



**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 21 FEBRUARY, 2012 COMMENCING AT 6.30PM.**

**21. DECLARATION OF OPENING OF MEETING**

The Mayor (Presiding Member) declared the meeting open.

**21.1 Present**

Mayor A Ferris	Presiding Member
Cr C Collinson	
Cr R Lilleyman	
Cr S Martin	
Cr D Nardi	
Mr S Wearne	Chief Executive Officer
Mr J Douglas	Manager Planning Services (To 8.45pm)
Ms J May	Minute Secretary

**22. 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.”*

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

There were 22 members of the public in the gallery at the commencement of the meeting.

**24. RECORD OF APPROVED LEAVE OF ABSENCE**

Cr de Jong  
Cr Wilson

**25. RECORD OF APOLOGIES**

Cr Rico.

**26. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS**

Nil.

**27. PUBLIC QUESTION TIME**

Nil.

**28. APPLICATIONS FOR LEAVE OF ABSENCE**

**28.1 Cr Martin**

Cr Martin sought leave of absence for the Council Meeting on 15 May 2012.

Cr Olson – Cr Collinson

That leave of absence be granted to Cr Martin for the Council Meeting on 15 May 2012. CARRIED

**29. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**29.1 Council Meeting – 7 February 2012**

Cr Collinson – Cr Lilleyman

That the Minutes of the Council Meeting held on 7 February 2012 be confirmed.

CARRIED

**30. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION**

Nil.



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

Nil.

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

Nil.

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

Nil.

**34 ORDER OF BUSINESS**

Cr Martin – Cr Olson

That the order of business be changed to allow members of the public to address planning issues. CARRIED

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

**35.1 T11.2 East Street No's. 78 & 80 (Lots 1 and 2 on Strata Plan 10637)**

*Applicant: Crispin Underwood*

*Owner: Crispin Underwood*

*Application No. P188/2011*

Mr Underwood (owner) addressed the meeting in support of the officer's recommendation and in particular the amended Condition 4.

**Cr Nardi – Cr Martin**

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

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

- (a) Vary the setback requirements of the Residential Design Codes of Western Australia to permit a nil setback to the garage at the eastern boundary, nil setback to the garage at the southern boundary and 0.75m setback to the patio at the southern boundary; and
- (b) Vary the car parking requirements of the Residential Design Codes of Western Australia to permit a maximum of 1 on-site car parking bay per dwelling and for vehicles to exit the site in reverse gear;

for the construction of a garage and patio addition at Nos 78 & 80 (Lots 1 & 2 on Strata Plan 10637) East Street, East Fremantle, in accordance with the plans date stamped received on 31 January 2012 subject to the following conditions:

- 1. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- 2. On-site car parking bays are to be in complete accordance with Australian Standard 2890.1
- 3. 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.
- 4. Prior to the occupation of the development, all parts of the Common Property intended for the exclusive use of a specific Strata Lot are to be contained within the boundaries of that Strata Lot or made subject to an exclusive use by-law.
- 5. 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.
- 6. The proposed works are not to be commenced until Council has received an application for a demolition licence and building licence and the demolition



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- licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. 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.
  8. The proposed garage and extension 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.
  9. 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.
  10. 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.
  11. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
  12. 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.
  13. 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.
  14. 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.
  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) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*



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- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *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.*
- (h) *with regard to condition 4, a Re-subdivision of Strata Scheme or Merger of Common Property may be required.*
- (i) *the patio may not be enclosed without the prior written consent of Council.*
- (j) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

CARRIED

35.2

**T11.4 Dalgety Street No. 71B (Lot 2 on Survey-Strata Plan 2032)****Applicant: Ivan Kekez & Jadranka Matijas****Owner: Ivan Kekez & Jadranka Matijas****Application No. P177/11**

The following additional information provided by the Acting Town Planner was considered:

*The landowner of 73B Dalgety Street attended the Town Planning & Building Committee meeting on Tuesday 14 February to object to one of the bedroom windows to the proposed single dwelling development at 71B Dalgety Street. There was some confusion at the meeting as to which window the landowner was referring to.*

*The landowner attended the Council office this morning to clarify which window they objected to. The window is to the western wall of Bed 1, facing the rear boundary of 71B Dalgety Street. The landowner expressed concern that the window would allow residents to overlook sensitive living areas at 73B Dalgety Street.*

*I advised the landowner that the window complied with the visual privacy requirements of the R-Codes. I also advised that I would contact the landowner of 71B Dalgety Street and ask if they would give any further consideration to redesigning the window.*

*I spoke with the landowner of 71B Dalgety Street who advised that they were not prepared to make any further changes to the subject window. I requested confirmation of our discussion by email.*

*I rang the landowner of 73B Dalgety Street and advised of the outcomes of the discussion.*

*The officer's report relating to the abovementioned property has been revised as follows. The changes within the report specifically relate to:*

*.. the officer's comment in response to the Panel's comment regarding not supporting the garage as a dominant element.*

*.. the inclusion of variation (d) in the officer's recommendation.*

**Dalgety Street No. 71B (Lot 2 on Survey-Strata Plan 2032)****Applicant: Ivan Kekez & Jadranka Matijas****Owner: Ivan Kekez & Jadranka Matijas****Application No. P177/11**

By Carly Pidco, Town Planner, on 6 February 2012 (Revised 15 February 2012)

**PURPOSE OF THIS REPORT**

This report recommends conditional approval of a Development Application for construction of a two-storey plus attic single dwelling at No. 71B Dalgety Street, East Fremantle.



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**BACKGROUND****Description of Site**

The subject site is:

- a 574m<sup>2</sup> vacant survey strata lot
- zoned Residential 12.5
- located in the Woodside Precinct
- encumbered by a party wall easement along the northern boundary of the lot

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5 (to be assessed as R20 in accordance with clause 5.3.3)

Residential Design Codes of Western Australia (RDC)

**Relevant Council Policies**

Local Planning Policy No. 066 : Roofing (LPP066)

Local Planning Policy No. 142 : Residential Development (LPP142)

**Impact on Public Domain**

Tree in verge : No impact  
 Light pole : No impact  
 Crossover : To be widened  
 Footpath : Existing crossover to be widened  
 Streetscape : New dwelling

**Documentation**

Plans and relevant forms date stamped received on 10 November 2011

**Date Application Received**

10 November 2011

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

17 June 2003	Council supports Green Title subdivision of Lot 78 (Nos 71A & 71B) subject to conditions.
22 July 2003	WAPC conditionally approves Diagram/Plan of Survey (WAPC Reference 122078)
15 November 2004	WAPC requests Council comment regarding proposed subdivision of Lot 78 (WAPC Reference 126809)
19 January 2005	WAPC Reference 122078 revised plan conditionally approved
2 April 2005	WAPC Reference 126809 prepared to endorse appropriate form in accordance with the plan submitted once the conditions set out have been fulfilled
7 May 2008	WAPC Reference 684-08 requests Council information, comments or recommended conditions pertinent to the application.
17 June 2008	Council advises it cannot support the application.
3 July 2008	Council advises that although the application does not achieve minimum & average site area requirements it will support the application given there is an existing duplex house that is subject to two survey strata titles and pursuant to TPS No. 3 Clause 5.3.3.
22 July 2008	WAPC Ref 684-08 Approval subject to conditions.
12 April 2011	Demolition Licences issued for 71A & 71B Dalgety Street (Nos 2011055 & 2011056).

**CONSULTATION****Advertising**

The proposed development was advertised to surrounding neighbours from 21 December 2011 to 13 January 2012. One submission was received from the owners of 73A Dalgety Street, which abuts the western portion of the southern boundary of the subject site. The submitter raises concerns that privacy in their living areas and swimming pool will be compromised by the western window to the master bedroom (Bed 1). The submitter

requests that the window be redesigned to be a hi-lite window or have a minimum sill height of 1600mm.

The landowner has asked that the following points be considered in response to the objection received:

- The window is within the R-Codes requirements. We have endeavoured to comply with all codes and regulations as we wanted no issues with our neighbours.
- The window has been designed for energy efficiency with the sea breeze able to circulate from west to east for cooling in summer.

