

14 February 2012

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 14 FEBRUARY 2012 COMMENCING AT 6.35PM.

T1. OPENING OF MEETING

The Presiding Member opened the meeting.

T1.1 Present

Cr Alex Wilson	Presiding Member
Mayor Alan Ferris	
Cr Barry de Jong	
Cr Cliff Collinson	
Cr Sián Martin	(From 6.50pm)
Cr Dean Nardi	
Cr Maria Rico	
Mr Jamie Douglas	Manager Planning Services
Ms Carly Pidco	Acting Town Planner
Ms Janine May	Minute Secretary

T2. 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.”

T3. WELCOME TO GALLERY

There were 14 members of the public in the gallery at the commencement of the meeting.

T4. APOLOGIES

It was noted Cr Martin would be arriving late as she was attending another meeting on behalf of Council.

T5. CONFIRMATION OF MINUTES

T5.1 Town Planning & Building Committee (Private Domain) – 6 December 2011

Mayor Ferris – Cr de Jong

That the Town Planning & Building Committee (Private Domain) minutes dated 6 December 2011 as adopted at the Council meeting held on 13 December 2011 be confirmed.

CARRIED

T6. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T6.1 R & M Finnigan

Expressing concern with development at 19 Philip Street in regard the loss of their river views down the Clayton Street corridor.

Mayor Ferris – Cr de Jong

That the correspondence from Mr & Mrs Finnigan be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T14.5).

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T7. REPORTS OF COMMITTEES

T7.1 *Town Planning Advisory Panel – 24 January 2012*

Cr Wilson – Cr de Jong

That the minutes of the Town Planning Advisory Panel meeting held on 24 January 2012 be received and each item considered when the relevant development application is being discussed. CARRIED

T8. RECEIPT OF REPORTS

Cr Nardi – Cr Collinson

That the Reports of Officers be received. CARRIED

T9. ORDER OF BUSINESS

Mayor Ferris – Cr Nardi

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

T10. REPORTS OF OFFICERS – STRATEGIC PLANNING

T10.1 *Residential Design Guidelines*

Jamie Douglas, Manager Planning Services - 10 February 2012

ATTACHMENTS

- .. Comments on Draft Residential Design Guidelines by David Johnston
- .. The following attachments have been circulated under separate cover:
 1. Executive Summary
 2. Town of East Fremantle Design Guidelines
 3. Town of East Fremantle Precinct Survey

REPORT

The Draft Residential Design Guidelines Report, Precinct Survey and Executive Summary Report are attached for information. The consultants who have prepared the documents, Griffiths Architects together with Chris Antill Town Planning & Urban Design will present an overview of the documents and be available to answer questions at the Committee meeting.

An overview of the analysis undertaken in the development of the Design Guidelines and the aims and objectives for the guidelines is contained in the Planning & Development Services – Status Report within this agenda.

The consultants previously presented the documents to the Town Planning Advisory Panel meeting on 31 January 2012. The Panel expressed its strong support for the documents and members agreed to forward any written comments they may wish to make for further consideration by the consultants. One Panel member – Mr. David Johnston forwarded the attached comments.

It is proposed to compile a further draft of the documents which addresses all of the comments received and submit it to the Committee's March meeting for consideration for release for public advertising. A proposed public participation program will be included within this report.

It is proposed that following Council approval for public release of the documents, an extensive public advertising program will be conducted prior to consideration of adoption of the Guideline document as a Local Planning Policy.

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RECOMMENDATION

It is recommended that the Draft Residential Design Guidelines Report and accompanying documents be received and that Elected Members advise of any changes or issues they wish to be addressed within a subsequent draft.

Mr Phil Griffiths (consultant) gave a brief overview of the draft documents.

Cr Martin entered the meeting at 6.50pm.

Mr Griffiths advised that following any feedback from elected members, the design guidelines report would be amended and then advertised for public comment.

Cr Martin sought clarification on whether it was appropriate to provide incentives such as setback discretions within the guidelines to encourage single storey development within Plympton Ward. Mr Griffiths advised that it was appropriate to include within the guidelines.

Cr Wilson thanked Mr Griffiths for the very comprehensive report which provides a great working document for elected members to make comment on.

The Manager Planning Services requested elected members to provide comment by Friday, 17 February 2012.

RECOMMENDATION TO COUNCIL

Cr de Jong – Mayor Ferris

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

T11. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL

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

Applicant: Darren Turner

Owner: Sophie Ford

Application No. 187/2011

By Pina Mastrodomenico, Town Planner on 2 February 2012

PURPOSE OF THIS REPORT

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

This report recommends that Council refuse the application.

BACKGROUND

Description of Proposal

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

Description of site

The subject site is:

- a 906m² lot
- zoned Residential R12.5
- developed with a heritage dwelling

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy – Woodside Precinct (LPS)

Residential Design Codes (RDC)

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B Management Category - Municipal Heritage Inventory

Relevant Council Policies

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

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 7th December 2011

Date Application Received

7 December 2011

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

2 November 2011 Council approves replacement of existing shed.

CONSULTATION

Advertising

The application was advertised to adjoining land owners for two weeks between the 21 December 2011 and 13 January 2012. During this period no submissions were received.

Town Planning Advisory Panel

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

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

The Town Planner supports the Panels comments.

Applicant Justification

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

Applicant Comments	Planning Comments
Due to the position of the existing dwelling on the property, and the location of the street kerb crossover, there is no room in width to be able to position a carport in line with, or behind the existing building line of the existing house.	There is ample room (5.432 metres) on the northern side of the dwelling for a double carport to be located at or behind the main building line in accordance Council's LPP 142.
There is no scope to move the street kerb crossover to the opposite Northern Boundary due to the location of a street Light on the Council Verge, along with not enough width from the existing dwelling to the current boundary, to be able to fit a carport.	A crossover can be accommodated on the Northern boundary and be setback an adequate distance from the existing light pole.
Precedence has been set in Allen St, with the dwelling at No 32 Allen Street have extended a Solid brick garage, forward of the existing building line of the house.	The majority of dwellings along Allen Street have carports/garages located at or behind the building line in accordance with Council's LPP 142. No.32 Allen Street was approved in 2003 with a

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	<p>variation to Council Policy, since that date, Council have not supported development of this nature along Allen Street.</p> <p>Approval of a carport contrary to the requirements Council's LPP 142 will set an undesirable precedent for similar development along Allen Street.</p>
<p>We believe that the Character design of the carport to match the existing forward verandah of the dwelling, along with the open aspect of the carport, will minimally impact on the streetscape in Allen Street. The design of the carport at a level which allows a near flat driveway into the property also allows the existing dwelling to still be quite visible and would minimally detract from its current street view. We believe also that the proposed carport would add Value to the existing property with the ability to have an off street undercover car parking facility, which the property currently lacks.</p>	<p>The proposed carport located in the front of the main dwelling is setback a considerable distance closer to the street than other carports/garages on Allen Street and as such will impact on the streetscape and the way the existing residence is viewed from the street.</p> <p>The carport being located in front the main building will result in an increase in the size and bulk of the proposed residence, reduce the articulation of the front elevation and impact on the streetscape.</p>

STATISTICS

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

ASSESSMENT

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

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

Heritage Assessment

The residence at No. 32 Allen Street is included on Council's Municipal Heritage Inventory as a 'B' Management Category.

The proposed carport located in the front of the main dwelling is setback a considerable distance closer to the street than other carports/garages on Allen Street.

The carport will result in an increase in the size and bulk of the proposed residence, reduce the articulation of the front elevation and impact on the streetscape and the way the existing heritage residence is viewed from the street.

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

Proposed Carport

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

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

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

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

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

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

CONCLUSION

The application proposes to construct a double carport entirely forward of the building line with a setback of 4.0 metres. The variations being sought will impact adversely on the existing streetscape view and will introduce a discordant element into the streetscape would detract from the visual amenity of the streetscape and could establish a precedent for similar structures on other front property boundaries and within the front setback area.

RECOMMENDATION

That Council refuses to grant planning approval for a double carport at the front of the residence 20 Allen Street in accordance with the plans date stamp received on 7 December 2011 for the following reasons:

1. The location of the garage is forward of the main building line and does not meet the requirements of Local Planning Policy No. 142 (Part 2 – Streetscape) and will have a detrimental impact on the local streetscape in conflict with the following matters as set out in Part 10, Clause 10.2 of the Town of East Fremantle Town Planning Scheme No. 3:
 - (o) the preservation of the amenity of the locality;
 - (p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.

Ms Ford (owner) addressed the meeting in support of the proposed double carport and disputed the officer's assertion that the carport could be positioned on the northern side of the residence given the location of the verandah steps and an inability to easily open car doors. Ms Ford also commented that she did not consider the aesthetics of the street were enhanced by the parking of cars all over the front verge as happens on neighbouring properties.

Committee members advised they would not support a double carport in the front setback of this property.

Cr de Jong – Cr Nardi

That the matter be deferred to the Council Meeting to allow:

1. **the Manager Planning Services to provide clarification on the available area to the north of the residence**
2. **the applicants to review their vehicle garaging requirements.** CARRIED

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

Applicant: Crispin Underwood

Owner: Crispin Underwood

Application No. P188/2011

By Carly Pidco, Town Planner, on 7 February 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of a garage and patio at 78 & 80 East Street, East Fremantle.

BACKGROUND

Description of site

The subject site is:

- a duplex development comprising Lot 1 (87m² footprint plus front and rear courtyards); Lot 2 (91m² footprint plus front and rear courtyards); and common property
- zoned Residential R20
- located in the Plympton Precinct

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

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 : No impact

Footpath : No impact

Streetscape : No impact

Documentation

Plans and relevant forms date stamped received on 7 December 2011

Revised plans date stamped received on 31 January 2012

Date Application Received

7 December 2011

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 21 December 2011 to 13 January 2012. One submission was received from the landowner of the property abutting the southern (side) boundary.

Submission	Applicant's Response	Officer's Comment
B Bessen - 82 East Street - The resurvey shows the boundary and parapet wall moving 815mm into what had assumed was our block. There may be a case for adverse possession, however, we have decided not to go down that route.	No comment	No comment

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<p>- We have asked the owners to lower the garage height as it is on our north facing aspect and adjoining our bedroom. They have indicated that they are prepared to change the roof pitch to 25 degrees which will result in the height at the apex reducing from 3.95m to 3.71m. Given this change, we support the application.</p>	<p>We will alter the pitch of the roof to 25 degrees</p>	<p>The revised plans attached to this report show a roof pitch of 25 degrees. This has reduced the ridge height to 3.68m as measured from NGL immediately below the wall. It should be noted that, in keeping with the provisions of TPS No. 3, the height as measured for assessment purposes is 3.9m. The compromise outlined by the neighbour and applicant is considered to be reflected in the revised plans as it is pinned on the 25 degree roof pitch which has been provided.</p>
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Town Planning Advisory Panel Comments

The application was not referred to the Panel as it is a minor development with no impact on the heritage value of the property or the streetscape.

Site Inspection

By Town Planner on 30 January 2012 & 7 February 2012

ASSESSMENT

The proposed development is a garage and patio addition to the existing duplex development. The garage is to be of brick and zincalume construction and the patio of timber construction with a clear roof. The garage is to be located within the common property and the patio straddles the common property and Lot 2 courtyard. New side boundary fencing of limestone and timber construction is also indicated on the plans. This would not normally be a planning matter, however, the fencing is located so as to annex a portion of the common property for the use of Strata Lot 2, an effective realignment of the current boundaries.

The proposed development is consistent with the objectives for the Residential Zone and generally complies with the relevant R-Codes 'Acceptable Development' standards and the Town's Local Planning Policies. A variation to boundary setback requirements is being sought, as detailed below.

Site:	Required	Proposed	Status
Open Space	50%	63% over entire site	A
Site Works	Less than 500mm	Less than 500mm	A
Local Planning Policies:			
Policy 142	Height; boundary setbacks; privacy		D
Roof	Garage: gable, 25 degrees (non-dominant roof element); Patio: skillion. Zincalume roof, apply standard condition.		A
Solar Access & Shade	Patio faces north		A
Drainage	To be conditioned		A
Views	No impact		A
Crossover	No impact		A
Trees	No impact		A
Other:			
Overshadowing	Acceptable		A
Privacy/Overlooking	No impact		A
Height:			
Wall	Required	Proposed	Status
Wall	5.6	3.1m	A
Wall (Concealed Roof)	6.5	N/A	A
Ridge	8.1	3.9	A
Roof type	Gable, skillion		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
Ground	N/A – behind dwelling	N/A	N/A	N/A	N/A	N/A	A
Rear (east)							
Ground	Garage / Patio	2.9	5.7	N	1.0	Nil	D
Side (south)							
Ground	Garage / Patio	3.1	6.3	N	1.0	Nil	D
Side (north)							
Ground	Garage / Patio	2.6	6.3	N	1.0	8.0	A

* Wall length/height as calculated for assessment purposes

Boundary Setbacks

Part 3 of the LPP 142 provides standards for assessing proposed boundary setback variations. The subject variation complies with criteria a through c (relating to height, length, location and overshadowing) and is consistent with the intent of criteria d (relating to impact on amenity and views). It is not consistent with criteria e, which states “where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions”. However, the variation is still considered supportable as the subject walls are of minimal length and height and abut the rear of deep lots where impact is minimal.

Realignment of Strata Lot Boundaries

The proposed development includes boundary fences that will effectively annex a portion of the common property for the exclusive use of No. 80. While there is no R-Codes or LPP provision that would preclude this, the issue should be formally resolved to prevent any future conflict. Landgate has informally advised that re-subdivision should occur as part of this development, and this advice communicated to the landowner.

On-Site Car Parking

The R-Codes require the development to provide a total of 4 bays for the development (2 bays per duplex dwelling). The submitted plans show only 2 bays, 1 covered and 1 open. The proposed reduction in car parking is supported for the following reasons:

- The duplexes are each 2 bedroom with small floor areas, which would suggest minimal number of occupants;
- The site is located within walking distance to shops, schools and public transport, which may encourage non-vehicle trips; and
- On-street parking is provided on both sides of East Street. Site inspections were conducted on two different days, one at 11:30am and the next 3:30pm. The number of cars in the on-street parking in the immediate blocks was 13 and 19 respectively. There was ample on-street parking available during both visits for additional resident / visitor parking.

The R-Codes also require that vehicles enter the street in forward gear where the distance from a car space to the street is 15m or more, as is the case in this development. Post-development, there will not be sufficient room at the rear of the property for vehicles to safely turn around to exit in forward gear. Variation to this requirement is supported as the driveway will not experience much traffic and safe ingress/egress into East Street can be achieved in reverse gear.

The car parking as drawn on the original submitted plans did not comply with the relevant Australian Standard for turning circles to allow vehicle to enter/exit the property. The revised plans attached to this report have realigned the parking bay for Lot 1 to comply. It is recommended that a condition be attached to any approval ensuring construction maintains compliance with the relevant Australian Standards.

CONCLUSION

The proposed development is generally compliant with the Town’s policies with the exception of boundary setbacks and car parking. The variations being sought are minor

and will not impact upon the streetscape or amenity of neighbouring properties. It is recommended that the proposed development be approved subject to conditions.

RECOMMENDATION

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

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

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

1. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
2. On-site car parking bays are to be in complete accordance with Australian Standard 2890.1
3. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
4. All structures for the exclusive use of a specific Strata Lot are to be contained within the boundaries of that Strata Lot.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The proposed works are not to be commenced until Council has received an application for a demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. The proposed garage and extension are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
9. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
11. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation

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- of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
13. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
 14. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
 15. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (h) *with regard to condition 4, a Re-subdivision of Strata Scheme or Merger of Common Property may be required.*
- (i) *the patio may not be enclosed without the prior written consent of Council.*
- (j) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise"*

The following amended recommendation condition No 4 submitted by the Acting Town Planner was considered:

4. *Prior to the occupation of the development, all parts of the Common Property intended for the exclusive use of a specific Strata Lot are to be contained within the boundaries of that Strata Lot or made subject to an exclusive use by-law.*

Mr Underwood & Ms de Laubadere (owners) addressed the meeting in support of the officer's recommendation and in particular the amended Condition 4.

Cr Martin queried the safety aspects of reversing onto a busy road such as East Street. Mr Underwood explained that the situation was assisted by the wide footpath/verge which allowed drivers to wait safely before exiting.

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RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

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

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

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

- 1. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
- 2. On-site car parking bays are to be in complete accordance with Australian Standard 2890.1**
- 3. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
- 4. Prior to the occupation of the development, all parts of the Common Property intended for the exclusive use of a specific Strata Lot are to be contained within the boundaries of that Strata Lot or made subject to an exclusive use by-law.**
- 5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 6. The proposed works are not to be commenced until Council has received an application for a demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 8. The proposed garage and extension are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 9. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 11. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.**
- 12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council**

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must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

13. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
14. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
15. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (h) *with regard to condition 4, a Re-subdivision of Strata Scheme or Merger of Common Property may be required.*
- (i) *the patio may not be enclosed without the prior written consent of Council.*
- (j) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

CARRIED

Cr Martin made the following impartiality declaration in the matter of 85 Duke Street: "As a consequence of the owner being a work colleague at the Department of Health, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

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

By Gemma Basley, Town Planner on 12 January 2012 and Pina Mastrodomenico, Town Planner on 2 February 2012

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for the construction of a studio, store room and a pergola in the rear yard of No. 85 Duke Street, East Fremantle.

The application seeks a discretion to the requirements of Council's Local Planning Policy No. 142 with regard to constructing a boundary wall that is longer than permitted. The application also proposes a reduced setback to the rear boundary.

As such the application is presented to Council for determination and is recommended for approval.

BACKGROUND

Description of Proposal

The application proposes to construct a studio for ancillary accommodation with an attached storage room and pergola. The application proposes to construct a parapet wall on the southern boundary to maximise access to the northern sun.

Description of site

The subject site is:

- a 508m² block
- zoned Residential R20
- developed with a heritage dwelling

Statutory Considerations

Town Planning Scheme No. 3
Local Planning Strategy – Plympton Precinct (LPS)
R20 Residential Design Codes (RDC)
C+ Management Category on Municipal Heritage Inventory

Relevant Council Policies

LP Policy No. 142: Residential Development

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 19 December 2011

Date Application Received

19 December 2011

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

20 May 2003 Council exercises its discretion and approves the enclosure of the rear verandah to accommodate a kitchen/dining room.

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Advertising

The application was advertised to adjoining neighbours for a two week period between the 23 December 2011 and the 13 January 2012. During the advertising period one submission was received and is summarised below.

REQUIREMENT	PROPOSED	PLANNING OFFICER COMMENTS
<p>LPP142 - Residential Development <u>Roof materials</u> Zinalume permitted under LPP No.66 – Council Policy on Roofing</p>	Zinalume	Supported – The neighbouring property has expressed concerns over the proposed zinalume roof, however it is permitted under LPP No.66 and the proposed 10 degree roof pitch is not considered to impact the neighbouring property.
<p>R-Codes <u>Rear Boundary Setback</u> 1.5m to Kitchenette/Bedroom</p> <p><u>Eaves Overhang</u> No closer than 0.75 metre to a boundary</p> <p><u>Visual Privacy</u> No major openings above 0.5 metre</p>	<p>1.0 metre</p> <p>0.6 metre</p> <p>No major openings above 0.5 metre</p>	<p>Condition setback to 1.5 metres – It is recommended that the rear boundary setback be increased to required 1.5 metres to comply with the Residential Design Codes. There is ample land area to the rear of 85 Duke Street for the studio to be setback the required 1.5 metres.</p> <p>Noted – The neighbouring property has expressed concerns over the setback to the eaves to the western boundary. The applicant has stated that they will amend the eaves to 0.45 metre and therefore will have a setback of 0.55 metre from the boundary with the wall being setback at the proposed 1.0m. However it is recommended that the wall be setback 1.5 metres in accordance with the R Codes and therefore the eaves will comply with the 0.75 metre setback.</p> <p>Noted - The proposed studio is single storey and any major openings will be screened by the existing 1.8 metre fence and therefore complies with the Visual Privacy requirements of the Residential Design Codes.</p>

Town Planning Advisory Panel

The subject application was not considered by the Town Planning Advisory Panel because of it being ancillary development in the rear yard of the property which will not be visible from the street.

