



# Town Planning & Building Committee

2 October 2012  
6.35pm

# MINUTES

**Town of East Fremantle**

135 Canning Highway, East Fremantle WA 6158  
PO Box 1097, Fremantle WA 6959

Tel: (08) 9339 1577

Fax: (08) 9339 3399

E-mail: [admin@eastfremantle.wa.gov.au](mailto:admin@eastfremantle.wa.gov.au)

Web Site: [www.eastfremantle.wa.gov.au](http://www.eastfremantle.wa.gov.au)





**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 2 OCTOBER, 2012 COMMENCING AT 6.35PM.**

**T85. OPENING OF MEETING**

*T85.1 Present*

**86. ACKNOWLEDGEMENT OF COUNTRY**

**T87. WELCOME TO GALLERY**

**T88. APOLOGIES**

**T89. CONFIRMATION OF MINUTES**

*T89.1 Town Planning & Building Committee – 4 September 2012*

**T90. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

*T91.1 Locke Crescent No. 27 (5048) – Alterations / Additions*

**T92. REPORTS OF COMMITTEES**

*T92.1 Town Planning Advisory Panel – 11 September 2012*

**T93. REPORTS OF OFFICERS – STRATEGIC PLANNING**

**T94. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL**

*T94.1 Receipt of Reports*

*T94.2 Order of Business*

*T94.3 Habgood Street No. 6 (Lot 5016)  
Applicant / Owner: M Fallace  
Application No. P135/11*

**T95. ADJOURNMENT**

**T96. RESUMPTION**

**T97. REPORTS OF OFFICERS – STATUTORY PLANNING/DEVELOPMENT CONTROL (Cont)**

*T97.1 Habgood Street No. 6 (Lot 5016)  
Applicant / Owner: M Fallace  
Application No. P135/11*

*T97.2 View Terrace No. 60 (Lot 86)  
Applicant: Ross Griffin Homes  
Owner: Richard and Dale Ramsay  
Application No. P65/2012*



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*Owner: K Tushingham*  
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*Application No. P118/2012*
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*Applicant: Swell Homes*  
*Owner: V & C Bauer*  
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**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 2 OCTOBER, 2012 COMMENCING AT 6.35PM.**

**T85. OPENING OF MEETING**

**T85.1 Present**

Cr Alex Wilson	Presiding Member
Cr Barry de Jong	
Cr Siân Martin	
Cr Dean Nardi	
Cr Maria Rico	from 8.35pm
Mr Jamie Douglas	Manager – Planning Services
Ms Carly Pidco	Town Planner
Mrs Peta Cooper	Minute Secretary

**86. 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.”*

**T87. WELCOME TO GALLERY**

There were 19 members of the public in the gallery at the commencement of the meeting.

**T88. APOLOGIES**

Mayor Alan Ferris  
Cr Cliff Collinson  
Cr Maria Rico (*having previously submitted an apology for the meeting, Cr Rico entered the meeting at 8.35pm*)

**T89. CONFIRMATION OF MINUTES**

**T89.1 Town Planning & Building Committee – 4 September 2012**

Cr Nardi – Cr de Jong  
That the Town Planning & Building Committee minutes dated 4 September 2012 as adopted at the Council meeting held on 18 September 2012 be confirmed. CARRIED

**T90. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T91.1 Locke Crescent No. 27 (5048) – Alterations / Additions**

Submissions received from Jennifer Byrne & Denis Cullity of 16 Munro Street and Jenny Hogan & Max Bowater of 17 Chauncy Street drawing attention to the error in comments attributed to them as contained in the officer's report.

Cr Martin – Cr Nardi  
That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T97.5).

CARRIED

**T92. REPORTS OF COMMITTEES****T92.1 Town Planning Advisory Panel – 11 September 2012**

Cr Wilson – Cr Martin

That the minutes of the Town Planning Advisory Panel meeting held on 11 September 2012 be received and each item considered when the relevant development application is being discussed. CARRIED

**T93. REPORTS OF OFFICERS – STRATEGIC PLANNING**

Cr Martin – Cr de Jong

That the order of business be altered to bring forward Statutory Planning/Development Control agenda items and that any Strategic Planning matters be held over for discussion later in the meeting. CARRIED

**T94. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL****T94.1 Receipt of Reports**

Cr Martin – Cr de Jong

That the Reports of Officers be received. CARRIED

**T94.2 Order of Business**

Cr Martin – Cr de Jong

The order of business be altered to allow members of the public to speak to relevant agenda items. CARRIED

**T94.3 Habgood Street No. 6 (Lot 5016)**

**Applicant / Owner: M Fallace**

**Application No. P135/11**

By Jamie Douglas, Manager Planning Services, and Carly Pidco, Senior Planning Officer, on 11 September 2012

**PURPOSE OF THIS REPORT**

This report recommends conditional approval of a Development Application for demolition of an existing dwelling and construction of a new single dwelling at 6 Habgood Street, East Fremantle.

**BACKGROUND****Description of Proposal**

The proposed development is a two-storey plus basement single dwelling. The dwelling is of brick and tile construction with render finish.

**Description of Site**

The subject site is:

- a 736m<sup>2</sup> freehold lot
- zoned Residential 12.5
- located in the Richmond Hill Precinct
- improved with a single dwelling

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5  
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 : Apply standard condition  
 Footpath : Apply standard condition  
 Streetscape : New dwelling

**Documentation**

5 January 2012 Revised plans and relevant forms  
 1 March 2012 Additional information  
 1 May 2012 Revised plans and associated applicant submission  
 28 May 2012 Additional information  
 23 August 2012 Additional information

**Date Application Received**

2 September 2011

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

18 December 1984 Council resolved to approve upper floor additions to existing dwelling.  
 18 December 2001 Council resolved to approve upper floor additions to existing dwelling.  
 20 March 2012 Council considered the application for demolition and construction of a new dwelling and deferred determination pending submission of revised plans.

**CONSULTATION**

The proposal has undergone several revisions in response to concerns raised by neighbours, the Town’s planning staff and Elected Members. The public consultation process has been carried out in response to each substantial revision. A chronology of consultation follows:

Revision	Consultation	Consideration of Submissions
Original proposal date stamped received 2 September 2011		Applicant sought deferral of application to prepare revised plans in response to submissions. Submissions not presented to Council due to deferral.
Revised plans date stamped received 5 January 2012	10 – 30 January 2012	Submissions considered by Council at its meeting of 20 March 2012. Council resolved to defer determination of the application.
Revised plans date stamped received 1 May 2012	2 – 15 May 2012	Submission included in the Officer’s report in the TP&B Committee Agenda for June 2012. The meeting was cancelled and the applicant requested deferral of the application.
Additional information date stamped received 23 August 2012	Previous submitters were invited to review the additional information. Formal consultation was not undertaken as plans do not include substantial revisions.	Submissions included in this report.

**Public Consultation – Revised plans May 2012**

Given that the matter was not ultimately considered by the TP&B Committee or Council at the June 2012 meeting, the consultation section of the report is included below.

The revised plans were advertised for public comment from 10 January to 30 January 2012. Each submission has not been replicated in full within the report because:

- (a) the various submissions received generally refer to similar issues;
- (b) in some cases the submissions replicate other submissions; and
- (c) the submissions are attached in full to this report.

The following table summarises the points of objection submitted. Similarly, the applicant’s comments have only been included where they respond to an objection and not where these have been included in the assessment portion of the submission.

Submission	Applicant’s Response	Planning Officer’s Comment
<p>No objection to the proposed development (4 submissions). <i>C &amp; C La Macchia, 8 Habgood Street; R Carcione, 26 View Terrace; R Mule, 27 Woodhouse Road; T &amp; M Buhagiar, 34 View Terrace</i></p>	<p>Note express support from owners of 8 Habgood Street, this property is the only one affected in any possible way with regard to discretion re wall heights and where the only (unavoidable) overlooking of any consequence occurs</p>	<p>No comment.</p>
<p><b>Building Height</b></p> <p>Question the overall height of the development – plans show the north elevation wall height to the balcony roof being 6.882m which exceeds the 5.6 maximum allowed. <i>A &amp; L Savaris, 11 Locke Crescent</i></p> <p>Understand that that the building design does not comply with the maximum building heights as set out in the R-Codes and exceeds the maximum 8.1m height by more than a metre. <i>D van Ooran, 9 Locke Crescent</i></p> <p>Conclude that there is no substantial reduction of the roof ridge height in this revision of the plans and the building as drawn is still over the allowable height limit. <i>Amicus Lawyers, on behalf of owner of 29 Woodhouse Road</i></p> <p>The proposed ridge height has only been achieved by reducing the roof pitch below the 28 degrees specified in Council policy and through significant excavation of the site in excess of Council Policy. <i>Cox Architecture on behalf of owners of 4 Habgood Street</i></p> <p>Various assessments of building height and objections to building being over the height requirements <i>A &amp; L Savaris, 11 Locke Crescent; LK &amp; J Lamer, 4 Habgood Street; Amicus Lawyers, on behalf of owner of 29 Woodhouse Road; D van Ooran, 9 Locke Crescent; Cox Architecture on behalf of owners of 4 Habgood Street</i></p>	<p>The proposal seeks to provide an outside space co-located at the main level of the house</p> <p>The upper level balcony is set far from the rear boundaries and also considerably lower than that already existing</p> <p>The dense screen planting to the rear and south boundaries prevents any significant overlooking</p> <p>The building is fully RD Code compliant in overall height terms to the roof ridges and porch peak, and with regard to the wall heights to the main building facade facing west and south</p> <p>The minor relaxation for wall height for the piers to the front porch detail are of no consequence where they are fully contained within the building profile of the roof</p> <p>By incorporating a skillion roof to its rear portion rather than a higher pitched element actually assists in limiting any minor and distant view impacts</p> <p>The proposal actually preserves views and particularly opens up view corridors between buildings, especially for the residents to the opposite side of Habgood Street</p>	<p>The officer’s assessment of height compliance is discussed in detail in the assessment section of this report.</p>



Submission	Applicant's Response	Planning Officer's Comment
<p><b>Privacy</b></p> <p>Main outdoor living areas and pool are not adequately screened to prevent overlooking of properties on Locke Crescent.</p> <p>Noise and visual privacy intrusion from pool.</p> <p>Privacy screening should be installed along the full extent of the outdoor area.</p> <p><i>A &amp; R Robertson, Locke Crescent; A &amp; L Savaris, 11 Locke Crescent; D &amp; M van Ooran, 9 Locke Crescent; LK &amp; J Larner, 4 Habgood Street; A &amp; L Savaris, 11 Locke Crescent; N Foley, 8 Habgood Street; A &amp; R Robertson, 7 Locke Crescent; D &amp; M van Ooran, 9 Locke Crescent</i></p>	<p>The development complies with the privacy setback requirements of the R-Codes.</p> <p>Dense screen planting to the rear and side boundaries prevents any significant overlooking of 7 &amp; 9 Locke Crescent and it is proposed to continue this to benefit 11 Locke Crescent.</p> <p>Rear yards of neighbouring properties are further screened by a combination of topographical fall, boundary fences, sheds and short setbacks.</p> <p>Overlooking from higher adjacent premises in Habgood Street is far greater than the proposal for No. 6.</p>	<p>It is considered there will be privacy intrusion from swimming pool over southern boundary. It is recommended that the development be required to comply with screening at this boundary. There is no basis for further screening or increased setbacks to the rear boundary under the R-Codes.</p> <p>Noise from the pool is regulated by environmental health legislation.</p>
<p><b>Site Coverage</b></p> <p>Query applicant's calculation of site cover. The extent of habitable rooms across all levels may not have been included in these totals.</p> <p><i>N Foley, 8 Habgood Street</i></p>	<p>N/A</p>	<p>The proposal complies with the maximum site cover as defined by the R-Codes. Plot ratio is the usual measure of floor areas over different heights in relation to site cover; however, it is not applicable in this zone.</p>
<p><b>Site Works</b></p> <p>Understand that excavation exceeds the maximum allowed of 500mm by up to six times this amount.</p> <p>The existing floor level is of no consequence as the property is going to be excavated</p> <p><i>D van Ooran, 9 Locke Crescent; LK &amp; J Larner, 4 Habgood Street</i></p>	<p>The 500mm 'limit' is simply the extent of cut or fill able to be undertaken without planning application</p> <p>The organisation within and below the permitted building envelope relative to NGL is not principally a matter for RD Code control</p> <p>Any issues relating to the capacity of the site to undergo excavation is the responsibility of a licensed structural engineer, whose detailing and authorisation for the works will be required as part of Building Licence documentation</p>	<p>The R-Codes provides that excavation should be no greater than 500mm within 3m of the front boundary or 1m of side boundaries. There is some minor excavation occurring within 1m of the southern boundary, however, this is not considered to impact on the amenity of the neighbouring property.</p> <p>The existing floor level has not been considered in the assessment of the current proposal.</p>
<p><b>Setbacks</b></p> <p>The setback on the SE side should be 2.5m instead of the 1.5m shown on the plan. <i>D van Ooran, 9 Locke Crescent</i></p> <p>Pool is setback 2.8m from the rear boundary and not in accordance with requirements. <i>Cox Architecture on behalf of owners of 4 Habgood Street; D &amp; M van Ooran, 9 Locke Crescent</i></p> <p>NW Wall should be setback 4.6m from side boundary. <i>Cox Architecture on behalf of owners of 4 Habgood Street</i> (applicant has not calculated Theatre / Living area as separate wall length to balcony, as permitted under the R-Codes'</p>	<p>The front setback is compatible with the street mode and appropriate for the site. Ironically, further setting back of the development would nominally increase the impact of the development on the lower eastern neighbours</p>	<p>The officer's assessment of setback requirements is discussed in detail in the assessment section of this report.</p> <p>Variations to side setbacks are supported as these are minor in nature and unlikely to have an undue impact on neighbouring properties.</p> <p>The pool is set back 7.5m from the rear boundary which exceeds the required setback and therefore complies.</p> <p>The reduced front setback to the upper storey does not comply and is considered to have an undue impact on the streetscape.</p>

Submission	Applicant's Response	Planning Officer's Comment
<p>applicant has specified as for major opening</p> <p>SW Wall should be setback 3.7m from side boundary. Cox Architecture on behalf of owners of 4 Habgood Street</p> <p>Proposed 5m setback from the road is not in keeping with the existing streetscape and setbacks of neighbouring properties. LK &amp; J Larner, 4 Habgood Street; C Lombardo, No's. 1 &amp; 5 Habgood Street; Cox Architecture on behalf of owners of 4 Habgood Street</p>		
<p><b>Overshadowing</b></p> <p>Concerned bulk and scale of building will have an overshadowing impact on neighbouring properties. C Lombardo, No's. 1 &amp; 5 Habgood Street; D &amp; M van Ooran, 9 Locke Crescent</p>	<p>Overshadowing is neither statistically excessive nor located in such a way that would have any significant impact on the neighbouring property south</p>	<p>Proposal complies with overshadowing requirements of the R-Codes</p>
<p><b>Views</b></p> <p>The sheer scale and design of this building detracts from the amenity of the area. D van Ooran, 9 Locke Crescent</p> <p>The proposal will result in the blocking of views from the upper levels of 4 Habgood Street to the west. LK &amp; J Larner, 4 Habgood Street; Cox Architecture on behalf of owners of 4 Habgood Street</p> <p>The bulk and scale of the building with have an adverse visual impact on neighbours. A &amp; L Savaris, 11 Locke Crescent</p>		<p>The building aesthetic and architectural elements are a subjective matter not regulated by planning</p> <p>The proposal will have some impact on the view corridor from the northern windows of 4 Habgood Street. However, the main view corridor to the east will be undisturbed.</p>
<p><b>General</b></p> <p>Please explain why the building is referred to as a two storey residence when there are three distinctive levels D &amp; M van Ooran, 9 Locke Crescent; C Lombardo, No's. 1 &amp; 5 Habgood Street</p> <p>Question why the Town does not assess development proposals to ensure they comply with R-Codes prior to putting them out for public review and comment? This would deliver far greater efficiencies for council staff and the community. D &amp; M van Ooran, 9 Locke Crescent</p> <p>Enquire if Council is able to intervene in the process, as the present interminable cycle of revision, submission and reviewing comments is surely absorbing the valuable resources of the Council. Amicus Lawyers, on behalf of owner of 29 Woodhouse Road</p> <p>Building of this scale will have a</p>		<p>Building has been described as two storeys plus basement. It could be argued that it can be described as three storeys; however, there is no relevant planning control in relation to number of stories.</p> <p>Applicants have the right to apply for approval for discretions to requirements from Council. Public comment informs Council's decision as to whether approve discretions.</p> <p>The assertion that the development will negatively impact on property values is speculative and not a valid planning consideration in any event.</p> <p>It is considered the revised plans show substantial improvements in relation to building setbacks and overlooking. The revised roof design has also reduced height, although this is still not compliant with requirements.</p>

Submission	Applicant's Response	Planning Officer's Comment
<p>substantial negative impact on the value of properties on Locke Crescent LK &amp; J Larner, 4 Habgood Street; D &amp; M van Ooran, 9 Locke Crescent</p> <p>The revised plans do not show significant consideration for neighbour's concerns raised in response to the original plans A &amp; L Savaris, 11 Locke Crescent; LK &amp; J Larner, 4 Habgood Street; D &amp; M van Ooran, 9 Locke Crescent</p> <p>Concern re noise during the building process. A &amp; R Robertson, 7 Locke Crescent</p>		Construction noise is regulated by environmental health legislation.