The visual privacy requirements of the R-Codes require bedroom windows to be set back 4.5m from the southern boundary within the cone of vision. The subject window is set back approximately 5.7m within the code of vision. It would be overly arduous to require the applicant to redesign the window when there is no inconsistency with the Residential Design Codes.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 31 January 2012. The applicant’s architect has prepared a response to the concerns raised and the applicant has provided further clarification on their intent in an accompanying email. The Panel’s comments and applicant’s and officer’s responses are detailed below.

Panel Comment	Applicant’s Response	Officer’s Comment
Panel does not support the garage as a dominant element of the streetscape / front elevation of the house.	Due to the limited width of the lot, 2 rooms cannot sit side by side which unfortunately means that the garage (which needs to be at the front of the house) will be prominent. We have tried to lessen the impact of the garage by providing a direct pedestrian pathway from the street lined with olive trees.	The applicant’s comment is supported as the lot is only 10.6m wide and is solely accessible from Dalgety Street.  The location of the garage complies with LPP 142 which states that garages must be at or behind the main building line. It is not consistent with the R-Codes requirements, however, which specify garage doors and supporting structures to be no more than 50% of the frontage or 60% in two storey dwellings. The proposed garage extends for 66% of the building frontage however this is not unreasonable given the narrow nature of the lot.
Design and proportions of development appear awkward as presented to the streetscape.	This is a difficult comment to respond to; however in our opinion in three dimensions the proposal will not look ‘awkward’. Two dimensional drawings such as elevations can be misleading, and of course proportion itself is a quality that is subjectively measured.	The upper storey presents as significantly smaller than the lower storey from the street. The narrower upper storey provides greater setbacks to neighbouring properties, reducing building bulk and any undue impact on amenity.
The overly narrow first storey and extended eaves appear out of proportion to the ground floor element.	The footprint of the upper floor is largely driven by setback requirements.  We would like the eaves to remain as is due to the natural cooling provided. We also like the look of the dutch gable as it is visually more appealing to use and provides visual relief from a flat gable.	The applicant’s comments regarding setback requirements and natural cooling are supported.



Panel Comment	Applicant's Response	Officer's Comment
Specifically the upper-storey window appears too small.	Agreed, this will be made larger with some form of shading element added also to provide some shadow play and protection to the opening.  There are constraints as it is a children's bedroom and privacy to street is a requirement.	The Panel and applicant comments are supported. An increased window area will break up the appearance of the facade and work to counterbalance the dominance of the garage door.
Large expanses of fibre-cladding appear as an inconsistent and lightweight material choice for the Woodside precinct.	We are happy to reconsider the use of the weather board cladding and use either brickwork or render to the upper floor.  We favour the look of old red brick and limestone. Our major considerations are cost and maintenance (both cladding and render have maintenance issues).	Noted.

**Site Inspection**

By Town Planner on 9 December 2011.

**ASSESSMENT**

The proposed development is a two-storey plus attic single dwelling. The dwelling is of brick construction with a Colorbond Zinalume roof. A garden shed is also shown on the submitted site plan, although no elevations were provided. Several retaining walls are shown to complement the proposed dwelling development.

The proposed development proposes several variations to the requirements of the R-Codes and the Town's LPP 142, as detailed below.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	57.8%	A
Site Works	Less than 500mm	Less than 500mm in front setback	A
<b>Local Planning Policies:</b>			
<b>Policy 143</b>	<b>Greater setback than surrounding properties. Parapet walls to two side boundaries.</b>		<b>D</b>
Roof	Gable roof; 35 degrees; Zinalume roof – apply standard condition		A
Solar Access & Shade	Building orientation and window design reflect climate sensitive design principles.		A
Drainage	To be conditioned		A
Views	Complies with maximum height		A
Crossover	<b>5m crossover proposed</b>		<b>D</b>
Trees	Verge tree to be retained.		A
<b>Other:</b>			
<b>Issues</b>	<b>Status</b>		
Overshadowing	24.3% on adjoining Lot 2; 17.7% on adjoining Lot 1		A
<b>Privacy/Overlooking</b>	<b>Alfresco intrudes 6m into the cone of vision on the southern boundary</b>		<b>D</b>
<b>Height:</b>			
<b>Required</b>	<b>Proposed</b>		<b>Status</b>
Wall	6.0 (no views)	7.5m	D
Ridge	9.0 (no views)	9.6m	D
Roof type	Gable Roof		



<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
Ground	N/A	N/A	N/A	N/A	6.0	9.6	A
Upper	N/A	N/A	N/A	N/A	6.0	10.6	A
Rear (west)							
Ground	Alfresco	4.2	6.25	N	1.1	13.9	A
Upper	Dwelling	7.2	5.1	Y	3.5	17.1	A
<b>Outbuildings</b>	<b>Garden Shed</b>	<b>2.7</b>	<b>4.5</b>	<b>N</b>	<b>1.0</b>	<b>Nil</b>	<b>D</b>
Side (south)							
<b>Ground</b>	<b>Garage</b>	<b>3.0</b>	<b>9.0</b>	<b>N</b>	<b>1.0</b>	<b>Nil</b>	<b>D</b>
	Alfresco / Living	3.4	11.8	N	1.5	1.5	A
	Balance of dwelling	2.7	30.6*	Y	1.5	2.7	A
<b>Upper</b>	<b>Dwelling</b>	<b>5.8</b>	<b>26.4</b>	<b>N</b>	<b>2.8</b>	<b>2.7</b>	<b>D</b>
<b>Outbuildings</b>	<b>Garden Shed</b>	<b>2.4</b>	<b>4.5</b>	<b>N</b>	<b>1.0</b>	<b>Nil</b>	<b>D</b>
Side (north)							
<b>Ground</b>	<b>Dining</b>	<b>3.1</b>	<b>6.3</b>	<b>N</b>	<b>1</b>	<b>Nil</b>	<b>D</b>
	Study / Entry	2.7	9.0	N	1	1	A
	Balance of Dwelling	2.6	30.6*	Y	1.5	2.8	A
Upper	Dwelling	5.9	26.4	N	2.8	2.8	A

\* Wall length as calculated for assessment purposes

### Privacy Requirements

The proposed alfresco intrudes 6m into the cone of vision on the southern boundary. Although located on the ground storey, the alfresco is subject to privacy requirements due to the FFL being more than 0.5m above NGL. This occurs at the western end of the alfresco, which is built upon a slope. The affected neighbour has not objected to the proposed alfresco during the public advertising period. The area overlooked is the front of a rear battleaxe lot. Usually privacy requirements are not applied in the front setback area of a lot with street frontage, and the underlying principle can be used to justify the variation being sought.

### Building Height

The proposed dwelling complies with building height requirements along all boundaries except for the west (rear). The lot slopes downwards from front to rear, and in accordance with the provisions of TPS No. 3, the height at the rear is measured from the NGL at the boundary. The proposed dwelling is substantially set back from the rear boundary, however, which will mitigate any visual impact on the adjoining (lower) property. The site is not in a locality where views are a significant concern and the height variation is not inconsistent with the LPP 142 provision stating that "the general intention is for buildings to retain the predominant bulk and scale of the locality/precinct".

### Front Setback

The proposed front setback is significantly greater than required under the R-Codes. The LPP No. 142, however, provides that "Buildings are to be set back such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality". While the proposed dwelling is set back further than adjoining properties, the intent of the Policy provision is to limit any undue impact on the streetscape resulting from reduced setbacks and increased building bulk. The proposed setback will not impact negatively on the streetscape and does not conflict with the intent of the Policy.

### Side and Rear Setbacks

The development proposes several variations to boundary setback requirements on the southern and northern (side) boundaries. The LPP 142 provides criteria by which boundary setback variations are to be assessed:





- *Walls are not higher than 3m and up to 9m in length up to one side boundary*

The subject walls are mostly longer and taller than specified in the Policy. Variations are proposed to both side boundaries, not just one. The variations sought can be attributed to the narrow nature of the lot. The applicant has attempted to minimise overlooking on neighbouring properties and break up building bulk with articulation along the side elevation.