Site Inspection

By Town Planner on 11 January 2012

STATISTICS

Site:	Required	Proposed	Status
Open Space	50%	65%	A
Site Works	Less than 500mm	Less than 500 mm	A
Local Planning Policies:	Issues		
Policy 142	Boundary Wall discretion		D
Roof	Not dominant pitch & behind the main house		A
Solar Access & Shade	Designed to maximise access to northern		A
Drainage	To be conditioned		A
Views	No impacts		A
Crossover	No crossover		A
Trees	Large trees in the centre of the lot are to be retained		

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Other:		Issues				Status		
Overshadowing		Minor overshadowing of adjoining lot but within the acceptable development requirements of the R-Codes.				A		
Privacy/Overlooking		No impacts				A		
Height:		Required		Proposed		Status		
Wall		3m		3m maximum		A		
Ridge		6m		3.9m		A		
Roof type		Skillion						
Setbacks:								
Wall Orientation	Wall Type	Wall height	Wall length	Major	Required	Proposed Setback	Status	
Front (east)								
	<i>Ground</i>	<i>Store</i>	3m	4.5m	No	6.0	30m+	A
Rear (west)								
	Ground	Studio	2.8m	11.2	Yes	1.5	1.02	D
Side (north)								
	<i>Ground</i>	<i>WC</i>	2.8	1.78	No	1.0	1.045	A
		<i>Bedroom</i>	2.8	3.053	Yes	1.5	2.0	A
Side (south)								
	Ground	Boundary Wall	3.0	9.7	No	1.5	0.025m	D

ASSESSMENT

Planning Approval is sought for the construction of a studio for ancillary accommodation in the rear yard of 85 Duke Street. The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of minor discretions which are detailed and assessed below.

Ancillary Accommodation

The proposed development will not impact on the streetscape presentation of the heritage residence because it is at the rear of the house and is removed from streetscape view.

The applicant has confirmed that the studio will only be utilised by the number of family residing at 85 Duke Street, which is a small house comprising only 2 bedrooms. The studio will be used as a third bedroom and is not intended for short stay or rental accommodation. A condition is included in the recommendation to restrict the use of the proposed development to ancillary accommodation for family members.

The application is being assessed as ancillary accommodation because it is for a studio (accommodation) that is ancillary to the main residence. Ancillary accommodation is provided for under the R-Codes and is considered to be acceptable development within the residential zone where the following applies:

- *the sole occupant or occupants are members of the family of the occupiers of the main dwelling;*
- *the lot is not less than 450 sq m in area;*
- *the open space requirements of table 1 are met;*
- *there is a maximum floor area of 60 sq m; and*
- *one additional car space is provided.*

The application satisfies the above criteria with the exception of providing an additional parking bay. No. 85 Duke Street does not currently have any on-site parking and the two vehicles are parked on the street. The applicant advises that the construction of the studio (bedroom 3) will not result in any additional vehicle movements to and from the site because the studio will be used by one of the children that live in the existing residence. The applicants further advise that it is not practical to provide on-site parking because of the narrowness of the lot (12.27 metre frontage) and because of the width of

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the residence which prevents vehicle access along the side of the residence. The residence has been constructed with a setback of 4 metres to the front boundary, which is not sufficient in area or dimension to park any additional vehicles. In addition to this, the site is in the order of 1 to 1.5 metres higher than the road pavement making access impractical.

Based on the above it is considered that the proposed studio satisfies the performance criteria of the R-Codes with regard to ancillary accommodation which requires the following:

"Ancillary dwellings that accommodate the needs of large and extended families without compromising the amenity of the adjoining properties."

A condition has been included in the Recommendation to restrict the use of the proposed studio.

Building on the Boundary

The application proposes to construct a boundary wall on the southern boundary of the site. The site is coded R20 and as such the R-Codes only permit the following in relation to boundary walls:

- "i Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension; or*
- ii In areas coded R20 and R25, walls not higher than 3 m with an average of 2.7 m up to 9 m in length up to one side boundary only;"*

Council's Local Planning Policy No. 142 provides for the construction of residences with walls situated closer to the boundary than permitted by the R-Codes where the following can be observed:

- "(a) Walls are not higher than 3m and up to 9m in length up to one side boundary;*
- (b) Walls are behind the main dwelling;*
- (c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;*
- (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*
- (e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions."*

The proposed nil setback to the side (southern) boundary satisfies the above criteria as demonstrated below:

- the maximum height of the boundary wall on the northern boundary is 3.0 metres;
- the length of the boundary wall is 9.6 metres long which exceeds the 9 metre limit. This is considered to be acceptable based on the overall length of the lot being 41.5 metres long and based on the wall being in the rear yard and separate to the residence.
- the construction of a boundary wall on the southern boundary will result in a minor increase in the overshadowing of the adjoining property but does not exceed the overshadowing provision of the R-Codes; and
- the proposed boundary wall will not be visible from the street.

Based on the above and taking into account that there was no objection from the southern neighbour the discretion to allow a boundary wall with a length of 9.5 metres along the southern boundary is supported.

Boundary Setback

As identified in the Statistics section of this report the application seeks a boundary setback discretion of 0.48 metres to the western/rear boundary.

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An objection has been received from the neighbouring (rear) property at 100 King Street in relation to the rear setback variation. It is recommended that the setback be increased to the required 1.5 metres due to the following reasons:

- The ancillary dwelling proposes major openings to the west;
- The existing ground level sits approximately 0.5 metres higher than the dwelling at 100 King Street; and
- There is ample land area to the rear of 85 Duke Street for the studio to be setback the required 1.5 metres.

It is therefore recommended that the rear setback be conditioned to 1.5 metres.

CONCLUSION

The application proposes to construct a studio and store room in the rear yard of No. 85 Duke Street specifically to create an additional bedroom for the existing family which reside in the residence. The applicants have demonstrated that the construction of the studio will not result in any additional vehicle movements/numbers to and from the site and as such additional parking is not considered to be necessary.

Given that the proposal meets the majority of the acceptable development provisions of the R-Codes, TPS No. 3 and applicable Local Planning Policies and only minor discretions are required the proposal is supported and recommended for approval.

RECOMMENDATION

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

1. The ancillary accommodation shall not be leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
7. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. This planning approval to remain valid for a period of 24 months from date of this approval.
9. The western (rear) setback shall be increased to 1.5 metres in accordance with the setback requirements of the Residential Design Codes.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*

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- (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 Salvage (owner) addressed the meeting in support of the officer's recommendation.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

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

1. The ancillary accommodation shall not be leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
7. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. This planning approval to remain valid for a period of 24 months from date of this approval.
9. The western (rear) setback shall be increased to 1.5 metres in accordance with the setback requirements of the Residential Design Codes.

Footnote:

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

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

CARRIED

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T11.4 Dalgety Street No. 71B (Lot 2 on Survey-Strata Plan 2032)

Applicant: Ivan Kekez & Jadranka Matijas

Owner: Ivan Kekez & Jadranka Matijas

Application No. P177/11

By Carly Pidco, Town Planner, on 6 February 2012

PURPOSE OF THIS REPORT

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

BACKGROUND

Description of site

The subject site is:

- a 574m² vacant survey strata lot
- zoned Residential 12.5
- located in the Woodside Precinct
- encumbered by a party wall easement along the northern boundary of the lot

Statutory Considerations

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

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)

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

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamped received on 10 November 2011

Date Application Received

10 November 2011

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

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

22 July 2008
12 April 2011

WAPC Ref 684-08 Approval subject to conditions
Demolition Licences issued for 71A & 71B Dalgety Street (Nos
2011055 & 2011056)

CONSULTATION

Advertising

The proposed development was advertised to surrounding neighbours from 21 December 2011 to 13 January 2012. One submission was received from the owners of 73A Dalgety Street, which abuts the western portion of the southern boundary of the subject site. The submitter raises concerns that privacy in their living areas and swimming pool will be compromised by the western window to the master bedroom (Bed 4). The submitter requests that the window be redesigned to be a hi-lite window or have a minimum sill height of 1600mm.

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

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

The subject window is not considered a major opening as it is less than 1m² in area and glazed in obscured glass. Accordingly, the privacy requirements of the Residential Design Codes do not apply. The window by virtue of its size and construction it is unlikely to have a negative impact on the privacy of adjoining neighbours as it will not be visually permeable. It would be overly arduous to require the applicant to redesign the window when there is no inconsistency with the Residential Design Codes.

Town Planning Advisory Panel Comments

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

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

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

Site Inspection

By Town Planner on 9 December 2011.

ASSESSMENT

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

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

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	57.8%	A
Site Works	Less than 500mm	Less than 500mm in front setback	A
Local Planning Policies:			
Policy 143	Greater setback than surrounding properties. Parapet walls to two side boundaries.		D
Roof	Gable roof; 35 degrees; Zinalume roof – apply standard condition		A
Solar Access & Shade	Building orientation and window design reflect climate sensitive design principles.		A
Drainage	To be conditioned		A
Views	Complies with maximum height		A
Crossover	5m crossover proposed		D
Trees	Verge tree to be retained.		A
Other:			
Overshadowing	24.3% on adjoining Lot 2; 17.7% on adjoining Lot 1		A
Privacy/Overlooking	Alfresco intrudes 6m into the cone of vision on the southern boundary		D

Height:	Required	Proposed	Status
Wall	6.0 (no views)	7.5m	D
Ridge	9.0 (no views)	9.6m	D
Roof type	Gable Roof		

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

* Wall length as calculated for assessment purposes

Privacy Requirements

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

Building Height

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

Front Setback

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

Side and Rear Setbacks

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

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

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

- *Walls are behind the main dwelling*

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

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

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

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

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

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

Crossover

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

Existing Party Wall Easement

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

Garden Shed (Outbuilding)

The applicant has requested that the garden shed be considered as part of this development application, although no elevations have been provided. As the shed is located behind the main dwelling and will not be visible from the street, it is not necessary to consider materials and finishings as part of a development approval. The site plan shows the location of the shed and states that the maximum wall height will be 2.4m. Neighbours have had the opportunity to view the plans with this information and no objections to the shed have been received. Elevations are not considered necessary under these circumstances. The ridge height of the shed has not been provided, however. It is recommended that a condition specifying the maximum permitted roof height for the shed, in keeping with the R-Codes provisions for single-storey development, be applied.

CONCLUSION

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

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

RECOMMENDATION

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

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

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

1. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
2. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
3. Prior to the issue of a building licence, revised plans being submitted and accepted demonstrating increased dimensions to the eastern window to Bed 4, to the satisfaction of the Chief Executive Officer.
4. A detailed schedule of external materials and finishings (including paint colours) to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer.
5. The proposed Garden Shed is to be in complete accordance with the height requirements for "Category A" development specified in the Residential Design Codes of Western Australia.
6. Prior to the issue of a building licence, the existing party wall easement to be extinguished to the satisfaction of the Chief Executive Officer.
7. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where

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- varied in compliance with the conditions of this planning approval or with Council's further approval.
8. The proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 9. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 10. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 11. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 12. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 13. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
 15. 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.
 16. 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.
 17. 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.
 18. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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

Mr Lucas (adjoining owner) addressed the meeting advising that although not indicated on the plan he had viewed, the officer's report advised that a bedroom window he had expressed concern regarding overlooking, would be obscure glazed.

The Acting Town Planner advised that on page 2 of the report under "Advertising" the western window to Bedroom 4 should have read Bedroom 1.

Discussion took place on the window in question and elected members sought further clarification.

Cr Collinson voiced his strong opposition to the proposed double garage.

Mayor Ferris – Cr de Jong

That the application be deferred to the Council Meeting pending further clarification of the window proposed to be obscure glazed. CARRIED

Cr Wilson made the following impartiality declaration in the matter of 15 Pier Street: "As a consequence of the owners being known to me as friends, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

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

Applicant: Coastview Australia T/A Riverstone Construction

Owner: Ian Monkhouse & Fiona McAlpine Monkhouse

Application No. P174/11

By Carly Pidco, Town Planner, on 3 February 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of a two-storey single dwelling at No. 15 Pier Street, East Fremantle.

BACKGROUND

Description of site

The subject site is:

- a 931m² vacant green title lot
- zoned Residential 12.5
- located in the Richmond Hill Precinct

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)

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Local Planning Policy No. 143 : Policy on Local Laws Relating to Fencing (LPP143)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : To be widened
Footpath : New crossover, existing crossover to be removed and footpath reinstated
Streetscape : New dwelling

Documentation

Plans and relevant forms date stamped received on 4 November 2011
Revised plans date stamped received on 14 December 2011

Date Application Received

4 November 2011

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

17 December 2002 Council resolves to advise the WAPC that it does not support a proposed survey strata subdivision (WAPC Ref. 120720) of Lot 192.
6 January 2003 WAPC issues conditional approval for the proposed survey strata subdivision.
3 March 2009 Council receives a request from the landowner to rezone Lot 192 from R12.5 to R25.
21 April 2009 Council resolves to initiate an amendment to rezone Lot 192 from R12.5 to R25, subject to the applicant submitting the required documentation.
3 November 2009 Amendment documents lodged with Council.
11 November 2009 Demolition Licence issued for demolition of existing single dwelling.
25 May 2010 Council resolves to submit the amendment documents to the WAPC and Minister for final approval.
2 March 2011 WAPC advises Council that the Minister for Planning has refused to grant final approval for the amendment.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 21 December 2011 to 13 January 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 31 January 2012. The Panel supports the application.

Site Inspection

By Town Planner on 30 January 2012.

ASSESSMENT

The proposed dwelling is a two-storey single dwelling of brick and tile construction. The proposal incorporates a number of variations to the Residential Design Codes

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	55%	71%	A
Site Works	Less than 500mm	Excavation up to 1.5m in front setback	D
Local Planning Policies:	Issues		
Policy 142	Exceeds maximum wall height		
Policy 66 Roof	Concealed roof. No pitched roof visible from street.		D

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Policy 143 Fencing	Complies	A
Solar Access & Shade	Orientated to maximise solar access	A
Drainage	To be conditioned	A
Views	Exceeds maximum wall height	D
Crossover	To be removed and relocated. 3.64m width.	D
Trees	Verge tree to be retained.	A
Other:	Issues	Status
Overshadowing	No impacts on adjoining lots (north facing, significant rear setback)	A
Privacy/Overlooking	1.5m intrusion east of balcony. Remaining major openings to upper level screened min 1.6m.	D
Height:	Required	Proposed
Wall (concealed roof)	6.5m	Max 6.7m
Ridge	N/A	N/A
Roof type	Concealed Roof	N/A

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (north)							
Ground	Dwelling	N/A	N/A	N/A	7.5	7.5	A
Upper	Dwelling	N/A	N/A	N/A	7.5	7.5	A
Rear (south)							
Ground	Dwelling	N/A	N/A	N/A	6	12.2	A
Upper	Dwelling	N/A	N/A	N/A	6	12.2	A
Side (east)							
Ground	Alfresco	2.6	4.3	N	1.0	3.0	A
	Bed 2 / Bath / Laundry	2.2	10.9	N	1.5	1.7	A
	Balance of dwelling	2.9	26.5	Y	1.5	3.2	A
Upper	BBQ / Kitchen / Scullery	6.1	11.0	N	1.5	1.7	A
	Alfresco 2	4.9	1.3	Y	2.3	2.7	A
	Balance of dwelling	6.1	26.5	N	2.8	4.0	A
Side (west)							
Ground	Garage	3.4	8.7	N	1.0	2.1	A
	Balance of dwelling	3.3	26.5	Y	1.5	4.9	A
Upper	Office	6.6	4.3	N	1.2	3.1	A
	Balance of dwelling	6.7	26.5	N	2.8	4.9	A
	Balcony	6.6	5.0*	Y	3.3	9.0	A

* Wall length as calculated for assessment purposes

Excavation in Front Setback

The lot slopes from front to rear, with a natural ground level variation of approximately 3.5m. The applicant has chosen to excavate in the front of the lot to achieve a FFL roughly in the middle of this range. By bringing the highest portion of the slope lower, rather than the lower portion higher, the applicant has minimised the impact of the development on neighbours' views and the streetscape.

Roof Form

The LPP No. 66 specifies gable, hip or skillion roof forms with dominant elements greater than 28 degrees in pitch. The proposed concealed roof is not consistent with these provisions, although it does compliment the distinct style of the dwelling. It should be noted that development in the immediate surrounds of the site is highly varied, including inter-war bungalows, 1960s/70s brick dwellings and contemporary two-storey dwellings. The intent of the LPP is to "maintain the traditional historic character of the Town". The area surrounding the proposed dwelling does not display in-tact historic character, however, and the proposed concealed roof will not detract from the character of the area.

Privacy Requirements

The rear Balcony incorporates a variation to the privacy setback requirements of the R-Codes along the eastern boundary. The intrusion does not occur from the eastern wall, which is screened to 1.6m high, but from the southern wall. The intrusion is minor (1.5m)

and being at an angle, rather than directly overlooking, will have a minimal impact. The area overlooked is a driveway and the affected landowner has not lodged an objection during the comment period. The proposed variation is not considered to have an undue impact on the affected landowner and the variation is therefore supported.

Building Height

The Town's LPP No. 142 varies the maximum building height requirements of the R-Codes from 7m to the top of an external wall (concealed roof) to 6.5m. The main western wall of the development (with NGL being measured from the boundary as per TPS No. 3) is 6.7m at the highest point. This is a minor variation resulting from a level change on the site and the slope of surrounding properties, as opposed to a significant overall increase in height. The impact of the height variation is also lessened when considering there is no visible roof on top, which would add to the overall impression of bulk. Part 4 of the LPP No. 142 requires the Council to have due regard to the impact of a height variation on views from adjoining properties. The key views from this portion of Pier Street are towards the north and west. The point of the height variation will not obscure views from properties looking over the subject site to the north and west.

Crossover

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

CONCLUSION

The proposed development is consistent with the objectives of the residential zone. Several variations to the Town's Local Planning Policies and the R-Codes are being proposed, relating to visual privacy requirements, wall height, roof form, site works and crossover width. With the exception of crossover width, the variations being sought are not likely to have an undue impact on the amenity or views of neighbouring properties or the character of the streetscape. The proposed increased crossover width is not necessary for safe ingress/egress to the property and not consistent with the streetscape. It is recommended that the applicant/owner be required to comply with the Town's crossover requirements, but the other variations be supported.