### Public Consultation – Additional Information - August 2012

The public consultation undertaken in response to additional information dated August 2012 was not a formal advertising process but rather an opportunity for previous submitters to view the additional information provided. Four submitters have provided further submissions in response to the additional information (attached to this report). The submissions did not raise any issues not discussed above and so are not repeated in the body of the report.

### Town Planning Advisory Panel Comments

The initial application was considered by the Panel at its meeting of 31 January 2012. The Panel made the following comments:

- *Panel does not support the bulky appearance of the application, or the over-height elements proposed.*
- *Panel would prefer a design that steps down to follow the topography of the lot to reduce the impact of the proposal.*

The amended revised plans were considered by the Panel at its meeting of 22 May 2012. The Panel made the following comments:

- *Amended proposal fails to respond to previous comments made by the panel regarding building height; bulk and scale (as noted in page 1, point 8 of consulting architect's report).*
- *Panel recommends a design that is more site-responsive to the existing topography.*
- *Panel doesn't support height variations.*
- *'Astroturf' to verge isn't supported, a more environmentally friendly proposal is recommended.*

The applicant did not respond to these comments although extensive submissions were received in respect to the public submissions and in respect to visual privacy elements which in part refer to the above issues.

### Site Inspection

By Manager Town Planning and Town Planner on numerous occasions during the course of this assessment.

### ASSESSMENT

#### Design Changes from Plans Considered - March 2012

The applicant has made several changes to the original design, principally these relate to the 'rear, flat roofed section of the dwelling and the associated outdoor living area and swimming pool. The design approach is explained by the applicant in the following extracts from the revised submission dated 30 April 2012:

*"We have taken the opportunity provided by the Council's deferral decision to both achieve overwhelming non-discretionary statutory compliance, and to improve the*

functional and aesthetic amenity of the proposal. This relates particularly to the perceived ‘blocky’ appearance of the rear portion of the proposal resulting from its flat roofed design approach, now replaced in part with pitched roof elements and lower sidewalls. Particular attention has also been paid to the front façade and streetscape impact of the proposal.

Notwithstanding these various amendments, the proposal remains substantially consistent with the application as already submitted and remaining under deferred consideration.”

Principal Amendments

- The rear deck areas at both levels have been marginally lowered, along with the swimming pool, and the northern side garden bed to the main deck widened in conjunction with this.
- This setting down, in conjunction with a ‘spreading’ of the upper floor plan has allowed for the lowering of wall heights, achieving both full RD Code compliance and the provision of hipped roof elements to the rear half of the building, where formerly covered with an extensive skillion (flat) roof. This not only provides for lower side walls, as those elements most impacting on bulk, scale and consequently neighbour amenity, but also eliminates the somewhat ungainly visual “blockiness” of the previous proposal (statutorily necessary in relation to its former wall heights).
- The building now has a traditional pitched roof form, particularly as seen from lower set lots to the sides and rear of the subject site. A flat roof has been retained for the upper balcony portion alone however, with an internalised central hipped roof element set into the middle portion of the building beyond.
- Balustrading and screening elements have been simplified and better aligned, in conjunction with these amendments to building form. An infinity edge has been incorporated to the lowered pool, further articulating the building form, especially as seen from the rear.
- While retaining its general appearance as previously submitted, the front façade has been staggered to achieve a greater setback to the upper level, with a reduced width portico element designed as a compliant minor incursion into the permitted street setback per Council Policy 142. Material differentiation of elements further contributes to the articulation of the façade.
- A fully policy-compliant front fence structure coordinated with the building façade and considered in conjunction with a detailed landscaping plan to the front setback area has been further developed as part of the amended application.

The proposal incorporates several variations to the Town’s policies and the Residential Design Codes, as detailed below.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	55%	67.3%	A
Site Works	Less than 500mm	Excavation up to 1m within 1m of southern boundary	D
<b>Local Planning Policies:</b>			
<b>Policy 142</b>	<b>Variations to setbacks, height</b>		<b>D</b>
Roof	Hipped, 28 degrees, tiles		A
Solar Access & Shade	Outdoor living areas face north		A
Drainage	To be conditioned		A
Views	<b>Variations to height</b>		A
<b>Crossover</b>	To be conditioned		<b>D</b>
Trees	Condition to retain		A

<b>Other:</b>		<b>Issues</b>					<b>Status</b>	
Overshadowing		<25%					A	
<b>Privacy/Overlooking</b>		<b>NORTH</b> <ul style="list-style-type: none"> <li>Elevated garden north of cabana – condition to ensure non-accessible</li> </ul> <b>SOUTH</b> <ul style="list-style-type: none"> <li>Window to eastern wall of kitchen intrudes 0.5m into cone of vision over southern boundary</li> </ul> <b>EAST</b> <ul style="list-style-type: none"> <li>NE opening to pool intrudes 0.2m over NE boundary</li> <li>NE opening to pool intrudes 1.5m over SE boundary</li> </ul>					D	
<b>Height:</b>		<b>Required</b>		<b>Proposed</b>		<b>Status</b>		
<b>Wall</b>		5.6		Max. 6.2		D		
<b>Wall (Concealed Roof)</b>		6.5		Max. 6.8		D		
<b>Roof</b>		8.1		Max. 8.2		D		
Roof type		Hipped						
<b>Setbacks:</b>								
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status	
<i>Front (west)</i>								
Ground	Dwelling	N/A	N/A	N/A	In line with streetscape	5.0	A	
Upper	<b>Dwelling</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>7.5</b>	<b>5.0</b>	<b>D</b>	
<i>Rear (east)</i>								
Basement	Dwelling	N/A	N/A	N/A	6.0	6.0	A	
Ground	Dwelling	N/A	N/A	N/A	6.0	6.5	A	
Upper	Dwelling	N/A	N/A	N/A	6.0	12.1	A	
<i>Side (north)</i>								
Basement	Dwelling	2.6	23.5	Y	1.5	3.5	A	
Ground	Dwelling	5.3	24.4	N	2.3	3.5	A	
Upper	Front Balcony	5.2	4.4	Y	2.5	4.5	A	
	Rear Balcony	6.8	5.7	Y	3.3	7.5	A	
	Dwelling	5.6	19.4	N	2.2	2.5	A	
<i>Side (south)</i>								
Basement	Dwelling	1.9	23.5	N	1.5	1.5	A	
<b>Ground</b>	<b>Dwelling</b>	<b>4.6</b>	<b>24.4</b>	<b>N</b>	<b>2.0</b>	<b>1.5</b>	<b>D</b>	
Upper	Front Balcony	4.9	4.4	Y	2.3	2.5	A	
	Rear Balcony	6.4	19.4	N	2.3	5.0	A	
	<b>Dwelling</b>	<b>5.4</b>	<b>13.7</b>	<b>N</b>	<b>1.7</b>	<b>1.6</b>	<b>D</b>	

\* As calculated for assessment purposes

### Site Works

The proposal incorporates a retained garden area against the southern boundary to facilitate light entering the house. The retaining wall will be only marginally higher than the ground level of the neighbouring property and have no impact on the amenity of the neighbouring dwelling. The proposed excavation is supported.

### Front Setback

The LPP 142 varies the front setback provisions of the R-Codes to permit dwellings to be set back “such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality”. It then goes on to specify that the front setback to an upper storey is to be as per the R-Codes, which in this case is 7.5m. The upper storey of the proposed development is set back from Habgood Street by 5.0m to

6.0m to the Balcony and 7.0m to the main dwelling. Note that the proposed balcony cannot be considered a 'minor incursion' for assessment purposes due to its width, and 5.0m is therefore the minimum front setback.

Habgood Street is a varied streetscape, with a range of architectural styles and front building setbacks:

Address	Minimum Front Setback
1 Habgood Street	4.8m
3 Habgood Street	7.6m
4 Habgood Street	9.6m
5 Habgood Street	9.1m
6 Habgood Street (existing dwelling)	7.5m
7 Habgood Street	9.0m
8 Habgood Street	7.5m
9 Habgood Street	8.0m
10 Habgood Street	6.8m

Notwithstanding this, the streetscape is wide and open. The proposed dwelling has significant presence, being tall and square with a grand curved balcony and portico element. It exceeds the maximum wall height limit as measured from NGL at the front boundary. A dwelling of this size and style will be a prominent feature in the landscape. It should be situated at a similar setback to existing development so as not to dominate, and to preserve the character of the existing streetscape. It is recommended that the applicant be required to comply with the upper storey front setback requirements of the LPP 142.

#### Side Setbacks

The proposed development incorporates side setback variations to the southern boundary. The LPP 142 provides criteria by which to assess proposed variations to setback requirements, as follows:

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

The proposed walls are higher and longer than specified in this criteria.

In relation to the upper floor, it is worth noting that it is the means of assessing boundary setbacks as laid out in the R-Codes that provides the wall length measurements; the actual length of wall that is setback at 1.6m is significantly less.

The walls to the main dwelling do not result in any undue overshadowing impact or privacy impact. The provided setbacks, while not in keeping with R-Codes, are of sufficient width to provide visual separation between dwellings.

- (b) *Walls are behind the main dwelling;*

The main portion of the dwelling is essentially a square shape, and the reduced setbacks will be visible from the street. The front portico and balcony have greater side setbacks than the main dwelling, and coupled with the curved balcony form, provide articulation to the front facade. The provided setbacks, while not compliant, are of sufficient width to provide visual separation between dwellings as viewed from the street.

- (c) *Subject to the overshadow provisions of the Residential Design Codes – Element 9;*

Complies.

- (d) *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; and*

Habgood Street has a varied streetscape and the reduced setbacks are not considered to have an undue impact on the character of the locality. The reduced setbacks will not greatly impact on views given the main view corridor from adjoining dwellings is to the north-east.

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

The dwelling at 4 Habgood Street has a high wall located close to the boundary with 6 Habgood Street.

### **Privacy**

The proposed development incorporates variations to the privacy requirements of the R-Codes at the kitchen window and at the swimming pool. The major opening from the kitchen faces east but the privacy intrusion occurs 0.5m over the southern boundary. This is a minor intrusion that will not intrude on sensitive living areas of the adjacent dwelling. It is recommended that the variation be supported.

The intrusion from the swimming pool is 0.2m over the eastern boundary boundary and 1.5m over the southern boundary. The impact of the pool on neighbours' privacy was a major concern raised during public consultation. The pool is more likely to generate noise and higher usage than many other habitable rooms. Its elevated position and open sides will further the impression of privacy invasion. It is recommended that a condition be applied to any development approval requiring the applicant to comply with privacy requirements in relation to the swimming pool.

It is also worth noting that the garden beds located adjacent to the swimming pool. The garden beds have not been subject to privacy requirements as, by nature of their development, they are not accessible and habitable. However, if these spaces were outdoor living areas for privacy purposes, further privacy intrusions would occur. It is recommended that a condition be applied to any development approval requiring the garden beds to remain non-habitable to prevent changes to the development that might result in non-compliance with the privacy requirements.

### **Building Height**

The applicant has provided two roof plans marking the NGL and wall/roof heights in AHD for important points along the dwelling. An annotated copy of the roof plan showing the calculated wall height is attached. The officer has reviewed these plans against the site plan prepared by the surveyor. The heights appear consistent with the exception of the rear wall of the dwelling, for which the survey indicates that the NGL is approximately 300mm lower than stated on the plans, and wall height has been calculated for both NGL figures.

From the annotated roof plan three key areas of non-compliance with height requirements can be identified. Firstly, the roof pitch height is 100mm above the maximum permitted toward the front corner of the dwelling. This is a minor variation that will not be perceptible at ground level. Further, the location of the variation is at the front of the dwelling, away from key view corridors, and is significantly setback from side boundaries.

Secondly, the rear facade has a wall height up to 100mm above requirements by the applicant's roof plan or up to 300mm above requirements by the officer's assessment

against the survey. The subject wall is to the balcony, which has a skillion roof form and open sides. The appearance of bulk is minimal by virtue of this design, and coupled with the significant rear setback, the variation is unlikely to impact on the amenity of the rear neighbour. The submissions received during public consultation include concerns from the southern neighbour that the rear wall of the house will unduly impact on views from 4 Habgood Street. While the rear of the house will intrude to some degree on views from a bedroom window at 4 Habgood Street, the intrusion is not considered to be unreasonable as the main view corridor from the rear of 4 Habgood Street will not be impacted (the proposed dwelling at 6 Habgood Street will have a similar rear setback to 4 Habgood Street). Also, the variation occurs at the opposite side of the rear facade to 4 Habgood Street due to the slope of the land. The point at which the variation occurs will not be visibly higher than the compliant wall that faces the southern boundary.

The third area of non-compliance is the front porch/balcony. This has a higher wall height than the main dwelling and has been designed to be a prominent feature in the facade. The balcony provides articulation to the facade and minimises a 'boxy' appearance. The overall ridge height is compliant and the overheight wall element does not have any overshadowing or bulk impact on neighbouring properties. As the dwelling is set lower than the street, the overheight wall will not be visibly discernible and it is not therefore considered to have an undue impact on the streetscape.

The proposed variations to the Town's maximum height requirements are minimal and will not have an undue impact on neighbouring properties or the streetscape. The variations are supported.

#### **Demolition**

The existing dwelling at 6 Habgood Street is to be demolished to enable construction of the new dwelling. The existing dwelling is a brick and tile dwelling of approximately 1960s construction, with modest additions of varying ages. The dwelling is not included on the Town's Heritage Survey 2006 and is of limited value to the streetscape and surrounding locality. Demolition of the property will not have an impact on the Town's heritage assets or character of the area and is therefore supported.

#### **CONCLUSION**

The proposed dwelling incorporates a number of variations to requirements. The variations to requirements for excavation, side setbacks, building heights and privacy from the kitchen window are supported as they have limited impact on the streetscape and neighbouring properties. The proposed variations to privacy from the swimming pool area are considered to negatively impact the amenity of affected neighbours. It is recommended that the applicant be required to bring the proposal into compliance with these requirements through conditions of development approval.