- *Walls are behind the main dwelling*

The parapet wall to the garage is located at the front of the dwelling. The nil setback gives greater room for the applicant to incorporate more than just the garage door to the front facade.

- *Subject to the overshadowing provisions of the Residential Design Codes*

Complies

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

The development is located south-east of Canning Highway and will not impact upon neighbouring properties' views. The reduced setback visible from the streetscape is the garage parapet, which is single-storey height and not likely to impact on the character of the locality.

- *Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions*

The southern boundary abuts the battleaxe leg of the neighbouring lot. The northern boundary abuts a vacant lot of similar dimensions, which will likely also be developed with reduced boundary setbacks to compensate for the narrower lot width.

Although the proposed setback variations are not consistent with all of these criteria, resulting impact on neighbouring properties and the streetscape is minimal. The side boundary setback variations are being sought to allow the applicant to make best use of a highly constrained (narrow) lot.

#### **Crossover**

The proposed crossover exceeds the maximum width set by the Town. The maximum width is set to minimise the impact of crossovers on the streetscape. The applicant has provided no justification for the increased width and adherence to requirements will not affect ingress/egress from the site. The increased crossover width is not supported.

#### **Existing Party Wall Easement**

Nos 71A and 71B Dalgety Street were previously developed with a duplex that incorporated a party wall along the common boundary. A standard party wall easement encumbered both lots. When the duplex was demolished and the land re-subdivided, the party wall easement was not extinguished. Informal discussions with Landgate (9 December 2011) indicate that the easement is still in effect and should be extinguished prior to development. The submitted plans indicate that the development will impact the land subject to the easement. It is recommended that a condition be applied to any approval requiring the easement to be extinguished.

#### **Garden Shed (Outbuilding)**

The applicant has requested that the garden shed be considered as part of this development application, although no elevations have been provided. As the shed is located behind the main dwelling and will not be visible from the street, it is not necessary to consider materials and finishings as part of a development approval. The site plan shows the location of the shed and states that the maximum wall height will be 2.4m.



Neighbours have had the opportunity to view the plans with this information and no objections to the shed have been received. Elevations are not considered necessary under these circumstances. The ridge height of the shed has not been provided, however. It is recommended that a condition specifying the maximum permitted roof height for the shed, in keeping with the R-Codes provisions for single-storey development, be applied.

### Conclusion

The proposed development proposes several variations to the requirements of the R-Codes and the Town's LPP No. 142. The variations generally stem from the narrow nature of the lot. The variations are considered supportable as impact on neighbouring properties and the streetscape is minimal.

The applicant has undertaken to make several design changes in response to the comments of the TPAP. The proposed changes will balance the appearance of the dwelling from the street and should be incorporated into conditions of development approval.

### RECOMMENDATION

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

- (a) vary the wall height requirements of the Local Planning Policy No. 142 Residential Development to permit a maximum wall height of 7.5 and maximum roof ridge height of 9.6m on the western elevation as depicted on the submitted plans;
- (b) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the major opening to the southern wall of the Alfresco to intrude 6m over the southern boundary;
- (c) vary the building setback requirements of the Residential Design Codes of Western Australia to permit a nil setback to the dining room at the northern boundary; a setback of 2.7m to the upper storey at the southern boundary; and a nil setback to the garage and garden shed at the southern boundary; and
- (d) vary the maximum garage width requirements of the Residential Design Codes of Western Australia to permit a garage of 66% of the building frontage;

for the construction of a single dwelling at No. 71B (Lot 2 on Survey-Strata Plan 2032) Dalgety Street, East Fremantle, in accordance with the plans date stamped received on 10 November 2011 subject to the following conditions:

1. The zincalume roofing be treated to Council's satisfaction to reduce reflectivity in the first two years following installation, at the owner's expense.
2. 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.
3. Prior to the issue of a building licence, revised plans being submitted and accepted demonstrating increased dimensions to the eastern window to Bed 4, to the satisfaction of the Chief Executive Officer.
4. A detailed schedule of external materials and finishings (including paint colours) to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer.
5. The proposed Garden Shed is to be in complete accordance with the height requirements for "Category A" development specified in the Residential Design Codes of Western Australia.
6. Prior to the issue of a building licence, the existing party wall easement to be extinguished to the satisfaction of the Chief Executive Officer.
7. 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.
8. The proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.



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9. 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.
10. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
11. All 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.
12. 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.
13. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
14. 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.
15. 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.
16. 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.
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) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*



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- (h) *the alfresco and courtyard may not be enclosed without the prior written consent of Council.*
- (i) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

Ms Matijas (owner) addressed the meeting seeking support for the retention of the window to bedroom 1 and the double garage, as proposed in the application.

**Cr Nardi – Cr Olson**

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

- (a) vary the wall height requirements of the Local Planning Policy No. 142 Residential Development to permit a maximum wall height of 7.5 and maximum roof ridge height of 9.6m on the western elevation as depicted on the submitted plans;**
- (b) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the major opening to the southern wall of the Alfresco to intrude 6m over the southern boundary;**
- (c) vary the building setback requirements of the Residential Design Codes of Western Australia to permit a nil setback to the dining room at the northern boundary; a setback of 2.7m to the upper storey at the southern boundary; and a nil setback to the garage and garden shed at the southern boundary;**
- (d) vary the maximum garage width requirements of the Residential Design Codes of Western Australia to permit a garage of 66% of the building frontage;**

**for the construction of a single dwelling at No. 71B (Lot 2 on Survey-Strata Plan 2032) Dalgety Street, East Fremantle, in accordance with the plans date stamped received on 10 November 2011 subject to the following conditions:**

- 1. The zinalume roofing be treated to Council's satisfaction to reduce reflectivity in the first two years following installation, at the owner's expense.**
- 2. 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.**
- 3. Prior to the issue of a building licence, revised plans being submitted and accepted demonstrating increased dimensions to the eastern window to Bed 4, to the satisfaction of the Chief Executive Officer.**
- 4. A detailed schedule of external materials and finishings (including paint colours) to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer.**
- 5. The proposed Garden Shed is to be in complete accordance with the height requirements for "Category A" development specified in the Residential Design Codes of Western Australia.**
- 6. Prior to the issue of a building licence, the existing party wall easement to be extinguished to the satisfaction of the Chief Executive Officer.**
- 7. 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.**
- 8. The proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 9. 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.**



10. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
11. All 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.
12. 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.
13. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
14. 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.
15. 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.
16. 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.
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) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*



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- (h) *the alfresco and courtyard may not be enclosed without the prior written consent of Council.*
- (i) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—“An Installers Guide to Air-Conditioner Noise”.*
- CARRIED**

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

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

*Cr Martin made the following impartiality declaration in the matter of 56A Pier & 10 Peshurst Street: “As a consequence of one of the objectors, Richard Longley, and his family being acquaintances of mine, 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”.*

### **35.3 T11.6 Pier Street No. 56A & Peshurst Street No. 10**

**Applicant: ADM Group**

**Owner: Stuart Clarke**

**Application No. P150/2010**

Mr Longley (representing his son’s property) addressed the meeting in opposition to the proposal and querying Council’s reasons for approving the numerous dispensations requested.

Mr Hefter (neighbour) addressed the meeting in opposition to the proposal stating he did not believe the use of public land for private purposes was appropriate when the applicant had a reasonable alternative to access the property from Peshurst. Mr Hefter also opposed the discretion request for 1.5m additional fill which would only make the development more imposing from the street.

Mr Clark (owner) addressed the meeting outlining his reasons for requiring access from Pier Street and stating the variations recommended were required for this difficult site. Mr Clark requested Council give consideration to amending recommendation 3 to increase the maximum of height of any retaining to 46.5 metres AHD. Mr Clark advised he would be happy to work with Council and neighbours to provide landscaping between the kerb and lot boundary to enhance the streetscape.