RECOMMENDATION

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

- (a) vary the wall height requirements of the Local Planning Policy No. 142 Residential Development to permit a maximum wall height of 6.7m as depicted on the submitted plans;
- (b) vary the roof form requirements of the Local Planning Policy No. 66 Roofing to permit a concealed roof form to the dwelling;
- (c) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the major opening to the southern wall of the rear Balcony to intrude 1.6m over the eastern boundary; and
- (d) vary the site works requirements of the Residential Design Codes of Western Australia to permit excavation in the front setback area up to 1.5m;

for the construction of a single dwelling at No. 15 (Lot 192) Pier Street, East Fremantle, in accordance with the plans date stamped received on 24 October 2011 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

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3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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\$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air-Conditioner Noise”

Ms Wainwright (Riverstone Construction) addressed the meeting in support of the officer's recommendation and answered queries from elected members in relation to the proposed cone of vision discretion from the rear balcony and the crossover width.

RECOMMENDATION TO COUNCIL

Cr Nardi – Mayor Ferris

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

- (a) vary the wall height requirements of the Local Planning Policy No. 142 Residential Development to permit a maximum wall height of 6.7m as depicted on the submitted plans;**
 - (b) vary the roof form requirements of the Local Planning Policy No. 66 Roofing to permit a concealed roof form to the dwelling;**
 - (c) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the major opening to the southern wall of the rear Balcony to intrude 1.6m over the eastern boundary; and**
 - (d) vary the site works requirements of the Residential Design Codes of Western Australia to permit excavation in the front setback area up to 1.5m;**
- for the construction of a single dwelling at No. 15 (Lot 192) Pier Street, East Fremantle, in accordance with the plans date stamped received on 24 October 2011 subject to the following conditions:**

- 1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. The proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 4. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 5. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 7. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.**
- 8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without**

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limitation any works associated with the proposal) which are required by another statutory or public authority.

9. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

Cr Martin made the following impartiality declaration in the matter of 56A Pier & 10 Peshurst Street: "As a consequence of one of the objectors, Richard Longley, and his family being acquaintances of mine, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T11.6 Pier Street No. 56A & Peshurst Street No. 10

Applicant: ADM Group

Owner: Stuart Clarke

Application No. P150/2010

By Gemma Basley Town Planner on 6 February 2011, Jamie Douglas Manager Planning Services on 9 February 2012

PURPOSE OF THIS REPORT

This Report considers an application for Planning Approval to construct two new two storey residences, each with an undercroft area on a corner lot at No. 10 Peshurst and No 56A Pier Street, and recommends conditional approval.

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BACKGROUND

Description of proposal

The application proposes the following:

- a two storey residence on the corner lot (Lot 1) comprising an undercroft cellar/plant room; a double garage, sunroom, two bedrooms, sunroom and entry on the ground floor; and a kitchen, dining, study, master bedroom and a large balcony on the upper floor; and with access and frontage to Penshurst Street
- a two storey residence on the eastern lot (Lot 2) comprising an undercroft garage to hold 4 cars and a cellar/plant/workshop, a sitting room, entry, laundry, 3 bedrooms and an alfresco area on the ground floor; and a kitchen, dining, living room, master bedroom and a large balcony on the upper floor; and with access and frontage to Pier Street

The application deals with a topographically challenging site which has a 3 metre fall from north to south and a further 4 metre fall across the verge area. The applicants have submitted a number of revised plans which have responded partially to submissions received from the Town Planning Advisory Panel and from the public advertising period. The plans that are the subject of this report (date stamped received 11 January 2012) are the most site responsive plans that have been prepared for the property and are considered to be suitable for determination.

Statutory Requirements

Town Planning Scheme No 3 (TPS 3) – Residential R30
Local Planning Strategy – Richmond Hill Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 – Roofing (LPP 066)
Local Planning Policy 142 – Residential Development (LPP 142)

Documentation

Plans date stamp received on the 14 September 2011

Date Application Received

31 August 2010

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

- | | |
|-------------------|---|
| 16 November 2004 | Council resolved to advise the Western Australian Planning Commission (WAPC) that the survey strata application for Lot 1 (No 10 Penshurst) is not supported on the grounds that it is contrary to the requirements of draft Town Planning Scheme No. 3. Council's resolution also included recommended conditions of approval should the WAPC decide to approve the survey strata. |
| 1 December 2004 | WAPC grants conditional subdivision approval. |
| 10 September 2007 | Demolition Licence BL 07/222 issued to demolish the original residence. |
| 19 November 2007 | WAPC resolves to endorse its approval of the survey strata application. |
| 17 November 2011 | Applicant agrees to extend the determination period of the application. |

CONSULTATION

Advertising

The application has been advertised to adjoining neighbours on 3 occasions for a two week period between the 8 September and the 27 September 2010, the 7 February to the 22 February 2011 and finally between the 12 and the 26 August 2011.

Submissions were received from 3 surrounding landowners each time the application was advertised. A summary of the submissions will be detailed and responded to below.

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Summary of Issue/Comment	Response
<p>Access to the proposed eastern most house (Lot 2) should be from Peshurst Street in order to retain the existing street setback along Pier Street and to negate the need for any cut into the natural limestone escarpment which is within the verge area of Lot 2.</p>	<p>The WAPC has approved a survey strata and new titles have been created. Lot 1 being 10 Peshurst Street has been created as a corner lot with frontage to both Pier and Peshurst Streets. Lot 2 being 56A Pier Street has been created with sole frontage to Pier Street. The applicants have been requested to consider amending the survey strata to create a battleaxe access for Lot 2 but they have declined this request. Council cannot deny road access to a lot once it has been created.</p> <p>Under the R20 requirements the R-Codes require a 6 metre setback to the primary street and a 1.5 metre to the secondary street. The application provides for this.</p> <p>Council's Local Planning Policy No. 142 requires that buildings be setback such a distance as is generally consistent with the building setback on adjoining land and in the immediate locality.</p> <p>Existing development on the eastern side of Peshurst has varying setbacks to the street (north of Pier Street ranging from 3 to 12 metres) and most significantly No. 12 and 14 Peshurst which adjoin to the north have constructed/approved a setback of between 6.5 metres and 8 metres, respectively.</p> <p>The setbacks along Pier Street (north of the road) ranges between 6.5 metres to 14 metres (adjoining site 56 Pier Street)</p>
<p>Unsympathetic relationship with existing buildings in both streets.</p> <ul style="list-style-type: none"> - Scale of the proposed buildings is not in keeping with the established built environment. - Height variance should not be given to 56a Pier. - Given the variance in ground level between the north and south of Pier St, the proposed residences would dwarf buildings opposite. - Overlooking from upper level into residences opposite (Pier St, particularly 67). 	<ul style="list-style-type: none"> - The subdivision of the original lot into two lots at the R20 density has resulted in a higher density of development to surrounding lots which are developed at the R12.5 density. - Residences of a similar scale have been approved and constructed in both streets. - The size of the proposed residences has been reduced and only a 0.25% variation to the site cover/open space requirements of the Codes are being pursued in the revised plans. - The revised plans have lowered the height considerably and no height variations are being pursued and in fact the revised plans have resulted in parts of the residences being under the permitted wall and ridge height. - It is considered that any development that occurs on the site will give the impression of dwarfing the buildings on the south side. This is a result of the site being so elevated. - Overlooking is assessed against the requirements of the R-Codes which require a 7.5 metre cone of vision to be provided between a balcony area and a lot boundary and/or a habitable room/outdoor living area on a neighbouring property. The cone of vision when applied to the proposed balconies will fall on the verge area and will not encroach into the habitable or living areas of the properties to the south of Pier Street or the west side of Peshurst Street.

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<p>Impact of swimming pool to Pier street (56a)</p> <ul style="list-style-type: none"> - 7m above street level with fence, will be 'imposing and intrusive'. - Too close to boundaries/too high above the street. - Noise to carry to the living/front yard of residence opposite. 	<p>The revised plans have lowered the FFL's of both pools to minimise retaining and to minimise the view of the pool from the street.</p> <p>The application does not provide sufficient information about the proposed pools and as such the swimming pool will not form part of this approval and the applicant will be required to apply for these separately.</p>
<p>Damage to the limestone hill that forms the verge on the northern side of Pier St (via the proposed driveway and retaining). Council land, request that it is refused and entry required from Penshurst St.</p>	<p>An engineering report has been submitted by the applicants and is attached to this report. The report indicates that there will be no retaining requirements for the residual natural sloping area located in the verge area of Lot 2. The escarpment will be cut and retained internally with the slope on either side of the crossover and driveway remaining as a natural slope.</p> <p>This is a significant change to earlier plans which proposed a series of mass retaining walls within the verge area.</p>
<p>Opposition to the portico directly on the southern boundary to Pier St, (56a, revised plans).</p>	<p>The portico/gatehouse is assessed as being development within the front setback area</p>
<p>Concern for noise problems to Pier St from the 'plant room' located within the undercroft.</p>	<p>The approval will be conditioned to comply with the Noise Regulations of WA.</p>
<p>Request for setback regulations to be enforced upon the balcony at 56a Pier (to reduce overlooking).</p>	<p>The balcony is set back in accordance with the requirements of the R-Codes.</p>
<p>Negative impact on the character of the area as a result of the scale/density of the proposed development.</p>	<p>As above the subdivision of the site at a R20 density within a R12.5 area is the basis for this. The density of development is permitted under TPS No. 3.</p>
<p>Hazard created by vehicular access to Pier St (opposite two other driveways and near the corner).</p>	<p>The proposed crossover is set back sufficiently from the intersection and crossovers are often opposite other crossovers. The access to Lot 2 satisfies the requirements of the R-Codes.</p>

A number of the objections and submissions lodged by property owners on the south (and lower) side of Pier Street are a result of the application area being elevated above Pier Street and the residences on the lower side of the road feeling 'dwarfed'. The applicants have revised their plans considerably to reduce the overall height and size of the building and the extent of proposed retaining and fill. This aside, it is assessed that some residents will still have concerns and will feel dwarfed by the proposed residences.

Town Planning Advisory Panel Comments

The Panel viewed the proposal initially at its meeting of Tuesday 28 September 2010 where the following comments were made:

- Building Height discretions not supported – height to comply.
- Details of pool required.
- NGL as defined under R-Codes accepted method of measuring height and not from the top of the retaining wall.
- Lot 2 (eastern lot) – inappropriate location of powder room on front elevation.

In response to the Panel's comments, the applicant submitted revised plans which were presented to the TPAP at its meeting of 22 February 2011. The Panel made the following comments in relation to the revised plans:

- Design does not address topography of the site.
- Development on the corner lot should be drawn back to adhere with the established built line to Pier Street.

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- The proposed retaining wall and terrace within the road reserve are a discordant element and are outside the scope of this proposal.
- Balcony design is supported and celebrates the corner site.

The Applicants submitted further revised plans which were presented to the Panel at its meeting of 24 May 2011 where the following comments were made:

- Panel appreciates deletion of earthworks and retaining on Pier Street.
- Query materials and finishes.
- Materials and finishes required to distinguish both dwellings as separate houses.
- Update 3D and streetscape elevations indicating changes to earthworks etc required.
- Fencing details required.

The applicants submitted a further set of revised plans and engineering advice that were considered by the Panel at its meeting of the 22 August 2011. The following comments were made in relation to the revised plans:

- Panel appreciates general retention of existing topography to the verge/streetscape.
- Panel supports amended application

It is assessed that the final revised plans have addressed all of the earlier Panel comments and that the plan being presented to Council for determination are considered to be suitable for determination.

STATISTICS 10 PENSURST STREET (LOT 1)

Site:	Required	Proposed	Status					
Open Space	50%	49.75%	A					
Site Works	Less than 500mm	700mm	D					
Local Planning Policies:	Issues							
Policy 142	Garage in line with veranda and balcony above		A					
Roof	Pitched. Condition to be imposed to require major dominant elements of the roof be a minimum of 28°.		A					
Solar Access & Shade	Sunroom and upper floor area maximise access to northern sun and alfresco area at the front and balcony maximise the afternoon shade.		A					
Drainage	No soak well or drainage details. Condition to be imposed.		A					
Views	Building heights prescribed in LPP 142 have been complied with. In addition, the proposed residences will not obscure any surrounding views.		A					
Crossover	To be conditioned		A					
Trees	Site has been cleared of all vegetation		A					
Other:	Issues		Status					
Overshadowing	The lot has a north south orientation and is bordered by Pier Street to the south. As such any overshadowing that will arise from the proposed development will be cast upon the road verge and will not impact the surrounding residences.		A					
Privacy/Overlooking	Upper floor Kitchen and Living Room windows will overlook the vacant property to the north (12 Penshurst).		D					
Height:	Required	Proposed	Status					
Wall	5.6m	4.6 to 5.2 m	A					
Ridge	8.1m	6.6 to 7.8 m	A					
Roof type	Pitched/Skillion/Concealed							
Setbacks:								
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status	
Front (West)								
	<i>Undercroft</i>	<i>Plant Room</i>	-2.57	7.05	No	6.0	7.5	A
	<i>Ground</i>	<i>Garage/Bed</i>	2.57	10.9	No	6.0	7.5	A
		<i>Portico/Alfresco</i>	2.57	8	Yes	6.0	6.0	A
	Upper	Whole	5.31	14.8	Yes	6.0	5.5	D

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Rear (East)							
<i>Undercroft</i>	<i>Cellar</i>	-2.57	7.05	No	1.00	1.8	A
Ground	Whole	2.57	13.4	No	1.5	1 to 1.5	D
<i>Upper</i>	<i>Whole</i>	5.31	3.44	No	1.2	6.8	A
Side (North)							
<i>Undercroft</i>	<i>Cellar</i>	-2.57	10.6	No	1.5	7.3	A
Ground	Garage	2.57	7.15	No	1.0	Nil	D
	<i>Sun Room</i>	2.57	4.03	Yes	1.0	5.7	A
<i>Upper</i>	<i>Kitchen/Living</i>	5.31	9.66	No	1.5	4.0	A
	<i>Library</i>	5.31	3.44	No	1.2	6.8	A
Side (South)							
<i>Undercroft</i>	<i>Cellar/Plant</i>	-2.57	9.3	No	1.5	7.2	A
<i>Ground</i>	<i>Whole</i>	2.57	12.5	Yes	1.5	1.8 to 2.6	A
<i>Upper</i>	<i>Main Bed</i>	5.31	5.05	Yes	1.5	1.5	A
	<i>Balcony</i>	5.31	7.8	Yes	1.5	2.0+	A

STATISTICS 56 PIER STREET (LOT 2)

Site:	Required	Proposed	Status				
Open Space	50%	53%	A				
Site Works	Less than 500mm	1200mm	D				
Local Planning Policies:	Issues						
Policy 142	Garage at main building line and 1 boundary wall only		A				
Roof	Pitched. Condition to be imposed to require major dominant elements of the roof be a minimum of 28 degrees.		A				
Solar Access & Shade	Bedroom, sitting room, kitchen and living areas maximise access to sun and balconies and alfresco areas maximise access to shade,		A				
Drainage	No soak well or drainage details. Condition to be imposed.		A				
Views	Building heights prescribed in LPP 142 have been complied with. In addition, the proposed residences will not obscure any surrounding views.		A				
Crossover	To be conditioned		A				
Trees	Site has been cleared of all vegetation		A				
Other:	Issues		Status				
Overshadowing	The lot has a north south orientation and is bordered by Pier Street to the south. As such any overshadowing that will arise from the proposed development will be cast upon the road verge and will not impact the surrounding residences.		A				
Privacy/Overlooking	Upper floor balcony and living room will overlook the property minimally to the Ne and SE.		A				
Height:	Required	Proposed	Status				
Wall	5.6	5.6 max	A				
Ridge	8.1	7.6 max	A				
Roof type	Pitched						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (South)							
<i>Undercroft</i>	<i>Whole</i>	-3.08	18.5	No	6.0	6 to 7.5	A
Ground	Alfresco	2.74	9.8	Yes	6.0	5.6 to 6.5	D
	<i>Bedroom</i>	2.74	7.2	Yes	6.0	7.5	A
Upper	Balcony	5.31	17	Yes	6.0	5.6 to 6.5	D
Rear (North)							
<i>Undercroft</i>	<i>Whole</i>	-3.08	12.7	No	1.0	2.5	A
<i>Ground</i>	<i>Laundry</i>	2.74	3.95	No	1.0	3.36	A
	<i>Lift</i>	2.74	2.27	No	1.0	3.2	A
	<i>Sitting Room</i>	2.74	4.37	Yes	1.5	5.0	A
<i>Upper</i>	<i>Ensuite</i>	5.31	6.49	No	1.2	3.8	A
	<i>Dining</i>	5.31	4.3	Yes	2.5	5.0	A
	<i>Lift</i>	5.31	2.27	No	1.2	3.2	A

Side (East)							
Undercroft	Whole	-3.08	8.63	No	1.0	0.5	D
Ground	Whole	2.74	9.7	No	1.5	1.5	A
Upper	Whole	5.31	9.8	No	1.5	1.5	A
Side (West)							
Undercroft	Whole	-3.08	12.934	No	1.5	1.2	D
Ground	Laundry	2.74	4.59	No	1.0	1.12	A
	Bath	2.74	2.67	No	1.0	Nil	D
	Bed	2.74	4.0	No	1.0	1.12	A
Upper	Whole	5.31	9.36	No	1.5	1.2	D

ASSESSMENT

The revised design of the two houses has been supported by the Town Planning Advisory Panel. The application has been advertised for public comment receiving numerous objections. The submission of revised plans has addressed a number of the submissions and the objections that have not been addressed in the final plans are over and above the requirements of the R-Codes and Council's LPP's.

The subject application deals with a site which has a 3 metre fall from rear to front and with a verge area which has a further fall of 4 metres across it. A subdivision approval has been issued by the WAPC and has approved Lot 2 with frontage to Pier Street and has shaped the format for the development of the site. The site is considerably elevated above the properties on the south side of Pier Street which already results in the perception of dwarfing the properties to the south. Any development that occurs on these properties is likely to add to this.

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the following elements which will be assessed separately below.

Setback of buildings – Front

The proposed two storey residence on Lot 1 is set back 6.0 metres from the front boundary (Penshurst Street) and satisfies the requirements of the R-Codes. The proposed setback is assessed as satisfying the streetscape requirements of LPP No. 142 and proposes to set the residence consistent with adjoining/nearby residences. The proposed upper floor however is set back only 5.5 metres from the front boundary and does not satisfy the R-Codes requirements. The proposed 0.5 metre incursion of the upper floor into the front setback area is not considered to be a minor incursion as is permitted under the R-Codes for the following reasons:

- the house and balcony is not considered to be a building projection;
- the encroachment exceeds 100% of the upper floor frontage which is in excess of the 20% permitted under the R-Codes.

The applicant has not provided any justification for this reduced setback and it is considered that the design of the residence for Lot 1 should be altered to accommodate the required setback. In this regard it is recommended that the upper floor be required to be set back appropriately in accordance with the following approval condition:

- *the upper floor of the residence on Lot 1 shall be setback a minimum of 6.0 metres from the front lot boundary.*

The proposed two storey residence on Lot 2 is set back 7.0 metres from the front boundary (Pier Street) and satisfies the requirements of the R-Codes. The proposed setback is assessed against the streetscape requirements of LPP No. 142 and proposes to position the residence considerably closer to the front boundary than the residence that adjoins to the east (56a Pier Street) which has a 14 metre setback to the front boundary. All other residences along Pier Street have front setbacks ranging from 4 metres to 7.5 metres and as such the proposed setbacks are considered to be appropriate. The application however proposes to extend the portico and alfresco

forward of the residence which results in them encroaching into the front setback area by 0.5 metres. The incursion of the portico into the front setback area is permitted under the R-Codes. The alfresco however does not meet the 'acceptable development' standards of the R-Codes because it takes up more than 20% of the site's frontage. Accordingly it is assessed under the relevant performance criteria in the R-Codes which require that such incursions do not detract from the character of the streetscape. In this regard it is considered the curved design of the alfresco area (which is mirrored in the upper floor balcony) provides attractive articulation within the building facade and the incursion of these open sided structures into the front setback area is supported because these elements will not be visually intrusive.

