approval, the Town shall refund the Contribution to the owner.

2. Amend Condition 5 as Follows:

Existing

The proponents shall undertake a review of the 'Conservation Plan', Hocking Planning & Architecture (Revised 2007) and the 'Scope of Conservation Works To Be Undertaken', Dryka & Partners Architects 1 September 2010 by an independent specialist consultant. The consultant shall prepare a report in respect to the appropriateness of the proposed splitting of the upstairs rooms and failing to replace French doors onto the first floor verandahs. The report shall be completed to the satisfaction of the Chief Executive Officer and submitted prior to the lodgement of plans for a Building Licence. Decisions by the Chief Executive Officer with respect to recommendations from the report shall be incorporated in plans lodged for a Building Licence, to the satisfaction of the Chief Executive Officer and implemented to the satisfaction of the Chief Executive Officer.

(a) Proposed

Prior to the lodgement of an application for a building licence, an independent heritage architect is to prepare a report with respect to the appropriateness of the proposals to:

- (i) *split the upstairs rooms; and*
- (ii) *not replace the French doors onto the first floor verandah.*

The report is to recommend whether, having regard to those two items, any changes to the development should be made, and shall be lodged with the Town of East Fremantle.



Any recommendations made in the report shall be incorporated into the plans lodged with the application for a building licence.

- (b) Subject to any changes required as a consequence of the preceding condition, all works are to be undertaken under the supervision of an architect acceptable to the Executive Director of the Office of Heritage and are to be in accordance with the "Conservation Plan", Hocking Planning and Architecture (Revised 2007) and the "Scope of conservation works to be undertaken", Dryka and Partners Architects 1 September 2010.

3. **Amend Condition 8 as Follows:**

Existing

The use and management of the building shall accord with the undertaking by The National Trust, in its letter to The Town of East Fremantle dated 11 January 2011 Ref:2381:SM:20110111. Prior to the issue of a Building Licence, The National Trust shall submit to Council a copy of the Lease Agreement between the developers and the National Trust which reflects the formal undertaking made in its letter of 11 January 2011.

Proposed

Prior to the commencement of the development, an Interpretation Plan shall be prepared and submitted to the Town for approval. The Interpretation Plan shall investigate opportunities for community focused artistic use and interpretive use of the Royal George Hotel and in particular shall:

- (a) *be to the satisfaction of the Executive Director of the Office of Heritage;*
 (b) *consider opportunities for the exhibition and sale of art by local artists;*
 (c) *consider opportunities to use the courtyard as an exhibition space for sculptures and other art works designed to withstand external display;*
 (d) *consider opportunities to use the cupola as a space used to interpret the history of the Royal George Hotel, or as a space for an artist in residence;*
and
 (e) *propose a means by which any identified opportunities may be put into practice.*

Except to the extent of any inconsistency with any other condition of this approval, the use of the Royal George Hotel is to comply in all respects and at all times with the approved Interpretation Plan, and with any subsequent amendments agreed between the owner and the Town of East Fremantle.

DISCUSSION OF ALTERNATIVE CONDITIONS OF APPROVAL

Car Parking – Condition 1 of the Approval

1. The Planning Assessment Report considered by Council at its meeting of 1 February 2011 concluded that if the proposal is to merit approval, the estimated net parking shortfall must be satisfactorily addressed by either of three options:
- (a) The restaurant use capped to 65 seats and a condition of approval requiring the proponent contribute \$100,000 to a future George Street Precinct Access and Parking Policy prior to the issue of a building licence.
- (b) Approve the proposal for short term accommodation, restaurant and alfresco dining use subject to a requirement that on-site parking bays be provided for the parking generated as estimated in the report by Donald Veal Consultants, December 2010 except for a shortfall of 9 spaces which Council agrees to allow to be addressed by on-street car parking. This will require the provision of 54 on-site parking bays.
- (c) Approve the proposal for short term accommodation, restaurant and alfresco dining subject to a requirement for 'cash-in-lieu of parking' pursuant with clause



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5.8.8 of the Scheme be applied for the parking generation as estimated in the report by Donald Veal Consultants, December 2010 except for a short fall of 9 spaces which Council agrees to allow to be addressed by on-street car parking. This will require a 'cash-in-lieu payment' of \$810,000.