#### **Cr Martin – Cr Nardi**

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

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

- **the incursion of the alfresco and balcony of Lot 2 into the front setback area by 0.5 metres;**
- **a reduced setback of between 1.0 metres and 1.5 metres between the upper floor of the residence on Lot 1 and the eastern boundary in lieu of the required 1.6 metre setback;**
- **a reduced setback of 1.2 metres in lieu of the required 1.5 metre setback between the upper floor of the residence on Lot 2 and the western lot boundary;**
- **the provision of 49.7% open space on Lot 1 in lieu of the requirement to provide 50%;**
- **the kitchen windows of the residence on Lot 1 being unscreened and located closer than 6 metres to the boundary in lieu of the requirement for these to be screened;**
- **fill/retaining of Lots 1 and 2 up to 1.5 metres in lieu of the 500mm site works restriction;**



for the construction of a two storey residence with an undercroft at No. 10 Peshurst Street (Lot 1) and for the construction of a two storey residence with an undercroft at No. 56 Pier Street (Lot 2) in accordance with the plans date stamp received on 11 January 2012 subject to the following conditions:

1. The upper floor of the residence on Lot 1 be setback a minimum of 6.0 metres from the front lot boundary.
2. The eastern opening of the alfresco and the balcony areas on Lot 2 to be screened to satisfy the privacy requirements of the R-Codes to the satisfaction of the CEO.
3. The proposed retaining at the front of Lot 2 and along the truncation of Lot 1 be reduced in height and that the maximum height of any retaining along the boundaries be restricted to a height of 46.0 metres AHD.
4. A schedule of materials and finishes to be submitted prior to the issue of a building licence to the satisfaction of the CEO.
5. This determination does not include approval for the swimming pools and a separate application with the relevant information to be submitted and determined by Council.
6. If it is intended to install air conditioning, prior to the installation of externally mounted air conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air conditioner will comply with the Environmental (Noise) Regulations 1997. (*refer footnote (i) below*)
7. 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.
8. 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.
9. 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.
10. A landscape plan being submitted to Council's satisfaction for the area between the kerb and lot boundary along the frontage of the subject lot which includes works necessary to prevent damage to the escarpment.
11. 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.
12. 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.
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. 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.
14. 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.



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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. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.

**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) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

**CARRIED**

35.4

***T11.7 Swan Yacht Club - Reserve 27376, 27377 (RSB8)******Application No. P183/11******Applicant: Swan Yacht Club******Owner: Town of East Fremantle***

Mr Stewart (Greg Rowe & Associates) and Mr Reynolds (Manager) and Mr Pittorini (Commodore) of the Swan Yacht Club addressed the meeting in support of this proposal.

Following queries from elected members, the representatives reiterated:

- Bicycle park facilities would be incorporated in the parking plan.
- Although the Club was licenced to hold 12 large outdoor events, this number would be reduced given the increased size of the proposed premises
- Notwithstanding opposition from a number of club members, all boat slipping facilities had been removed to alleviate environmental hazards and allowing members of the public unrestricted access along the foreshore in front of the Club
- All refuelling facilities had been removed with club members using the fuel facilities at the East Fremantle Yacht Club
- It was proposed to exhibit artwork from local artists in the new clubhouse.
- It was proposed to deliver one free social membership to every East Fremantle household on an ongoing annual basis.

**Cr Martin – Cr Olson**

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

**That Council advise the Swan River Trust that it supports the application by the Swan Yacht Club date stamp received on 24 November 2011 and amended on 19 January 2012 and 7 February 2012, to demolish the existing club house and the slip yard and develop a new club house and associated parking and landscaped areas subject to the following conditions:**

1. **Activities associated with the Swan Yacht Club such as car parking, trailer and boat storage etc. are to be contained within the defined hardstand area of the car park. The use of areas designated as over flow parking areas shall only be utilised in association with special events and in accordance with the provisions of Condition 2 of this approval.**





2. The areas designated on the Approved Plans as ‘overflow parking’ are only to be utilised in conjunction with Council approved “special events” where it is anticipated that more than 600 patrons will be accommodated on site and for which a “Parking Management Plan” has been approved by the Chief Executive Officer of the Town of East Fremantle prior to any such event.
3. The proposed development is to be only operated in whole and in part by the Swan Yacht Club to the satisfaction of the Town of East Fremantle.
4. The applicants acknowledge the development and its site may in the future be subject to the environmental consequences of sea level rise and contaminates associated with past activities and agree to indemnify the Town of East Fremantle and the Swan River Trust from any liability arising from these consequences now and in the future to the satisfaction of these Authorities.
5. A detailed Landscape Plan incorporating bicycle parking provisions shall be submitted and approved by the Chief Executive Officer of the Town of East Fremantle prior to the issue of a Building Licence.
6. 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.
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. Where this development requires that any facility or service within a street verge or Reserve (existing vegetation, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *A Parking Management Plan shall clearly define the type, number of patrons and duration of any event and the measures to be undertaken to control access and parking of patrons and staff members during the duration of the event.*
- (b) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*

CARRIED

**35.5**

***T14.5 Philip Street No. 19 (Lot 80)***

***Applicant: Savvy Construction Pty Ltd***

***Owner: Robert & Karen Walker***

***Application No. P190/11***

In response to a recommendation to defer this application pending additional information, it was noted the applicant had submitted a 3D elevation.

Mr & Mrs Walker (owners) addressed the meeting acknowledging the heritage significance of their residence and outlining their reasons for seeking additional space. They considered the 3D elevation provided was misleading and sought a deferral to provide further 3D elevations which better represented the additions sought.



**Cr Martin – Cr Lilleyman**

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

That the application be deferred pending:

1. submission of 3D drawings for the Philip and Clayton street elevations.
2. further information from the applicants to allow a better understanding of the justification for the discretions requested and the impact on the existing heritage fabric.

CARRIED

**35.6 T11.1 Allen Street No. 20 (Lot 47)**

**Applicant: Darren Turner**

**Owner: Sophie Ford**

**Application No. 187/2011**

The officer's report relating to the abovementioned property has been revised to reflect the concerns of the Town Planning & Building Committee who sought clarification on the available area to the north of the residence. A site visit was subsequently undertaken on 16 February.

**Allen Street No. 20 (Lot 47)**

**Applicant: Darren Turner**

**Owner: Sophie Ford**

**Application No. 187/2011**

By Pina Mastrodomenico, Town Planner on 2 February 2012 (Revised 16 February 2012)

**PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval to construct a double carport at the front of the residence at No. 20 Allen Street, East Fremantle. The application seeks a major variation to the requirements of Local Planning Policy No. 142.

This report recommends that Council refuse the application.

**BACKGROUND**

**Description of Proposal**

The application proposes to construct a double carport at the front of the residence. The carport proposes to utilise the existing crossover.

**Description of site**

The subject site is:

- a 906m<sup>2</sup> lot
- zoned Residential R12.5
- developed with a heritage dwelling

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5  
Local Planning Strategy – Woodside Precinct (LPS)  
Residential Design Codes (RDC)  
B Management Category - Municipal Heritage Inventory

**Relevant Council Policies**

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

**Impact on Public Domain**

- Tree in verge : No impact;
- Light pole : No impact on proposed carport, however conflicts with any potential alternative carport location to the north.
- Crossover : No impact;
- Footpath : No impact;
- Streetscape : The proposal to locate a carport in front of the residence will impact adversely on the streetscape.

**Documentation**

Plans and relevant forms date stamp received on 7 December 2011

**Date Application Received**

7 December 2011

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

2 November 2011 Council approves replacement of existing shed.

**CONSULTATION**

**Advertising**

The application was advertised to adjoining land owners from 21 December 2011 to 13 January 2012. During this period no submissions were received.

**Town Planning Advisory Panel**

The subject application was referred to the Town Planning Advisory Panel (TPAP) in January 2012. The Panel made the following comments about the proposed carport:

- Panel does not support the garage a dominant element of the streetscape/front elevation of the house.

The Town Planner supports the Panels comments.

**Applicant Justification**

The applicant has submitted justification in favour of their application. This is outlines below.