Boundary Setbacks

The application proposes a nil setback between the garage and the northern lot boundary of Lot 1 in lieu of the required 1.0 metre setback (R-Codes). The application also proposes a nil setback between the ground floor bathroom of the residence on Lot 2 and the western lot boundary. The R-Codes and Council's LPP No. 142 provides for the construction of a boundary wall up to one boundary subject to it being less than 9 metres in length and 3 metres in height. The proposed garage and bathroom boundary walls satisfy these criteria and are therefore permissible.

The application proposes a reduced setback of between 1.0 metres and 1.5 metres between the upper floor of the residence on Lot 1 and the eastern boundary in lieu of the required 1.6 metre setback. The application also proposes a reduced setback of 1.2 metres in lieu of the required 1.5 metre setback between the upper floor of the residence on Lot 2 and the western lot boundary. Both of these reduced setbacks have been supported by the landowner who owns both lots. The reduced setbacks will not have an adverse impact on the streetscape and are therefore supported.

Open Space

The proposed residence on Lot 1 occupies 50.3% of the site, which provides for 49.7% open space. The R-Codes requires that R20 sites be provided with 50% open space. The 0.3% shortfall in open space equates to 1.278m². The proposed residence for Lot 1 includes a large covered alfresco area, which is open on two sides and in conjunction with the upper floor balcony provides alternative open space.

In this regard the shortfall in open space provision for Lot 1 is supported.

Privacy/Overlooking

The application has not addressed the visual privacy requirements of the R-Codes and proposes to locate unscreened windows closer to the boundary than permitted. The upper floor kitchen windows of the residence on Lot 1 are only setback 4.2 metres from the northern boundary and as such the cone of vision from this window will encroach into the neighbouring property (12 Penshurst). The extent of overlooking from the kitchen and living windows has been assessed as having no impact. This is because Lot 1 is considerably lower than the neighbouring property (12 Penshurst) and because the view from these windows will be restricted by the high and imposing retaining wall which has been built on the boundary between the subject site and 12 Penshurst Street (by the owners of the neighbouring property).

The proposed alfresco area and the upper floor balcony on the residence on Lot 2 have not been screened to satisfy the privacy requirements of the R-Codes. More specifically, the alfresco area and upper floor balcony are setback by between 1.2 and 1.5 metres from the eastern lot boundary and have not been provided with any privacy screening. This would enable a clear view into the neighbouring properties front yard (56a Pier Street), which is to be developed as an outdoor living area accordingly the following condition of approval is proposed:

- *The eastern opening of the alfresco and the balcony areas on Lot 2 to be screened to satisfy the privacy requirements of the R-Codes to the satisfaction of the CEO.*

Overlooking will also occur from the upper floor living room to the east. The extent of overlooking is very minimal and looks into the side setback area of the adjoining residence at 56a Pier Street. It is not considered necessary to screen this opening.

Site Works

The application proposes to retain the front and parts of the side boundaries of both sites by between 1 and 1.5 metres to create a more level front/side yard area. To compensate for the retaining at the front of the site the application also proposes to cut into the rear of the site by up to 1.5 metres to achieve the proposed FFL's. On the basis of the application proposing similar cut and fill, the retaining at the front of the site is considered to be acceptable.

The extent of retaining proposed however is not considered to be warranted and in this regard it is recommended that the proposed retaining at the front of Lot 2 and along the truncation of Lot 1 be reduced in height and that the maximum height of any retaining along the boundaries be restricted to a height of 46.0 metres AHD. This recommendation will assist in addressing concerns raised through the advertising period about the height of the retaining walls and adverse impacts on the bulk and scale of the development.

The proposed site works do not contribute to the overall height of the building but will set the FFL for the future pool (not part of this application). The recommended restriction on the height of retaining walls along the lot boundaries will result in the FFL of the future pools being reduced, which will assist in reducing their visibility to the street and will address a number of neighbours concerns accordingly the following condition of approval is proposed:

- *the proposed retaining at the front of Lot 2 and along the truncation of Lot 1 be reduced in height and that the maximum height of any retaining along the boundaries be restricted to a height of 46.0 metres AHD.*

CONCLUSION

The application deals with a site that is difficult to develop because of its topography constrained and which has a fall of 3.5 metres from front to rear. In addition the site is elevated well above both Pier and Penshurst Street, which contributes to the site being highly visible.

The application proposes to construct two unique residences, the design of which has been supported by the Town Planning Advisory Panel. The design is considered to be appropriate for the site and in particular the curved balcony design on Lot 2. This curved feature softens the presentation of the residence to the corner.

The revised plans that are the subject of this report have progressed significantly since the initial lodgement and the applicants have made a number of amendments to bring the plans more into compliance and to address the concerns raised by the Panel and through public advertising. Whilst the application does seek some minor variations to the 'acceptable development' standards of the R-Codes these are considered to be minor in nature and to be acceptable.

It is therefore considered that the application is suitable for determination and is recommended for approval.

RECOMMENDATION

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

- the incursion of the alfresco and balcony of Lot 2 into the front setback area by 0.5 metres;
- a reduced setback of between 1.0 metres and 1.5 metres between the upper floor of the residence on Lot 1 and the eastern boundary in lieu of the required 1.6 metre setback;

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

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

1. The upper floor of the residence on Lot 1 be setback a minimum of 6.0 metres from the front lot boundary.
2. The eastern opening of the alfresco and the balcony areas on Lot 2 to be screened to satisfy the privacy requirements of the R-Codes to the satisfaction of the CEO.
3. The proposed retaining at the front of Lot 2 and along the truncation of Lot 1 be reduced in height and that the maximum height of any retaining along the boundaries be restricted to a height of 46.0 metres AHD.
4. A schedule of materials and finishes to be submitted prior to the issue of a building licence to the satisfaction of the CEO.
5. This determination does not include approval for the swimming pools and a separate application with the relevant information to be submitted and determined by Council.
6. If it is intended to install air conditioning, prior to the installation of externally mounted air conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air conditioner will comply with the Environmental (Noise) Regulations 1997. (*refer footnote (i) below*)
7. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
8. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
9. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
11. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
13. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
14. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction

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of Council, unless on application, Council approval for the crossover to remain is obtained.

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

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise"*

The Presiding Member read objections to the proposal submitted by Mr & Mrs Hefter (owners of 67 Pier Street) who had been unable to stay until this item had being considered, due to another engagement.

Mr Clark (owner) addressed the meeting in support of his proposal and answered various questions in relation to excavation, access from Peshurst Street, swimming pool fencing, landscaping and the 3D drawings submitted.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

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

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

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

1. **The upper floor of the residence on Lot 1 be setback a minimum of 6.0 metres from the front lot boundary.**
2. **The eastern opening of the alfresco and the balcony areas on Lot 2 to be screened to satisfy the privacy requirements of the R-Codes to the satisfaction of the CEO.**

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3. The proposed retaining at the front of Lot 2 and along the truncation of Lot 1 be reduced in height and that the maximum height of any retaining along the boundaries be restricted to a height of 46.0 metres AHD.
4. A schedule of materials and finishes to be submitted prior to the issue of a building licence to the satisfaction of the CEO.
5. This determination does not include approval for the swimming pools and a separate application with the relevant information to be submitted and determined by Council.
6. If it is intended to install air conditioning, prior to the installation of externally mounted air conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air conditioner will comply with the Environmental (Noise) Regulations 1997. *(refer footnote (i) below)*
7. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
8. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
9. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
10. A landscape plan being submitted to Council's satisfaction for the area between the kerb and lot boundary along the frontage of the subject lot which includes works necessary to prevent damage to the escarpment.
11. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
12. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
13. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
14. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
15. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
16. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.

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Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) under the Environmental Protection (Noise) Regulations 1997, the noise from an air conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

CARRIED

T11.7 Swan Yacht Club - Reserve 27376, 27377 (RSB8)

Application No. P183/11

Applicant: Swan Yacht Club

Owner: Town of East Fremantle

By Jamie Douglas, Manager Planning Services 8 February 2011

BACKGROUND

This report considers an application for the Redevelopment of the Swan Yacht Club. Under the Swan and Canning Rivers Management Act, the Swan River Trust is the responsible planning authority in this instance. However since the subject site is on land reserved for 'Parks and Recreation' and the facility operates under a lease issued by Council, the proponents and the SRT acknowledge that Council should determine its position in respect to the application prior to consideration by the Swan River Trust.

It is recommended that the SRT be advised that Council supports the application subject to a number of conditions.

Statutory Considerations

Part 5 of the Swan River Trust Act

Town of East Fremantle Planning Scheme No. 3

Metropolitan Region Scheme

State Planning Policy 2.6 Coastal Planning Policy

Contaminated Sites Act 2003

Documentation

Amended Plans date stamp received 24 November 2011 and additional information received on 16 December 2011, 19 January 2012 and 2 & 7 February 2012.

DESCRIPTION OF PROPOSED DEVELOPMENT

The applicants advised Council on 24 November 2011 that the initial application lodged by the SYC in January 2011 was withdrawn and that the Club now sought Council's consideration of an amended application for the demolition and replacement of the Club House by an expanded facility.

Subject Site

- The subject site is contained within two reserves totalling 13,556 m² in area.
- Reserve 27376 is vested for the purpose of 'Yacht Club and Club premises'. It is proposed to demolish the existing club house and a portion of the slip yard and site the new club facilities and parking within this reserve. It was originally proposed the area of car parking include that portion of John Tonkin Park which is currently used for overflow parking, skip bin storage and storing of dragon boats etc.

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- Reserve 27377 is vested for the purpose of 'Yacht Club and Free Public Pedestrian Access Way'. It is proposed to demolish the balance of the existing slip yard and utilise this area for al fresco dining and outdoor functions, car parking and the retention of public access along the foreshore.

The proposed developments are contained within the boundaries of the previously established lease area.

Proposed Developments

- The application does not propose any change to the existing 230 boat pens.
- The existing boat slips and associated hard stand area are to be removed.
- The development of a new double storey club house of 2,235 m² floor area.
- Demolition of the existing club house which has a floor area of 1195 m².
- Redevelopment of car park to increase the existing parking of 251 spaces to 286 spaces.
- Landscaping and expansion of external function areas and members facilities from 655m² to 1,100 m².

CONSULTATION

Town Planning Advisory Panel

The Panel considered the application at its meeting on 31 January 2012 and commented as follows:

- Panel supports design of new club premises.
- Landscaping is of paramount importance to softening the appearance of all of the car parking hardstand.
- Consider a reduction in the hardstand bays so that soft landscaping can be increased to buffer interaction between the public access pathways and the club's premises.
- Increase the landscape buffer to all edges of the development particularly the riverside edges to improve overall public amenity to the area which has previously been compromised by the clubs activities.

As stated below within the Assessment section of this report, the applicants have amended the proposed parking site plan and landscape master plan to provide an increased landscape buffer to the site's periphery and the foreshore. It is considered that this amended design is a reasonable balance between enhancement of the public domain surrounding the site and the retention of adequate car parking. Further landscape provisions would reduce parking availability below the threshold considered necessary to service the everyday needs of the Club. However it is considered important that the Club's activities such as boat and trailer storage and casual parking do not "creep" into the landscaped buffer on the periphery of the hardstand area as has happened in the past, to the detriment of the public's enjoyment of the foreshore reserve. Accordingly it is proposed that a condition of any approval should be imposed which contains these activities within the defined hardstand area.

Site Inspections

By Manager Planning Services at various occasions during December 2011 and January 2012.

ASSESSMENT

Landuse

The yacht club is defined as a 'Club Premises' under TPS No.3 however given the subject site is on land designated as a Local Reserve under the Scheme, this landuse is not categorised within the Zoning Table. The use should therefore be considered as an 'unlisted discretionary use' which is subject to Clause 3.4.2 of the Scheme which states as follows:

- "3.4.2 In determining an application for planning approval the local government is to have due regard to -*
- (a) the matters set out in clause 10.2; and*
 - (b) the ultimate purpose intended for the Reserve."*

The proposed development will accommodate at ground floor level – a dining room, bar, members lounge, alfresco/function area and associated administration and service facilities. The first floor will contain a function room/bar and outdoor verandah. The following table summarises the extent of the existing and proposed range of uses

Facility/Use	Existing area (m ²)	Proposed Area (m ²)
Member/Public Facilities -Internal		
Dining Room	190	260
Lounge	NIL	50
Bar	45	70
Club Room	455	650
Total	690	1,030
Internal Service Areas		
Circulation	50	350
Ablutions	120	240
Kitchen and Serving areas	225	485
Administration & storage	110	130
TOTAL	505	1205
Member Facilities - External		
Ground floor Alfresco	350	350
Ground Floor lawn	175	400
First Floor Balcony	130	350
Total	655	1,100

As can be seen from the above table the proposal constitutes a substantial increase in the size of the club facilities and outside dining/function areas. While it is accepted that expansion of the internal service areas will not necessarily increase patronage, the approximate 60% increase in the internal and external areas for patrons leads into question the future role and functions of the proposed facility.

Accordingly, the question was raised with the SYC whether, in effect, the proposal for the redevelopment of the Yacht Club to accommodate a substantial function centre comprised a change of use. In response the proponents have submitted that the primary use of the facilities will remain primarily for yacht club purposes. The current membership of the club is 2,490 and the Club predicts a 20% increase in the membership in the short term arising (in part) from merging with other community based clubs. However, the proposed facilities will better provide for the 12 'special events' per year which the Club is permitted to hold under its current liquor licence. These events provide revenue for the Club and it is submitted by the Club, are necessary for the future financial viability of the club (if membership fees are not increased as an alternative).

Notwithstanding any increases in membership, the ultimate capacity of the existing and proposed facilities is regulated by the requirements of the Health (Public Buildings) Regulations and the conditions of the Club's Liquor Licence. Currently, the maximum capacity of the existing Club House is limited to 517 people (not including people accommodated outside in the terrace/lawn area). The Club submits the potential maximum capacity of the new club house and the associated alfresco areas for 'special events' will be 1,000 persons.

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The Club's involvement in water sports is principally by facilitating the berthing and storage needs for the boating pursuits of its 'ordinary members' (522 boating members) - 230 of which occupy the boat pens, 172 own trailer boats and a further 120 are on a waiting list for a pen. The removal of the boat slips, docking cradles and associated hardstand areas will remove the current boat maintenance facilities which are provided on the site, further reducing support for these boating members.

The club is not involved in organised water sports such as sailing or racing as its principal function – unlike other sailing clubs in water front locations in the metro area. Currently the majority of the Club members (1968 of 2490 total membership) are social members or affiliated from other community clubs. It is anticipated that the predicted membership growth will come mainly from non –boating members since the potential for an increase in boating pens is limited. Accordingly, the clubs association with water sports and boating activities is already not of primary relevance to the majority of its members and this relevance is likely to diminish for the majority of members into the future.

If the Club continues to evolve into primarily an entertainment venue for its growing non-boating membership it is relevant for Council to consider if the foreshore site is appropriate for such a use and if the expanded facilities on the foreshore reserves conflict with the purposes for which these reserves were vested in Council (as required by Clause 3.4.2 of the Scheme). In addition, the existing lease between the Club and the Town requires that the land can only be used "as an active Yacht Club and to use the demised premises for that purpose only". Whilst the proposed new lease stipulates the use to be "Yacht Club and incidental activities usually conducted by an active Yacht Club", both leases give rise to the issue of whether the overriding entertainment/function centre use is in conflict with these lease requirements. However, it is also relevant to note the established landuse of the site, lack of alternative sites within the municipality for an entertainment venue and the 'not-for profit' nature of the organisation behind the development.

Should Council resolve to support the application, it is considered that any approval should have regard to the merit of;

- restricting future commercialisation of all or part of the future operations on the site,
- ensuring the operators remain as a 'not for profit community organisation',
- that the existing access and amenity for the general public in the vicinity of the foreshore is, at the least, not restricted and is preferably, improved.

Proposed Development

The existing Club house has been determined by the applicant's Construction Consultants and Architects to be unsuitable to support the existing and future operations of the Club, and un-economic to re-develop. The existing development is also un-sewered and serviced only by leach drains. The removal of the boat slips and associated hardstand areas will address a current environmental hazard arising in the main from 'anti-foul' marine paint and petroc carbons entering the immediate foreshore and marine environs. Accordingly, the proposal would improve the current environmental performance of the existing operation (see also reference to Contaminated Sites Act below).

The construction of a new Clubroom building adjacent to the existing building would allow Club operations to continue during construction. The existing building would be demolished once the new building was occupied and the site of the existing club rooms would then be redeveloped for car-parking.

The proposed new clubroom is a relatively low aspect 'modernist' style consisting of rendered masonry panels and glazing extending to a flat roofed parapet. The northern elevation facing the foreshore is reminiscent of a pavilion or grandstand with deeply indented glazed walls behind broad ground and first floor covered terraces. The proposed building will have a similar setback and alignment to the existing clubroom however all services areas will be concealed unlike the existing situation. It is considered

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the proposed design will be an improvement in terms of its visual impact from the street and foreshore in comparison to the existing facility. This view is supported by the following comments of the Town Planning Advisory Panel:

- *Panel supports design of new club premises.*
- *Landscaping is of paramount importance to softening the appearance of the entire car parking hardstand.*
- *Consider a reduction in the hardstand bays so that soft landscaping can be increased to buffer interaction between the public access pathways and the club's premises.*
- *Increase the landscape buffer to all edges of the development particularly the riverside edges to improve overall public amenity to the area which has previously been compromised by the clubs activities.*

Access & Car Parking

The application includes a Traffic and Parking report by Riley Consulting. This report concludes:

- *Traffic associated with the increase in users of the facility will have minimal impact to the local road network in terms of operational capacity.*
- *Car parking for the boat pens will be utilised during the morning and will cease by late afternoon. Car parking for events held in the new club premises can be expected to arrive in the early evening, once boat users have gone. It is expected that parking for boat users and attendees at events will operate in a reciprocal manner.*
- *Under normal operations of the club accommodating 850 persons, car parking in accordance with the TPS is provided.*
- *Whilst applying the TPS parking requirement to the boat pens and club facilities in isolation will result in a perceived shortfall of 28 bays, in practice the car park can accommodate 87 more cars than are required under the TPS for the proposed club facilities.*
- *It is expected that normal operation of the club facilities may be used to capacity. It is considered that appropriate levels of parking can be provided on-site to meet the requirements of the TPS. It is concluded that ample parking is available on-site.*

The report's conclusion that the estimated additional 78 traffic movements per hour generated during peak operating times is well within the capacity of Riverside Drive is reasonable and accepted. However, its analysis and conclusions in respect to parking are superficial, contradictory and are not supported by past experience of parking problems during functions conducted on the site.