#### **RECOMMENDATION**

That subject to amended plans being submitted and approved demonstrating compliance with the Part 2 Clause (iii) of Local Planning Policy No. 142 - Residential Development in relation to front setbacks that Council exercise its discretion in granting approval for the following:

- (a) Vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.5m setback from the ground floor dwelling wall to the southern boundary, and 1.6m set back from the upper floor dwelling wall to the southern boundary;
- (b) Vary the privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the kitchen window in the eastern elevation to intrude 0.5m over the southern boundary;
- (c) Vary the building height requirements of the Local Planning Policy No. 142 Residential Development to permit a maximum wall height of 6.2m (AHD 40.042) to the front balcony; maximum wall height of 6.8m (AHD 39.173) to the rear balcony; and maximum ridge height of 8.2m (AHD 41.750) to the main hipped roof; and
- (d) Vary the site works requirements of the Residential Design Codes of Western Australia to permit excavation up to 1.0m within 1.0m of the southern boundary;



for the construction of single dwelling and swimming pool at No. 6 (Lot 5016) Habgood Street, East Fremantle, in accordance with the plans date stamped received on 23 August 2012, subject to the following conditions:

1. Glazing to the eastern elevation of the swimming pool is to be of obscure glass or otherwise screened to the satisfaction of the Chief Executive Officer.
2. Those areas of the ground floor that are marked as "Garden" on the approved plans are not to be developed so as to constitute an "Outdoor Living Area" as defined by the Residential Design Codes of Western Australia.
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 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.
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 development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (g) below*)
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. 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.
13. 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.
14. If requested by Council within the first two years following installation, any 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.
15. Pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well

- as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
16. Pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
  17. Swimming pool is to be certified by a structural engineer and approved by Council's Building Surveyor.
  18. Pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
  19. 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".*

Mr Andrew Robertson (neighbour of 7 Locke Crescent) addressed the meeting on the proposed development citing noise as a major concern given the proximity of the entertainment area. Mr Robertson also expressed concern with overlooking from the proposed pool/patio area to the rear.

Mr & Mrs David & Michelle van Ooran (adjoining landowners to the rear) addressed the meeting expressing concern with the proposed development.

Mr van Ooran cited the following:

- .. bulk and scale
- .. building does not fit with topography of the site
- .. raised entertainment / pool area and potential for overlooking
- .. setback discretions
- .. new drawings confirm building to be overheight
- .. questioned probity of the process

Mr van Ooran in closing, referred to an email from Greg Howlett (Architect) who has provided advice on the matter.

Mrs van Ooran in re-iterating Mr van Ooran's concerns, also referred to the matter of privacy in relation to the deciduous trees along the rear boundary of 6 Habgood Street and their perceived impact upon their living standards for 3 months of the year.

Mrs Lisa Savaris (neighbour of 11 Locke Crescent) also raised the matter of deciduous trees along the rear boundary of 6 Habgood Street which she perceived would lead to overlooking and loss of privacy from the elevated pool / entertainment area.

Mr Laurie Larner (adjoining landowner at 4 Habgood Street) in addressing the meeting drew attention to the building height in comparison to his residence and disputed the NGL's as provided by the applicant. Mr Larner distributed an elevation comparison and site plan showing alternate levels. Mr Larner stated that he was surprised by the officer's recommendation for approval.

Mr John Kirkness (Architect) and Mr Michael Fallace (owner) addressed the meeting in support of the development proposal. Mr Kirkness commented as follows:

- .. building is fundamentally compliant
- .. current dwelling has more overlooking
- .. if pool was at ground level it would be set closer and therefore produce more noise
- .. NGL is the level preceding the proposed development, it does not relate to excavation
- .. we support the officer's conclusions as contained in the report before us
- .. the building addresses the comments of the Town Planning Advisory Panel in regard to stepping down the block
- .. other elements have been modified to achieve reduced wall heights
- .. front setback discretion relates to front balcony either side of portico
- .. no relaxation sought for south side setback
- .. swimming pool set at 6.5m off boundary – you cannot see over fence
- .. applicant is amenable to obscure glazing for balustrading around pool area
- .. no overlooking from main entertainment areas into neighbouring properties
- .. concur with officer's report in relation to building height
- .. the two piers of the front portico are inside the profile of the building therefore no impact upon streetscape
- .. NGL issues have been resolved – the notion the building is over-scaled is wrong
- .. the building follows the natural fall of the land and has least amount of overlooking in comparison to other homes in the Preston Point Ward

## T95. ADJOURNMENT

**Cr Wilson – Cr de Jong**

**That the meeting be adjourned at 8.00pm.**

CARRIED

During the adjournment the Manager – Planning Services addressed the meeting and provided an explanation regarding the impact on the application of the R-Codes definition of natural ground level upon the height compliance of the proposal.

## T96. RESUMPTION

**Cr Wilson – Cr Nardi**

**That the meeting be resumed at 8.17pm with all those present at the adjournment in attendance.**

CARRIED

## T97. REPORTS OF OFFICERS – STATUTORY PLANNING/DEVELOPMENT CONTROL (Cont)

**T97.1 Habgood Street No. 6 (Lot 5016)**  
**Applicant / Owner: M Fallace**  
**Application No. P135/11**

### RECOMMENDATION TO COUNCIL

**Cr Nardi – Cr de Jong**

**That subject to amended plans being submitted and approved demonstrating compliance with the Part 2 Clause (iii) of Local Planning Policy No. 142 -**

Residential Development in relation to front setbacks that Council exercise its discretion in granting approval for the following:

- (a) Vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.5m setback from the ground floor dwelling wall to the southern boundary, and 1.6m set back from the upper floor dwelling wall to the southern boundary;
- (b) Vary the privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the kitchen window in the eastern elevation to intrude 0.5m over the southern boundary;
- (c) Vary the building height requirements of the Local Planning Policy No. 142 Residential Development to permit a maximum wall height of 6.2m (AHD 40.042) to the front balcony; maximum wall height of 6.8m (AHD 39.173) to the rear balcony; and maximum ridge height of 8.2m (AHD 41.750) to the main hipped roof; and
- (d) Vary the site works requirements of the Residential Design Codes of Western Australia to permit excavation up to 1.0m within 1.0m of the southern boundary;

for the construction of single dwelling and swimming pool at No. 6 (Lot 5016) Habgood Street, East Fremantle, in accordance with the plans date stamped received on 23 August 2012, subject to the following conditions:

1. Glazing to the eastern elevation of the swimming pool is to be of obscure glass or otherwise screened to the satisfaction of the Chief Executive Officer.
2. Those areas of the ground floor that are marked as "Garden" on the approved plans are not to be developed so as to constitute an "Outdoor Living Area" as defined by the Residential Design Codes of Western Australia.
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.
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7. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer.  
(refer footnote (g) below)

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. 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.
13. 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.
14. If requested by Council within the first two years following installation, any 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.
15. Pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
16. Pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
17. Swimming pool is to be certified by a structural engineer and approved by Council's Building Surveyor.
18. Pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
19. 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”.*

CARRIED

*Cr Rico entered the meeting at 8.35pm.*

**T97.2 View Terrace No. 60 (Lot 86)**  
**Applicant: Ross Griffin Homes**  
**Owner: Richard and Dale Ramsay**  
**Application No. P65/2012**

By Christine Catchpole, Town Planner, 21 September 2012

#### **PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval involving the demolition of a single storey house and the construction of a two storey dwelling at 60 View Terrace. The application is recommended for refusal in regard to the demolition of the existing house.

#### **BACKGROUND**

##### **Description of Proposal**

The application for Planning Approval comprises the demolition of an existing single dwelling which was included in the Heritage Survey in 2005. The survey designated a C management category for the property. Accordingly a Heritage Impact and Assessment Report was requested and this was subsequently prepared by SIA Architects P/L. A double storey dwelling is proposed which, if considered for approval by Council, would require an exercise of discretion in respect to building height, setbacks, site works, overlooking and open space provisions under the R-Codes and Council Policies.

#### **BACKGROUND**

##### **Description of Site**

The subject site is:

- a 1062m<sup>2</sup> freehold lot
- zoned Residential R12.5
- located in the Richmond Hill Precinct
- existing single storey 1950s brick and tile house in sound condition
- assigned C Management Category in the Town's Heritage Survey 2005

##### **Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5  
Residential Design Codes of Western Australia (RDC)

##### **Relevant Council Policies**

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

##### **Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : Proposed demolition of existing heritage dwelling

##### **Documentation**

- .. Plans and relevant forms date stamped received on 1 May 2012
- .. Heritage Impact Assessment – SIA Architects P/L received on 15 May 2012
- .. Adjoining owner (north) submission date stamped received on 17 May 2012
- .. Owner's response to adjoining owner submission and Town Planning Advisory Panel's comments date stamped received on 18 June 2012
- .. Applicant response to adjoining owner's comments date stamped received on 19 June 2012

- .. Revised Heritage Impact Assessment SIA Architects P/L date stamped received on 25 June 2012
- .. Heritage Assessment and Impact Statement – prepared for the Town by Griffiths Architects date stamped received on 26 June 2012
- .. Streetscape Photographic Folio – submitted by applicant date stamped received on 16 July 2012

**Date Application Received**

1 May 2012

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

Property listed in Heritage Inventory with a Management Category ‘C’.

31 October 2006 Council records note a residential building inspection undertaken for 60 View Terrace by Scott and Associates. The report concluded “Based on visual observations made, we consider that this residence is structurally sound and suitable for its purpose”.

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours from 8 to 24 May 2012. At the close of advertising one submission was received from the owners of 9 Philip Street; the property immediately to the rear of the subject site. The submission has been addressed and has been outlined in the table below:

Neighbour Submission	Applicant/Owner Response	Planning Comments
<p>9 Philip Street (north)</p> <p>The proposal is acceptable providing:</p> <ul style="list-style-type: none"> <li>- the northern boundary setbacks including retaining walls are compliant with Council’s policies and guidelines; and</li> <li>- the proposed roof heights are within Council’s policies and guidelines.</li> </ul> <p>Objection to the proposal on grounds of impact on privacy and amenity if the proposal is non-compliant.</p>	<p>The letter from the adjoining owner offers no objection unless it is proposed to diminish the amenity of their property or there is an intention to impinge on setbacks. The owner states there ‘is no plan to do either’ and as such no further comment is warranted.</p> <p>The rear setback is acceptable and will have no adverse effects on the neighbouring property (setback 15.64m). It is compliant with all R-Code and Council policies.</p> <p>The proposed building height is acceptable with regard to all policies. The building will be two storeys and given the two storey section is visible only from the rear it cannot be viewed from the street. There is no impact regarding views of significance for any neighbour – the height is therefore compliant and acceptable.</p>	<p>The application has been assessed and complies with the setbacks in regard to the northern boundary; however, the application does not comply in regard to the open space, site fill/works, privacy /overlooking, building heights and western boundary setbacks in regard to the R-Codes and LPP 142 requirements.</p> <p>As the application does not comply with the height limits of LPP 142 the submission is considered an objection to the proposal.</p> <p>Albeit the building height requirement is exceeded this will have no impact on the lot to the immediate north as the lot will not be overshadowed by the proposed dwelling and the minimum setback of 14 metres (to the northern boundary) complies with R-Code and LPP 142 requirements in regard to overlooking/privacy and building bulk and scale matters.</p> <p>The development would not impede significant views from the rear of 9 Philip Street.</p>

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 22 May 2012. The Panel made the following comments:

Panel Comment	Applicant/Owner Response	Planning Comments
<p>Panel does not support the demolition of the residence.</p>	<p>Panel's comments contradicts several recent demolitions in the Richmond Hill Precinct notably 68A View Terrace and 1 Philip Street; both these houses have a similar 'character, vintage and similar or better condition' to the 60 View Terrace dwelling. It is therefore requested that the application be considered in the same light.</p>	<p>Noted that demolition licences have been issued for the properties mentioned.</p> <p>History: 68 View Terrace issued Jan 2012 (C+ Management Category) – considered that contribution to the streetscape has diminished due to contrasting contemporary development that has occurred. Not identified as a significantly rare example of its type and that within the current setting, the significance of the building in terms of its group/precinct value has been diminished.</p> <p>History: Demolition licence issued Dec 2010 for 1 Philip Street (Management Category B-). Council file history noted that planning approval to demolish not required as due to an administrative issue the dwelling was not assigned to the Town's Heritage List. CEO 'reluctantly' resolved to agree to application to demolish.</p>
<p>Panel notes that the heritage report does not contradict the heritage significance noted in the Town's Municipal Heritage Inventory being that of 'worthy of retention'</p>	<p>Disputes comment made in respect to heritage significance and the following observations are made in support of application:</p> <p>Aesthetic significance – over 50% of the front facade comprises extensions which were constructed post original construction.</p> <p>House and lot have no historic, social, scientific significance.</p> <p>The house is representative of no specific architectural era – comprising of only a two bedroom bungalow of ~60m<sup>2</sup> living space before additions.</p> <p>Request a detailed explanation of criteria used to support retention of residence. Housing today still constructed of similar materials so not representing a unique or unusual era or genre.</p>	<p>Refer to Heritage Assessment and Impact Statement prepared by Griffiths Architects.</p>
<p>Existing building appears to be in sound condition as noted in the Town's survey and could be adapted for contemporary additions.</p>	<p>Disputes view that dwelling is of high integrity – over half the windows have been replaced with aluminium frames. The front room and lounge are later additions and there are many different plaster and ceiling finishes. Wet areas are approximately 20 years old.</p> <p>The condition of the house is considered poor in regard to structural condition and finishes to the mortar, plumbing, eaves, roof flashing and chimney. Disagree with '2' rating as repairs to the house to a modern standard would cost in excess of that</p>	<p>Refer to Heritage Assessment and Impact Statement prepared by Griffiths Architects.</p>



Panel Comment	Applicant/Owner Response	Planning Comments
	<p>to replace with a modern house.</p> <p>The cost of the proposed house is less than that to repair and renovate. The outcome would be a house not in keeping with neighbours or meeting modern living demands and significantly undermines the land value.</p> <p>Sustainability – retention of current house will result in ~990m<sup>2</sup> of garden and driveway area. This is not in accord with community expectations in respect to water use. The application proposes a more efficient use of this resource. The new home will maximise the opportunity to be energy efficient.</p> <p>Majority of homes in the vicinity are less than 15 years old. The existing dwelling detracts from neighbour's amenity and will generally have a negative impact on house pricing and the overall appeal of the Richmond Hill Precinct.</p>	

**Site Inspection**

By Town Planner on 25 May 2012.

**ASSESSMENT**

This assessment addresses the following:

- the heritage issues;
- proposed demolition of the existing dwelling;
- Amendment No. 9 to Town Planning Scheme No. 3; and
- the proposed replacement dwelling.

**Municipal Heritage Inventory**

The following information is an extract from the Town's Municipal Heritage Inventory 2005.

Management Category	Lot	St No.	Street	Precinct (TPS3)	Type of Place			
C		60	View Terrace.	Richmond Hill	Residence			
TPS 3 Heritage List								
TPS 3 Heritage Area					X			
Categories			Significance					
Historic Theme	Demographic Settlement		Aesthetic	<input checked="" type="checkbox"/>				
Sub-Theme	Land Subdivision		Historic					
Period	Post War		Social					
Style	Early Modern Bungalow Porch House		Scientific					
			Representative	<input checked="" type="checkbox"/>				
			Rarity					
Rating & Assessment			High			Low		
Aesthetic Value	1	2	3	4	5			
Architectural Merit	1	2	3	4	5			
Rarity Value	1	2	3	4	5			
Group/Precinct Value	1	2	3	4	5			
Condition	1	2	3	4	5			
Integrity	1	2	3	4	5			

The ***Municipal Inventory Heritage Areas Report*** states that 1950s planning and lot patterns resulted in houses generally being setback on wider lots and filling their width.

Open front gardens are characteristic and the houses representative of a range of Inter-War bungalow types of varied architectural styles. The houses are generally substantial in appearance and in good original condition with good architectural elements, demonstrating the changing face of domestic architecture over the period of development. This group accentuates the historical age of the area that has otherwise been predominated with more recent development that differentiates it from the majority of the Town. It is this cohesive, collective historical identity relative to the Richmond Hill area as a whole that warrants designation of this small heritage area as such.