Applicant Comments	Planning Comments
Due to the position of the existing dwelling on the property, and the location of the street kerb crossover, there is no room in width to be able to position a carport in line with, or behind the existing building line of the existing house.	Noted, the width of the side access to the northern side of the dwelling is 2.5 metres which is not adequate width for the parking of vehicles. There is also no room to locate the proposed carport behind the dwelling to the south, however ample uncovered parking area (forward of the dwelling) for two cars in tandem exists in this location.
There is no scope to move the street kerb crossover to the opposite northern boundary due to the location of a street light on the council verge, along with not enough width from the existing dwelling to the current boundary, to be able to fit a carport.	Noted, the existing verandah restricts the possibility of a carport in this locality.
Precedence has been set in Allen St, with the dwelling at No 32 Allen Street have extended a solid brick garage, forward of the existing building line of the house.	The majority of dwellings along Allen Street have carports/garages located at or behind the building line in accordance with Council's LPP 142. No.32 Allen Street was approved in 2003 with a variation to council policy, since that date, council have not supported development of this nature along Allen Street. Approval of a carport contrary to the requirements Council's LPP 142 will set an undesirable precedent for similar development along Allen Street.
We believe that the character design of the carport to match the existing forward verandah of the dwelling, along with the open aspect of the carport, will minimally impact on the streetscape in Allen street. The design of the carport at a level which allows a near flat driveway into the property also allows the existing dwelling to still be quite visible and would minimally detract from its current street view. We believe also that the proposed carport would add value to the existing property with the ability to have an off street undercover car parking facility, which the property currently lacks.	The proposed carport located in the front of the main dwelling is setback a considerable distance closer to the street than other carports/garages on Allen Street and as such will impact on the streetscape and the way the existing residence is viewed from the street. The carport being located in front the main building will result in an increase in the size and bulk of the proposed residence, reduce the articulation of the front elevation and impact on the streetscape.



**STATISTICS**

Local Planning Policies:		Issues	
Policy 142		Front Setback Discretion	D
Policy 142		Boundary Wall discretion	D
Solar Access & Shade		N/A	A
Drainage		To be conditioned	A
Views		No impacts	A
Crossover		Existing	A
Trees		No impacts	
Setbacks:	Required	Proposed	Status
Carport-Front (east)	At or behind main building line	4.0m	D
Carport-Side (south)	1.0m	Nil	D

**ASSESSMENT**

Approval is sought to construct a double carport forward of the residence with a 4.0 metre front setback. A retaining wall is proposed which will result in the carport being located 1.88 metres lower than the existing residence.

The carport does not comply with the requirements of Council's LPP 142. In addition to this the application has not been supported by the Town Planning Advisory Panel.

**Heritage Assessment**

The residence at No. 20 Allen Street is included on Council's Municipal Heritage Inventory as a 'B' Management Category.

The proposed carport located in the front of the main dwelling is setback a considerable distance closer to the street than other carports/garages on Allen Street. It is considered the proposed carport will partially obscure the frontage and streetscape presence of this significant heritage building.

The carport addition is unsympathetic to the streetscape as it will dominate the front facade of the heritage dwelling and set an undesirable precedent for similar development along Allen Street.

**Proposed Carport**

The application proposes to construct a pitched roof carport in front of the existing residence and completely forward of the main building line.

There are two major issues to address in this application being the location of the carport forward of the main building line and the potential impact of this on the streetscape.

Local Planning Policy No. 142 states in Part 2 – Streetscape:

- (ii) *Notwithstanding (i) above, garages and/or carports are to be located at or behind the main building line of the house on the property.*

The policy is not definitive in what constitutes the main building line however based on past assessments it is accepted that the policy refers to the dominant wall of the front of the house (the widest section of wall occupying the greatest part of the frontage of the dwelling). When applying this to the subject application, the main wall of the house is that which is behind the proposed carport. The location of the garage does not therefore accord with the requirements of Local Planning Policy No. 142.

The second issue is the impact of the proposed garage on the streetscape. The Residential Design Codes promotes open streetscapes which provide a visual setting for the dwelling and a transition zone between the public street and a private dwelling to provide for mutual surveillance and personal interaction without intrusion. It is assessed that the construction of a carport forward of the main building line will obscure portions of



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the front of the house which will compromise the relationship between the public and private realm.

Following a site inspection of the property it was confirmed that there is no possibility of locating a carport behind the main building line of the existing dwelling as an existing verandah is present on both southern and northern side of the property. However the alternative of permitting a variation to Local Planning Policy 142 and approving a double carport setback 4.0 metres from the front boundary and forward of the building, will reduce the articulation of the front elevation and negatively impact on the way that the existing heritage dwelling is viewed from the street. It is also noted that the approval of a covered single carport in the same location will also have a negative impact on the front facade of the dwelling and an application of this nature would not be supported.

**Conclusion**

The application proposes to construct a double carport entirely forward of the building line with a setback of 4.0 metres. The variations being sought will impact adversely on the existing streetscape view and will introduce a discordant element into the streetscape would detract from the visual amenity of the streetscape.

A variation to Local Planning Policy 142 is not supported in this instance and could establish a precedent for similar structures on other front property boundaries and within the front setback area.

**RECOMMENDATION**

That Council refuses to grant planning approval for a double carport at the front of the residence 20 Allen Street in accordance with the plans date stamp received on 7 December 2011 as the location of the garage is forward of the main building line and does not meet the requirements of Local Planning Policy No. 142 (Part 2 – Streetscape) and will have a detrimental impact on the local streetscape in conflict with the following matters as set out in Part 10, Clause 10.2 of the Town of East Fremantle Town Planning Scheme No. 3:

- (o) the preservation of the amenity of the locality;
- (p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.

**Cr Martin – Cr Nardi**

**That Council refuses to grant planning approval for a double carport at the front of the residence 20 Allen Street in accordance with the plans date stamp received on 7 December 2011 as the location of the garage is forward of the main building line and does not meet the requirements of Local Planning Policy No. 142 (Part 2 – Streetscape) and will have a detrimental impact on the local streetscape in conflict with the following matters as set out in Part 10, Clause 10.2 of the Town of East Fremantle Town Planning Scheme No. 3:**

- (o) the preservation of the amenity of the locality;**
- (p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.** CARRIED

*Cr Martin made the following impartiality declaration in the matter of 85 Duke Street: "As a consequence of the owner being a work colleague at the Department of Health, 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".*

- 35.7 T11.3 Duke Street No. 85 (Lot 396)**  
**Owner: Robert Salvage and Genevieve Hawks**  
**Applicant: Huston and Associates**  
**Application No. P195/11**

The following additional information from the Acting Town Planner was considered:



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*In response to a question regarding the possible tenancy of the property, it is suggested that Condition 1 below as it appears in the officer's report:*

- 1. The ancillary accommodation shall not be leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.*

*be amended to read as follows:*

- 1. The ancillary accommodation shall not be independently leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.*

**Cr Olson – Cr Nardi**

**That Council exercise its discretion in granting approval for a boundary wall which exceeds a length of 9 metres and extends to a length of 9.5 metres as required under the R-Codes; and for the construction of a studio, storeroom and pergola in the rear yard of No. 85 Duke Street, East Fremantle in accordance with plans date stamp received on the 19 December 2011, subject to the following conditions:**

- 1. The ancillary accommodation shall not be independently leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.**
- 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. All stormwater is to be disposed of on site, clear of all buildings and boundaries.**
- 6. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.**
- 7. 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.**
- 8. This planning approval to remain valid for a period of 24 months from date of this approval.**
- 9. The western (rear) setback shall be increased to 1.5 metres in accordance with the setback requirements of the Residential Design Codes.**

**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.***

**CARRIED**



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**35.8 T14.1 Canning Highway No. 200 (Lot 28)**  
**Applicant/Owner: Amanda Williams**  
**Application No. P185/2011**

The following additional information provided by the Acting Town Planner was considered:

*The Town Planning & Building Committee resolved that this application be deferred to the Council Meeting to review the wording of the officer's recommendation to reflect retrospective approval and to accommodate the possible tenancy of the property.*

*It is recommended that the following set of conditions be adopted in lieu of those contained in the officer's report that was previously circulated to elected members:*

**RECOMMENDATION**

*That Council exercise its discretion in granting retrospective approval for a change of use from 'studio' to 'ancillary accommodation' at No. 200 Canning Highway and for the replacement of the upper floor windows, in accordance with the application date stamped 21 October 2011 subject to the following conditions:*