The Report argues that it is reasonable to presume that car parking on the site will operate on a reciprocal basis between boat users and recreational users of the facilities. The argument for allowing car spaces to be shared between these visitors to the site is based on a survey of parking generation from cars & trailers parked in the boat ramp parking area at Mindarie Marina over three days from 6-8 February 2004. The Report states "*Surveys of boating activity at Mindarie marina showed that car parking associated with boating activities decreased significantly after 2pm and again at 5pm*". Notwithstanding that the age, size, period and type of the survey could not reasonably be accepted as a representative sample, the Report fails to understand that the nature of boating activity between ramp use at Mindarie Keys and the pens at the SYC is different.

Trailer boat users at Mindarie are predominately fisherman in open boats generally less than 24 feet in length. They enter the water early and leave before the onset of the sea breeze (weather conditions for the 3 days in 2004 are not indicated however in February it would be reasonable to expect a strong afternoon sea breeze). The boats occupying the 230 pens at the SYC are motor cruisers which generally exceed of 25 feet and when they leave their berths, leave for extended periods and can accommodate numerous people. Boating activity at the SYC cannot therefore be portrayed as an early morning activity.

In light of the above it is considered the extent of shared parking should be limited to the number of designated spaces for car and trailer parking on site (trailers are parked by

being reversed onto the lawn adjacent to the established parking area). Currently there are 16 and it is proposed there will be 19 such spaces. Therefore 19 spaces have been attributed as being shared by boat users and social club members in the following parking assessment.

TPS No. 3 parking requirements in Schedule 11 for:

- Club Premises is 1 space for every 5 seats or 1 space for every 5 persons the facility is designed to accommodate, whichever is the greater.
- Marina is 1 space for every 2 boat pens/ hard stand bays

As previously indicated, there have been substantial parking problems associated with past functions at the Club where attendance was limited to 850 persons (see for example letter 17 December, 2010 as attached). As a result, the New Years Eve function of 2010 was limited to 600 persons. The application states that the envisaged maximum number of persons attending functions will be 1,000 and there maybe 12 functions a year. Accordingly, the projected maximum number of persons to be accommodated -1,000 is the basis for the following car parking assessment relevant to the provisions of TPS No 3.

Permanent Parking	Existing	Proposed (as amended 7/2/2012)
Car bays	167	176
Car & Trailer bays	16	20
Total	183	196
Overflow Parking		
Spaces in front of Boat sheds	18	20
Grassed area (west of car park)	50	37+26 =63
Total	68	83
	246	279*

The proposal also includes 5 motor cycle bays, 1 taxi bay and 1 bus bay which cannot be acknowledged as car spaces in accordance with the Scheme provisions but nevertheless contribute to the overall parking supply.

TPS No 3 Parking Requirements

1 space for every 5 persons for 1,000 persons = 200 spaces

Marina 1 space for every 2 pens for 230 pens = 115 spaces

Total = 315 spaces

Less 20 trailer /car spaces which can be shared = 295

Total shortfall including overflow parking = 295 -279 = 16 spaces

The above differs from the applicants estimate of parking demand however it should be noted that under the Scheme provisions every car accessing the site will contain 5 persons (in practice most would contain 2) and that on street parking in the vicinity is not available, so these requirements may be conservative. Even if allowances are made that some people will walk, taxi or mini-bus to the site for functions, experience has shown that past functions (which have had considerably less than the proposed maximum number of persons attending) have created parking problems which have been acknowledged by the Club.

It is considered acceptable that the Club be allowed to rely upon the indicated overflow parking (providing this is not to the detriment of landscaping in the affected areas) since this is preferable to creating expansive hardstand car parks to cater for peaks in demand.

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There is also alternative parking options in the vicinity which could be utilised for major functions after daylight hours. However experience has shown that planning for major functions where in excess of 600 persons will be attending the facility at any one time should incorporate traffic and parking management measures to control traffic and direct vehicles to the next available parking option once the adjacent car park is full.

In conclusion it is considered that an on- site parking shortfall is likely to occur when major functions are held. However an exercise of discretion in respect to the number of spaces required on site (shortfall of 16 spaces) is justified, providing conditions of any approval require that, prior to any major function where in excess of 600 persons will be attending the facility, that a parking management plan be approved by Council. It is considered that this is preferable to the alienation of further areas of the Reserve for car parking for major events.

It is noted that the originally proposed on-site parking provisions would require further encroachment of the hardstand car park into public recreation areas and may inhibit foreshore access to the general public. These issues are addressed below.

Landscape Planning

Landscape provisions for the proposal are described in the application documentation as site plan drawing P.04, the Landscape Master Plan at Annexure 7 and Perspectives of Proposed Development at Annexure 8. These plans all had differing landscape components and amended plans were required that showed a consistent, accurate and acceptable landscape design. As discussed below, these were subsequently received.

There were a number of elements in the original landscape proposal which were considered unacceptable, these are summarised below;

- The proposed car park would encroach westward into John Tonkin Park. This area of foreshore reserve is potentially a high amenity, high use portion of the Park although it is currently degraded due to its use for casual parking associated with the Club. Further encroachment onto the foreshore in this area is considered unacceptable, it also requires re-vegetation and landscaping and the establishment of restricted access from the yacht club car park so that overflow car parking in this area occurs only for major events.
- The submission stated that 19 trailer bays would be developed. Although the design did not indicate where these might occur, it is assumed that they would be the 19 bays fronting Riverside Drive to the west of the main entrance. Trailer parking in these bays could only be achieved if the trailers encroached into the vegetated area between the car park boundary and the access driveway within John Tonkin Park. Although this area currently has a retaining wall to the car park and numerous mature sheoaks, if trailer parking was to be achieved in this area it would require filling, retaining, surfacing and the replacement of the existing vegetation with screening plantings along the boundary of the hardstand area and adjacent to the Park driveway.
- The existing foreshore walkway would be bisected by the proposed 3 car spaces and reversing bay in the north west corner of the site. It is not acceptable that the public should have to walk through a car park to enjoy the foreshore pathway. It was thus concluded these spaces should be removed.
- Landscaping should clearly delineate and contain the outdoor licensed area so that patrons using the 'Alfresco lawn area' cannot impede accessibility along the foreshore walkway.
- A landscape buffer of minimum width of 1 metre should be achieved between the edge of the existing foreshore pathway and the car park. In practice, the extent of hardstand areas should be set back on a similar alignment to the existing dinghy sheds. This required a redesign of the parking bays and accessway adjacent to the boat ramp. The parking plan would also need to consider the requirements of vehicles using the Club's boat ramp.
- The lawn area between the ingress and egress points to the car park at the frontage to the site is indicated as overflow parking area on the Site Plan drawing P.04. However the proposed landscaping and planting shown on the Landscape Master

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Plan will restrict overflow parking capacity. It is desirable however that the tree plantings indicated on the Master Plan be implemented.

- While the seating nodes and landscape areas to be established adjacent to the jetties and along the foreshore are supported, further details of these elements were required to confirm their practicality. They will need to be retained against wave action. Similarly the retention and rehabilitation of the pockets of existing beach for recreation is supported however this will require the removal of the existing dinghy racks.
- Runoff from the hardstand areas should be collected and stored and utilised for reticulation of the proposed and retained vegetation. Runoff and nutrients should not be allowed to enter the river. A reticulation and drainage plan is required to support this.

The applicants were consulted in respect to the above issues and amended the proposed parking site plan and landscape master plan and Perspectives of Proposed Development so that they are consistent and to address the above issues. The attached revised Master Plan describes the proposed parking and landscape provisions and achieves the following outcomes;

- The overall number of parking bays has been maintained however the extent of hardstand formal car parking has been reduced and the number of reinforced turf overflow spaces increased. This will maintain the same level of parking available during peak times/major events will improving the visual impact of the hardstand areas, allowed for landscape improvements in the public domain and better foreshore access.
- Adequate car parking is retained for the day to day operations of the marina and club.
- The amended plans now show the physical extent of the proposed trailer parking bays fully contained within the existing hardstand area.
- The grassed area to the west of the SYC car park will be landscaped and treated to encourage active use, as well as to act as a drainage swale when it rains.
- A soft landscaped edge is now provided along the full extent of the sites northern boundary, to enhance the pedestrian environment and reduce the visual impact of buildings and improvements (i.e. there is a landscape strip separating the footpath from the car park, driveways and the 'casual gathering area' depicted on the plan.
- Stormwater management, has been integrated into the design which takes advantage of the grassed areas surrounding the car park, by channelling surface water into landscaped drainage swales, which will be planted with species (i.e. reeds and sedges) that are efficient at stripping nutrients and filtering out impurities from the water. Tree wells within the car park will also be used in a similar manner to collect stormwater and filter out impurities.
- Rainwater from building roofs will be collected in rainwater tanks for the purpose of irrigating the grounds.

The existing boundaries of the lease area extend to the foreshore of John Tonkin Park, to the west of the club. Although this area is currently degraded from casual parking associated with the Club's activities, it is potentially a high value recreation area which would benefit the general public. The applicants have agreed to landscape and improve this area as part of their amended proposal. It would be undesirable if future activities such as boat and trailer storage and uncontrolled car parking associated with Club members were able to creep into this area and alienate the general public use. Accordingly, it is considered that any approval should be conditioned to restrict car parking, trailer and boat storage to the hardstand area. The use of the overflow parking areas shall be restricted to special events parking where a Parking Management Plan has been approved by the CEO.

The amended Landscape Plan now incorporates retaining walls for the seating nodes and landscape areas to be established adjacent to the jetties and along the foreshore.

It is considered that bollards and chains should be specified within the Landscape Plan to restrict casual vehicle access into the overflow parking bays and to delineate the extent of the licensed area described on the Plan as 'Casual Gathering Area. These elements

should be specified within a final detailed Landscape Master Plan drawing to be submitted and approved as a condition of any Planning Approval.

State Coastal Policy – Sea Level Rise

With respect to physical coastal processes, SPP2.6 contains guidance for development setbacks to reduce risks associated with the effects of coastal processes, such as storm surge, tidal movement and sea level change. The guidance for development setbacks also requires consideration of other factors such as ecological values and public access. The Policy indicates that development should be set back sufficient to achieve a 0.9m vertical separation to the existing High Water Mark.

The applicants have responded that the Policy's setback requirements should not apply in this instance because:

- *“the proposed building is not within the (existing) Swan River floodplain,*
- *the Policy does not apply to estuaries that are predominately riverine in character,*
- *that activities that are “demonstrably dependent” on a foreshore location require special consideration and the imposition of coastal setbacks may not be warranted.”*

In respect to the applicant's submissions, it is noted that the river at this point is tidal and the foreshore is subject to erosion. It is therefore difficult to argue that the site may not be impacted by future sea level rises. The activities supported by the proposed new club house are not “dependent” upon on a foreshore location although it is preferable for the minority of club members, (the 522 boating members) who have boats moored nearby, that the club rooms be in proximity of the boat pens.

It is for the Swan River Trust (SRT) as the ‘approving authority’ in this instance to ultimately determine the applicability of the Coastal Policy provisions, however it is considered that any determination should address the possible future liabilities which may arise in consequence of a known risk.

Contaminated Sites Act

Pursuant to section 59 of the Act, memorials have been placed on titles associated with the subject site. The memorials record the site classification as ‘Possibly contaminated – investigation required’. It is understood that activities associated with the slips have given rise to concern regarding residual contaminants in the soil and marine sediment.

In accordance with the Act, a “responsible authority” may not grant approval under a scheme for any proposed development of the land without seeking and taking into account, advice from the Department of Environment and Conservation as to the suitability of the proposed development.

The applicant has advised that since the SRT is the “responsible authority” in this instance, it will undertake all necessary referrals and responses to the Department of Environment and Conservation when it lodges the application with the SRT.

CONCLUSION

The proposal represents a diversification in the current activities of the club away from maritime activities and a substantial expansion of the land use for what will primarily become an entertainment and function venue on the river foreshore reserve. The proposed facilities are not essential to the support of the marina pens and the minority of club members who are actively engaged in boating activities. It is predicted that future club membership will primarily be from social members who do not use the boating pens or require a foreshore location other than the obvious amenity it provides. Accordingly the application should be carefully considered in terms of the general public good and the environmental consequences arising from the development.

The development application presents an opportunity to address some unsatisfactory environmental and land use issues which have evolved with the operation of the Club. The environmental impacts from the current haul-out and maintenance facilities associated with the operation of the current slips will be addressed by the demolition of

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these facilities and any residual contaminates will be identified and ameliorated under direction of the Department of Environment.

Public access to the foreshore will be improved by the removal of the slipways and the amenity within the foreshore reserves will be enhanced by the proposed amended landscape plan. The amended landscape plan also now includes measures to strip nutrients and filter runoff from hardstand areas and for recycling storm water for irrigation purposes.

The proposed car parking, although marginally in deficit of the Scheme's requirements for major functions, is considered adequate subject to appropriate management for major events. It is considered that the proposed amended parking plan is preferable to alienating a larger area of the foreshore for formalised hard stand car parking to address peak demand. Accordingly it is considered a variation in respect to car parking provisions is warranted.

The State Coastal Policy – Sea Level Rise indicates that development should be set back sufficient to achieve a 0.9m vertical separation to the existing High Water Mark. The proposal does not meet this requirement and the applicants argue that the Coastal Policy is not applicable in this instance. However, it is considered that any determination should address the possible future liabilities which may arise in consequence of a known risk.

It is considered the environmental benefits and enhanced amenity within the surrounding public areas flowing from the proposal will mitigate the impacts of the proposed expansion and intensification of the land use sufficiently to favour approval of the application.

RECOMMENDATION

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

1. Activities associated with the Swan Yacht Club such as car parking, trailer and boat storage etc. are to be contained within the defined hardstand area of the car park. The use of areas designated as over flow parking areas shall only be utilised in association with special events and in accordance with the provisions of Condition 2 of this approval.
2. The areas designated on the Approved Plans as 'overflow parking' are only to be utilised in conjunction with Council approved "special events" where it is anticipated that more than 600 patrons will be accommodated on site and for which a "Parking Management Plan" has been approved by the Chief Executive Officer of the Town of East Fremantle prior to any such event.
3. The proposed development is to be only operated in whole and in part by the Swan Yacht Club to the satisfaction of the Town of East Fremantle.
4. The applicants acknowledge the development and its site may in the future be subject to the environmental consequences of sea level rise and contaminates associated with past activities and agree to indemnify the Town of East Fremantle and the Swan River Trust from any liability arising from these consequences now and in the future to the satisfaction of these Authorities.
5. A detailed Landscape Plan shall be submitted and approved by the Chief Executive Officer of the Town of East Fremantle prior to the issue of a Building Licence.
6. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally

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adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

8. Where this development requires that any facility or service within a street verge or Reserve (existing vegetation, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Stewart (Greg Rowe & Associates), Mr Jones (McDonald Jones architects) and Mr Reynolds (Manager Swan Yacht Club) addressed the meeting in relation to the proposed redevelopment of the Swan Yacht Club building and surrounds.

Cr Collinson noted there was no provision for bicycle racks/bays and considered at least 20-30 bicycle spaces should be allocated. The applicants advised there was sufficient area to provide space for bicycle storage.

Cr Martin enquired how long the relocation process would take between moving to the new premises from the old and demolition, with the resulting lack of parking. The applicants advised this process would take about six weeks. The project would be completed within 14 months.

Cr Wilson enquired whether it was proposed that the boats which encroached onto the adjacent foreshore would be accommodated in the new proposal.

Mr Reynolds undertook to address this issue.

Following a question regarding the Town Planning Advisory Panel's comment on the landscaping, Mr Jones demonstrated the increased landscaping that had been provided.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr de Jong

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

- 1. Activities associated with the Swan Yacht Club such as car parking, trailer and boat storage etc. are to be contained within the defined hardstand area of the car park. The use of areas designated as over flow parking areas shall only be utilised in association with special events and in accordance with the provisions of Condition 2 of this approval.**
- 2. The areas designated on the Approved Plans as 'overflow parking' are only to be utilised in conjunction with Council approved "special events" where it is anticipated that more than 600 patrons will be accommodated on site and for which a "Parking Management Plan" has been approved by the Chief Executive Officer of the Town of East Fremantle prior to any such event.**

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3. The proposed development is to be only operated in whole and in part by the Swan Yacht Club to the satisfaction of the Town of East Fremantle.
4. The applicants acknowledge the development and its site may in the future be subject to the environmental consequences of sea level rise and contaminates associated with past activities and agree to indemnify the Town of East Fremantle and the Swan River Trust from any liability arising from these consequences now and in the future to the satisfaction of these Authorities.
5. A detailed Landscape Plan incorporating bicycle parking provisions shall be submitted and approved by the Chief Executive Officer of the Town of East Fremantle prior to the issue of a Building Licence.
6. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. Where this development requires that any facility or service within a street verge or Reserve (existing vegetation, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

T12. ADJOURNMENT

Cr Martin – Cr Nardi

That the meeting be adjourned at 8.55pm for a short break.

CARRIED

T13. RESUMPTION

Cr de Jong – Cr Martin

That the meeting be resumed at 9.00pm with all those present prior to the adjournment in attendance.

CARRIED

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T14. REPORTS OF OFFICERS STATUTORY PLANNING/DEVELOPMENT CONTROL (CONTINUED)

T14.1 Canning Highway No. 200 (Lot 28)
Applicant/Owner: Amanda Williams
Application No. P185/2011
By Gemma Basley, Town Planner on 4 January 2012

BACKGROUND

Purpose of this Report

An Application for retrospective Planning Approval for the replacement of south facing upper floor windows in a two storey studio in the rear yard of No. 200 Canning Highway, East Fremantle is the subject of this report. The Application also requires a change of use to be considered in relation to the studio and requests that a Change of Use to 'Ancillary Accommodation' be granted.

This report recommends conditional approval to both the retrospective Planning Approval and the Change of Use.

Description of Proposal

The application seeks retrospective planning approval for the replacement of windows in the studio in the rear yard of the property. The windows which are 1.1 metres in height replaced highlight windows (700mm high which were glass doors that had been laid lengthways) and as such planning approval is required.

The applicants undertook the replacement of the upper floor window under Building Licence 2011098 issued on 15th July 2011 which approved repair to the termite damaged timbers associated with the studio. The windows that the owners have used to replace the highlight windows are from the old D sheds in Fremantle and are in keeping with the main house.

The earlier highlight windows spanned the whole length of the upper floor room however the new windows do not span the entire width of the upper floor room and have reduced the overall width of the windows by 1.5 metres and have setback this window from the eastern neighbour at No. 202 Canning Highway.

The application also proposes to change the use of the two storey studio to ancillary accommodation/outbuilding to reflect its current and proposed use.

Description of site

The subject site is:

- a 911m² block
- zoned Residential R12.5
- developed with a character residence and swimming pool
- with a rating of A-in the Municipal Heritage Inventory

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Local Planning Strategy - Richmond Precinct (LPS)
R12.5 Residential Design Codes (RDC)

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 21 October 2011.

Date Application Received

21 October 2011

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

- 15 February 2011 Council exercises its discretion to approve a double garage at the side of the residence with a nil setback to the western boundary.
- 15 July 2011 Building Licence 2011098 issued for a bathroom replacement and repair to termite damage.

CONSULTATION

The subject application was advertised for a two week period to the adjoining resident to the east being the owners of No. 202 Caning Highway. The neighbours have submitted an objection to the proposal which will be detailed and responded to below.