**Initial Heritage Impact Assessment (received on 15 May 2012) – SIA Architects**

SIA Architects undertook a historical analysis and heritage assessment of the place in April 2012 for the purpose of recording the likely impact of the proposed demolition on the heritage value of the place, the existing street and the environment, as well as to assess the potential heritage values of the existing residence.

In summary the assessment outlines the following:

The place is an early modern bungalow porch house single storey residence of brick and tile construction which has some cultural significance.

The place:

- is representative of residences of this period, but is one of numerous existing buildings of this period and this type;
- moderately authentic; and
- has low to moderate rarity.

The residence was constructed in 1951 with a rear verandah and front verandah that was enclosed as a sleep-out during initial construction and later rebuilt. The interior has been modified with new kitchen cabinetwork, ceilings and architraves to the second bedroom.

A carport was added to the side of the house in 1958. The original rear verandah has also since been enclosed in fibrous cement. There is also a subsequent brick addition at the rear of the house. An undercroft part cellar constructed in limestone is also at the rear of the house. The brick is red and the front facade is rendered and painted white above the sill level. The original timber framed windows and boxed eaves still remain. Outbuildings at the rear of the property include the original garage and sheds constructed at a later date.

In regard to significance the assessment has stated that the existing building has *'some heritage significance as it has some integrity and is representative of residences of this type.'*

The following Statement of Heritage Impact was provided.

How does the proposed development impact on the heritage significance of the place with regard to the following criteria:	
Degree of permanent impact (irreversible loss of value) that the proposal is likely to have on the heritage significance of the place.	Some loss as this is one of a few houses left of the period notwithstanding the low aesthetic and architectural value of the place.
Compatibility with heritage building in terms of scale, bulk, height – the degree to which the proposal dominates, is integrated with, or is subservient to a heritage place.	N/A as this is not an addition to an existing dwelling but the proposed demolition of the house.
Compatibility with the streetscape and/or heritage area in terms of the siting, local architectural patterns, and the degree of harmonised integration of old and new.	A new dwelling (removal of existing house) will have little impact on local architectural patterns and siting since much of the street and surrounding dwellings are new to refurbished houses.
Compatibility with heritage building in terms of the design solutions and architectural language such as refinement and finesse of detailing, texture, material, finishes and	N/A

How does the proposed development impact on the heritage significance of the place with regard to the following criteria:	
quality of craftsmanship.	
Degree of impact on the important public views, vistas, landmarks and landscape features.	N/A

A ‘Statement of Conservation’ was considered not applicable and no comment was made by the architect under this section of the report.

**Revised Heritage Impact Assessment (received on 25 June 2012) – SIA Architects**

A revised heritage impact assessment has been received in response to the TPAP’s comments. The revised document now contains a ‘Statement of Conservation’ section which reads as follows:

*“It is understood that demolition is proposed for the premises.*

*Although the bulk of the original fabric is in good condition, internally there has been considerable modification to the original fabric. Externally the context/streetscape has been modified with all but one neighbouring house having undergone redevelopment. The place is not rare nor does it have aesthetic or cultural significance. With a photographic and written record already obtained the demolition of the premises will not diminish the heritage value of the place or its neighbourhood.”*

The supporting evidence section of the document contains internal and external photographs of the property and neighbouring houses.

**Heritage Assessment and Impact Statement (dated June 2012) Griffiths Architects**

Following consideration of the application by the TPAP the Town commissioned Griffiths Architects to prepare a heritage assessment and impact statement.

The report notes that the prime issues to be considered include:

- the heritage value of the existing house;
- the contribution to the streetscape; and
- whether or not demolition could be supported following on from the findings of the above.

Additional comments noted that the Council’s Municipal Inventory states that the significance lies in the “aesthetic value, architectural merit, rarity value and group precinct value”.

Since the time the Town’s heritage survey was compiled the report also notes that further places from the post WW II period have been demolished and replaced with contemporary single and two storey residences. Post WW II period residences in the vicinity are a diminishing commodity.

The impact statement also points out that in the past three decades, the momentum of replacement has increased. A number of lots around the subject site now have two storey residences and there are a few instances of battleaxe subdivision.

The architect also notes that:

*“The strong interwar and post WW II historic and visual relationships have been much reduced in this context, though a place at 68 is visually and stylistically related.*

*Development to the west has been fairly modest in scale and relates well to the house at 60 View Terrace. In this context the place and its mature setting still make a positive visual contribution to the streetscape.”*

The house plan and the existing plantings are also typical of a post WW II home and garden on a larger lot and apart from the garden being neglected the place appears in good condition.

In summary, the following was concluded:

*"In the context of dwellings built in the period, this dwelling could be described as a good representative example of its type and time. Though apparently built in stages, the core house appears to be quite well built."*

#### **Streetscape Photographic Folio**

In further support of the application the applicant has submitted a series of photographs of the 'street view' of homes in the vicinity with the aim of highlighting the diversity of age and style of construction.

#### **Heritage Conclusion**

Based on the Town of East Fremantle's assessment criteria for places of heritage significance adapted from the Heritage Council's criteria, the place has some heritage significance to the Town of East Fremantle and met the threshold for entry onto the Town of East Fremantle's Municipal Inventory of Heritage Places.

No. 60 (Lot 86) View Terrace is noted in the Inventory as being of some heritage significance at a local level and a place that ideally is to be retained and conserved. The place contributes to a group of circa and post WW II homes which establish the character of the area and contribute to its amenity. This group of housing accentuates the historical age of the area that has otherwise been predominated with more recent development and this distinguishes it from the majority of the Town.

The recommendation of the Heritage Assessment and Impact Statement commissioned by the Town does not concur with the Heritage Assessment undertaken by SIA Architects on behalf of the owner.

SIA Architects concluded that the place is not rare nor does it have aesthetic or cultural significance; demolition of the premises will not diminish the heritage value of the place or its neighbourhood.

However, the recommendation of Griffiths Architects states:

*"The house...has some significance at a local level and its loss would alter the balance of the streetscape, further eroding the heritage density of Richmond Hill. It is recommended that the Council should seek to have the place retained."*

#### **Demolition**

The dwelling is a post WW II bungalow which is noted in Council's Municipal Heritage Inventory as having a high value in regard to integrity and a relatively high aesthetic value, while having moderate to high significance in terms of condition and moderate value in regard to architectural merit, rarity value and group/precinct value. The Survey allocates a C Management Category. The determinations in respect to this Management Category state:

*"Some heritage significance at a local level; places to be ideally retained and conserved; endeavour to conserve the significance of the place through the standard provisions of the Town of East Fremantle Planning Scheme and associated design guidelines; a Heritage Assessment/ Impact Statement may be required as corollary to a development application, particularly in considering demolition of the place. Full documented record of places to be demolished shall be required..."*

In consideration of the above, staff requested a Heritage Assessment and Impact Statement from the applicant which has been detailed above and as noted above in its

initial version did not reach any conclusion in regard to demolition nor did it address the issue of conservation.

The existing dwelling is located in the Richmond Hill Precinct and both Council's *Local Planning Strategy* and *Draft Residential Development Guidelines* state that conserving the Precinct's remaining heritage and traditional buildings is a significant component of maintaining the character of the area.

The existing dwelling is in good condition and representative of its era, it is accepted that its contribution to the streetscape has diminished due to the contrasting contemporary development that has occurred surrounding it, however, in the current setting the significance of the building in terms of its representative value has been increased and its demolition is not supported. Furthermore, the newly adopted *Residential Development Guidelines* state that in regard to the Richmond Hill Precinct the desired future character should incorporate the maintenance of its traditional buildings.

The retention of the home does not preclude development opportunities or numerous design options for the site.

### **Town Planning Scheme No. 3 Provisions - Amendment No. 9**

Clause 10.2.c of Town Planning Scheme No. 3 states as follows:

*The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application the requirements of orderly and proper planning **including any relevant proposed new town planning scheme or amendment**, or region scheme or amendment, which has been granted consent for public submissions to be sought.*

In regard to the above Clause Council has initiated Amendment No.9 to the Scheme and the Amendment has now been finally approved by the WAPC and the Minister for Planning. The Amendment, amongst other things, alters Clause 8.2 of the Scheme to have the result of expanding planning control in respect to demolition of properties that are included in the Heritage List. It should also be noted that the Town is in the process of updating the Heritage List established under Town Planning Scheme No. 3. Specifically, it is proposed that, initially, all properties with an "A", "B" or "C" Management Category in the Municipal Heritage Inventory will be included in the Heritage List.

In this respect the Scheme Amendment has been implemented for a number of reasons as outlined below:

- to expand planning control in respect to demolitions and allow for better protection of properties which, whilst not entered on the Council's Heritage List, hold heritage values recognised through inclusion on the municipal inventory;
- it would allow for increased certainty in development outcomes relating to 'replacement' buildings or structures on sites of heritage value; and
- the Planning and Development Act provides a clear 'head of power' to require development applications for demolition by the specific inclusion of demolition within the definition of development. The proposed amendment accords with the intent of this provision.

Given the changes to the Scheme Council is now in a position, pursuant to clause 10.2(c) of the Scheme, to require a planning approval for demolition of the existing house and to give due consideration to refusal of demolition of the existing dwelling.

**Proposed Replacement Dwelling**

The proposed dwelling is two storeys with a total floor area of 624m<sup>2</sup>. It is of white rendered masonry construction with a dark grey shingle tile roof at a pitch of approximately 34° degrees. The attached garage is to be constructed of the same materials in the same colours. The living rooms and a lower alfresco area (undercroft) and ground (street level) roofed balcony are located at the rear of the home to take advantage of the slope of the land away from the street to the rear of the site.

The proposed development does not comply fully with the Residential Planning Codes or LPP 142 in regard to building height, side setbacks, overlooking/privacy, site works and open space as detailed in the assessment table below.

**ASSESSMENT**

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	52%	D				
Site Works	Less than 500mm	< 500 mm eastern boundary & rear of lot last 1.7m of house	D				
<b>Local Planning Policies:</b>							
<b>Policy 142</b>	<b>Issues</b>		<b>Status</b>				
Roof	see below for further details		D				
Solar Access & Shade	Roofing material complies – 34.59°		A				
Drainage	Open outdoor areas face north		A				
Views	To be conditioned		A				
Crossover	Potential impact		D				
Trees	No impact		A				
<b>Other:</b>							
Overshadowing	No impacts - overshadowing on street		A				
Privacy/Overlooking	cone of vision drawings – see below		D				
Clause 7.4.1 FFL 0.5m above NGL major opening to active hab spaces	see below						
	Required	Proposed					
	4.5m from bedrooms	N/A	D				
	6.0m other hab rms	5.9m - family room	D				
	7.5m unenclosed outdoor active hab (eg balcony)	7.3m - balcony	D				
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Wall	east 5.6m	6.486m	D				
	west 5.6m	6.386m	D				
Ridge	rear front	rear front					
	east 8.1 8.1	east 7.95 9.586	D				
	west 8.1 8.1	west 8.5 9.186	D				
Roof Type	Pitched - 34.59°		A				
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (south)							
Ground		N/A	N/A	N/A	consistent	7.6	A
Upper		N/A	N/A	N/A	7.5	7.6	A
Rear (north)							
Ground		N/A			6.0	14.0	A
Upper					6.0	14.0	A

Side (west)							
<b>Ground</b>		3.00	6.00	✓	1.5	5.5	A
<b>Upper</b>		6.386	18.00	✓	4.7	5.4	A
Side (east)							
<b>Ground</b>		2.6	15.8	✓	1.5	0.8 - 1.6*	D
<b>Upper</b>		6.486	7.2	✓	3.0	2.0	D

**Notes:** 1. \*If bathroom section on eastern boundary considered separately setback still not compliant.

## CONCLUSION

### Heritage Considerations

The heritage assessments and impact statements do not concur in regard to the subject site. The architects offering their professional opinions do not share the same view in regard to the principal issue of retention of the dwelling.

Given the considerable modification to the house (internally) and all but one neighbouring house having undergone redevelopment the architect engaged by the owner has reached the conclusion that the place is not rare nor does it have aesthetic or cultural significance therefore demolition will not diminish the heritage value of the place or neighbourhood.

On the other hand the architect engaged by the Town has concluded that loss of the place will have some impact on cultural heritage values of the Richmond Hill Precinct and in East Fremantle more generally, therefore demolition will result in permanent loss of heritage significance.

### Proposed Demolition

No. 60 (Lot 86) View Terrace is considered to be of considerable local heritage significance and meets the threshold of entry into the Town of East Fremantle Municipal Inventory of Heritage Places. The place contributes to a group of circa and post WWII homes which establish the character of the area and contribute to its amenity. The retention of the home does not preclude development opportunities or numerous design options for the site.

It is noted that the subject site differs in this respect to No. 68 View Terrace which Council has approved for demolition. No. 68 had been subject to a battle-axe subdivision and the owner had tried to extend the existing dwelling however that application was not supported by Council due in part to the constraints of the site.

Given the existing dwelling is a good representative example of its type and that within the current setting, the significance of the building in terms of its group/precinct value has been increased over recent times, demolition cannot be supported.

### Proposed Dwelling

The subject site slopes away from the ground level of the road reserve and falls away to the rear reasonably steeply. The topography of the site allows for a single storey development fronting the street with two levels to the rear. This design approach increases the impact of the building in regard to height, mass and overlooking at the rear.

The design and detailing of the proposed residence is of a modern contemporary style not dissimilar to other dwellings in the street and immediate locality which does comprise a number of contemporary double storey dwellings. The non-compliance with various provisions of the R-Codes and Council's LPP 142 would require further discussion with the applicant and modifications to the plans. Should this application be given favourable consideration by Council it would be necessary for Council to impose a number of conditions of planning approval to address the non-compliance issues.

Given the comments of the TPAP, the heritage issues that have arisen concerning the dwelling on the subject site and the recommendations of the Heritage Assessment and Impact Statement commissioned by the Town it is recommended that demolition of the existing dwelling on the site be refused. However should Council not support refusal of the proposed demolition it is necessary that any approval of the proposed replacement dwelling be conditioned to achieve an acceptable design outcome. Accordingly an alternate recommendation is attached should Council determine to support the application.

**RECOMMENDATION**

That demolition of the dwelling at 60 (Lot 86) View Terrace, East Fremantle be refused:

- (A) 1. on the basis that the place is included in Council's Municipal Inventory by virtue of its local heritage significance which is a result of:
- (a) having aesthetic significance as a good representative example of a Post War Early Modern Bungalow Porch House;
  - (b) reflecting post WW II development in general and in East Fremantle;
  - (c) continuing to serve its function and retaining a high degree of integrity and a moderate to high degree of authenticity; and
  - (d) accentuating the historical age of the area that has otherwise been predominated with more recent development and distinguishing it from the majority of the Town;
2. the place contributes to homes that establish the character of the Richmond Hill Precinct and contributes to the amenity of the area;
3. the demolition of the place would have an adverse impact on cultural heritage values of Richmond Hill and in East Fremantle more generally; and
4. the retention of the home does not preclude alternate development opportunities or numerous design options for the site; and
- (B) Pursuant to Clause 10.2 of Town Planning Scheme No. 3 as in considering an application for planning approval the Council is to have due regard to:
- 1. the aims and objectives of the Scheme (Clause 1.6) which include:
    - (a) "to recognise the historical development of East Fremantle and to preserve the existing character of the Town";
    - (b) "to enhance the character and amenity of the Town, and to promote a sense of place and community identity within each of the precincts of the Town";
    - (c) "to promote the conservation of buildings and places of heritage significance, and to protect and enhance the existing heritage values of the Town"; and
    - (d) "to conserve significant places of heritage value, and to preserve the existing character of the Town.";
  - 2. the provisions of the Local Planning Strategy in regard to the precinct planning proposal to conserve the precinct's remaining heritage (Clause 10.2 (b)); and
  - 3. the requirements of the orderly and proper planning of the locality in regard to proposed Scheme Amendment No. 9 (Clause 10.2 (c)).