2. The impact of capping the restaurant to 65 places reduces the estimated parking generation under the provisions of Town Planning Scheme No 3 from 63 bays (development proposal as considered on 1 February 2011) to 40 bays – a reduction 23 bays. Given that it has been determined that 9 bays can be accommodated on the street immediately adjacent to the site and that it is estimated that 18 bays can be practically accommodated on site (although the plans show 23 bays) the net parking shortfall will therefore be reduced to 13 bays. If the developers can actually achieve the indicated 23 on site bays, the net shortfall would be 8 bays.
3. Subsequent to Council's determination in respect to the Royal George Hotel, Council has approved proposals for a Wine Bar at 48 George Street and a mixed use development incorporating a restaurant and jazz club at 36-42 Duke Street (next door to the subject site). These determinations have required that the net parking shortfall in each instance should be addressed by means of a contribution to the development of an Access and Parking Management Plan for the George Street Precinct. In the case of the Wine Bar, the assessed net parking shortfall was 15 bays and 36-42 Duke Street was 3 bays. These conditions of approval have not been appealed by the applicants and the contributions will be received prior to the issue of a Building Licence in each instance.
4. Council has progressed the development of an Access and Parking Management Plan for the George Precinct. At its meeting on 17 May 2011 Council approved, for public advertising, a draft Local Planning Policy requiring contributions from all new developments to the cost of the Plan and its implementation. The objectives of the Policy are:
 - Provide for the sustainable co-existence of a mix of land uses including residential, retail, recreational, commercial and entertainment uses.
 - Establish a clear, consistent and equitable framework for the application of contributions from new development.
 - Contribute to the effective management of future access and parking demands in the Precinct to the benefit of commercial and residential land users.
 - Assist in the protection of the amenity of existing and future residents within (and near) the mixed-use Precinct.
 - Facilitate the establishment of mixed use, commercial and residential developments where adequate on site parking provisions cannot be established.

Tender documents have been prepared for expressions of interest from consultants to undertake the Plan. Developer contributions will be used for the development of the management plan and for the physical works and actions arising from the plan.

5. It is noted that developer contributions applicable under the Policy and applied to the above developments are at the rate of \$9,000 per space for each space not provided on site, (after onsite and immediately adjacent on-street parking spaces have been deducted from the estimated parking space requirement). This sum compares with the cash-in-lieu requirement of \$22,500 per space that could otherwise be applied under the Scheme provisions. The National Trust proposal to contribute \$100,000 to the Plan equates to a contribution rate of \$7,692 per space. It is considered reasonable to consider this reduced rate of contribution given the substantial cost of conservation works necessary in the redevelopment of the Royal George and the community benefit that may be derived from the preservation of the building, particularly if some cultural or community use can be incorporated. Such an approach is consistent with the Policy provisions which allow for variations to the rate of contributions.

Review of Conservation Works – Condition 5 of the Approval

6. Two of the submissions which were received in response to the public advertising of the application raised specific concerns in respect to the heritage impact of the division of the internal spaces in the building and failure to replace French doors onto the first floor verandahs. In consequence of the submissions received, and in the absence of any specialist advice being submitted by the proponents in response to the submissions, Condition 5 was applied to require that these submissions be considered by a specialist Heritage Architect and that the reports 'Conservation Plan', Hocking Planning & Architecture (revised 2007) and the 'Scope of Conservation Works To Be Undertaken', Dryka & Partners Architects, (1 September 2010) should be reviewed in this context. The Trust has indicated it now accepts this condition, subject to amended wording which will achieve the same outcome.

Undertakings in Respect to Cultural Uses and Use of the Cupola - Condition 8 of the Approval

7. The National Trust wrote to the Council on the 6 and 11 January 2011 clarifying its intentions in respect to 'Exhibition and Sale of Artworks', 'Use of the Cupola', 'Sculpture Court' and the incorporation of these into a future lease.
8. The incorporation of the National Trust's stated intentions within the redevelopment enhances the merit of the proposal and impacts upon the parking and intensity of land use. However there is a high degree of uncertainty regarding the eventual outcomes, given the National Trust is not the developer and any undertakings made by the Trust are not necessarily binding upon the developer. Further, the practicality of the intended use of the cupola cannot be determined at this time. Accordingly, Condition 8 would require the incorporation of the Trust's intentions within the lease terms. The revised Condition now requires the Trust to establish an Interpretation Plan to Council's satisfaction which addresses the various undertakings made by the Trust in the above mentioned letters. This revised Condition is acceptable to the Trust and will achieve the same outcome.