Neighbour Submission	Applicant Response	Town Planner Comment
<p>We have viewed the proposed retrospective alteration plan to the studio at council. We note no mention of the privacy concerns that we had raised with Gemma regarding the south facing first floor windows on the 30th September 2011.</p> <p>Previously the windows on this floor were highlight windows — i.e. — above head height with no vision to our property. Current retrospective application lists the changes (already) made as minor — we find this difficult to accept as the first floor window area is increased four — fold; includes clear visibility into our property; and studio works include an upgrade to that of permanent living standards.</p> <p>Our minimum expectations prior to any retrospective approval been issued is that:</p> <ol style="list-style-type: none"> 1. The first floor windows to the studio are opaque. 2. The first floor windows to the studio are permanently sealed, i.e., unable at any time to be opened. 3. Application also includes that the studio be a 'guest house'. Our request is that this 'guest house' be used solely for family members and any stay is for no greater than one week. The basis for this request is that we are concerned that the 'guest house' will be used for permanent residence either now or in the future. 	<p>The previous windows ran the full width of the pool-house, with a 'view' to the rear of the neighboring property. The new windows have restricted views to the neighboring property due to the replacement windows not being the full width of the upstairs area. Furthermore, a third of the floor space in front on the windows is taken up by the new stair well, so that section of the window cannot be viewed from. In addition the glass in the windows has now been painted with an opaque finish to prevent any view into the neighbour's property.</p> <p>The building requires ventilation, both for the health of the building and its users, so permanently sealing the windows shut raises health and environmental issues. The 2 side windows will be fixed, the centre window will be on a winder that will open to around 150mm.</p> <p>The building is for use as a pool house, space for guests and storage. The guests would be family members and friends only and would not be leased for short stay or long term accommodation.</p> <p>I have attached photos taken previously from the upstairs area of the pool house. As you can see we cannot see anything except trees and the roof of a pergola. Please note these windows have since been painted to prevent any outward view.</p>	<p>Noted</p> <p>The Town Planner confirms that the windows have been painted to prevent any outward view.</p> <p>The painting of the glass in the widows with an opaque finish satisfies the privacy requirements of the R-Codes and as such the replacement of the windows is supported</p> <ol style="list-style-type: none"> 1. The glass in the first floor windows have been painted to obscure any view from these windows. 2. There is no requirement under the -Codes or any Council Policies to permanently seal the windows. Under the Building Code of Australia (BCA) there are specific requirements for ventilation. This matter would be determined by the Building Surveyor in accordance with the requirements of the BCA. 3. A condition is included in the Recommendation relating to the use of the studio/guest house.

It is assessed that the neighbour objection has been addressed by way of the applicant painting the glass in the windows with an opaque finish to prevent any overlooking into

the neighbouring property and by way of a condition that is included in the Recommendation to restrict the use of the studio.

Town Planning Advisory Panel

The subject application was not referred to the Panel because of the minor nature of the proposal and because of the development being for ancillary accommodation in the rear yard with no streetscape or amenity impacts.

Statistics

File	P/CAN200		
Zoning	R12.5		
Lot Area	911m ²		
Heritage Listing	A-		
Site:	Required	Proposed	Status
Site Works on boundary/street setback	Maximum 0.5m	Nil	Acceptable Development
Open Space	>50%	>50%	Acceptable Development
Overshadowing	>25%	>25%	Acceptable Development
Height:	Required	Proposed	Status
Wall	6.0 metres	4.9 metres	Acceptable Development
Ridge	9.0 metres	5.2 metres	Acceptable Development
Roof type	Skillion		
Privacy/Overlooking	No overlooking will occur from studio which has had the windows painted to prevent any overlooking		

ASSESSMENT

The application will be assessed in two parts below.

Visual Privacy / Overlooking from upper floor windows

The applicants have painted the windows to prevent any overlooking from the upper floor of the proposed studio/ancillary accommodation. As such the visual privacy requirements of the R-Codes have been satisfied.

Change of Use – Studio to Ancillary Accommodation

It is understood that the studio (bedroom / study) was built at the same time as the original house. A Building Licence was issued in August 1989 to extend this studio forwards and upwards. The studio has since been used as a storage area and pool room.

Under TPS No. 3 'ancillary accommodation' is not defined however it is defined under the R-Codes as follows:

"Ancillary Accommodation: Self contained living accommodation on the same lot as a single house that may be attached or detached from the single house occupied by members of the same family as the occupiers of the main dwelling."

In terms of its permissibility 'ancillary accommodation' is listed as an 'A' use in the zoning table which means:

'A' *"means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 9.4."*

Residential Zone

The objectives of the 'Residential' zone are listed below:

- To provide for a range and variety of housing to meet the social and economic needs of the community, while recognising the limitations on re-development necessary to protect local character.
- To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of the existing built form.

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- To encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation, water sensitive design and provision of 'greenspace'.
- To protect residential areas from encroachment of inappropriate land uses which are likely to detract from residential amenities, but to provide for a limited range of home-based activities compatible with the locality.
- To recognise the importance of design elements such as the 'front yard' and the 'back yard' to the character, amenity and historical development of the Town and to the community.

The subject site contains a heritage residence and associated outbuildings including historic stables and a studio and an outdoor alfresco and pool area. The former studio, which is located in the rear eastern corner of the site, is the subject of this application.

The proposal to change the use of this building is assessed as being consistent with the objectives of the 'Residential' zone as will be demonstrated below:

- Ancillary accommodation will enable the owners to accommodate friends and families that visit from the country, eastern states and overseas.
- The building already exists and is sympathetic to the dwelling and the studio.
- The conversion of this two storey room into ancillary accommodation is an innovative and sustainable approach and will result in the re-use of an existing building as opposed to the construction of a new and additional building.
- The use of this building for ancillary accommodation will not detract from the amenity of the residential area by introducing incompatible land uses.

Conclusion

The subject application has been assessed against the Scheme requirements and it is determined that the proposed change of use to the studio in the rear yard is acceptable. The proposed change of use will not result in any additional development and will rather allow for an existing building to be used for a different purpose.

The visual privacy issues relating to the upper floor windows of the studio building has been addressed by the applicants who have obscured the windows to prevent any overlooking.

Given that the application meets all of the relevant requirements it is recommended that Planning Approval be granted.

RECOMMENDATION

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

1. the ancillary accommodation shall not be leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

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Footnote:

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

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

Cr Martin drew attention to the wording of condition 1 of the recommendation in that if the property was tenanted, the tenant would be prohibited from using the ancillary accommodation. Cr Martin also drew attention to some corrections required to the officer's recommendation to reflect the retrospective approval.

Cr Martin – Cr Nardi

That the application be deferred to the Council Meeting to review the wording of the officer's recommendation to reflect retrospective approval and to accommodate the possible tenancy of the property. CARRIED

Cr Wilson made the following impartiality declaration in the matter of 83 Fraser Street: "As a consequence of the heritage consultant being known to me through studies at Curtin University, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T14.2 Fraser Street No. 83 (Lot 121)
Applicant: Peter & Cheryl Falloon
Owner: Peter & Cheryl Falloon
Application No. P178/11

By Carly Pidco, Town Planner, on 7 February 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for demolition of an existing dwelling, patio and sheds at 83 Fraser Street, East Fremantle.

BACKGROUND

Description of site

The subject site is:

- a 931m² green title lot
- zoned Residential R12.5
- located in the Richmond Precinct
- improved with a single storey, single dwelling with a C[^] Management Category under the Heritage Survey 2006

Statutory Considerations

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

Relevant Council Policies

Nil

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Demolition of existing dwelling

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Municipal Inventory

CATEGORY C

State Register of Heritage Places	Town Planning Scheme No. 3 Heritage List	Heritage Survey	Town Planning Scheme No. 3 Provisions
No	Yes	Yes	Yes

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. Further development needs to be within recognised design guidelines. Incentives should be considered where the condition or relative significance of the individual place is marginal but where a collective significance is served through retention and conservation.

Documentation

Heritage Impact Assessment and relevant forms and plans date stamped received on 26 October 2011

Date Application Received

26 October 2011

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

None

CONSULTATION

Advertising

The application was advertised to surrounding neighbours and a sign was placed on the site from 21 December 2011 to 13 January 2012. No submissions were received during the comment period.

Town Planning Advisory Panel Comments

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

- Panel does not support the proposed demolition of the residence due to its high level categories for aesthetic, group precinct representation and integrity of the building.
- Panel wishes to express disappointment in the balance of arguments in the assessment arguing for demolition.
- Particularly the argument that the streetscape is already compromised by adjacent development and therefore will not be missed is contentious.

The applicant's heritage consultant has prepared a detailed response to the Panel's concerns (attached to this report). The officer's assessment is detailed below.

Site Inspection

By Town Planner on 20 December 2011 & 30 January 2012

ASSESSMENT

The application is for demolition of several existing structures on the site, being a single-storey single dwelling, two sheds and a patio. The applicant has not provided details of their future development plans for the site.

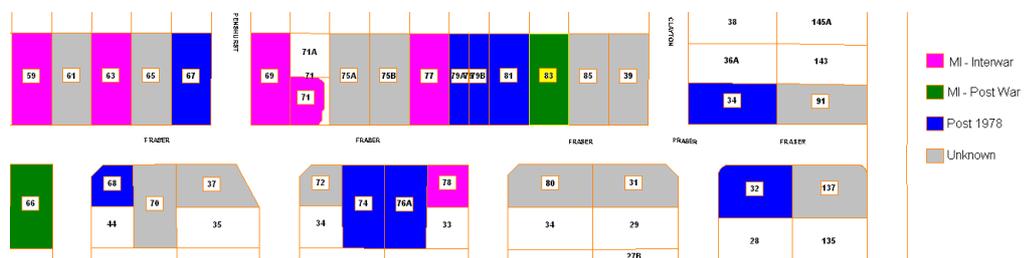
The Town holds no records for the existing sheds and patio. The Town Planner observed at a site inspection that these structures are in fair condition and not of recent

construction. The structures do not hold any heritage value and are of little consequence to the amenity of the locality. Demolition of these structures is therefore supported.

The existing dwelling is of timber, cement sheeting and tile construction. It is identified in the Heritage Survey 2006 and assigned a C⁺ Management Category. The Place Record identified the property as being from the Inter-War Period, however, research reported on in the Heritage Impact Assessment provided by the applicant states that the dwelling was not constructed until the 1940s. The applicant's consultant has provided detailed commentary as to the heritage merit of the property (in their response to the TPAP's comments) and these are generally supported. The dwelling is of a style that is not uncommon and its condition and architectural merit are fair. The Heritage Survey 2006 includes several other houses typical of the Post-War period and austerity influence. These are generally rated as being of low rarity value and, for the most part, are of better condition and greater aesthetic appeal than the subject dwelling.

It is likely that contemporary residents would want greater living space than provided in the existing dwelling. The modest proportions of the dwelling do not lend well to additions and extensions. If the existing facade was to be retained within a modern extension, it would likely be dwarfed and create an awkward protrusion. Significant alterations that may compromise the materials and appearance of the existing facade would likely be necessary to blend with new components. While it is acknowledged that landowners should work to overcome these issues with properties of great heritage value, the subject dwelling is not considered to be so significant as to warrant such measures.

The contribution of the dwelling to the existing streetscape is a significant consideration for the TPAP and consultant. A follow-up site inspection was conducted to better assess the streetscape. The streetscape is considered to be highly fragmented, with dwellings from a range of periods and styles in the immediate vicinity of the subject dwelling (illustrated in the diagram below):



The streetscape is not considered to be representative of the heritage character of the precinct and the demolition of the dwelling will not compromise the integrity of the streetscape.

CONCLUSION

The existing dwelling is of fair condition and heritage value. Its demolition will not have an undue impact on the streetscape or the heritage assets of the Town. The applicant has prepared a Heritage Assessment that documents the dwelling and satisfies the requirements of the C Management Category. It is recommended that the application for demolition be approved.

RECOMMENDATION

That Council approves the demolition of the existing dwelling, sheds and patio at No. 83 (Lot 121) Fraser Street, East Fremantle subject to the following conditions:

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

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3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All waste is to be removed from the site and the site is to be continuously maintained to the satisfaction of the Chief Executive Officer.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Considerable discussion took place on the condition of this residence and the loss of other heritage properties in the street.

Cr de Jong – Cr Martin

That Council approves the demolition of the existing dwelling, sheds and patio at No. 83 (Lot 121) Fraser Street, East Fremantle subject to the following conditions:

1. *The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.*
2. *The proposed works are not to be commenced until Council has received an application for a demolition licence and the demolition licence is issued in compliance with the conditions of this planning approval unless otherwise amended by Council.*
3. *With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.*
4. *All waste is to be removed from the site and the site is to be continuously maintained to the satisfaction of the Chief Executive Officer.*
5. *All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to*

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

6. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

LOST ON THE CASTING VOTE OF THE PRESIDING MEMBER

RECOMMENDATION TO COUNCIL

Cr Collinson – Cr Wilson

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

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

CARRIED ON THE CASTING VOTE OF THE PRESIDING MEMBER

Reasons for not Supporting the Officer's Recommendation

The officer's recommendation was not supported given the reasons stated in the refusal resolution outlined above.

Cr Martin made the following impartiality declaration in the matter of 19 Moss Street: "As a consequence of having served on a Board with the applicant, Gerard McCann, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T14.3 Moss Street No. 19 (Lot 6)
Applicant: Gerard McCann Architect
Owner: Peter Jeffery
Application No. P182/2011
By Matthew Ryan on 22 December 2011

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for additions and alterations within the rear yard of the existing dwelling at No. 19 Moss Street, East Fremantle. The

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application seeks discretions to the setback requirements of the Residential Design Codes (R-Codes) and Local Planning Policy No. 142 (LPP 142).

This report recommends that conditional approval be granted.

BACKGROUND

Description of Proposal

The application proposes the construction of a covered alfresco area to the rear yard of the existing dwelling involving the following:

- Construction of a new covered alfresco area to the rear (west) of the dwelling, on the southern boundary immediately forward of the existing outbuilding, including a boundary parapet wall to the south constructed of limestone.
- Construction of a masonry boundary wall to the northern boundary adjacent the proposed alfresco limestone parapet wall.

The discretions to the requirements of the R-Codes and Local Planning Policies Nos. 142 and 143 will be discussed in the assessment section of this report.

Description of Site

The subject site is:

- a 663m² block
- zoned Residential R20
- developed with a single storey house
- located in the Plympton Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Local Planning Strategy - Plympton Precinct (LPS)
Residential Design Codes (RDC)
Management Category B - Municipal Heritage Inventory

Relevant Council Policies

Local Planning Policy No. 142 : Residential Development (LPP 142)
Local Planning Policy No. 143 : Policy on Local Laws Relating to Fencing

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 24 November 2011

Date Application Received

24 November 2011

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

12 July 2010 Building Licence No. 2010198 granted for the construction of additions;
21 July 2009 Council resolved to exercise its discretion in granting approval for alterations/additions to the residence; and
20 March 2001 Council resolved that approval be granted for the installation of a belowground swimming pool.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 30 December 2011 and the 13 January 2012. No submissions were received.

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Town Planning Advisory Panel

The subject application was not referred to the Town Planning Advisory Panel as the proposed additions are located to the rear of the property and do not impact upon the streetscape.

STATISTICS

File P182/11
Zoning R20
Lot Area 663m²
Heritage Listing B

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	No change	A
Site Works	Less than 500mm	200mm (max)	A
Local Planning Policies:		Issues	
Policy 142	Reduced setback to the northern boundary		D
Roof	To match existing		A
Solar Access & Shade	No issues		A
Drainage	To be conditioned		A
Views	No issues		A
Crossover	No impact		A
Trees	No issues		A
Fencing	2.4 metre masonry dividing wall proposed		D
Other:		Issues	
Overshadowing	Contained within site		A
Privacy/Overlooking	No issues		A
Height:	Required	Proposed	Status
Wall	3.0	2.6	A
Ridge	6.0	3.6	A
Roof type	Pitched		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)	N/A (beyond main residence)						
Rear (west)							
Ground	N/A (outbuilding beyond)						
Side (south)							
Ground	Patio	2.6	3.5	N	1.0	14.6	A
Side (north)							
Ground	Patio/store	2.6	12.0	N	1.0	Nil	D

ASSESSMENT

Approval is sought for the construction of a roofed alfresco area and masonry boundary wall to the rear of the residence at No. 19 Moss Street.

The application is of a minor nature, however seeks discretions to the requirements of the R-Codes and LPP No. 142 regarding the nil setback proposed to the northern boundary.

Building on the Boundary

The application proposes to construct a roofed alfresco adjacent the existing outbuilding will a limestone boundary wall utilising a nil setback to the northern boundary. The site is coded R20 and as such the R-Codes only permit the following:

"ii In areas coded R20 and R25, walls not higher than 3 m with an average of 2.7 m up to 9 m in length to one side boundary only;"

Council's Local Planning Policy No. 142 provides for the construction of residences with walls situated closer to the boundary than permitted by the R-Codes where the following

can be observed:

- “(a) Walls are not higher than 3m and up to 9m in length up to one side boundary;*
- (b) Walls are behind the main dwelling;*
- (c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;*
- (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*
- (e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.”*

The proposed nil setback to the southern (side) boundary satisfies the above criteria as demonstrated below:

- The maximum height of the boundary wall is 2.6 metres which is lower than the average and maximum boundary wall height permitted;
- The proposed boundary wall addition is 4.3 metres long, which when combined with the existing and adjacent outbuilding parapet wall creates an 11.2 metre boundary wall. This variation in length is considered acceptable as it will not result in any loss of amenity or non-compliant overshadowing to the adjoining residence, which is setback approximately 2.5 metres from the boundary;
- The proposed boundary wall is at the rear of the residence and is separate to the residence;
- The proposed boundary wall will not be highly visible to the street due to its being located beyond the dwelling.

The discretion to allow additional multiple boundary walls has also be assessed against the Performance Criteria of the R-Codes and based on the following is considered to be acceptable development:

- The proposed boundary walls will not restrict sunlight or ventilation to the existing residence.
- The proposed boundary wall will cast only a small shadow on the side yard of the adjoining lot.
- The subject lot has already been approved with multiple boundary walls, the proposed addition merely extends an existing boundary wall.

The discretion to allow the construction of additional boundary walls on the subject site is therefore supported and recommended for approval.

Masonry Dividing Fence

The application proposes the construction of a masonry wall adjacent the proposed alfresco to a height of 2.4 metres and for a length of 7.7 metres on the southern boundary. This wall is not included in the overall length of the proposed and existing boundary wall as it is assessed as an over height boundary fence and is considered acceptable given no neighbour objection.

Heritage Assessment

The residence at No. 19 Moss Street is included on Council’s Municipal Heritage Inventory as a ‘B’ Management Category. The application does not require a heritage assessment however, as the additions are to be setback a considerable distance from the street beyond the main dwelling, and as such will not impact on the streetscape or on the way the residence is viewed from the street.

CONCLUSION

The application is considered to have had due regard for the Town’s requirements relating to residential developments, as well as the requirements outlined within the R-Codes.