Mr Rod Druce (Sales Manager – Ross Griffin Homes) & Mr Richard Ramsay (owner) addressed the meeting in support of their application for the demolition of existing residence and the construction of a new residence.

Mr Ramsay stated that he bought the block with the intention of demolishing the existing house. Mr Ramsay stated the house is not energy efficient and also expressed his



displeasure with the planning assessment process which he stated had taken some 5 months.

Cr Rico stated that the applicants may wish to consider retention of the front façade.

#### RECOMMENDATION TO COUNCIL

**Cr de Jong – Cr Nardi**

**That demolition of the dwelling at 60 (Lot 86) View Terrace, East Fremantle be refused:**

- (A) 1. on the basis that the place is included in Council's Municipal Inventory by virtue of its local heritage significance which is a result of:
- (a) having aesthetic significance as a good representative example of a Post War Early Modern Bungalow Porch House;
  - (b) reflecting post WW II development in general and in East Fremantle;
  - (c) continuing to serve its function and retaining a high degree of integrity and a moderate to high degree of authenticity; and
  - (d) accentuating the historical age of the area that has otherwise been predominated with more recent development and distinguishing it from the majority of the Town;
2. the place contributes to homes that establish the character of the Richmond Hill Precinct and contributes to the amenity of the area;
3. the demolition of the place would have an adverse impact on cultural heritage values of Richmond Hill and in East Fremantle more generally; and
4. the retention of the home does not preclude alternate development opportunities or numerous design options for the site; and
- (B) Pursuant to Clause 10.2 of Town Planning Scheme No. 3 as in considering an application for planning approval the Council is to have due regard to:
1. the aims and objectives of the Scheme (Clause 1.6) which include:
    - (a) "to recognise the historical development of East Fremantle and to preserve the existing character of the Town";
    - (b) "to enhance the character and amenity of the Town, and to promote a sense of place and community identity within each of the precincts of the Town";
    - (c) "to promote the conservation of buildings and places of heritage significance, and to protect and enhance the existing heritage values of the Town"; and
    - (d) "to conserve significant places of heritage value, and to preserve the existing character of the Town.";
  2. the provisions of the Local Planning Strategy in regard to the precinct planning proposal to conserve the precinct's remaining heritage (Clause 10.2 (b)); and
  3. the requirements of the orderly and proper planning of the locality

CARRIED

**T97.3**

**Canning Highway No. 199 (Lot 22)**

**Applicant: Rad Architecture**

**Owner: K Tushingham**

**Application No. P134/12**

By Carly Pidco, Senior Planning Officer, on 24 September 2012

#### PURPOSE OF THIS REPORT

This report recommends refusal of a Development Application for Retrospective Approval of a double-garage in front of the main dwelling.

**BACKGROUND****Description of Proposal**

The development is a double car-width garage located in the front setback area of the main dwelling. The garage has a limestone block base with weatherboard clad walls, colorbond roof and panel lift doors. The applicant has advised that the garage was originally constructed as a carport in approximately 1995 and was enclosed in later years.

**Description of Site**

The subject site is:

- a 914m<sup>2</sup> freehold lot
- zoned Residential 12.5
- located in the Woodside Precinct
- improved with a single-storey single dwelling
- assigned B+ Management Category in the Heritage Survey 2006

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5  
Residential Design Codes of Western Australia (RDC)

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : Garage in front setback area

**Documentation**

Plans and relevant forms date stamped received on 20 August 2012  
Submission from applicant date stamped received on 21 September 2012

**Date Application Received**

20 August 2012

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

20 April 1995 Council gave delegated authority to the Town Planner to determine an application for construction of a carport

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours from 28 August 2012 to 13 September 2012. No submissions were received during this period.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 11 September 2012. The Panel made the following comments:

- *Garages or carports forward of the building line are not supported re LPP 142*
- *Contrary to the consultant's appraisal the addition is not considered to be in accordance with Burra Charter principles, as it has a negative impact on the original heritage house and the streetscape in terms of aesthetic value*
- *It is also considered to be 'mock heritage' addition that obscures the view from the highway of the house and mimics heritage details of the existing house too closely*
- *This addition is currently only softened via the existing trees in the front setback, which are not guaranteed permanence*

The applicant has prepared a written submission addressing the Panel's comments (attached). The comments made by both the Panel and the applicant can be distilled into

two key issues – the impact of the garage on the heritage dwelling and the impact of the garage on the streetscape. In summary, the applicant presents the following arguments in relation to the heritage issue:

Applicants Submission	Planning Officer Comment
It is difficult to respond to Panel comments as it does not refer to specific Burra Charter principles. Submitted Heritage Impact Statement refers to six.	No comment.
Garage is not attached to dwelling and is identifiable as separate new work.	Supported.
Impact of garage has been minimised through its siting, floor level, form, scale, materials and colour. Aesthetic value of dwelling is still evident and easily interpreted.	Not supported. Garage masks heritage dwelling from street (discussed further in assessment section). High roof with gable and finial features is prominent as viewed from the street.
Garage is not considered 'mock heritage' as it is a far simpler and more restrained design constructed of sympathetic materials.	Supported. Wall materials used (limestone block and weatherboard) are readily differentiated from the heritage dwelling. Design of structure as detached garage with panel lift doors indicates that it is modern.

The issue of streetscape (which must necessarily be considered in relation to compliance with LPP 142) is discussed in the assessment section of this report.

The applicant has also submitted that the Panel's comment regarding trees be disregarded as "trees are only considered in planning decisions if they are deemed 'significant'". It is noted that in earlier submissions, the applicant has argued that the trees play an important role in the aesthetic of the development. Notwithstanding this, as both the Panel and applicant have alluded to, it is difficult for the Town to rely on the trees as a form of screening/softening the garage. It is therefore appropriate to consider the garage on the merits of its design, which is the approach taken in this report.

### Agency Referral

The development impact on vehicle ingress/egress to the site from Canning Highway, a Primary Regional Road. Main Roads WA has advised that a formal referral of the development application is required and the Town is currently waiting for its response.

### Site Inspection

By Town Planner on 26 September 2012

### ASSESSMENT

The development has been assessed against the Town's LPP 142 Residential Development and the Residential Design Codes, detailed below.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	71.5%	A
Site Works	Less than 500mm	Less than 500mm	A
<b>Local Planning Policies:</b>			
<b>Policy 142</b>	<b>Front setback variation</b>		<b>D</b>
Roof	Gable		A
Solar Access & Shade	Non-habitable		A
Drainage	To be conditioned		A
Views	No impact		A
Crossover	Condition to comply		A
Trees	Condition to comply		A

Other:		Issues				Status	
Overshadowing		Complies, contained within subject lot				A	
Privacy/Overlooking		Non-habitable				A	
Height:		Required		Proposed		Status	
Wall		6.0		3.2		A	
Wall (Concealed Roof)		7.0		N/A		N/A	
Roof		9.0		5.4		A	
Roof type		Gable					
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (north)</i>							
<b>Ground</b>	<b>Garage</b>	N/A	N/A	N/A	7.5m / At or behind main building line	4.7m, in front of main dwelling	D
<i>Rear (south)</i>							
<i>Ground</i>	Garage	Located in front of existing					N/A
<i>Side (east)</i>							
<i>Ground</i>		3.2m	7.1m	N	1.0m	1.0m	A
<i>Side (west)</i>							
<i>Ground</i>		3.2m	7.1m	N	1.0m	11.5m	A

\* As calculated for assessment purposes

**Front Setbacks (Impact of Development on Streetscape)**

The garage complies with the Town’s statutory requirements with the exception of the front setback, which directly relates to the impact of the development on the streetscape (as discussed in the Panel comments).

The applicant has provided the following submissions in support of the setback variation:

Applicant Submission	Planning Officer Comment
Garage is consistent with the objectives of the LPP 142 particularly in meeting the objective of retaining the character and amenity of the streetscape, incorporating design, amenity screening and functionality and residential amenity	Not supported. The second objective of the LPP 142 reads "To specify the proximity of buildings to boundaries, in order to retain the character and amenity of the existing streetscape and residential areas". The garage is inconsistent with the prevailing pattern of garage development in the precinct and will partially obscure views of the dwelling from the street. These impacts on the character of the streetscape are not consistent with the LPP 142 objectives.
There are numerous examples of structures and buildings within the street setback area and in front of the building line.	Not supported. The applicant has provided two photographs as examples. Both of these were approved prior to the adoption of LPP 142. In July 2012, the Town conducted a survey of carports/garages in the Woodside Precinct in relation to another development. This survey found that only 4.5% of dwellings in the Woodside Precinct have garages/carports forward of the main building line and only two of these were approved after the adoption of LPP 142. This is not considered to constitute a precedent.
There is limited opportunity on other locations for garage parking due to existing heritage building.	Not supported. The property has an existing single garage to the rear. The R-Codes requires provision of 2 car parking bays for a single dwelling but these do not need to be garage bays. A second, uncovered bay can be provided in the

Applicant Submission	Planning Officer Comment
	location of the garage.
Location of garage provides adequate manoeuvring of vehicles.	Supported.
Believe that Council's 1995 decision is a valid planning approval and suggest that under the WAPC's current policy of continuity of advice, the building should be supported.	Discussed in detail below.

The garage is considered to be incongruous with the established character of the Woodside Precinct. Its dominance as viewed from the street and the partial masking of the heritage dwelling have an unacceptable impact on the streetscape. Part 5.3 of the Local Planning Strategy, relating to the Woodside Precinct, states that "Carports and garages should generally be behind the street setback line and not be in front of the house so as to avoid the domination of the streetscape by such buildings". The development is not in keeping with the intent of this provision.

### Continuity of Advice

The applicant submits that the garage should be approved in consideration of a Council decision of 1995 and the need for continuity of advice. The following chronology of events is provided in the submission:

- *The previous owner of the property submitted a planning application to the Town of East Fremantle in 1995.*
- *The Council considered the Planning Application on 20 April 1995.*
- *A recommendation for approval from then Planning Officer / Building Surveyor Dirk Arkeveld was provided to the Council for its consideration with a number of conditions.*
- *The Planning Application was supported by Council with the conditions recommended by the Planning Officer, which were that it was built in its extant location, in its extant style.*
- *Plans of the building were not re-submitted and there is no documentation to support building being reassessed.*

*.... We suggest that as the Council set the position of the carport and stated that position in the public record, under the WAPC's current policy of continuity of advice, the building's location should again be supported.*

It is important to note that the development subject to the 1995 application was an open-sided carport, not an enclosed garage with panel lift doors. It is difficult to support the applicant's argument when the development subject to the current application has a significantly different facade to that considered in 1995.

Further, while the Planning Officer and Council supported the 1995 proposal, no development approval was issued. The Council resolution of 20 April 1995 was to *grant delegated authority* to the Town Planner to approve the development. The Council has no record that the landowner of the time went on to formally gain approval for the development. Of particular concern is that the Council holds no record that the landowner obtained the permission of Main Roads WA as specified in the Council resolution.

In view of the above, it is considered that the subject garage does not benefit from the principle of continuity of advice because:

- (a) it is not consistent with the 1995 submitted plans;
- (b) the 1995 development was never formally approved (by Council or under delegated authority);
- (c) it has been seventeen years since the carport was considered and it is not reasonable to expect that the Town's policies and vision have remained the same over this time; and

- (d) the current Local Planning Strategy, Town Planning Scheme and Local Planning Policy No. 142 which form the basis for assessment were all adopted after the 1995 application was considered – that is to say, the policy framework has changed.

### CONCLUSION

The proposed development has an undue impact on the streetscape and is not in keeping with the established character of the Woodside Precinct. The application is not considered to benefit from the principle of continuity of advice in relation to a 1995 application as this application was never formally approved and both the development design and policy environment have changed.

Although the formal referral response from Main Roads WA has not yet been received, it is considered that the application can be determined without this response as the officer's recommendation is for refusal of the development. If the Council considered it appropriate to approve the application, it is recommended that this be subject to support being received from Main Roads.

It is recommended that the application be refused.

### RECOMMENDATION

That Council refuse the application for the retrospective approval for construction of Garage at No. 199 (Lot 22) Canning Highway, East Fremantle, as described on the plans date stamped received 20 August 2012 for the following reasons:

1. The development is not consistent with the objectives of the residential zone as provided in clause 4.2 of the Town Planning Scheme No. 3 (clause 10.2(a) of TPS No. 3 refers);
2. The development does not comply with Part 2 – Streetscape of Local Planning Policy 142 Residential Development (clause 10.2(g) of TPS No. 3 refers);
3. Approval of the development would conflict with the provisions of Town Planning Scheme No 3, Clauses 10.2(j) and 10.2(o) because it is incompatible with development in the Woodside Precinct and has an undue impact on the streetscape.

Mr Michael Trees (Architect) and Mr Ken Tushingham (owner) addressed the meeting in support of their application for retrospective approval for the garage.

Mr Trees stated that the siting of the house on the subject lot does not allow for parking to the side. He also stated that the owner would be inconvenienced by the removal of the garage. Mr Trees stated that although Council had approved a carport structure in 1995 which was subsequently enclosed, the impact upon the heritage dwelling was minimal.

The Manager – Planning Services stated that a building licence had not been issued for the original carport structure.

### RECOMMENDATION TO COUNCIL

#### Cr Nardi – Cr de Jong

That Council refuse the application for the retrospective approval for construction of Garage at No. 199 (Lot 22) Canning Highway, East Fremantle, as described on the plans date stamped received 20 August 2012 for the following reasons:

1. The development is not consistent with the objectives of the residential zone as provided in clause 4.2 of the Town Planning Scheme No. 3 (clause 10.2(a) of TPS No. 3 refers);
2. The development does not comply with Part 2 – Streetscape of Local Planning Policy 142 Residential Development (clause 10.2(g) of TPS No. 3 refers);
3. Approval of the development would conflict with the provisions of Town Planning Scheme No 3, Clauses 10.2(j) and 10.2(o) because it is incompatible with development in the Woodside Precinct and has an undue impact on the streetscape.

CARRIED 5:0

**Note:**

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

T97.4

**Clayton Street No. 62 (Lot 52)****Applicant / Owner: B & S Wardle****Application No. P118/2012**

By Jamie Douglas, Manager, Planning Services on 27 September 2012

**PURPOSE OF THIS REPORT**

This report considers an application for a replacement retaining wall to be located on the rear lot boundary at 62 Clayton Street and recommends conditional approval of the application.

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

The subject site is:

- slopes to the rear and contains a single dwelling
- zoned Residential R12.5
- located in the Richmond Precinct.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

**Relevant Council Policies**

N/a

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No Impact

**Documentation**

Plans and Application Forms date stamp received on 9 July 2012.

**Date Application Received**

9 July 2012

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

27 May 1987 Council approves application for a retaining wall to north and east (rear) boundaries to a max height of 1.6 m.  
24 May 2011 Letter to Council from J & M Deeks (objectors) expressing concern at the structural integrity of the retaining wall.  
7 February 2012 Council issued a notice to (then) owners of the subject site requiring remedial action.