WITHDRAWAL OF DEVELOPERS

On Wednesday 8 June the National Trust advised that the appointed developers Terry Magee, Andy Cobb and Michael Dryka had confirmed their formal withdrawal from the project. It is envisaged that the Trust will now seek to appoint alternative developers based upon the development approval arising from the current SAT process.

CONCLUSIONS

There are a number of factors relevant to the consideration of the proposal which have changed since Council determined the matter on 1 February 2011. These are:

- The proposed cap on the number of seats will reduce the estimated parking generation from 63 bays to 40 bays – a reduction of 23 bays. The net shortfall will therefore be reduced to between 13 and 8 bays.
- The Trust had previously indicated it was not prepared to contribute \$100,000 to the Access and Parking Management Plan for the George Street Precinct, or accept a cap on restaurant numbers.
- Subsequent approvals of proposals for a wine bar 48 George Street and jazz club 36-42 Duke Street were conditioned upon developer contributions to the Access and Parking Management Plan for the George Street Precinct have created a precedent for a similar condition of approval to now be applied in this instance.
- Council has endorsed for public advertising a draft Local Planning Policy requiring contributions from all new developments to the cost of the Access and Parking Management Plan and its implementation.
- The appointed developers have withdrawn from the proposal and it is envisaged that the approved development will now be the subject to a fresh call for tenders.

Actions to progress the Access and Parking Management Plan have been undertaken and it is intended that implementation of a residents' parking scheme (as a component of the Plan) will be in place well before any new occupation on the subject site occurs to ensure residents access to street parking is protected.

There are risks inherent in declining the offer to settle and allowing the matter to proceed to a Hearing and be determined by the SAT:

- It may be determined that no conditions of approval in respect to parking should be applied, or that a contribution less than that now accepted by the Trust will be imposed.
- The determination will establish a precedent for any future alternate development proposals on this site and more generally within the precinct.
- Council is likely to have an award of costs made against it as well as incurring additional legal and consultant's fees with little likelihood under the current circumstances of gaining a decision that supports the requirement for multi-storey parking on the site.

In light of the above, it is considered the offer to settle the matter by consent based on the alternative conditions of approval, is the best planning outcome, will help protect resident amenity and will best facilitate the conservation of this iconic building.

RECOMMENDATION

It is recommended that Council:

1. Pursuant to section 31 of the *State Administrative Tribunal Act*, reconsider its decision made on 1 February 2011 to grant conditional approval for the redevelopment and change of use of the Royal George Hotel, 34 Duke Street, from artist's studios to short term accommodation and restaurant, and to vary that decision as follows:

(a) **Replace Condition 1**

The submission of amended plans incorporating sufficient on-site car parking such that the shortfall of on-site car bays as concluded in the report by Donald Veal Consultants P/L, December 2010 does not exceed nine (9) spaces. The design of the proposed car parking and access areas shall conform with relevant Australian Standards and traffic engineering guidelines and shall be submitted to the satisfaction of the Chief Executive Officer and approved by the Chief Executive Officer prior to the issue of a Building Licence.

With the Following Conditions 1 & 3

1. The maximum capacity of all restaurant areas not associated with dining for guests utilising the accommodation units is not to exceed sixty-five (65) persons.
3. Prior to the grant of a building licence the owner of the land shall pay to the Town of East Fremantle (Town) \$100,000, representing the owner's contribution (Contribution) to a future George Street Precinct Access and Parking Study (the Study). No use the subject of this approval may be commenced prior to the receipt of the Contribution by the Town.

The Contribution is to be held in trust by the Town, and may be used for the purposes of funding in whole or in part the Study and carrying out works consequent on the Study.

In the event that the Council of the Town does not resolve to commence the Study within 2 years following the date of this approval, the Town shall refund the Contribution to the owner.

(b) **Amend Condition 5 as Follows:**Existing

The proponents shall undertake a review of the 'Conservation Plan', Hocking Planning & Architecture (Revised 2007) and the 'Scope of Conservation Works To Be Undertaken', Dryka & Partners Architects 1 September 2010 by an independent specialist consultant. The consultant shall prepare a report in respect to the appropriateness of the proposed splitting of the upstairs rooms and failing to replace French doors onto the first floor verandahs. The report shall be completed to the satisfaction of the Chief Executive Officer and submitted prior to the lodgement of plans for a Building Licence. Decisions by the Chief Executive Officer with respect to recommendations from the report shall be incorporated in plans lodged for a Building Licence, to the satisfaction of the Chief Executive Officer and implemented to the satisfaction of the Chief Executive Officer.