- 1. the ancillary accommodation shall not be independently leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.*
- 2. the works are to be 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. 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 other than that explicitly approved under this approval.*
- (b) a copy of the approved plans as stamped by Council are attached.*
- (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) the approval of the ancillary accommodation is not a basis for subdivision of the property.*

**Cr Olson – Cr Collinson**

**That Council exercise its discretion in granting retrospective approval for a change of use from 'studio' to 'ancillary accommodation' at No. 200 Canning Highway and for the replacement of the upper floor windows, in accordance with the application date stamped 21 October 2011 subject to the following conditions:**

- 1. the ancillary accommodation shall not be independently leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.**
- 2. the works are to be 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. 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 other than that explicitly approved under this approval.**
- (b) a copy of the approved plans as stamped by Council are attached.**
- (c) all noise levels produced by the construction of the development are to**



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*comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

- (d) *the approval of the ancillary accommodation is not a basis for subdivision of the property.* CARRIED

## 35.9 T14.2 Fraser Street No. 83 (Lot 121)

**Applicant: Peter & Cheryl Falloon**

**Owner: Peter & Cheryl Falloon**

**Application No. P178/11**

*Cr Nardi – Cr Collinson*

*That the application for demolition of the residence at 83 Fraser Street be refused on the following grounds:*

1. *the demolition conflicts with the provisions of TPS Amendment No 9*
2. *the building's rating on Council's Municipal Inventory record form as having Category 1 Integrity and Category 2 Aesthetic Value and Condition.*
3. *the provisions of TPS3 Clause 10.2(a) & (c).* LOST

**Cr Lilleyman – Cr Martin**

**That Council approves the demolition of the existing dwelling, sheds and patio at No. 83 (Lot 121) Fraser Street, East Fremantle 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 demolition licence and the demolition licence is 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 waste is to be removed from the site and the site is to be continuously maintained to the satisfaction of the Chief Executive Officer.**
5. **All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
6. **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.**
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) ***it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on***





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*adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*

- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- CARRIED**

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

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

*Cr Martin made the following impartiality declaration in the matter of 19 Moss Street: "As a consequence of having served on a Board with the applicant, Gerard McCann, 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".*

**35.10 T14.3 Moss Street No. 19 (Lot 6)**  
**Applicant: Gerard McCann Architect**  
**Owner: Peter Jeffery**  
**Application No. P182/2011**  
**Cr Nardi – Cr Olson**

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

That Council exercise its discretion in granting approval for a variation to the setback requirements to allow an additional boundary wall on the northern boundary for the construction of alterations and additions at No. 19 (Lot 6) Moss Street in accordance with the plans date stamp received on 24 November 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 and clear of all boundaries.
5. 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.
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. 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.
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:***



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- (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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

Cr Olson made the following impartiality declaration in the matter of 5 Gordon Street: "As a consequence of one of the neighbours being known to me as a friend, 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".

**36.11 T14.4 Gordon Street No. 5 (Lot 2 - SP1794)****Applicant: In House Building Design****Owner: Graeme Herps****Application No. P116/2011****Cr Olson – Cr Collinson**

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

That Council exercise its discretion in approving a privacy screen that is 1.643 metres high in lieu of the requirement to be 1.65 metres and grant Retrospective Planning Approval for the construction of a raised deck with a nil setback to the rear boundary at No. 5 Gordon Street, East Fremantle in accordance with the plans date stamp received on 5 August 2011 subject to the following conditions:

1. The rear Colorbond fence to be painted to match the other boundary fences/walls at 5 Gordon Street;
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for retrospective planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. An application shall be submitted for a Building Approval Certificate 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 Approval Certificate 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. 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.*



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- (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

**36. EN BLOC RECOMMENDATION**

Cr Lilleyman – Cr Martin

That Council adopts en bloc the following recommendations of the Town Planning & Building Committee Meeting of 14 February 2012 in respect to Items MB Ref 36.1 to 36.10. CARRIED

**36.1 T10.1 Residential Design Guidelines**

That the Draft Residential Design Guidelines Report and accompanying documents be received.

**36.2 T11.5 Pier Street No. 15 (Lot 192)**

**Applicant: Coastview Australia T/A Riverstone Construction**

**Owner: Ian Monkhouse & Fiona McAlpine Monkhouse**

**Application No. P174/11**

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

- (a) vary the wall height requirements of the Local Planning Policy No. 142 Residential Development to permit a maximum wall height of 6.7m as depicted on the submitted plans;
  - (b) vary the roof form requirements of the Local Planning Policy No. 66 Roofing to permit a concealed roof form to the dwelling;
  - (c) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the major opening to the southern wall of the rear Balcony to intrude 1.6m over the eastern boundary; and
  - (d) vary the site works requirements of the Residential Design Codes of Western Australia to permit excavation in the front setback area up to 1.5m;
- for the construction of a single dwelling at No. 15 (Lot 192) Pier Street, East Fremantle, in accordance with the plans date stamped received on 24 October 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 unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. 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 dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.



7. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. 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.
10. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

36.3

**T15.1 Duke Street No. 60 (Lot 10)**

**Applicant: CMD Landscaping**

**Owner: Jerri Conrad & Michael Kim**

**Application No. P185/2011**

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

- variation to the setback requirements of the R-Codes and LPP No.142 to allow a setback of 0.025 metres to the southern boundary in lieu of the 1 metre setback requirement; and
- variation to the height requirements of the R-Codes to allow a wall height of 3.5 metres in lieu of the maxim wall height requirement of 3.0 metres;



for the construction of a pergola at the rear of the residence at No. 60 Duke Street, East Fremantle in accordance with the plans date stamp received on 29 November 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 alterations/additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, clear of all buildings and 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) *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).*

36.4

**T15.2 Clayton Street No. 23A (Lot 1 on Strata Plan 24670)**

**Applicant: Robert & Kerry O'Neill**

**Owner: Robert & Kerry O'Neill**

**Application No. P180/11**

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

- (a) vary the rear setback requirements of the Residential Design Codes of Western Australia to permit a setback of 0.6m at the ground storey; and
- (b) vary the privacy requirements of the Residential Design Codes of Western Australia to permit the patio unscreened at a setback of 0.6m from the western boundary;

for the construction of a patio addition at No. 23A (Lot 1 on Strata Plan 24670) Clayton Street, East Fremantle, in accordance with the plans date stamped received on 22 November 2011 subject to the following conditions:

1. The zincalume roofing be treated to Council's satisfaction to reduce reflectivity in the first two years following installation, at the owner's expense.
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 building licence and the demolition licence and 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.



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5. The proposed patio 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.
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. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
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. 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.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *the patio may not be enclosed without the prior written consent of Council.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

**36.5 T15.3 Bedford Street No. 28 (Lot 55)****Applicant: Gregory Limjoon****Owner: Gregory Limjoon****Application No. P141/2011**

That Council exercise its discretion in granting approval for a variation to the setback requirements of the R-Codes and LPP No. 142 to allow a nil setback from the carport to the southern boundary for the construction of additions to the residence at No. 28 (Lot 55) Bedford Street in accordance with the plans date stamp received on 15 September 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 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).*

**36.6 T15.4 Irwin Street No. 23A (Lot 1 on Strata Plan 11836)****Applicant: Bouse Builders****Owner: Ian & Susan Brown****Application No. P180/11**

That Council exercise its discretion in granting approval to vary the side setback requirements of the Residential Design Codes of Western Australia to permit a setback of 0.8m at the ground storey for the construction of an ensuite addition at No. 23A (Lot 1 on Strata Plan 11836) Irwin Street, East Fremantle, in accordance with the plans date stamped received on 20 December 2011 subject to the following conditions:

1. Prior to the issue of a Building Licence, the existing development and uses on the subject site shall be made to conform with Council's Planning Approval dated 17 March 2009, including as necessary the reinstatement of verge side vegetation and curbing, to the satisfaction of the Chief Executive Officer.
2. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.