**Site Inspection**

By Manager, Planning Services on 27 September 2012

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours for a two week period between the 31 August 2012 and 17 September 2012. At the close of advertising one submission was received from the rear neighbours M & J Deeks 171 Petra Street. The submission and the applicants' response is attached in full and summarised and commented on below:

2 October 2012

## MINUTES

Submission	Applicants Response	Comments
The structure between 171 Petra and 62 Clayton is not an existing retaining wall but a composite fence.	The retaining wall was built prior to the Deeks purchasing their property.	Council records confirm it was approved as a retaining wall.
Trees planted close to the boundary tend to become invasive.	Planting is at our discretion but will naturally try and be selective and not plant invasive species.	Invasive planting could occur whether or not a retaining wall is approved.
The 3.0-3.3m high wall and fence would have a visual impact upon low side neighbours.	The visual impact is exaggerated by the fact that the Deeks have chosen to cut their backyard.	This is an existing situation which will not be affected by the replacement of a retaining wall to similar height.
Loss of light from fence and plantings extending to unknown heights above 3-3.3m.	The tree line that was there when the Deeks purchased their property has been thinned significantly and is still substantial. Light into their yard will be improved through these works.	See above comments.
Seepage and visual decline and integrity of limestone blocks.	The Deeks southern boundary has a similar structure. Furthermore the drawings clearly show a waterproof membrane structure to prevent water seepage.	There is no evidence to support this proposition. The structure incorporates a membrane to prevent seepage.
Our preference would be for the land at 62 Clayton St to be returned to natural ground level and a 2.1-2.4m high fence constructed.	Difficult to now determine natural ground level. However if this could be achieved, returning 62 Clayton Street to natural ground level would have a significant detrimental impact on our property. The rear garden levels have existed for a long time and the house now flows around them.	It is not considered to be a reasonable or lawful requirement to return the site to 'natural ground level' as a consequence of the replacement of the existing wall.

**ASSESSMENT**

The applicants propose to:

- remove the existing retaining wall and build a limestone block retaining wall of similar height in its place. The wall will have a water proof membrane to prevent seepage.
- remove approximately 350mm to 400 mm of soil from current level so that the finished soil level will be 50mm below the finished level of the retaining wall.
- remove the existing vegetation along the rear boundary within 2 m of the boundary wall replanting with non-evasive plants.
- construct a Colorbond fence to maximum height of 1.8m above the retaining wall to replace the existing temporary fencing.

The application arises at the request of the rear neighbours at 171 Petra Street (who are the objectors to the proposal) that action be taken to address the structural integrity of the existing wall. While it is noted from the submissions and responses that the proposed development is contentious for the affected parties, it raises no issues from a planning perspective.

It is put in the submission that levels shown on the proposal plan are inaccurate and in response it is argued that natural ground level is difficult to determine after such an extended period since the wall and fill were established. However since the proposed development will be of similar height to the existing wall and that ground levels on the subject site will be reduced from the current level the argument in respect to relative ground level datum is moot. Similarly objections in terms of overshadowing and visual impact are not considered to be material to the determination since any impacts will not exceed the currently existing situation.

The objectors preference that the subject site be returned to near 'natural ground level' is not considered to be a matter that could be reasonably or lawfully required by Council given the pre-existing approval for the retaining wall which is to be replaced.



**CONCLUSION**

The proposed boundary retaining wall will not be visible from the street and will not materially impact upon the amenity of neighbouring properties.

**RECOMMENDATION**

That Council grant approval for the construction of a replacement boundary retaining wall and fence at 62 Clayton Street in accordance with the plans date stamp received on 9 July 2012 subject to the following conditions:

1. the submission of a landscape plan to the satisfaction of the Chief Executive Officer showing the location and species of all vegetation to be planted.
2. 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, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

Mr & Mrs Mike & Jenny Deeks (adjoining neighbours at 171 Petra Street) addressed the meeting re-iterating concerns as contained in their submission of 17 September 2012.

Mr Ben Wardle (owner) addressed the meeting in support of his application for replacement boundary retaining wall and fence.

**Amendment**

*Cr Nardi – Cr de Jong*

*That Condition (1) of the officer's report be amended by the inclusion of the words: "and defining the proposed gradients".* **CARRIED**

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr de Jong**

**That Council grant approval for the construction of a replacement boundary retaining wall and fence at 62 Clayton Street in accordance with the plans date stamp received on 9 July 2012 subject to the following conditions:**

1. **the submission of a landscape plan to the satisfaction of the Chief Executive Officer showing the location and species of all vegetation to be planted and defining the proposed gradients.**

2. 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, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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 5:0

**Note:**

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

T97.5

**Locke Crescent No. 27 (5048)**

**Applicant: Swell Homes**

**Owner: V & C Bauer**

**Application No. P120/12**

By Carly Pidco, Senior Planning Officer, on 18 September 2012

**PURPOSE OF THIS REPORT**

This report recommends conditional approval of proposed alterations and additions to the existing dwelling at 27 Locke Crescent, East Fremantle.

**BACKGROUND****Description of Proposal**

The proposed development consists of an upper storey addition to the existing dwelling and a new front verandah. The originally submitted plans showed a pitched roof to the extension which matched the existing roof and was significantly above the maximum heights laid out in LPP 142. The applicant has worked with the Town Planner to prepare several revisions of the proposal that address building height. The plans being considered in this report show a skillion roof form to the extension and re-roofing of the existing dwelling to match the proposed additions. The amended plans have also deleted a proposed carport against the eastern boundary.

2 October 2012

## MINUTES

**Description of Site**

The subject site is:

- a 837m<sup>2</sup> survey-strata block
- zoned Residential R12.5
- improved with single storey plus undercroft brick and tile dwelling
- located in the Richmond Hill Precinct.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5  
Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy 066 : Roofing (LPP 066)  
Local Planning Policy No. 142 : Residential Development (LPP 142)  
Local Planning Policy No. 143 : Fencing (LPP 143)

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : New crossover proposed  
Footpath : No impact  
Streetscape : Second storey addition to existing dwelling

**Documentation**

Plans and relevant forms date stamp received on 19 July 2012.  
Amended plans and date stamp received on 31 August 2012  
4 submissions received during public consultation

**Date Application Received**

19 July 2012.

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

None

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours for a two week period between 23 July 2012 and 7 August 2012. At the close of advertising 4 submissions (from 3 different authors) had been received and are attached to this report. The submissions received are summarised in the following table alongside the applicant's response, dated 8 August 2012.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p><i>J Byrne &amp; D Cullity</i> <i>16 Munro Street</i></p> <p>Sufficient time and information to understand plans not provided. Request opportunity to meet with applicant to better understand the proposal.</p>	<p>Our clients have been notified that their neighbours would like to talk to them about their addition. Consider that the information provided is sufficient.</p>	
<p><i>J Hogan &amp; M Bowater</i> <i>17 Chauncy Street</i></p> <p>Worried that the proposed carport will prevent light entering our son's bedroom window.</p> <p>Wish to be reassured that windows in the second floor extension will not overlook our backyard and pool.</p> <p>Wish to clarify plans for the existing</p>	<p>The proposed carport is approximately 1.8m above the NGL at the southern boundary and shadow cast will be minimal and in accordance with the R-Codes.</p> <p>Proposed second floor windows are either fully fixed and obscure or</p>	<p>Further correspondence from submitter advising that they had met with the owners and were satisfied with the proposal provided council boundary regulations are met was received 14/08/2012.</p> <p>Note that carport has been deleted in</p>

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>low wall between front sections of both properties, which has been badly damaged by tree roots on No. 27.</p> <p>Appreciate the opportunity to see both properties elevations on the same sheet of paper showing the interaction.</p> <p>Please ensure height and setback variations are met to minimise any impact on views and to ensure the bulk and scale to not affect the resale value of our property.</p>	<p>setback in accordance with the R-Codes.</p> <p>Dividing fence does not form part of the scope of works and is not part of this submission. The neighbours should contact the owners to discuss their concerns.</p>	<p>amended plans.</p>
<p><i>P &amp; B Christie</i> <i>14 Munro Street</i></p> <p><u>Height:</u> Request that all building heights as specified in LPP 142 be adhered to.</p> <p>The site plan does not clearly indicate any spot levels in conjunction with site contours.</p> <p>The site plan submitted shows Finished Paving Levels but fail to indicate relationships of these with NGL.</p> <p>It would appear the ridge and overall heights have been calculated from the existing FFL and not NGL.</p> <p>The height of the building will have a major impact on the view from our property.</p> <p>We are concerned about the bulk and scale of the development if it were to be overheight.</p> <p><u>Setbacks:</u> Request that front building setbacks be in accordance with LPP 142.</p> <p>Front boundary setback is not clearly indicated on the site plan.</p> <p>Proposed new front verandah appears to contravene the minimum setback requirements and its bulk and scale will have a negative impact on the sight lines and general amenity of our property.</p> <p>It may be pertinent to show the existing structure so it can be clearly shown how the new structure relates.</p>	<p>The plans provided were based on the recent contour survey and have the relevant information applied.</p> <p>We have amended the plans to achieve 8.1m ridge height.</p> <p>Accept that the wall height is overheight however this is an existing building and ground FFL.</p> <p>Ask that the Council allow the wall heights to be slightly over and roof pitch be reduced to achieve the targeted overall of 8.1m.</p> <p>Front setbacks are existing residence setbacks and remain unaltered.</p> <p>Proposed verandah is a paved floor only and is between 4.9m and 6.3m from the boundary.</p> <p>The balcony and any other vertical elements are well beyond the required 6m setback.</p> <p>It is also noted that in accordance with the R-Codes the average set back of the existing dwelling has been maintained and any intrusion into the setback area has been compensated for by an equal area of contiguous open space.</p> <p>We feel that the street presence of our proposal is in keeping (or lesser than) with the bulk and scale of the neighbouring 18 Munro Street and ask that their approval be considered in spirit, whilst considering ours.</p>	<p>Refer assessment section for comment on height and setbacks.</p>

Following the comments received by the neighbours and TPAP, the applicant has prepared revised plans which were advertised for comment from 5 September 2012 to 20

September 2012. No submissions were received during this period. A late submission was received from the owners of 18 Munro Street. The submission objected to height and setback variations and the issues raised in this regard were similar to the previous submission and not repeated here – refer the assessment section of the report. In addition to height and setbacks, the submitter raised the following issues:

- Concern about glare from the white colorbond roof
- Request that air conditioning be placed at the rear of the property and not on the boundary

Both of these concerns can be addressed through standard conditions and it is recommended that such conditions be attached to any approval. The applicant has verbally advised that the landowner is willing to review the colour of the roofing material in consultation with the Town Planner.

### Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 14 August 2012. The Panel made the following comment:

- Query height compliance of application.

The applicant has prepared amended plans that change the roof form and overall ridge height of the development. The amended plans were considered by the Panel at its meeting held on 11 September 2012 where it made the following comment:

- Panel supports the application.

### Site Inspection

21 August 2012; 5 September 2012

### ASSESSMENT

The assessment section of this report refers only to the revised plans prepared by the applicant in response to the TPAP comments and submissions received during public consultation. The revised plans incorporate a number of variations to the Town's LPP 142 Residential Development and the Residential Design Codes, as detailed below.

Key: A = Acceptable, D = Discretion

<b>Site:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>
Open Space	55%	61%	A
<b>Site Works</b>	<b>Less than 500mm</b>	<b>1.1m within 3m of front boundary</b>	<b>D</b>
<b>Local Planning Policies:</b>			
<b>Policy 142</b>	<b>Height and setback variations</b>		<b>D</b>
Roof	Skillion roof		A
Solar Access & Shade	Openings and verandah facing north		A
Drainage	To be conditioned		A
<b>Views</b>	<b>Exceeds maximum height</b>		<b>D</b>
Crossover	Condition to comply		A
Trees	Condition to comply		A
<b>Other:</b>			
Overshadowing	<25%		A
Privacy/Overlooking	Complies		A
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>
Wall	5.6	N/A	N/A
<b>Wall (Concealed Roof)</b>	<b>6.5</b>	<b>8.1</b>	<b>D</b>
Roof	8.1	8.1	A
Roof type	Skillion / concealed		

<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (north)</i>							
<i>Undercroft</i>	Dwelling	No change					N/A
<i>Ground</i>	Dwelling	N/A	N/A	N/A	Consistent with locality	5.0m, consistent	A
<b>Upper</b>	<b>Dwelling</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>7.5m</b>	<b>5.0m</b>	<b>D</b>
<i>Rear (south)</i>							
<i>Undercroft</i>	Dwelling	No change					N/A
<i>Ground</i>	Dwelling	No change					N/A
<b>Upper</b>	<b>Dwelling</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>6.0m</b>	<b>2.1m</b>	<b>D</b>
<i>Side (west)</i>							
<i>Undercroft</i>	Dwelling	Behind existing					N/A
<i>Ground</i>	Dwelling	3.5	14.6	Y	1.5m	2.6m	A
<i>Upper</i>	Balcony	7.5	5.4	Y	3.5m	9.6m	A
	<b>Dwelling</b>	<b>7.5</b>	<b>14.6</b>	<b>N</b>	<b>2.2m</b>	<b>2.1m</b>	<b>D</b>
<i>Side (east)</i>							
<i>Undercroft</i>	Dwelling	No change					N/A
<i>Ground</i>	Dwelling	No change					N/A
<i>Upper</i>	Stairs / Bed	8.0	9.9	Y	4.0m	9.0m	A

\* As calculated for assessment purposes

### Site Works

The proposed development includes terracing of the front setback area. It is important to note that there is already a significant level difference between the dwelling and the street and the FFL of the ground floor is not proposed to be changed. The terracing will articulate and soften the appearance of the front setback area and provide opportunity for landscaping at eye level. The terracing is supported as it will improve the appearance of the development from the street.

### Wall Height

The maximum wall height of the development is 8.1m, a variation of 1.6m above the heights specified in LPP 142. Any extensions to the existing dwelling will have difficulty achieving complete compliance due to the irregular lot shape and significantly elevated FFL of the existing dwelling. The general approach of the design is reasonable in its attempt to minimise any impact by containing extensions within the existing floor area (not closer to boundaries with neighbouring properties) and restricting the upper-floor extension to the single-storey portion of the house to achieve two stories overall. The original submitted plans included a pitched roof form and exceeded the requirements of LPP 142 with respect to both wall and ridge heights. After discussions with the Town Planner, the applicant has altered this roof form to achieve an extension that is compliant with the maximum ridge height but still exceeds the maximum wall height. This is significant as it keeps the overall height within the acceptable limit.

The following impacts are connected to wall height and are considered in relation to the current proposal.

#### *Overshadowing*

The proposal complies with the overshadowing provisions of the R-Codes.

#### *Bulk*

The subject property sits at the lowest point of the block. The neighbouring property at 17 Chauncy Street is at a similar level to the subject property, however, the

extensions are to be located *at* the other side of the house and will not be close to the shared boundary with this property where they may have an unacceptable visual impact.

The neighbouring dwellings at 16 and 18 Munro Street are set significantly higher than the subject property. The overall wall height will not appear as great as its true height when viewed from these properties because of the difference in levels. The extension is also set back minimum 2m from 16 Munro, which itself has a generous setback to the shared boundary, and minimum 5.4m from 18 Munro. These setbacks give the impression of separation and limit the appearance of overbearing bulk.

#### *Views*

The upper floor extension is not located in significant view corridors for 17 Chauncy or 18 Munro. While the owner of the latter has raised concern about the impact of the development on views, it is important to note that the views from this property to the west and north-west will not be interrupted and, because the view corridor is over a reserve, this is unlikely to change (ie be "built out"). The proposal is considered reasonable in this regard as the impact on views from 18 Munro is minor.

The extension is located in the main view corridors from 16 and 14 Munro Street. However, these properties are again significantly higher than the subject property and there is potential to regain the views from a second-storey addition. The owners of these properties have not objected to the revised plans.

#### *Streetscape*

Locke Crescent is the lowest point of this street block, with the land rising up Chauncy and Munro Streets. A number of older dwellings in the locality have been extended or large new homes built and there is a prominent view of dramatic housing going up the hill. The subject lot is at the corner between the street level and the new housing and will provide a starting point for this pattern of development. The terraced front yard follows the slope of the land and the building's height and design transition into the large development at 18 Munro and beyond. Note that the extensions will sit visibly lower than 18 Munro despite exceeding the maximum permitted wall height.