Proposed

5(a) Prior to the lodgement of an application for a building licence, an independent heritage architect is to prepare a report with respect to the appropriateness of the proposals to:

- (i) *split the upstairs rooms; and*
- (ii) *not replace the French doors onto the first floor verandah.*

The report is to recommend whether, having regard to those two items, any changes to the development should be made, and shall be lodged with the Town of East Fremantle.

Any recommendations made in the report shall be incorporated into the plans lodged with the application for a building licence.

5(b) Subject to any changes required as a consequence of the preceding condition, all works are to be undertaken under the supervision of an architect acceptable to the Executive Director of the Office of Heritage and are to be in accordance with the "Conservation Plan", Hocking Planning and Architecture (Revised 2007) and the "Scope of conservation works to be undertaken", Dryka and Partners Architects 1 September 2010.

(c) **Amend Condition 8 as Follows:**Existing

The use and management of the building shall accord with the undertaking by The National Trust, in its letter to The Town of East Fremantle dated 11 January 2011 Ref:2381:SM:20110111. Prior to the issue of a Building Licence, The National Trust shall submit to Council a copy of the Lease Agreement between the developers and the National Trust which reflects the formal undertaking made in its letter of 11 January 2011.

Proposed

8. Prior to the commencement of the development, an Interpretation Plan shall be prepared and submitted to the Town for approval. The Interpretation Plan shall investigate opportunities for community focused artistic use and interpretive use of the Royal George Hotel and in particular shall:

- (a) *be to the satisfaction of the Executive Director of the Office of Heritage;*
- (b) *consider opportunities for the exhibition and sale of art by local artists;*
- (c) *consider opportunities to use the courtyard as an exhibition space for sculptures and other art works designed to withstand external display;*

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- (d) *consider opportunities to use the cupola as a space used to interpret the history of the Royal George Hotel, or as a space for an artist in residence; and*
- (e) *propose a means by which any identified opportunities may be put into practice.*

Except to the extent of any inconsistency with any other condition of this approval, the use of the Royal George Hotel is to comply in all respects and at all times with the approved Interpretation Plan, and with any subsequent amendments agreed between the owner and the Town of East Fremantle.

- 2. Advise the National Trust and the State Administrative Tribunal of the terms of the varied approval.

Cr Martin – Cr Rico
That Council:

- 1. Pursuant to section 31 of the *State Administrative Tribunal Act*, reconsider its decision made on 1 February 2011 to grant conditional approval for the redevelopment and change of use of the Royal George Hotel, 34 Duke Street, from artist's studios to short term accommodation and restaurant, and to vary that decision as follows:

- (a) **Replace Condition 1**

The submission of amended plans incorporating sufficient on-site car parking such that the shortfall of on-site car bays as concluded in the report by Donald Veal Consultants P/L, December 2010 does not exceed nine (9) spaces. The design of the proposed car parking and access areas shall conform with relevant Australian Standards and traffic engineering guidelines and shall be submitted to the satisfaction of the Chief Executive Officer and approved by the Chief Executive Officer prior to the issue of a Building Licence.

With the Following Conditions 1 & 3

- 1. The maximum capacity of all restaurant areas not associated with dining for guests utilising the accommodation units is not to exceed sixty-five (65) persons.
- 3. Prior to the grant of a building licence the owner of the land shall pay to the Town of East Fremantle (Town) \$100,000, representing the owner's contribution (Contribution) to a future George Street Precinct Access and Parking Study (the Study). No use of the subject of this approval may be commenced prior to the receipt of the Contribution by the Town.

The Contribution is to be held in trust by the Town, and may be used for the purposes of funding in whole or in part the Study and carrying out works consequent on the Study.

In the event that the Council of the Town does not resolve to commence the Study within 2 years following the date of this approval, the Town shall refund the Contribution to the owner.

- (b) **Amend Condition 5 as Follows:**

Existing

The proponents shall undertake a review of the 'Conservation Plan', Hocking Planning & Architecture (Revised 2007) and the 'Scope of Conservation Works To Be Undertaken', Dryka & Partners Architects 1 September 2010 by an independent specialist consultant. The consultant shall prepare a report in respect to the appropriateness of the proposed splitting of the upstairs rooms and failing to replace French doors onto the first floor verandahs. The report shall be completed to the satisfaction

of the Chief Executive Officer and submitted prior to the lodgement of plans for a Building Licence. Decisions by the Chief Executive Officer with respect to recommendations from the report shall be incorporated in plans lodged for a Building Licence, to the satisfaction of the Chief Executive Officer and implemented to the satisfaction of the Chief Executive Officer.