Whilst the application does seek minor discretions to the boundary setback requirements of the R-Codes and Council’s LPP No. 142, these are considered to be acceptable.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the setback requirements to allow an additional boundary wall on the northern boundary for the construction of alterations and additions at No. 19 (Lot 6) Moss Street in accordance with the plans date stamp received on 24 November 2011 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on-site and clear of all boundaries.
5. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Cr de Jong – Mayor Ferris

That Council exercise its discretion in granting approval for a variation to the setback requirements to allow an additional boundary wall on the northern boundary for the construction of alterations and additions at No. 19 (Lot 6) Moss Street in accordance with the plans date stamp received on 24 November 2011 subject to the following conditions:

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

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2. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on-site and clear of all boundaries.
5. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

Cr de Jong made the following impartiality declaration in the matter of 5 Gordon Street: "As a consequence of one of the neighbours being known to me as a friend, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T14.4 **Gordon Street No. 5 (Lot 2 - SP1794)**
Applicant: In House Building Design
Owner: Graeme Herps
Application No. P116/2011
By Matthew Ryan/MPS on 8 December 2011

PURPOSE OF THIS REPORT

This report considers an application for retrospective Planning Approval for the construction of a deck at the rear of No. 5 Gordon Street, which was deferred by Council at its meeting of 20 September 2011 as per the applicant's request.

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A Grant of Planning Approval (P156/09) and subsequent Building Licence were previously issued for the construction of additions including a rear deck at the subject property. The constructed deck does not comply with the approved plans. A previous report prepared on 6 October 2011 has considered the same retrospective application, and recommended that Council approve the application conditionally.

Council deferred the application, as requested by the applicant, in order for an Engineer's report to be completed ascertaining the structural adequacy of the existing retaining wall, the existing Colorbond fence and the construction of the unauthorised decking. This report was received on the 30 November 2011, and confirmed the structural integrity of the retaining wall, fence and deck.

The previous report recommended Council approve the application, and supported a minor variation to the privacy requirements of the Residential Design Codes. Based on this and the conclusions of the Engineer's report, this report recommends that Council approve the application conditionally.

BACKGROUND

An application for retrospective Planning Approval for the unauthorised construction of a deck in the rear yard of No. 5 Gordon Street, East Fremantle, was received on 5 August 2011.

Delegated Planning Approval was granted on 10 February 2010 for the construction of single storey additions to the residence. The approved plans identified the proposed deck area (to the east of the residence) as having a setback of 1.91 metres to the northern/rear boundary. An inspection by Council staff revealed that the deck had not been constructed in accordance with the approved plans, and had been built up to the rear boundary.

Following a request from Council to remove the unauthorised works and a meeting with Council's Building Surveyor and Town Planner, it was resolved that an application for retrospective Planning Approval would be lodged for the unauthorised decking. The applicants subsequently submitted an Application for Retrospective Planning Approval which proposes the following:

- cutback the bearer overhang of the deck parallel to the rear boundary;
- install modak board to bond to trimmer;
- install 0.6mm high trimmer with a zincalume capping to the top edge of the deck; and
- to retain the brushwood fencing which has been installed on the inside of the Colorbond fence.

This application was considered by Council at its meeting of 20 September 2011. The application was deferred in order for an Engineer's report to be completed. This report has been received (refer Attachment 1) and will be considered in the Assessment section of this report.

Description of Site

The subject site is:

- a 504m² survey strata lot with frontage and access to Gordon Street
- zoned Residential R12.5
- developed with a single storey dwelling
- located in the Richmond Hill Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Local Planning Strategy - Richmond Hill Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

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

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Impact on Public Domain

- Tree in verge : No impact;
Light pole : No impact;
Crossover : Bitumen crossover in good condition;
Footpath : Red bitumen path within verge in good condition.
Streetscape : The brushwood fencing installed on the inside of the fence at No. 5 Gordon Street extends marginally higher than the colorbond dividing fence and is a major contrast in colour

Documentation

Plans and relevant forms date stamp received on 5 August 2011, Engineer's report received 30 November 2011.

Date Application Received

5 August 2011

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

- 23 May 1987 Building Licence 1273 issued for a timber deck with pergola over.
2004 Amendment to Survey Strata Plan 5322 submitted (formally part of 52 View Terrace).
13 February 2007 Council advises owner that single leaf brick wall across front/western boundary and side/northern boundary between 5 Gordon St (formerly 52A View Tce) and 7 Gordon St) to be removed and made safe.
14 February 2007 Building Licence 07/53 issued for replacing unapproved dangerous retaining wall/boundary screen walls.
10 February 2010 Council grants planning approval under delegated authority for single storey alterations and additions to the grouped dwelling.
9 April 2010 Demolition Licence 2010 161 issued for partial demolition of single storey.
28 April 2010 Building Licence 2010 147 issued for alterations/additions to single storey residence.
22 June 2010 Amendment to Building Licence – Change of works from additions to new build.
5 August 2011 Application for Planning Approval received for unauthorised deck.

CONSULTATION

Advertising

The application was advertised to adjoining land owners for two weeks between 10 August and 24 August 2011. During this period the Town Planner liaised with the neighbours at No. 7 Gordon Street and their architect who advised that there was no objection to the constructed decking subject to the following issues being addressed:

- the deck being constructed to meet the BCA fire safety and fire separation requirements;
- the decking being constructed to meet the BCA requirements for safe movement and access and a balustrade be installed on the northern edge of the decking; and
- the rear fence height being constructed to meet the privacy requirements of the R-Codes.

The neighbour concerns were considered in the previous report, and the assessment and response provided will be outlined in the Assessment section of this report. No further advertising was required following the deferral of the application and submission of the Engineer's report, as no changes or further variations were proposed.

ASSESSMENT

Retrospective Planning Approval is sought for a raised decking area that has been constructed to the rear boundary of the property at No. 5 Gordon Street in lieu of the approved 1.91 metre setback. The decking has also been constructed to extend around the rear of the house and now has a nil setback between the outdoor living area of No. 5 Gordon Street and the rear boundary shared with No. 7 Gordon Street.

The site levels between No. 5 and No. 7 Gordon Street differ considerably. More specifically, the rear yard and the rear boundary of No. 5 Gordon Street has been retained and has a finished floor level that is in the order of 2.5 metres higher than the finished floor levels of neighbouring No. 7 Gordon Street. A Colorbond dividing fence has been constructed on top of the retaining wall and extends to a height of 1.87 metres from the top of the retaining wall and being 1.395 metres above the finished floor level of the decking at No. 5 Gordon Street. The applicants have in addition, installed a brushwood screen fence on the inside of the dividing fence and this extends to a height of 2.3 metres from the top of the retaining wall and to a height of 1.643 metres above the finished floor level of the decking.

There are a number of issues that must be considered before the application can be determined and these are listed below:

- boundary setback;
- visual privacy;
- fencing requirements; and
- BCA compliance.

These issues will be assessed separately below:

Boundary Setback

The setback to the rear boundary is controlled under the R-Codes. Clause 6.3.1 (A1) requires that unenclosed balconies, terraces, verandahs, and other areas accessible for use as outdoor living areas (roofed or not), if elevated more than 0.5 of a metre above natural ground level area to be setback as though they were major openings to habitable rooms. This would require a setback of 1.5 metres between the deck and the rear boundary. The application does not provide this setback and rather proposes a setback of 150mm between the deck area and the dividing fence.

The Performance Criteria for boundary setbacks was assessed against the application as follows:

- the reduced setback will not restrict the supply of sunlight or ventilation to the subject site or to the neighbouring property (No. 7 Gordon Street);
- the reduced setback will not impact on building bulk/scale of the development at No. 5 Gordon Street because the decking cannot be seen from outside the property (screened by fences);
- the reduced setback of the deck will not assist in protecting privacy between the adjoining properties because the fence which adjoins the deck is less than 1.65 metres in height and as such does not meet the privacy requirements of the R-Codes.

Based on the above it is evident that the setback of the deck will only partially satisfy the Performance Criteria of the R-Codes with the exception being the impact on visual privacy. The application was therefore assessed against the privacy requirements of the R-Codes below:

Visual Privacy

The rear fence to No. 5 Gordon Street is a Colorbond fence which extends to a height of 1.87 metres. The applicants have installed a brushwood fence on the inside of the Colorbond fence which extends to a height of 1.64 metres above the finished floor level of the decking.

The R-Codes requires that unenclosed outdoor active habitable spaces (balconies, verandahs, terraces or other outdoor living areas) which have a floor level more than 0.5m above natural ground level and which overlook any part of any other residential property behind its street setback line are to comply with the following:

- are set back, in direct line of sight within the cone of vision, from the boundary a minimum of: 7.5 m in the case of unenclosed outdoor active habitable spaces;
- or are provided with permanent vertical screening to restrict views within the cone of vision from any major opening of an active habitable space; or are provided with permanent vertical screening or equivalent, preventing direct overlooking; and

- permanent vertical screening to have a minimum height of 1.65 metres.

The rear fence does not comply with the screening requirements of the R-Codes because it is marginally lower than 1.65 metres. The impact of this overlooking is not considered to be too significant because it will impact on a covered alfresco area and a roofed garage on the adjoining lot. In addition because of the northerly views to the river it is considered that there would be a tendency for people to look north toward the view and this would further reduce the impact on the neighbour's privacy because people would be looking beyond the neighbour's property to the river and city views.

In this regard the applicants request for a discretion to the privacy requirements of the R-Codes to allow a 1.643 metre high privacy screen in lieu of the 1.65 metre requirement is supported.

Safety

The previous report highlighted the concerns of Council staff regarding the safety of the unauthorised deck and adjacent retaining wall and Colorbond fence. There is a 2.5 metre fall from the finished floor level of the deck at No. 5 Gordon Street to the finished floor level of the adjoining property at No. 7 Gordon Street. Given the river/city views to the north, it was the concern of the Town Planner who undertook the site inspection that people using the decking area may be inclined to lean on the rear fence in order to obtain views. Accordingly, a concern was raised as to whether the Colorbond fence would provide a suitable safety barrier, in accordance with the requirements of the Building Code of Australia (BCA).

With regards to the fence, the Engineer's report concluded that it was considered to be structurally adequate and satisfies the BCA requirements for a balustrade. In addition to the fence, the Engineer's report ascertained the structural adequacy of the existing retaining wall, and the unauthorised decking. The Engineer's assessment found that the boundary retaining wall has proven to be structurally adequate to resist the soil pressure over the many years of its existence, and the addition of the timber deck has only marginally increased the load on this wall, at regular, well spaced intervals.

Furthermore, the Engineer's assessment found that the deck is supported on timber stumps set in concrete footings immediately behind the mass limestone wall on the northern boundary, and supported at the other end (presumably) off the external wall of the house. The portion of the deck to the western side is well away from boundaries but is similarly supported. It was concluded that the deck was constructed in a manner using the appropriate materials, treatments and techniques.

The Engineer's report concluded that the existing retaining wall, fence and deck are structurally sound, and the fence is considered to be adequate in satisfying the BCA safety requirements for a balustrade. Accordingly, it is recommended that the concerns regarding safety are dismissed.

CONCLUSION

Retrospective Planning Approval is sought for a raised decking area that has been constructed to extend around the rear of the house and now provides a nil setback between the outdoor living area of No. 5 Gordon Street and the rear boundary shared with No. 7 Gordon Street. The assessment above has identified the following conclusions:

- the nil boundary setback to the decking is acceptable;
- the overlooking from the decking area is not considered to be significant;
- the potential safety concerns relating to the dividing fence, retaining wall and unauthorised deck have been addressed and accordingly not upheld based on the findings of the Engineer's Report.

Accordingly, the proposal is supported and recommended for conditional approval.

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RECOMMENDATION

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

1. the rear Colorbond fence to be painted to match the other boundary fences/walls at 5 Gordon Street;
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for retrospective planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. an application shall be submitted for a Building Approval Certificate in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the Building Approval Certificate application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

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

1. The rear Colorbond fence to be painted to match the other boundary fences/walls at 5 Gordon Street;
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for retrospective planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. An application shall be submitted for a Building Approval Certificate in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the Building Approval Certificate application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended). CARRIED

T14.5 Philip Street No. 19 (Lot 80)
Applicant: Savvy Construction Pty Ltd
Owner: Robert & Karen Walker
Application No. P190/11
By Carly Pidco, Town Planner, on 7 February 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of extensions at 19 Philip Street, East Fremantle.

BACKGROUND

Description of site

The subject site is:

- a 723m² freehold lot with dual frontage (Philip Street & Clayton Street)
- zoned Residential 12.5
- located in the Richmond Hill Precinct
- improved with a single-storey single dwelling
- assigned A- Management Category in the Town's 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. 066 : Roofing (LPP066)
Local Planning Policy No. 142 : Residential Development (LPP142)

Municipal Inventory

Category A

State Register of Heritage Places	Town Planning Scheme No. 3 Heritage List	Heritage Survey / Municipal Inventory	Town Planning Scheme No. 3 Provisions
Nomination Appropriate	Yes	Yes	Yes

High heritage significance at a local level, and having potential State Heritage significance; informed consideration should be given to nomination for State Register listing prior to or at the time of consideration for further development, and prior determination of any significant development application for the place. Places to be generally retained and conserved, and worthy of a high level of protection. Conservation Plans may be required depending on relative significance and apparent impact of development on the place; detailed Heritage Assessments otherwise required as corollary to any development application. Strong encouragement to the owner under the Town of East Fremantle Planning Scheme to conserve the significance of the place. Incentives to promote heritage conservation should be considered where necessary to achieve desirable conservation outcomes in context of permissible development.

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Alterations to existing heritage dwelling

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Documentation

Plans and relevant forms date stamped received on 12 December 2011
Revised Plans date stamped received on 30 January 2012
Heritage Assessment date stamped received 12 December 2011
View Impact Statement date stamped received 10 January 2012

Date Application Received

12 December 2011

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

19 October 2010 Council resolved to approve alterations and additions at 19 Philip Street
16 November 2010 Council resolved to approve front fencing at 19 Philip Street

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 21 December 2011 to 13 January 2012. One submission was received from the owners of 51 Clayton Street, which abuts the southern boundary of the subject lot. The submission made the following points:

- We consider the proposed improvements to 19 Philip Street will be an asset to the area. The building should comply with setback and height limits.
- We feel strongly that the setback from Clayton Street should be at least 4.8m. It severely restricts our river views and mooring in Blackwall reach.
- Wall plate height should not exceed 5.6m. The proposed 6.7m would severely restrict northern views. Ridge height should be reduced accordingly. Both are excessive and unnecessary.
- Trees to the southern boundary should be maintained at 4m maximum as per plan.

Following the consultation period, the applicant met with the submitter to discuss their concerns. As a result, the setback to the eastern boundary was increased to comply with requirements and reduce the impact on the neighbour's view corridor. In a subsequent letter to Council received 8 February 2012, the submitter advised that:

- The building should comply with setback and height limits *except for concessions in red* [italicised in this report]
- We feel strongly that the setback from Clayton Street should be *4.0m minimum*.
- Wall plate height and ridge height should be reduced [as per previous communication]. *However the highest ridge that allows step access to viewing platform is acceptable to us provided the Eastern setback is increased as requested.*

The setback to Clayton Street and building heights as measured from the submitter's boundary are compliant with the Town's Policy requirements (see attached elevation plan with assessment heights marked). The applicant has prepared revised plans to address the neighbours' concerns and the eastern setback is now also compliant.

It should be noted that a further increase to the eastern setback will not necessarily change the height of the highest roof ridge. The roof steps down towards the subject wall with a gable element facing Clayton Street. Any change to the setbacks will more likely impact on this roof element than the central apex.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 31 January 2012. The Panel's comments, and applicant's and officer's response, are detailed below.

Panel Comment	Applicant's Response	Officer's Comment
Panel does not approve the destruction of the single large curved element to the ground floor level of	The curved element has been inspected by a building surveyor who observed several structural issues	Note that the structural integrity of the porch is compromised. Also note that the porch appears to be an

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<p>the existing residence as this represents one of the most significant architectural elements of the existing building (A- on the Town's MI).</p>	<p>[photographs attached]. The element will be replaced with a similar curved pattern design and columns which will maintain its architectural significance.</p>	<p>addition, with the original dwelling being designed in the California Bungalow style. The porch is discussed in greater detail in the assessment section of this report.</p>
<p>A setback to the upper storey should be considered to allow for some repetition of curved elements in the upper floor addition and to step away from the original heritage front elevation</p>	<ul style="list-style-type: none"> - Best building practice is to have the balcony forward of the existing structure to alleviate any waterproofing problems in the future - Increased setback would increase impact on views lost to the rear property as this is the main viewing corridor for the neighbours - The curved element has been repeated to the balcony in keeping with the Art Deco architecture. 	<p>Support the applicant's comment. The original curved porch is proposed to be removed, so separation between 'old' and 'new' is redundant. The balcony has been designed to mimic the original art deco porch, which protrudes from the main building line of the dwelling.</p>
<p>Retention of significant elements of the original dwellings external architectural features are not represented in this application.</p>	<p>The only architectural feature not retained in this application will be the front curved element which is in a state of dilapidation. Remaining features including feature front gable, curved awning over dining room window, front timber windows, curved parapet and awning to Bed 2, existing front doors, feature metre box, bay window to Bed 1, roof and chimney, exposed eaves and original bricks will be retained.</p>	<p>Support the applicant's comment. The proposed development has retained many original features and new architectural elements designed to be sympathetic to the Art Deco style. The curved porch is a dominant element of the facade and its loss has a significant impact on the appearance of the dwelling, however, it is not the only heritage feature of the property.</p>
<p>Query height compliance.</p>	<p>The NGL has been taken from the floor level of the existing dwelling. The build up to the front of the house due to the sloping nature of the block makes it impossible to comply with any upper floor addition and therefore it is reasonable to ask for a dispensation to establish the floor level as the base point for measurement. It is only to the front section that this applies as to the rear of the house the NGL is higher. The neighbours to the rear who will be the only property affected have no issue with this part of the proposal. The height will have much less impact than a new development that would be set further back into the block and at a higher NGL.</p>	<p>The applicant's definition and measurement of NGL is as conventionally measured under the R-Codes. However, the TPS No. 3 varies the definition of NGL and so to the measurement of building height. This is discussed in further detail in the assessment section of this report.</p>
<p>Query horizontal window element on the second storey.</p>	<p>The window has been designed to capture river views and allow for winter sun to penetrate into the room. The roof from the lower floor restricts the vertical element to the window.</p>	<p>It is understood that the Panel is referring to the awning above the window, not window itself. The applicant was asked to provide further detail on the awning, stating that "The awning located over the Bed 4 window will be a timber framed beam supported by timber struts bolted to the wall. The roof will have a 1° fall and be covered in kliplock sheeting and hidden behind a prefabricated gutter fascia". The window is located below a gable and</p>

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		the awning will provide sun shading normally achieved through eaves. A condition of approval requiring a schedule of colours and materials can be applied to ensure the awning is finished in a manner that compliments the dwelling.
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Site Inspection

By Town Planner on.30 January 2012

ASSESSMENT

The proposed development is consistent with the objectives of the Residential Zone. A number of variations are being sought to the Town's LPP 142 Residential Development and the Residential Design Codes, as detailed below. The assessment is based upon the revised plans date stamped 30 January 2012.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	59%	A				
Site Works	Less than 500mm	Exceeds 500mm	D				
Local Planning Policies:	Issues						
Policy 142	Front setbacks; boundary setbacks; building height		D				
Roof	Gable; Roof pitch not provided, ~32 degrees		A				
Solar Access & Shade	Orientated to maximise solar access		A				
Drainage	To be conditioned		A				
Views	Exceeds maximum height		D				
Crossover	To be retained		A				
Trees	To be retained		A				
Other:	Issues		Status				
Overshadowing	Contained within subject lot		A				
Privacy/Overlooking	Porch (West): 3m into the cone of vision		D				
Height:	Required	Proposed	Status				
Wall	5.6	7.3	D				
Wall (Concealed Roof)	6.5	8.1	D				
Ridge	8.1	10.1	D				
Roof type	Gable						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (north)							
Ground	Dwelling (Porch)	N/A	N/A	N/A	7.5	7.2	D
Upper	Dwelling (Balcony)	N/A	N/A	N/A	7.5	7.2	D
Rear (south)							
Ground	Dwelling (Store)	N/A	N/A	N/A	6	1	D
	Alfresco	N/A	N/A	N/A	6	6.8	A
Upper	Dwelling	N/A	N/A	N/A	6	12.5	A
Side (east)							
Ground	Dwelling (Store, porch)	N/A	N/A	N/A	3.75	3.1	D
Upper	Dwelling	N/A	N/A	N/A	3.75	3.1	D
Side (west)							
Ground	Dwelling (Alfresco)	3.5	16.1*	N	1.5	Nil	D
Upper	Dwelling	6.7	12.2	N	4.1	5.6	A

* as calculated for assessment purposes

Site Works

The subject site slopes upwards from front to rear. The front of the existing heritage dwelling has been raised significantly above NGL to achieve a FFL of 9.72. The applicant proposes to continue the FFL of the main dwelling, requiring additional filling over 500mm in the front portion of the development. As the filling will occur along street

frontages it will not have an undue visual or privacy impact on adjoining properties. The implications for overall building height are discussed in more detail below.