The proposed wall height is considered to be consistent with the objectives of the residential zone and the intent of LPP 142. It will improve the streetscape and have limited impact on the amenity of adjoining neighbours. The amended plans, which incorporate a compliant ridge height with a skillion roof form, are a reasonable compromise in view of the constraints of the site, siting of the extension, and pattern of surrounding development. The variation is supported.

#### **Side/Rear Setbacks**

The subject lot is a triangular shape and it is difficult to determine whether boundary setbacks should be assessed by the standards for front or rear boundaries. Given that the house has a polygon shape, the assessment has been conducted in relation to building walls rather than boundaries; therefore, the rear (south) boundary and side (west) boundary are actually the same boundary, measured in relation to the south and west facing building walls.

The very rear of the property is the apex of the triangle and the boundaries are angled sharply inward. With the house being sited to face the apex, achieving a 6m rear setback in addition to a 7.5m front setback (prescribed standards for the R12.5 zone) will always be problematic. It is more reasonable to consider the building setbacks in relation to the 'sliding scale' provided in the R-Codes and used for side setbacks. On the basis of this assessment, the development incorporates a 0.1m setback variation to the boundary shared with 16 Munro Street. This will not be perceptible 'on the ground' and there is no undue overshadowing, privacy or amenity impact on the affected property. The setback variation is therefore supported.

### Front Setbacks

The upper storey balcony is setback a minimum of 5.0m from the street, a variation from the 7.5m minimum setback required. Although not typically used in conjunction with the LPP 142, the awkward shape of the lot lends to consideration of the 'compensating area' principle of the R-Codes. Essentially this involves the design of an area of adjacent, contiguous open space behind the street setback line to compensate for the development projecting forward. Such a space is located to the west of the balcony, between the subject development and the boundary with 18 Munro. The area breaks up the front facade and provides visual separation between properties. The front setback variation is supported.

### Front Fencing

The development application includes front fencing described as being solid to 1.2m with visually permeable insets to 1.8m, with these heights being measured from the post-development ground levels. The fence is supported in principle, however, the submitted drawings indicate that it exceeds these heights at certain points, particularly the eastern return fence. It is recommended that revised plans demonstrating compliance with the Town's fencing policy be submitted and accepted prior to issuing any approval.

### Conclusion

The proposed development incorporates several variations to requirements, significantly the maximum permitted wall height. However, the siting of the development in relation to neighbouring properties limits any undue impact and the design is considered to be consistent with the intent of the LPP 142 and objectives for the Residential Zone. Further, the development is consistent with an emerging pattern of development and will have a positive impact on the streetscape in this regard. The variations proposed are supported with the exception of visual permeability of the front fence, and it is recommended that revised plans be prepared addressing compliance with Council's fencing requirements. It is recommended that the proposal be approved subject to conditions.

### RECOMMENDATION

That subject to amended plans being submitted and approved demonstrating compliance with Local Planning Policy 143 (with fence height to be measured from post-development ground level) that Council exercise its discretion in granting approval for the following:

- (a) Vary the Site Works requirements of the Residential Design Codes of Western Australia to permit siteworks of up to 1.1m within 3.0m of the front setback as depicted on the submitted and approved plans;
  - (b) Vary the Building Height requirements of Local Planning Policy 142 to permit a maximum Wall Height (Concealed Roof) of 8.1m as depicted on the submitted and approved plans;
  - (c) Vary the Streetscape requirements of Local Planning Policy 142 to permit a minimum front setback of 5.0m as depicted on the submitted and approved plans; and
  - (d) Vary the setback requirements of the Residential Design Codes of Western Australia to permit a 2.1m setback from the development to the western boundary;
- for the construction of Additions and Alterations at No. 27 (Lot 5048) Locke Crescent, East Fremantle, in accordance with the plans date stamped received on 31 August 2012, subject to the following conditions:
1. The swimming pool does not form part of this approval.



2. The roofing material to be of a non-reflective colour or 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.
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. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed 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.
6. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)
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. 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.
11. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Correspondence referred from MB Ref. T91.1 was tabled.’

Mr & Mrs Peter & Bronwyn Christie addressed the meeting expressing concern with the discretions granted in the officer’s report.

Mr Christian & Veronique Bauer addressed the meeting in support of their application for alterations/additions to existing residence.

Ms Carly Pidco, Town Planner, stated that the discretions given can be justified as the development will not unreasonably impact upon neighbours or the streetscape and will involve the retention of the existing residence.

#### **RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Martin**

**That subject to amended plans being submitted and approved demonstrating compliance with Local Planning Policy 143 (with fence height to be measured from post-development ground level) that Council exercise its discretion in granting approval for the following:**

- (a) Vary the Site Works requirements of the Residential Design Codes of Western Australia to permit siteworks of up to 1.1m within 3.0m of the front setback as depicted on the submitted and approved plans;**
- (b) Vary the Building Height requirements of Local Planning Policy 142 to permit a maximum Wall Height (Concealed Roof) of 8.1m as depicted on the submitted and approved plans;**
- (c) Vary the Streetscape requirements of Local Planning Policy 142 to permit a minimum front setback of 5.0m as depicted on the submitted and approved plans; and**
- (d) Vary the setback requirements of the Residential Design Codes of Western Australia to permit a 2.1m setback from the development to the western boundary;**

**for the construction of Additions and Alterations at No. 27 (Lot 5048) Locke Crescent, East Fremantle, in accordance with the plans date stamped received on 31 August 2012, subject to the following conditions:**

- 1. The swimming pool does not form part of this approval.**
- 2. The roofing material to be of a non-reflective colour or 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.**
- 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. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council’s attention.**
- 5. The proposed 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.**
- 6. All stormwater is to be disposed of on site, clear of all buildings and boundaries.**
- 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, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (h) below)*
  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. 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.
  11. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
  12. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

CARRIED 5:0

**Note:**

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

**T98. PRESENTATIONS / DEPUTATIONS****T98.1 Approved Mixed Use (Town Centre) Development  
Canning Highway No. 147**

The following memo from the Manager – Planning Services was circulated prior to the meeting:

Council approved the development application for a Mixed Use Activity Centre at 147 Canning Highway (Royal George Tavern and adjacent lands) on 13 December 2011. That approval was subject to a number of conditions, including the following Condition 5.

*'The semi-circular balconies and roof capping incorporated within the northwest elevation of Building D, adjacent to Council Place, are not approved in the present form. These elements shall be subject to design development and incorporated in amended plans to be submitted and approved to the satisfaction of Council prior to the submission of an application for building approval.'*

The applicants have submitted amended plans to satisfy Condition 5 and now seek Council's approval of the revised perspectives and elevations in satisfaction of Condition 5 of the DA approval.

The current Architects for the development (Hassell) will present the design revisions to the Committee at its 2 October 2012 meeting. The revised plans will then be considered by the Town Planning Advisory Panel meeting on 9 October 2012 to enable a determination by Council at its meeting on 16 October 2012.

The attached letter and revised plans are submitted for information.

Mr Paul Simpson (Aria Land Pty Ltd) and Mr Mike Rendell and Mr Kris Mainstone (Hassell) addressed the meeting on design revisions in response to Condition (5) of Grant of Planning Approval.

Following discussion the Consultants undertook to submit further design revisions in time for the Town Planning Advisory Panel meeting scheduled for 9 October.

**T99. EN BLOC RECOMMENDATION****Cr de Jong – Cr Martin**

That on behalf of Council, the Town Planning & Building Committee, under delegated authority, adopts en bloc the following officer recommendations in respect to Items MB Ref: T99.1 to T99.3. CARRIED 5:0

**Note:**

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, the following applications are deemed determined, on behalf of Council, under delegated authority.

**T99.1 Walter Street No. 37 (Lot 40) - Cnr of Fraser Street**

**Applicant / Owner: M & B Cypher**

**Application No. P138/2012**

By Carly Pidco and Christine Catchpole, Town Planners 21 September 2012

**BACKGROUND**

**Description of Proposal**

The application seeks approval for an outbuilding (studio/workshop/shed) in the rear north west corner of the property.

**Description of Site**

The subject site is:

- 711m<sup>2</sup>
- zoned Residential R12.5
- single dwelling
- located in the Richmond Precinct

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Residential Design Codes (RDC)

**Relevant Council Policies**

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

Local Planning Policy No. 066: Roofing (LPP 066)

Local Planning Policy No. 023: Reflective Roofing Material (LPP 023)

**Impact on Public Domain**

- Tree in verge : No impact
- Light pole : No impact
- Crossover : No impact
- Footpath : No impact
- Streetscape : Can be viewed from the street, but reduced impact as level of the rear garden is approximately 1.6 metres lower than Fraser Street.

**Documentation**

Amended plans date stamped received 7 September 2012

Submission from applicant in response to Town Planning Advisory Panel's comments dated 18 September 2012

Image of the proposed outbuilding date stamped received 24 August 2012

**Date Application Received**

24 August 2012

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

**20 December 2007** - Building Licence issued for the construction of a limestone boundary retaining wall.

**11 January 2010** – Delegated authority approval subject to conditions for construction of a side extension and a patio to the rear the existing house.

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours from 28 August to 13 September 2012. No submissions were received during this period.

**Town Planning Advisory Panel (TPAP) Comments**

The application was referred to the TPAP due to the proposed location of the outbuilding and its visibility from Fraser Street. The Panel supported the application, but queried the potential use of the studio for ancillary accommodation.

In relation to the above concern the applicant has made a submission stating that he is an academic / artist / designer and requires storage for artwork accumulated over a 20 year period.

**Site Inspection**

By Town Planner on 7 September 2012.

**STATISTICS**

Key: A = Acceptable, D = Discretion

<b>Site:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Open Space	55%	75.5%	A				
Site Works	Less than 500mm	Less than 500mm	A				
<b>Local Planning Policies:</b>							
<b>Policy 142</b>	<b>Variation to secondary street setback</b>		<b>D</b>				
Roof	Gable		A				
Solar Access & Shade	Verandah opening to north		A				
Drainage	To be conditioned		A				
Views	No impact		A				
Crossover	No impact		A				
Trees	No impact		A				
<b>Other:</b>							
Overshadowing	Contained within subject lot		A				
Privacy/Overlooking	Complies		A				
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Wall	5.6m	3.1m	A				
Wall (Concealed Roof)	6.5m	N/A	N/A				
Roof	8.1m	3.8m	A				
<b>Roof type</b>	<b>Gable 15°</b>		<b>D</b>				
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (east)</i>							
<i>Ground</i>	Outbuilding	Located behind existing					A
<i>Rear (west)</i>							
<i>Ground</i>	Outbuilding	3.1m*	7.4m	N	1.0m	1.8m	A
<i>Side (north) – secondary street</i>							
<i>Ground</i>	Outbuilding	N/A	N/A	N/A	3.75m	1.0m	D
<i>Side (south)</i>							
<i>Ground</i>	Outbuilding	3.1m*	4.7m	Y	1.5m	12.5m	A

\* As calculated for assessment purposes

**ASSESSMENT**

It is proposed to position the outbuilding in the north west corner of the property. This is at the rear of the property in a section of the garden that has been raised by approximately 1.0 metre and retained by a limestone wall with steps leading to this level. The raised lawn area is however, still approximately 1.6 metres lower than the footpath level on Fraser Street.

The outbuilding is rectangular in shape being 7.2 metres by 4.6 metres (including the verandah) and will be 3.8 metres in height. The pitch of the zincalume roof is 15° and the structure will be clad in weatherboard. A small verandah extends the length of the outbuilding with entry via glass sliding doors and a toilet will also be installed. It is proposed that the building will sit on a podium of approximately 200mm. This was reduced from a podium height of 500mm to lessen the impact of the building on Fraser Street. The finished floor level proposed is now at FFL 13.74.

#### **Building Finished Floor Levels and Setback**

The outbuilding is proposed to be setback 1.8 metres from the rear boundary, 1.0 metre from the northern boundary (Fraser Street), 24 metres from the front boundary and 12.5 metres from the southern boundary. These setbacks comply with the R-Codes and Council's LPP 142 - Residential Development with the exception of the northern boundary which has a required secondary street setback of 3.75 metres under LPP 142. The reduced setback can be supported as the outbuilding will sit well below the Fraser Street footpath and will be constructed adjacent to a significant limestone retaining wall. The portion of the building visible from Fraser Street will be approximately 2.4 metres to ridge height.

Whilst it would be preferable for the building to be located in the south west corner of the site to reduce its impact on Fraser Street positioning the building in this location would result in it being located adjacent to the neighbour's kitchen window. The applicant has reoriented the building from an east west alignment where the 7.2 metre length of the building was adjacent to Fraser Street, to a north south alignment so that the length of the building facing Fraser Street is reduced to 3.0 metres. This is considered to be a far better option in regard to reducing the outbuilding's impact on the streetscape, and as the building sits 1.6 metres below Fraser Street the reduced setback can be supported.

#### **Roof Pitch and Building Materials**

The roofing material specified is silver Colorbond sheeting so to comply with LPP 023 a condition of planning approval will be required ensuring that the roof will be painted upon request by Council to reduce reflectivity within a period of two years after construction at the applicant's expense.

A condition of approval is also imposed regarding colour of the finishes. This is considered necessary to ensure Council is satisfied there will be no detrimental impact on residential amenity or the streetscape and the outbuilding will be complementary to the existing house. Details of the colour of the weatherboard cladding and finishes to be used should be submitted prior to the issue of a Building Permit.

LPP 066 provides, amongst other things, that dominant roof elements of outbuildings are to have a minimum pitch of 28°; the shed roof will have a pitch of 15°. Given the roof will be visible from Fraser Street, and for a limited extent from Walter Street, a reduction in roof pitch is considered to be a positive element of the design as it will reduce the buildings height and therefore its impact on the streetscape.

#### **Open Space**

Under the R-Codes 50% of the site is to be maintained as open space. The additional floor area will reduce open space on the site to 75.5% and as such the application still complies with the R-Code requirement.

#### **Privacy**

The verandah of the outbuilding and the door and windows face the existing residence so there is negligible impact in regard to overlooking of the neighbours' properties. In any case as the site is a corner property this limits the number of adjoining neighbours and the building will sit adjacent to a neighbour's front garden.

#### **Use of Outbuilding**

The TPAP queried the potential use of the outbuilding for ancillary accommodation. The applicant has indicated that the building will be used as a 'mixed use shed' for storage,

as well as a studio and workshop. This concern can be addressed through a condition of planning approval specifying that the outbuilding shall not be used for ancillary accommodation or leased either as a rental property or for short stay accommodation.

It is also noted that the Certificate of Title appears to indicate a sewer line extending along the Fraser Street boundary of the lot. Documentation noting official building approval by the Water Corporation is therefore required to be submitted on lodgement of a Building Permit application. This requirement will be imposed as a condition of planning approval.

### CONCLUSION

The proposed development incorporates only one minor variation to Council's Local Planning Policy 142 - Residential Development in relation to secondary street setback and a variation in regard to LPP 066 Roofing in regard to roof pitch. The variation being sought in regard to the northern boundary setback is supported as it is considered to have a minimal impact on the amenity of the adjoining property and the streetscape. The outbuilding will be of a complementary design to the existing house and set below the street level. It is therefore recommended that the application be supported subject to conditions relating to use, reflective roofing material, details of materials and finishes, the finished floor level of the outbuilding and Water Corporation approval.