Proposed

5(a) Prior to the lodgement of an application for a building licence, an independent heritage architect is to prepare a report with respect to the appropriateness of the proposals to:

- (i) *split the upstairs rooms; and*
- (ii) *not replace the French doors onto the first floor verandah.*

The report is to recommend whether, having regard to those two items, any changes to the development should be made, and shall be lodged with the Town of East Fremantle.

Any recommendations made in the report shall be incorporated into the plans lodged with the application for a building licence.

5(b) Subject to any changes required as a consequence of the preceding condition, all works are to be undertaken under the supervision of an architect acceptable to the Executive Director of the Office of Heritage and are to be in accordance with the "Conservation Plan", Hocking Planning and Architecture (Revised 2007) and the "Scope of conservation works to be undertaken", Dryka and Partners Architects 1 September 2010.

(c) Amend Condition 8 as Follows:

Existing

The use and management of the building shall accord with the undertaking by The National Trust, in its letter to The Town of East Fremantle dated 11 January 2011 Ref:2381:SM:20110111. Prior to the issue of a Building Licence, The National Trust shall submit to Council a copy of the Lease Agreement between the developers and the National Trust which reflects the formal undertaking made in its letter of 11 January 2011.

Proposed

8. Prior to the commencement of the development, an Interpretation Plan shall be prepared and submitted to the Town for approval. The Interpretation Plan shall investigate opportunities for community focused artistic use and interpretive use of the Royal George Hotel and in particular shall:

- (a) *be to the satisfaction of the Executive Director of the Office of Heritage;*
- (b) *consider opportunities for the exhibition and sale of art by local artists;*
- (c) *consider opportunities to use the courtyard as an exhibition space for sculptures and other art works designed to withstand external display;*
- (d) *consider opportunities for a suitable space to be used to interpret the history of the Royal George Hotel and to include a space for an artist in residence; and*
- (e) *propose a means by which any identified opportunities may be put into practice.*

Except to the extent of any inconsistency with any other condition of this approval, the use of the Royal George Hotel is to comply in all respects and at all times with the approved Interpretation Plan, and with any subsequent amendments agreed between the owner and the Town of East Fremantle.

- 2. Advise the National Trust and the State Administrative Tribunal of the terms of the varied approval.** CARRIED UNANIMOUSLY

155.7 Delegation Schedule

Following is a schedule of delegations exercised by the Acting Chief Executive Officer for the month of May 2011 for the granting of Planning Approval.

| HOW EXERCISED | WHEN EXERCISED | APPLICANT |
|---|----------------|-------------------------------|
| Planning Approval issued for Solar Panels at 7 Habgood Street | 17/05/11 | C M Brooks |
| Planning Approval issued for Flat Roofed Carport at Unit 17, 14 Coolgardie Avenue | 31/05/11 | Westral Outdoor Centre |
| Planning Approval issued for Carport at 38 Alexandra Road | 31/05/11 | Imarc Constructions |
| Planning Approval issued for Patio at 67B Osborne Road | 31/05/11 | Patio Living |
| Planning Approval issued for Patio at Unit 3, 97 Preston Point Road | 31/05/11 | Petal Outdoor Leisure Designs |
| Planning Approval issued for Change of Use – Consulting Rooms at 38 Sewell Street | 31/05/11 | Bruce Beattie |
| Planning Approval issued for Swimming Pool at 114 Preston Point Road | 31/05/11 | ABW Swimming Pools |
| Planning Approval issued for Landscaping Works at 2 Angwin Street | 31/05/11 | Owners of Strata |
| Planning Approval issued for Swimming Pool at 17B Pier Street | 31/05/11 | Aqua Technics |
| Planning Approval issued for Shed at 41 Fraser Street | 31/05/11 | Inhouse Building Design |
| Planning Approval issued for Alterations & Additions at 33 Dalgety Street | 31/05/11 | Leona Vivian |

RECOMMENDATION

That the schedule of delegations exercised by the Acting Chief Executive Officer for May 2011 be received.