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3. A detailed schedule of external materials and finishings (including paint colours) to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer.
4. 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.
5. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence is issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
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 ensuite 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, 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.
9. 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.
10. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
11. 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.
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 property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*





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- (f) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

36.7 T15.5 Salvado Avenue No. 1 (Lot 1)  
Owner/Applicant: Deborah A Barker  
Application No. P2/2012

That Council grant approval for a Loft Addition and New Roof to existing dwelling to the residence at No. 1 (Lot 1) Salvado Road in accordance with the plans date stamp received on 3 January 2012, 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 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. 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 additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site and clear of all boundaries.
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. 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.
7. 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.
8. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

36.8 T15.6 Petra Street No. 79 (Lot 360)  
Applicant: Daniel & Ann-Marie Dunnet  
Owner: Daniel & Ann-Marie Dunnet  
Application No. P194/11

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



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- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback at the garage on the southern boundary; and
- (b) vary the roof pitch requirements of the Local Planning Policy No. 66 to permit a 22.5 degree roof pitch to the garage;
- for the construction of a garage addition and rear extension at No. 79 (Lot 360) Petra Street, East Fremantle, in accordance with the plans date stamped received on 7 February 2012 subject to the following conditions:
1. A detailed schedule of external materials and finishings (including paint colours) to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer.
  2. The eastern (front) facade to the garage is to remain open in complete conformity with the approved plans.
  3. 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.
  4. The proposed works are not to be commenced until Council has received an application for a demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
  5. 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.
  6. The proposed garage and extension 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 is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
  8. 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. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
  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. 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.



13. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *with regards to condition 2, any proposal for a garage door or other alteration to the appearance of the garage from the street will require separate approval.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

36.9

**T15.7 Walter Street No. 3A (Lot 2 on Survey-Strata Plan 44581)**

**Applicant: In House Building Design**

**Owner: Bevin Brakespeare**

**Application No. P1/12**

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

- (a) vary the wall height requirements of the Local Planning Policy No. 142 Residential Development to permit a maximum wall height of 5.8; maximum wall height (concealed roof) of 6.2m; and maximum roof height of 7.3m, as depicted on the submitted plans;
- (b) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the major opening to the northern wall of Bedroom 3 to intrude 1 m over the eastern boundary; and
- (c) vary the building setback requirements of the Residential Design Codes of Western Australia to permit a nil setback to the garage at the eastern boundary; and a setback of 3.1m to the WIR and Landing at the western boundary

for the construction of a single dwelling at No. 3A (Lot 2 on Survey-Strata Plan 44581) Walter Street, East Fremantle, in accordance with the plans date stamped received on 3 January 2012, subject to the following conditions:

1. Development must achieve building setbacks and/or piling to the sewer access chamber to the specifications of the Water Corporation.
2. The truncation to the battleaxe driveway at the Walter Street frontage is to achieve adequate sight lines in keeping with the requirements of the Residential Design Codes.
3. The zinalume roofing be treated to Council's satisfaction to reduce reflectivity in the first two years following installation, at the owner's expense.
4. 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.



5. 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.
6. The proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. 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.
8. 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.
9. 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.
10. 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.
11. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
12. 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.
13. 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.
14. 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.
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) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation*



*report should be lodged with Council and one copy should be given to the owner of any affected property.*

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

**36.10 T16.1 Planning & Development Services – Status Report**  
That the information be received.

*The Manager Planning Services left the meeting at 8.45pm.*

**37. REPORTS OF THE CHIEF EXECUTIVE OFFICER**

**37.1 Local Government Reform**  
*By Stuart Wearne, Chief Executive Officer, on 17 February 2012*

**BACKGROUND**

At the Council Meeting held on 7 February 2012 the CEO reported on recent developments up to and including WALGA's decisions taken at a Special Meeting of State Council on 30 January 2012.

The CEO's minuted comments should be read in conjunction with this report.

On 9 February 2012 the Mayor was sent an email signed by the Mayors of Claremont, Cottesloe, Mosman Park and Peppermint Grove.

A copy of this email is attached.

**ATTACHMENT**

The email is self explanatory and requires little elaboration, particularly as the essential request mirrors points on the same issue made by the CEO at the last meeting.

In subsequent advice to the Mayor, I advised:

- I support what the Mayors are proposing
- What the Mayors were proposing had already had the effect of prompting a response from WALGA
- In respect of WALGA's response, it was worth noting (as I'd commented at the last meeting) that neither the WALGA report (nor the Conway Davey report commissioned by WALGA) mentioned the poll provisions once in their respective reports and nor was there any other concrete suggestion which indicated WALGA's recommendation on amalgamations were predicated on the poll provisions remaining in force and being applicable.

In that regard I wrote:



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*“Even though there was a reference to “deep and broad community support” in the body of their submission, none of their actual recommendations and in particular the recommendation related to local government reductions, referred to (let alone was predicated on) the poll provisions or anything like them.*

*(As discussed by Cr Rico and myself at the last Council meeting) when Cr Rico attempted to move an amendment I’d suggested to her, which reflected the need to maintain the principle of local democracy prevailing with respect to any amalgamation decision, she was opposed and the amendment was lost. Some of her opponents noted the poll provisions in the Act. However if WALGA are determined the poll provisions be retained, as they are now claiming, why wasn’t this said at the meeting and what would the harm have been in supporting Cr Rico’s amendment?”*

In response, the Mayor indicated his support for the request by the four Mayors, hence this report.

**REPORT**

The attached responses from WALGA have been of interest.

**ATTACHMENT**

Notwithstanding the above evidence to the contrary, they are suggesting the maintenance of the poll provisions is implicit in their report.

Based on previous comments (see previous minutes) that is not accepted.

Whilst WALGA now refers to the fact the criterion “deep and broad community support” was included in their report, this is exactly (deliberately) the term Cr Rico used in her amendment which WALGA defeated.

Furthermore it is considered the fact Local Government Advisory Board criteria was referred to (interestingly not the Local Government Advisory Board process, just the criteria they use) but not the other safeguard, the poll provisions, is telling.

Nevertheless it is commendable that WALGA have now made a statement in support of retaining and defending the poll provisions.

WALGA’s responses have however not assuaged the doubts of at least one of the signatories of the request to the Mayor, Mayor Morgan, see attached.

**ATTACHMENT**

I have also attached some relevant press comment.

**ATTACHMENT**

It is of interest to note the Minister’s statement “there are no current plans to change the poll provisions of the Act”.

Under the poll provisions, in response to a proposal by the Minister for the Town to amalgamate, 250 electors would force a poll on the issue.

However it must be noted the onus is on the electorate (and the Town) to muster the numbers to prevent amalgamation.

In the CEO’s view the onus is wrong – in his view an attempt to change the status quo should require the Minister to have to muster the numbers *in support of amalgamation*.

Nevertheless, under the existing poll provisions, if 50% of the electorate vote and if the majority of those voting oppose amalgamation, then the amalgamation cannot proceed.

As previously reported to Council, a 50% turnout could be a “big ask” and the election would be run by the Electoral Commission, which would put out the “yes” and “no” cases (as happens with State and Federal referendums).

The CEO has viewed previous “yes” and “no” cases put out by the Electoral Commission and considered them deficient.

In other words the poll provision safeguard would still present significant difficulties.

Nevertheless its repeal would be a black day for the principle of local democracy.

### **CONCLUSION**

The proposed motions of the four Mayors are worthy of strong support.

Given WALGA’s recent comments, they should be highly supportive of the motions.

If the motions are carried, the CEO, whilst writing to the recipients named in the motion, fully in terms of the motion, should be empowered to appropriately word each letter depending on the individual/body involved.