### RECOMMENDATION

That Council exercise its discretion in granting approval to vary:

- (a) the setback requirement of Local Planning Policy 142 to permit a secondary street setback of 1.0 metre for the side elevation of the outbuilding; and
- (b) the roof pitch requirement of Local Planning Policy No. 066 – Roofing to allow a roof pitch of 15°,

for an outbuilding at the rear of No. 37 Walter Street, East Fremantle, in accordance with amended plans date stamped received on 7 September 2012, subject to the following conditions:

1. The outbuilding shall not be used for ancillary accommodation or leased either as a rental property or for short stay accommodation.
2. The finished floor level of the outbuilding to be no higher than FFL 13.74 as indicated on the plans date stamped received 7 September 2012.
3. If requested by Council within the first two years following installation, the zincalume/silver 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.
4. Documentation noting official building approval by the Water Corporation to be submitted on lodgement of a Building Permit application.
5. The applicant to submit details of the colour of the weatherboard cladding and finishes to be used to the satisfaction of the Chief Executive Officer in consultation with relevant officers prior to the issue of a Building Permit.
6. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by the Chief Executive Officer. (*refer footnote (e) below*)
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 until Council has received an application for a building permit and the building permit 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 permit 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. 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 permit.
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. 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. 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 permit 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) *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".*

**T99.2**

**Pier Street No. 9A (Lot 500)**

**Applicant/Owner: A. Mascaro**

**Application No. P133/12**

By Carly Pidco, Senior Planning Officer, on 24 September 2012

**PURPOSE OF THIS REPORT**

This report recommends conditional approval of a Development Application for construction of a single-storey single dwelling at 9A Pier Street, East Fremantle.

**BACKGROUND**

**Description of Proposal**

The proposed development is a single-storey single dwelling of brick and colorbond construction. The dwelling has six ensuite bedrooms; a single-width garage; open plan kitchen, living, and dining; laundry and alfresco.

**Description of Site**

The subject site is:

- a 465.5m<sup>2</sup> freehold lot
- zoned Residential 12.5
- located in the Richmond Hill Precinct

- vacant
- encumbered by a sewer easement to the benefit of Water Corporation

**Statutory Considerations**

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

Residential Design Codes of Western Australia (RDC)

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : To be retained  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : New dwelling

**Documentation**

Plans and relevant forms date stamped received on 20 August 2012

Amended plans date stamped received on 21 September 2012

**Date Application Received**

20 August 2012

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

19 November 2002 Council refuses an application for demolition of an existing dwelling at 9 Pier Street

17 December 2002 Council resolves to approve an application for demolition of an existing dwelling at 9 Pier Street

17 January 2005 WAPC approves subdivision of 9 Pier Street into 2 lots

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours from 28 August 2012 to 13 September 2012. No submissions were received during this period.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 11 September 2012. The Panel made the following comment:

- *A more contemporary street facade should be considered without mimicking previous heritage details in the streetscape.*

The applicant has prepared amended plans addressing the Panel's comments. The amended plans include deletion of the heritage-style filial and redesigning the porch to incorporate contemporary steel posts. The applicant has also reconfigured the facade to ensure that the garage is setback behind the main building line in keeping with LPP 142. The amended plans demonstrate a simpler, contemporary facade that is appropriate to the style of the dwelling.

**Site Inspection**

By Town Planner on 28 September 2012

**ASSESSMENT**

The proposed development is mostly consistent with the Town's LPP 142 Residential Development and the Residential Design Codes, with the exception of boundary setbacks, as detailed below.

2 October 2012

## MINUTES

Key: A = Acceptable, D = Discretion

<b>Site:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Open Space	50%	52.1%	A				
Site Works	Less than 500mm	Less than 500mm	A				
<b>Local Planning Policies:</b>							
<b>Policy 142</b>	<b>Boundary setback variation</b>		<b>D</b>				
Roof	Hipped		A				
Solar Access & Shade	Major opening to north		A				
Drainage	To be conditioned		A				
Views	No impact		A				
Crossover	Condition to comply		A				
Trees	Condition to comply		A				
<b>Other:</b>							
Overshadowing	Complies, <25%		A				
Privacy/Overlooking	Complies		A				
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Wall	5.6	3.4	A				
Wall (Concealed Roof)	6.5	N/A	N/A				
Roof	8.1	4.8	A				
Roof type	Hipped						
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (north)</i>							
<i>Ground</i>	Dwelling	N/A	N/A	N/A	6.0; consistent with locality	8.7; consistent	A
	Garage	N/A	N/A	N/A	At or behind main building line	9.6	A
<i>Rear (south)</i>							
<i>Ground</i>	Dwelling	2.4	7.0	N	1.0	7.6	A
<i>Side (east)</i>							
<i>Ground</i>	<b>Bed 1 / Bed 3</b>	<b>3.0</b>	<b>13.9</b>	<b>N</b>	<b>1.5</b>	<b>Nil</b>	<b>D</b>
	Dwelling	2.4	29.2	Y	1.5	1.6	A
<i>Side (west)</i>							
<i>Ground</i>	<b>Garage</b>	<b>2.9</b>	<b>6.1</b>	<b>N</b>	<b>1.0</b>	<b>Nil</b>	<b>D</b>
	<b>Dwelling</b>	<b>2.9</b>	<b>29.2</b>	<b>Y</b>	<b>1.5</b>	<b>Min. 1.0</b>	<b>D</b>

\* As calculated for assessment purposes

**Building Setbacks**

The development proposes reduced side setbacks to both the east and west boundaries. Part 3 of the LPP 142 provides standards for assessing boundary setback variations, detailed below.

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

The subject walls on the western facade are both less than 3m high and 9m in length. The subject wall to the eastern facade is less than 3m high but exceeds the maximum length by nearly 5m. In support of the variation, the applicant submits that the reduced setbacks make the most efficient use of space on a narrow lot; the variation has no undue impact on neighbouring properties; and the walls are

setback from the minimum front setback line. These submissions are supported. Further, it is noted that the 14m long parapet wall abuts 9B Pier Street, another narrow lot, and there is the possibility for future development on this site to incorporate a mirroring parapet.

The variations also occur to two side boundaries. The contemporary design of the dwelling and minimal wall height mean that the two parapets walls do not look out of place in the streetscape. As stated above, the applicant has submitted that the design is a response to the narrow nature of the lot. The minimal width of the garage in favour of a large bedroom window and porch to the front facade is also noted for improving the appearance of the dwelling and its impact on the streetscape.

- (b) *Walls are behind the main dwelling;*

Walls are located at the front of the dwelling.

- (c) *Subject to the overshadow provisions of the Residential Design Codes – Element 9;*

Complies.

- (d) *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; and*

There are several narrow lot developments along Pier Street including nearby properties at 3A/3B, 5A/5B, 13A/13B and 17A/17B Pier Street. Reduced boundary setbacks and parapet walls are typical for narrow lot developments and the proposed development is not out of keeping with the nearby properties mentioned. The parapet walls are single-storey in height and will not have an overly bulky appearance to neighbouring properties or the streetscape.

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

The neighbouring property to the west exhibits blank walls with minimal boundary setbacks. The neighbouring property to the east is a vacant narrow lot and future development can be designed to respond to the proposed parapet wall at 9A.

### **Car Parking**

The Residential Design Codes of Western Australia requires two car parking bays per single dwelling. Car parking bays do not have to be covered bays, although many landowners prefer this option, and the proposed development is considered compliant as it has one bay provided in a garage and one open, tandem bay marked in the driveway.

### **Land Use**

The proposed development is described as a single dwelling and any approval given will provide for the land to be used in that manner. The dwelling has a somewhat unusual format, however, comprising six large, ensuite bedrooms. It is recommended that any approval include an advice note reminding the applicant that the use of the building for uses such as Bed and Breakfast, Boarding House, and so forth will require a separate development approval from Council prior to commencement of the use.

### **CONCLUSION**

The proposed development incorporates variations to the side setback requirements of the R-Codes. These variations are minor in nature and will not detrimentally impact on neighbouring dwellings or the streetscape. The Panel has advised that it considers a more contemporary facade to be appropriate and the applicant has prepared amended plans to address this comment. No objections were received by neighbours during the

public consultation period. It is recommended that the proposed development be approved subject to conditions.

### RECOMMENDATION

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 nil side setback from the western wall of the Garage to the western boundary; 1.0m setback from the western wall of the Kitchen and Bed 2 Ensuite to the western boundary; and nil setback from the eastern wall of Bed 3 and Bed 1 to the eastern boundary for the construction of a single dwelling at No. 9A (Lot 500) Pier Street, East Fremantle, in accordance with the amended plans date stamped received on 21 September 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. 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.
3. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
9. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
10. This planning approval to remain valid for a period of 24 months from date of this approval.
11. Maximum of two vehicles are to be parked on the site at any one time.

### 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".*
- (i) *the applicant is reminded that the development has been approved as a "Single House" and any use of the development not in keeping with this use will require further approval of Council.*

**T99.3****May Street No. 47 (Lot 610)****Applicant: John Chisholm Design****Owner: S Gorman & M Laves****Application No. P131/12**

By Carly Pidco, Senior Planning Officer, on 27 September 2012

**PURPOSE OF THIS REPORT**

This report recommends conditional approval of a Development Application for single-storey additions to the existing single dwelling at 47 May Street, East Fremantle.

**BACKGROUND****Description of Proposal**

The proposed development is a single-storey extension located at the rear of the existing dwelling. The extension is of rendered brick and colorbond construction and includes open plan living, dining and kitchen; separate family room; and verandah. Some internal works to the existing dwelling are also proposed, including removing the existing kitchen to create a robe and ensuite; and a new laundry and bathroom in the sleepout. Two existing sheds and an existing patio are to be demolished to make room for the new extension.

**Description of Site**

The subject site is:

- a 510m<sup>2</sup> freehold lot
- zoned Residential 20
- located in the Woodside Precinct
- improved with a single-storey single dwelling
- assigned B- Management Category in the Heritage Survey 2006
- encumbered by a Water Corporation sewer line but not an associated easement

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes of Western Australia (RDC)

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
 Light pole : No impact  
 Crossover : No impact  
 Footpath : No impact  
 Streetscape : Extensions not visible from street

**Documentation**

Plans and relevant forms date stamped received on 10 August 2012

**Date Application Received**

10 August 2012

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

None

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours from 14 August 2012 to 30 August 2012. One submission was received during this period. The submission, from the owner of 144 George Street, commended the design of the extension and conduct of the applicants and is generally supportive of the development.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 11 September 2012. The Panel made the following comments:

- *Panel supports the single storey addition and appreciates the quality of the plans.*
- *Panel encourages retention of fireplaces.*
- *The proposed loss of fireplaces and replacement of the bedroom with an ensuite significantly alters the original internal floor plan.*
- *Panel recommends that replacement partition wall to the ensuite be at least 300mm lower than the full original wall height so as to retain an understanding of the original space and layout of the room.*

The landowners and applicant have responded to the Panel's comments advising that the fireplace to be removed is the stove to the existing kitchen. The landowners are reluctant to retain the fireplace but willing to retain the chimney. Retention of the chimney will enhance the appearance of the dwelling and the interpretation of its original layout without undermining the functionality of the renovations and is supported.

The applicant has also advised that the landowners are happy to reduce the height of the internal walls as per the Panel's comments.

**Site Inspection**

By Town Planner on 27 September 2012

**ASSESSMENT**

The proposed development has been assessed against the Town's LPP 142 Residential Development and the Residential Design Codes, detailed below.

Key: A = Acceptable, D = Discretion

<b>Site:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>
Open Space	50%	38%	A
Site Works	Less than 500mm	Less than 500mm	A
<b>Local Planning Policies:</b>			
<b>Policy 142</b>	<b>Boundary setback variations</b>		<b>D</b>
Roof	Skillion, 1 degree (to addition)		A
Solar Access & Shade	Outdoor living and major openings face north		A

Drainage	To be conditioned		A
Views	N/A		N/A
Crossover	Condition to comply		A
Trees	Condition to comply		A
<b>Other:</b>			
<b>Issues</b>		<b>Status</b>	
Overshadowing	7.8% over 144 George; 11.4% over 146 George Street		A
Privacy/Overlooking	<b>NORTH:</b> Verandah intrudes 3.3m over northern boundary  <b>WEST:</b> Verandah intrudes 4.0m over western boundary		D
<b>Height:</b>		<b>Required</b>	<b>Proposed</b>
Wall	6.0	N/A	N/A
Wall (Concealed Roof)	7.0	3.8	A
Roof	9.0	4.2	A
Roof type	Skillion		
<b>Setbacks:</b>			
Wall Orientation	Wall Type	Wall height	Wall length
			Major opening
			Required Setback
			Proposed Setback
			Status
Front (east)			
Ground	Located behind existing		
Rear (west)			
Ground	Dwelling	3.8	7.3
			Y
			1.8
			2.9
			A
Side (north)			
Ground	Dwelling	3.8	28.6
			Y
			4.5
			3.8
			D
Side (south)			
Ground	Dwelling	3.8	28.6
			N*
			1.7
			1.9
			A

\* As calculated for assessment purposes

### Building Setbacks

The development proposes a reduced side setback to the northern boundary. Part 3 of the LPP 142 provides standards for assessing boundary setback variations, detailed below. The proposal is not readily consistent with criteria, however, the following mitigating factors are considered relevant:

- *The FFL of the extension is designed to be in keeping with the original dwelling. Although the extension exceeds 3m in height, it is still reasonably considered a single-storey development. Further, the skillion roof design minimises the overall height. The development will not have an imposing or bulky appearance that impacts on the amenity of the adjoining property.*
- *The setback provided is generous and will create an impression of separation between the properties, minimising any perceived impact of bulk or overlooking.*
- *The facade facing the affected boundary is primarily the verandah, which is of open construction and will not be as visually imposing as a solid wall.*
- *The reduced boundary setback is located on the northern boundary and there will be no overshadowing of the adjoining neighbour.*
- *The overall length of the dwelling (original and proposed extension) greatly impacts the setback requirement. However, the location of the extension to the rear of the existing dwelling allows for the preservation of the facade and roof form of the heritage cottage.*

In view of the above, the practical impact of the reduced setback on the neighbour is negligible. The design and location of the extension does, however, enable the preservation of the heritage cottage. In view of the objectives of the Residential Zone, it is considered appropriate to support the variation.



**Visual Privacy**

The proposed verandah is considered an "outdoor living area" with a FFL greater than 500mm above NGL and is therefore subject to the visual privacy requirements of the R-Codes. As stated above, however, it is important to note that the development presents as a single-storey and the practical opportunity for overlooking is minimal. Further, although not compliant with the minimum 7.5m privacy setback, the provided setback is generous and the verandah will not have the appearance of intruding on neighbouring properties. The major openings to the verandah are consistent with the performance criteria of the visual privacy requirements and the variation is therefore supported.

**Demolition**

The proposal includes demolition of two outbuildings and a steel patio. These are later additions to the original dwelling and of limited heritage value. The demolition of these structures is supported.

**CONCLUSION**

The proposed development incorporates variations to the side setback and privacy requirements of the R-Codes. These variations are minor in nature and will not detrimentally impact on neighbouring dwellings or the streetscape. The Panel is generally supportive of the application and the applicant is prepared to make some minor changes to retain some period features. It is recommended that the application be approved subject to conditions.

**RECOMMENDATION**

That subject to amended plans being submitted and approved demonstrating retention of the existing kitchen chimney and 300mm reduction in height of the ensuite/robe internal walls that Council exercise its discretion in granting approval for the following:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 3.8m side setback from the northern wall of the verandah to the northern boundary;
- (b) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit a 3.8m side setback from the northern wall of the verandah to the northern boundary; and 2.9m setback from the western wall of the verandah to the western boundary;

for the construction of a extensions at No. 47 (Lot 610) May Street, East Fremantle, in accordance with the plans date stamped received on 10 August 2012 subject to the following conditions:

1. All works are to be to the specifications of the Water Corporation in relation to the existing sewer.
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. 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 development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)

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.
12. The swimming pool does not form part 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".*
- (i) *the applicant is reminded that the development has been approved as a "Single House" and any use of the development not in keeping with this use will require further approval of Council.*

**T100. REPORTS OF OFFICERS – STRATEGIC PLANNING**

Nil.

**T101. CONFIDENTIAL BUSINESS**

Nil.

**T102. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

Nil.



**T103. CLOSURE OF MEETING**

There being no further business the meeting closed at 23.55pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **2 October 2012**, Minute Book reference **T85. to T103.** were confirmed at the meeting of the Committee on*

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**Presiding Member**