Cr Martin – Cr Rico that the schedule of delegations exercised by the Acting Chief Executive Officer for May 2011 be received. CARRIED

156. FINANCE

156.1 Monthly Financial Activity Statement for Period Ending 31 May 2011
By John Roberts Executive Manager Finance & Administration on 14 June 2011

PURPOSE

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

BACKGROUND

The monthly Financial Activity Statement for the period ending 31 May 2011 is appended and includes the following:

- Financial Activity Statement
 - Notes to the Financial Activity Statement including schedules of investments and rating information.
 - Capital expenditure Report
- ATTACHMENT**

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

REPORT

Introduction/Comments

The following is summary information on the attached financial reports:

The May 2011 year to date Financial Activity Statement report shows an overall actual surplus of \$1,898,547 compared to the year to date budget of \$492,015 a favourable variance of \$1,406,532.

Revenue and expenditure variances are generally timing in nature. The surplus is large at the start of the year as the full year rate revenue is brought to account. This surplus will decrease in the remaining months of 2010/11 as it is used to fund expenditure providing works and services.

The overall favourable variance of \$1,406,532 can be analysed as follows:

- The YTD actual Operating Revenue is \$7,933,733 compared to the YTD budget of \$7,735,996, a favourable variance of \$197,737 (+2.56%). The variance is due primarily to a combination of higher than anticipated interest on investments, parking revenues and HACC grants, offset by a delay in receiving Blackspot grants.
- The YTD actual Operating Expenditure is \$6,287,974 compared to the YTD budget of \$6,826,719, a favourable variance of \$538,745 (-7.89%). The variance is due primarily to lower than anticipated expenditure on operating projects, administration costs, and parks/reserves maintenance.
- The YTD actual Capital Expenditure is \$1,423,732 when compared to the YTD budget of \$2,160,989 a favourable variance of \$737,257 (-66.0%). The variance is due to the timing of undertaking road and building works offset with the completion of the installation of bus shelters funded in 2009/10

Statutory Requirements

Local Government Act 1995 (As amended)

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

Relevant Council Policies

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

Strategic Plan Implications

Nil

Financial/Resource/Budget Implications

The May 2011 Financial Activity Statement shows variances in income and expenditure when compared with budget estimates.

Conclusion

The attached Financial Activity Statement for the period 1 July 2010 to 31 May 2011 be presented to the Council for information.

RECOMMENDATION

That the Financial Activity Statement for the period ending 1 July 2010 to 31 May 2011 be received.

Cr Lilleyman – Cr Collinson

That the Financial Activity Statement for the period ending 1 July 2010 to 31 May 2011 be received. CARRIED

157. REPORTS OF CHIEF EXECUTIVE OFFICER

157.1 *Review of Delegations to the Chief Executive Officer*
By Stuart Wearne, Chief Executive Officer on 15 June 2011

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**

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

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

All of the attached delegations were previously approved by Council. Proposed amendments are these:

- Delegation D05 Payment of Member Expenses has been slightly amended to reflect revised statutory references.
- Delegation D41 (originally relating to Royal George Art & Community Centre tenancies which was deleted in last year's review) has been replaced with a delegation relating to street numbering. This issue is currently dealt with under Policy 017, however the Policy manual is in the process of being reviewed and the Policy will be recommended for revocation.
- Delegation D42 Approval to Determine Applications for Planning Approval has been amended to:
 - delete the reference to granting of approvals with or without relevant conditions for *“minor structures or modifications that do not require the exercise of any Council discretion”* and replace with dot point 1 as printed.
 - replace the words “home occupation” with “planning approval for a ‘P’ use” from dot point 2.
 - remove the words “of a minor nature” after the word “changes” in dot point 3 to read *“changes between planning approval and building licence stage of a development that does not require Council to exercise discretion”*.
 - delete the delegation relating to renewal of home occupations. It is proposed that home occupations will generally be given an approval which is ongoing unless complaints are received from neighbours. In any event the issue of renewal will be reflected in the conditions of approval.
 - delete the words “and or development” after the words “with regard to subdivision” in Point 4 of “Function”
 - replace the word “subdivision” with the words “conditions of subdivision approval” in Point 5 of “Function”.
 - include an additional Point 6 which reads *“the granting of retrospective planning approval where the subject development does not require Council to exercise discretion”*.
 - First dot point of “Conditions” to commence with the addition of words “Where necessary,”
- Delegation D43 Approval to Extend Term of Planning Approval has been amended in relation to the “Conditions”.



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- Delegation D44 Development Applications – George Street has been deleted as relevant approvals for George Street, as with any other area of the Town, would be considered under Delegation D42 dot point 2.
- All subsequent delegations being renumbered given the deletion of D44.