### **RECOMMENDATION**

That Council:

1. advise the Premier of the State of Western Australia, the Minister for Local Government, the Leader of the Opposition, the Shadow Minister for Local Government, our local members of the Legislative Assembly and Legislative Council, the Metropolitan Local Government Review Panel, and the President of the Western Australian Local Government Association, that this Council calls upon the Parliament of Western Australia to forever uphold and not dilute our constituents’ right to self-determination as embodied in clauses 8, 9 and 10(2) of Schedule 2.1 of the Local Government Act 1995 (WA).
2. request the recipient of each such letter to notify our Council by written reply as to whether they do support and will continue to support the preservation without dilution of our constituents’ right to self-determination as embodied in clauses 8, 9 and 10(2) of Schedule 2.1 of the Local Government Act 1995 (WA).
3. provide to the Secretariat of the Councils for Democracy a copy of each of our above letters and any responses that our Council receives, for use in demonstrating collective support for our constituents’ right to self-determination in clauses 8, 9 and 10(2) of Schedule 2.1 of the Local Government Act 1995.
4. empower the CEO to appropriately word each letter depending on the individual/body involved.

Considerable discussion ensued.

The CEO stated he could not understand why any local government, assuming it genuinely supported principles of local democracy and their community’s right to be heard on such a fundamental and critical issue as the termination of their local government, would not support the retention of the poll provisions and be prepared to say so without delay or qualification.

In that regard the CEO referred to a press report indicating that at least two local governments in the region would not be supporting the request from the four Mayors, at least at this time, notwithstanding one of those local governments expressed support for the poll provisions.

### **Mayor Ferris – Cr Nardi**

That Council:

1. **advise the Premier of the State of Western Australia, the Minister for Local Government, the Leader of the Opposition, the Shadow Minister for Local Government, our local members of the Legislative Assembly and Legislative Council, the Metropolitan Local Government Review Panel, and the President of the Western Australian Local Government Association, that this Council calls upon the Parliament of Western Australia to forever uphold and not dilute**



- our constituents' right to self-determination as embodied in clauses 8, 9 and 10(2) of Schedule 2.1 of the Local Government Act 1995 (WA).
2. request the recipient of each such letter to notify our Council by written reply as to whether they do support and will continue to support the preservation without dilution of our constituents' right to self-determination as embodied in clauses 8, 9 and 10(2) of Schedule 2.1 of the Local Government Act 1995 (WA).
  3. provide to the Secretariat of the Councils for Democracy a copy of each of our above letters and any responses that our Council receives, for use in demonstrating collective support for our constituents' right to self-determination in clauses 8, 9 and 10(2) of Schedule 2.1 of the Local Government Act 1995.
  4. empower the CEO to appropriately word each letter depending on the individual/body involved and provide copies of all correspondence to elected members.
- CARRIED

**37.2 Update from Chief Executive Officer on Various Items**

Communications Strategy

As advised to elected members by Shelley Kissing Doyle at the belowmentioned meeting, whilst Bluebottle has progressed this report, it is yet to be presented to the Town.

Website Management

A successful workshop was held on Wednesday, 15 February 2012 and a report from Bluebottle is now awaited.

Community Events

A report from Cynthia Williamson is yet to be received.

Gazebos

The installation of the gazebos has commenced. There has been some negative comment from adjacent residents Mr Bailey and Ms Mackie in addition to Graeme Mackie, a former resident.

Plympton Steps and Kitson Park

The CEO has met with Annabel Wills of AW Architecture and Historian Carmel Given of Heritage and History. The 20 week time frame was discussed with Annabel who confirmed it's necessity, noting her report is a staged event which requires, for example, the history to be prepared first, even before a site visit is carried out and with structural engineering and landscaping advice required subsequent to the site visit.

Town Centre

There have been unofficial though promising indications of a positive outcome of the setback issue.

East Fremantle Oval Precinct Master Plan

The next workshop is to be held on Wednesday, 29 February 2012 at 6.30pm.

Residential Design Guidelines

A presentation by Phil Griffiths was made to the Town Planning & Building Committee Meeting on Tuesday, 14 February 2012 and elected members were requested to have feedback on the draft documents to the Manager Planning Services by Friday, 17 February 2012.

Review of Town Planning Scheme No 3

A draft will be presented to the Town Planning Advisory Panel at its meeting to be held on 28 February 2012.

The Old Post Office ("Manera Building")





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I am attempting to follow up on why the report which was promised by Main Roads in the first week of February has not be received.

Conservation Works Town Hall and Old Police Station

Works are proceeding.

Staff Appointments

Verbal update will be provided.

Swan Yacht Club Lease

Still awaiting information from the Swan Yacht Club.

Lacrosse Club

Informal discussions were held with the new President of the Lacrosse Club regarding the general situation with the Club and the Club's future plans.

Audit/Finance Committee Meetings

The next meeting of the Audit and Finance Committee meetings will be held on Monday, 12 March 2012.

Community Consultation re King Street Footpath and Glasson Park

This is due to be held at 10am on Saturday, 18 February 2012.

It is expected a verbal report will be given at the meeting.

The CEO gave the following further updates:

Gazebos

Further emails had been received from Mr Bailey, Ms Mackie and Mr Lee. Correspondence had also been received from Hammond Legal representing Mr & Mrs Bailey, Ms Mackie, Mr Lee and Mr Sprunt in relation to the placement of these gazebos following objections from these residents.

Cr Martin sought information regarding the outcome of what she understood was an earlier petition regarding the issue.

The CEO said he could recall something of that ilk and offered to follow up on this issue.

Staff Appointments

The CEO advised that no appointments had been made although most interviews had been held.

Community Consultation re King Street Footpath and Glasson Park

The CEO explained he had not been able to attend the consultation as he had been assisting one of the Town's clubs with a fundraiser. However he had received positive feedback from Ken Dyer and Shelley Cocks who had attended, in addition to similar feedback from the Mayor.

Mayor Ferris reported that this community consultation session had been attended by approximately 26 people and the feedback had been positive. Residents were supportive of the footpath proposal however some queried the selection of King Street for the pilot project.

The CEO advised that written feedback was still being received from residents regarding Glasson Park.

The CEO advised that the Mayor had suggested that a group of selected students of East Fremantle Primary School be invited to make comment on the park proposal. The CEO

stated he supported this. Elected members indicated concurrence and the Mayor undertook to contact the Principal regarding this matter and to make the necessary arrangements.

The Mayor thanked the CEO for arranging the consultation and Ken Dyer and Shelley Cocks for their attendance last Saturday morning.

*Cr Collinson declared a financial interest in the matter of footpath works in upper King Street as his strata property is located opposite the commencement of the proposed work and left the meeting at 9.40pm.*

**Cr Olson – Cr Lilleyman**

**That the design for footpath and associated works in King Street, which was the subject of public consultation held on 18 February 2012, be endorsed and the implementation of the plan be commenced.** CARRIED

*Cr Collinson returned to the meeting at 9.43pm and it was noted he did not speak or vote on the previous motion.*

**37.3 Town Planning Scheme No 3 Amendment 9**

Further to earlier comments by the Manager Planning Services, the CEO advised it was his understanding that the WAPC had until recently, completely misplaced Amendment No 9, it had only been located following contact by the Council, it had now been allocated to an officer and the WAPC had advised it was planned by that officer to have a report completed by no later than the week ending 9 March.

**38. CONFIDENTIAL BUSINESS**

**38.1 128/128A George Street**

**Cr Martin – Cr Olson**

**That this matter be dealt with on a confidential basis, in accordance with Section 5.23(2)(c) of the Local Government Act.** CARRIED

*Cr Collinson declared a financial interest in the matter of 128/128A George Street as his strata property abuts this site, however prior to leaving the meeting requested permission to be present during, but not participate in, discussion on the issue. Cr Collinson left the meeting at 9.47pm*

**Mayor Ferris – Cr Olson**

**That permission not be granted for Cr Collinson to be present during discussion on the matter of 128/128A George Street.** CARRIED

A confidential report prepared by the Acting Executive Manager Finance & Administration was considered. **CONFIDENTIAL ATTACHMENT**

**Cr Martin – Cr Olson**

**That:**

1. the report be received
2. Council officers advertise for expressions of interest for tenancy of 128/128A George Street for a 6 month short term lease of the property. CARRIED

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

Nil.

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

Nil.



**41. CLOSURE OF MEETING**

There being no further business, the meeting closed at 9.55pm.

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **21 February 2012**, Minute Book reference **21. to 41.** were confirmed at the meeting of the Council on*

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*Presiding Member*