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**

Various questions were raised by elected members regarding the delegations table attachment.

The Manager Planning Services left the meeting at 8.35pm.

Cr Olson – Cr Lilleyman

That the Delegations of Authority to the Chief Executive Officer attached to and forming part of these minutes be approved subject to the following changes:

- **Delegation D18 Authorisation to Commence, Alter or Cease Legal Action**
The following be added to “Conditions”
“Advice be provided to elected members on a monthly basis detailing matters currently being considered in the State Administrative Tribunal.”
- **Delegation D42 Approval to Determine Applications for Planning Approval**
The following be added to “Conditions”
“Advice be provided to elected members on a monthly basis with respect to delegations exercised by the CEO.”

CARRIED
ABSOLUTE MAJORITY

157.2 Meeting Schedule 2011/2012

By Stuart Wearne, Chief Executive Officer, on 15 June 2011

PURPOSE

The purpose of this report is to facilitate a decision by Council on the meeting schedule to be employed in 2011/12.

Council is required, under Section 13 of the Local Government (Administration) Regulations 1996, to advertise its meeting schedule at least once a year for the next twelve months. The meeting schedule for 2011/2012 will need to be resolved and advertised prior to July 1 2011.

BACKGROUND

At the Council Meeting of 15 June 2010, Council resolved as follows:

That:

1. *a Council meeting be scheduled for the 3rd Tuesday of the month (except during the month of December 2010 when the meeting is held on the 2nd Tuesday) to consider mainly Town Planning & Building Committee (Private Domain) and Finance matters and any other items of an urgent nature, including urgent Health or Town Planning/Public Domain matters.*
2. *a Council meeting be scheduled for the 1st Tuesday of the month (except December 2010) to consider mainly Works & Health matters and items of an urgent nature including Town Planning*
3. *a Special meeting of Council be scheduled for 21 July 2010 for the purpose of adopting the 2010/11 Budget.*
4. *a Town Planning & Building Committee (Private Domain) meeting be scheduled for the 2nd Tuesday of the month (except during the month of December 2010 when it will be scheduled for the first Tuesday of the month).*
5. *meetings of the Finance Committee be scheduled for the 27 October 2010 and 16 February and 18 May 2011.*

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6. *Special Meetings of any of the standing committees to be called if such meetings are required.*
7. *the above arrangements not to apply for January 2011 and the Chief Executive Officer be delegated authority in consultation with the Mayor to deal with any items of an urgent nature which cannot be held over to the round of meetings in February 2011.*
8. *the Chief Executive Officer be delegated the authority to establish the actual dates for the above meetings and to carry out the required advertising.*

Council Meetings

It is considered the provision of meetings for the 1st and 3rd Tuesday of each month, dealing with mainly “non planning” and mainly “planning” matters respectively, continues to provide a flexible and efficient means of having matters considered by Council.

Where there have been no, or insufficient items to warrant a “1st Tuesday” meeting, the meeting has been cancelled, under the adopted delegated authority processes, which includes consultation with the Mayor.

Town Planning & Building Committee (Private Domain)

The current monthly meeting system (including the role of the TPAP) is working well and I am pleased with the operation of this Committee.

Finance Committee

This Committee which meets quarterly, has also been working well.

The following timetable is proposed for the 2011/2012 budget deliberations and the adoption of the financial statements for 2010/11

2011/2012 Budget

5 July 2011 *Council Meeting to Adopt 2011/2012 Budget.*

2010/2011 Financial Statements

29 July 2011 *Completion of 2010/2011 Financial Statements including Pensioner Rebate, ESL, HACC and Roads to Recovery returns.*

2-5 August 2011 *Annual Audit of 2010/2011 Financial Statements by council auditor.*

17 October 2011 *Audit sign-off of 2010/2011 Financial Statements by council auditor.*

25 October 2011 *Annual Financial Statements Report to Audit Committee. Representation by External Auditor.*

1 November 2011 *Annual Financial Statements Report to Council for Adoption.*

It is proposed to hold the following ordinary Finance Committee Meetings during the 2011/12 year:

- 26 July 2011
- 25 October 2011
- 28 February 2012
- 29 May 2012

Town Planning/Public Domain, Works & Reserves Committee and Health & General Purposes Committee

It has not been necessary to call any meetings of these committees as the relevant items have been dealt with at the full Council Meetings, consistent with point (2) of Council's decision above.

If it is considered more appropriate for a particular issue to be dealt with at committee level, in the first instance, a special meeting of the relevant committee can be called, consistent with point (6) of Council's decision above.



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December and January Meetings

Given the difficulty of completing correspondence from the December "planning" Council meeting, processing licences and finalising other tasks associated with this time of the year prior to the normal Christmas closure, it is again proposed to forgo the 1st Council Meeting in December (if this system is continued – see below) and bring forward the Town Planning & Building (Private Domain) and 2nd Council Meeting by one week. This would mean the Committee meeting would be held on Tuesday, 6 December and the Council Meeting on 14 December 2011.

As per normal practice, no meetings have been scheduled for January 2012, however, should any urgent business arise which needs to be considered during this recess, a special Council meeting can be convened.

CONCLUSION

In consideration of the overall circumstances the following arrangements are recommended.

RECOMMENDATION

That:

1. a Council meeting be scheduled for the 3rd Tuesday of the month (except during the month of December 2011 when the meeting is held on the 2nd Tuesday) to consider mainly Town Planning & Building Committee (Private Domain) and Finance matters and any other items of an urgent nature, including urgent Health or Town Planning/Public Domain matters.
2. a Council meeting be scheduled for the 1st Tuesday of the month (except December 2011) to consider mainly Works & Health matters and items of an urgent nature including Town Planning
3. a Town Planning & Building Committee (Private Domain) meeting be scheduled for the 2nd Tuesday of the month (except during the month of December 2011 when it will be scheduled for the first Tuesday of the month).
4. meetings of the Finance Committee be scheduled for the 26 July and 25 October 2011 and the 28 February and 29 May 2012.
5. Special Meetings of any of the standing committees to be called if such meetings are required.
6. the above arrangements not to apply for January 2012 and the Chief Executive Officer be delegated authority to deal with, in consultation with the Mayor, any items of an urgent nature which cannot be held over to the round of meetings in February 2012.
7. the Chief Executive Officer be delegated the authority to establish the actual dates for the above meetings and to carry out the required advertising.

Absolute Majority Resolution Required

Cr Martin – Cr Wilson

That:

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6. the above arrangements not to apply for January 2012 and the Chief Executive Officer be delegated authority to deal with, in consultation with the Mayor, any items of an urgent nature which cannot be held over to the round of meetings in February 2012.
7. the Chief Executive Officer be delegated the authority to establish the actual dates for the above meetings and to carry out the required advertising. CARRIED

ABSOLUTE MAJORITY**157.3 Reform**

The CEO advised that an invitation had been extended for the Mayor and CEO to attend an announcement by the Minister for Local Government on Local Government Reform for the Perth Metropolitan Area on Friday, 24 June 2011.

157.4 243 Canning Highway

The CEO advised that following further representations to the Department of Planning for the possible use of 243 Canning Highway for a community garden, the department has agreed to lease the vacant site on the corner of Canning Highway and Oakover Street to Council for temporary community use subject to Council carrying the costs of a contaminated site assessment and entering into a satisfactory lease. The CEO is seeking further advice on costs associated with the proposed arrangement.

157.5 East Fremantle Festival Committee

The CEO advised elected members of an approach from an officer of the City of Fremantle seeking Council's consideration to change its 2011 Festival date as it clashed with two events being held in Fremantle. It was agreed that Mr Alex Marshall of the City of Fremantle should attend a special meeting of the Festival Committee to present his case.

157.6 Plympton Steps

The CEO informed elected members of recent advice from Lotterywest that as a result of a funding application submitted by the CEO with the assistance of Rosemary Rosario, \$17,900 had been granted towards a conservation plan and structural engineers report with respect to conservation and treatment of Plympton Steps and Kitson Park.

157.7 Various Items

The CEO briefly advised elected members on the following matters:

- return of the planning powers to NSW local governments through the repeal of "their" DAP legislation.
- sponsorship of Fremantle Chamber Orchestra by Town of East Fremantle acknowledged by City of Perth.
- SAT Appeal 25 Angwin Street (photos of shelter circulated).
- Stratford Street drainage (photos circulated, indicating effectiveness of new treatments after significant storm event in May).

158. CONFIDENTIAL BUSINESS

Nil.

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

Nil.

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

Nil.



161. CLOSURE OF MEETING

There being no further business, the meeting closed at 9.25pm.

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **21 June 2011**, Minute Book reference **141. To 161.** were confirmed at the meeting of the Council on*

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Presiding Member