Building Height

The applicant has measured building heights from the FFL of the existing house, which is common practice in R-Codes based assessments. However, the TPS No. 3 varies the provisions of the R-Codes and defines NGL as being the lowest point on the boundary. As a result, the development does not comply with the maximum heights of the LPP 142. The height variations are supported for the following reasons:

- The building heights as viewed from the southern boundary, where impact on views and amenity would be greatest, are compliant.
- Compliance with building height is constrained by the existing FFL and ceiling heights of the heritage dwelling, which are significantly above NGL at the front of the site. High ceilings (provided to the second storey) are also typical of houses built during the inter-war period.
- The highest element is the gable against the terrace, which is located in the centre of the house. This point is significantly set back from all boundaries, reducing its visual impact.
- The applicant has prepared a View Impact Statement for the development. The included diagrams show that view corridors to the affected neighbours will be reduced but not removed. Since preparing the View Impact Statement, the applicant submitted revised plans increasing the setback to the upper storey from the eastern boundary. The impact on the rear neighbour's views is now less than what was originally proposed.

Privacy

The major opening to the western wall of the Porch does not comply with the privacy setback requirements of the R-Codes. The impact of this intrusion is minor, however, as it overlooks the front of the neighbouring property, where visual privacy is not usually as sensitive. The affected neighbour did not object to the intrusion during the public consultation period. The variation is therefore supported.

Building Setbacks

The development proposes a number of variations to the setback requirements of the R-Codes. The front setback is 0.3m forward of the minimum. This occurs at the front of the porch, which will be located very close to the current porch setback line. This minor variation is unlikely to impact on the streetscape and, in keeping with the provisions of the LPP 142, will be similarly setback to the adjacent dwelling.

Side (alfresco) and rear (store) boundary setbacks are also being sought. In both instances the subject walls are single-storey. Part 3 of the LPP 142 provides standards for assessing proposed boundary setback variations. The variations comply with criteria a through c (relating to height, length, location and overshadowing) and are consistent with the intent of criteria d (relating to impact on amenity and views). Criteria states "*where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions*". The side boundary setback variation is consistent with this criteria, as it will face existing neighbouring walls with minimal setbacks and no major openings. The rear boundary setback variation abuts the neighbouring property's driveway. Although not a building wall, the underlying principle of the criteria is considered upheld as the driveway is not a sensitive area affected by building bulk.

Heritage

The existing dwelling on the subject site is a heritage property of high value in the Town's Heritage Survey. It is of excellent condition and integrity and displays strong Art Deco influences. The proposed development will significantly affect the appearance of the dwelling and the removal of the feature Art Deco porch is particularly contentious (see TPAP comments).

The applicant has prepared a Heritage Assessment to accompany the application. Key points of note in support of the extensions include:

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- It is possible that the original house was constructed with a Californian Bungalow style which was later altered to have an Art Deco appearance. Inconsistencies in the construction of the front bay windows suggest that these and the curved front porch may have been a late addition.
- The proposed additions and alterations have been designed to embrace the design intent of the art deco facade. The proposal seeks to retain the building as a sculptural element within a grassed setting.
- The proposed additions, whilst altering the facade, bulk and scale of the building would site appropriately within the surrounding new two storey development.
- Features such as the bay windows, leadlights and awning roofs will be retained.

The dwelling is a prominent feature in the precinct, being located at a corner site with direct views to the river. The proposed extensions will reinforce its prominence in the streetscape whilst blending with surrounding two-storey developments. The loss of the Art Deco porch is unfortunate, however, it is noted that the structure is in fair to poor condition and the new porches and balcony and have been designed to reflect the art deco style. As the existing porch is most likely an addition, the heritage consultant's assertion that the extensions are consistent with the current design intent (ie adding Art Deco elements to an existing inter-war period facade) is supported. The retention of individual elements (bay windows, awnings, etc) within the extensions further supports this argument. The proposed development aims to alter the existing dwelling to achieve more living space in a manner that is, for the most part, sensitive to its heritage values.

It is noted that several minor errors are included in the Heritage Assessment (not impacting on the subject matter) and the images, which are important records of the property's state prior to development, have been printed at poor quality. It is recommended that a condition be applied to any approval requiring the applicant to address these matters.

CONCLUSION

The proposed development incorporates several variations to the Town's Policies and Residential Design Codes in relation to building height, site works, visual privacy and building setbacks. The variations being sought are supported as they have limited impact on the amenity of neighbouring properties and the streetscape. The proposed extensions will significantly alter the appearance of the existing dwelling, which displays considerable heritage merit and is assigned the A- Management Category in the Heritage Survey. Notwithstanding this, the extensions have been designed in sympathy with the original design intent of the dwelling (incorporating Art Deco elements to a California Bungalow) and many of the original features will be retained. It is recommended that the application be supported subject to conditions.

RECOMMENDATION

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

- vary the rear setback requirements of the Residential Design Codes of Western Australia to permit a setback of 1.0m to the Store at the southern boundary;
- vary the front setback requirements of the Residential Design Codes of Western Australia to permit a setback of 7.2m to the Porch and Balcony at the northern boundary;
- vary the building height requirements of the Local Planning Policy 142 to permit maximum wall height of 7.3m, maximum wall height (concealed roof) of 8.1m and maximum ridge height of 10.1m as depicted on the approved plans;
- vary the site works requirements of the Residential Design Codes of Western Australia to permit fill greater than 500mm above Natural Ground Level as depicted on the approved plans; and
- vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the major opening to the western wall of the Porch to intrude 3.0m over the western boundary

for the construction of extensions at No. 19 (Lot 80) Philip Street, East Fremantle, in accordance with the plans date stamped received on 30 January 2012 subject to the following conditions:

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1. Prior to the issue of a Building Licence, the Heritage Assessment being resubmitted to address errors and image quality, to the satisfaction of the Chief Executive Officer.
2. 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.
3. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
4. 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 extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
11. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
12. 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. 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.*

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- (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"

The email from Mr & Mrs Finnigan, referred from Correspondence (MB Ref T6.1) was tabled.

Considerable discussion took place on the difficulties in ascertaining from the plans submitted, the impact of this large scale addition on this significant art deco residence.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That the application be deferred pending:

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

CARRIED

T15. EN BLOC RECOMMENDATION TO COUNCIL

Mayor Ferris - Cr de Jong

That Council adopts en bloc the following recommendations of the Town Planning & Building Committee Meeting of 14 February 2012 in respect to Items MB Ref T15.1 to T15.7.

CARRIED

T15.1 Duke Street No. 60 (Lot 10)
Applicant: CMD Landscaping
Owner: Jerri Conrad & Michael Kim
Application No. P185/2011

By Gemma Basley, Town Planner on 11 January 2012

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for the construction of an open sided and roofed pergola in the rear yard of the property at No. 60 Duke Street, East Fremantle.

The application seeks a discretion to the height requirements of the Residential Design Codes (R-Codes) and LPP No. 142 and proposes a reduced setback to the southern/side boundary.

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This report recommends that conditional approval be granted.

BACKGROUND

Description of Proposal

The application proposes the construction of an open sided and roofed pergola attached to the rear of the existing dwelling. The pergola will not have a raised finished floor level and utilises timber posts and rafters to match details of the existing dwelling.

Description of Site

The subject site is:

- a 290m² block
- zoned Residential R20
- developed with a single storey terrace house
- located in the Plympton Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Local Planning Strategy – Plympton Precinct (LPS)
Residential Design Codes (RDC)
B+ Management Category - Municipal Heritage Inventory

Relevant Council Policies

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

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 29 November 2011

Date Application Received

29 November 2011

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

Nil

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a three week period between the 24 December 2011 and the 13 January 2012. At the close of advertising no submissions had been received.

Town Planning Advisory Panel Comments

This application was not forwarded to the Town Planning Advisory Panel for comment because of the proposed works being in the rear yard of the property and not having an impact on the streetscape.

Site Inspection

10 January 2012

STATISTICS

File	P/DUK60
Zoning	R20
Lot Area	290m ²
Heritage Listing	B+

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Site:	Required	Proposed	Status
Open Space	55%	55%+	Acceptable
Site Works	500mm max	Nil	Acceptable
Height:	Required	Proposed	Status
Wall	3.0m	3.4m	Discretion
Ridge	9.0m	3.5m	Acceptable
Roof type	Nil		
Other:	Issues	Status	
Overshadowing	No issues	Acceptable	
Privacy/Overlooking	Patio will be 5 mm below NGL and does not require any screening	Acceptable	
Setbacks: The proposed pergola will have a 250mm setback to the southern boundary and requires a discretion to the R-Codes requirements which require a 1 metre setback between a pergola and a side boundary. DISCRETION			

ASSESSMENT

The proposal complies with the requirements of the R-Codes and relevant Local Planning Policies, with the exception of the reduced setback to the southern boundary and the proposed height of the pergola which is discussed below.

Buildings on the Boundary

The application proposes the construction of a pergola with a nil (0.025 metre) setback to the southern boundary. The existing dwelling is sited on the southern boundary for its entire length, being 11 metres. The proposed pergola would add a further 2.036 metres, meaning a total building wall length of 13.036 metres. The R-Codes permit only the following with regards to boundary walls:

"In areas coded R20 and R25, walls not higher than 3.0 metres with an average of 2.7 metres up to 9 metres in length and up to one side boundary only;"

Council's Local Planning Policy No. 142 provides for the construction of buildings with walls situated closer to the boundary than permitted by the R-Codes where the following can be observed:

- (a) Walls are not higher than 3m and up to 9m in length up to one side boundary;*
- (b) Walls are behind the main dwelling;*
- (c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;*
- (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*
- (e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions."*

The proposed nil setback from the pergola to the southern boundary satisfies the above criteria as demonstrated below:

- The additional length of the wall is 2.036 metres, which is a minor addition given the existing 11 metre boundary wall utilised by the dwelling to the same boundary;
- The pergola is to be constructed at ground level and is open sided so the nil setback will not have a visual impact.
- The proposed structure is not raised and will have no impacts on the privacy or amenity of the adjoining residence;
- The adjoining property would experience no overshadowing or loss of amenity as a result of the reduced setback

Based on the above consideration and taking into account there was no objection from the southern neighbour the discretion to allow a boundary wall for the proposed patio along the southern boundary is supported.

Building Height

The site contains an existing residence which was constructed in the inter war period and is afforded with high ceilings. The applicants propose to retain the same ceiling height in the pergola and as such propose to construct a maximum wall height of 3.5 metres. The proposed wall height exceeds the maximum wall height requirements of the R-Codes for single storey development. More specifically the R-Codes in Table 3 stipulate a maximum wall height of 3.0 metres for a single storey residence.

The Performance Criteria for Building Height as detailed in Section 6.7.1 of the R-Codes 2008 reads as follows:

"Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenities of adjoining properties, including, where appropriate:

- *adequate direct sun to buildings and appurtenant open spaces;*
- *adequate daylight to major openings to habitable rooms; and*
- *access to views of significance."*

In response to the above Performance Criteria it is considered that the subject application and the proposal to construct a wall with a height of 3.5 metres (in lieu of the 3.0 metre restriction) will ensure that the additions are consistent with the existing residence and will become an integral part of the residence. In addition the increased wall height will not impact on the amenity of the adjoining property at No. 62 Duke Street by way of the following:

- The proposed pergola is open sided and open roofed and will not cause any overshadowing over the residence that adjoins to the south.
- The increased wall height will not affect the supply of light to habitable rooms or outdoor living areas of the adjoining lot.
- The increased wall height will not impact on any views of significance because they do not exist in this area.

Accordingly it is considered the proposal meets the relevant Performance Criteria of the R-Codes and an exercise of discretion to allow a maximum wall height of 3.5 metres in lieu of the 3.0 metres required under the R-Codes is warranted.

CONCLUSION

The application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined in the R-Codes.

The proposal seeks a variation to the setback and height requirements of the R-Codes and is supported, given the proposed structure is an extension of the existing dwelling and will result in no overshadowing, overlooking or reduction in views of the adjacent property.

RECOMMENDATION

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

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

for the construction of a pergola at the rear of the residence at No. 60 Duke Street, East Fremantle in accordance with the plans date stamp received on 29 November 2011 subject to the following conditions:

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

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3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed alterations/additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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

Applicant: Robert & Kerry O'Neill

Owner: Robert & Kerry O'Neill

Application No. P180/11

By Carly Pidco, Town Planner, on 30 January 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of a patio at 23A Clayton Street, East Fremantle, to be located at the rear of the dwelling.

BACKGROUND

Description of site

The subject site is:

- a 397m² survey strata lot
- zoned Residential 12.5
- located in the Richmond Precinct
- improved with a single-storey single dwelling and garden shed

Statutory Considerations

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

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)

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

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : No impact

Documentation

Plans and relevant forms date stamped received on 22 November 2011

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Date Application Received

22 November 2011

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

22 April 1992 Council approved demolition of existing dwelling at No. 23 Clayton Street
30 June 1993 Town of East Fremantle endorses strata plan for Lot 96, creating No's. 23A and 23B
16 May 2005 Building Licence issued for carport extensions to No. 23A

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 21 December 2011 to 13 January 2012. No submissions were received during this period.

Town Planning Advisory Panel Comments

The application was not referred to the Panel as it is a minor development with no impact on the existing streetscape.

Site Inspection

By Town Planner on 30 January 2012

ASSESSMENT

The proposed development is a patio extension to an existing single-storey single dwelling. The patio is to be constructed of timber posts and a Colorbond Zinalume roof. The patio will replace an existing pergola located at the rear of the dwelling.

The proposed development is consistent with the objectives for the Residential Zone and generally complies with the relevant R-Codes 'Acceptable Development' standards and the Town's Local Planning Policies. Variations to boundary setback and visual privacy requirements are being sought, as detailed below.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	No change (~67%)	A
Site Works	Less than 500mm	Less than 500 mm	A
Local Planning Policies:			
LPP 142 Residential Design	No impact on streetscape, complies with height requirements. Reduced rear boundary setback.		D
LPP 066 Roofing; LPP023 Reflective Roofing Material	Hip roof, non-dominant roof element. Zinalume roof – apply standard condition.		A
Solar Access & Shade	Patio faces north for solar access		A
Drainage	To be conditioned		A
Views	No impacts – complies with height requirements		A
Crossover	No impacts		A
Trees	No impacts		A
Other:			
Other:	Issues		Status
Overshadowing	Overshadowing contained within subject lot		A
Privacy/Overlooking	6.9m intrusion into cone of vision overlooking western boundary		D
Height:			
Height:	Required	Proposed	Status
Wall	5.6m	2.7m	A
Ridge	8.1m	3.9m	A
Roof type	Hip roof		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
Ground	N/A – abuts existing	N/A	N/A	N/A	N/A	N/A	N/A
Rear (west)							
Ground	Patio	2.7	5.3	N	1.0	0.6	D
Side (south)							
Ground	N/A – abuts existing	N/A	N/A	N/A	N/A	N/A	N/A
Side (north)							
Ground	Patio	2.7	5.1	N	1.0	5.8	A

Boundary Setbacks

Part 3 of the LPP 142 provides standards for assessing proposed boundary setback variations. The subject variation complies with criteria a through c (relating to height, length, location and overshadowing) and is consistent with the intent of criteria d (relating to impact on amenity and views). It is not consistent with criteria e, which states “where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions”. However, the variation is still considered supportable as it is minor in nature, consistent with all other criteria and no objections from affected neighbours have been received.

Visual Privacy

The finished floor level (FFL) of the patio is to be consistent with the existing dwelling. However, in accordance with the definition of Natural Ground Level (NGL) in TPS No. 3, the height of the structure is measured from the lowest NGL at the boundary. This renders the FFL of the patio 500mm above NGL, and visual privacy requirements are applied. The R-Codes requires the patio to either be set back 7.5m from the boundary or screened. It is not feasible to achieve the required setback in this case. The applicant has not shown any screening, however, this is supported as the FFL of the patio is similar to an existing pergola (used similarly to a patio) and the existing dwelling. The impact on neighbours will be negligible as the patio structure will not materially affect the appearance of the dwelling or use of the space. Further, no objection was received from the affected neighbour during the consultation period.

CONCLUSION

The proposed development is generally compliant with the Town’s policies with the exception of a proposed rear boundary setback variation and visual privacy variation. The reduced setback is mostly consistent with the criteria provided in LPP 142 and is not considered to have an undue impact on views, residential amenity or streetscape. The proposed variation to privacy requirements is not likely to have a greater impact on the privacy of the affected neighbour than what may already exist. It is recommended that the proposed patio development be approved subject to conditions.

RECOMMENDATION

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

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

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

1. The zincalume roofing be treated to Council’s satisfaction to reduce reflectivity in the first two years following installation, at the owner’s expense.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council’s further approval.

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3. The proposed works are not to be commenced until Council has received an application for a demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed patio is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
9. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- T15.3** **Bedford Street No. 28 (Lot 55)**
Applicant: Gregory Limjoon
Owner: Gregory Limjoon
Application No. P141/2011
By Matthew Ryan/MPS on 22 December 2011

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for the construction of carport and alfresco area to the existing residence at No. 28 Bedford Street, East Fremantle.

The application seeks a discretion to the setback requirements of the Residential Design Codes (R-Codes) and Local Planning Policy No. 142 with respect to the nil setback from the carport to the southern boundary.

This report recommends that conditional approval be granted.

BACKGROUND

Description of Proposal

The subject application proposes a carport and rear alfresco addition, and involves the following:

- Construction of a new flat roof carport adjacent the residence to the southern boundary;
- Construction of a new alfresco to the rear of the existing residence; and
- Removal of the existing flat roof to the rear of the residence and replacement with new skillion roof covering the rear portion of the existing residence and new alfresco.

The application seeks a discretion to the setback requirements of the R-Codes, relating to the nil setback proposed from the carport to the southern boundary, which will be discussed in the Assessment section of this report.

Description of Site

The subject site is:

- a 663m² block
- zoned Residential R20
- developed with a single storey dwelling
- located in the Plympton Precinct.

Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : The proposed carport will be visible from the street. Given its setback from the main residence and flat roof design its impact will be minimal, and will not affect the way in which the residence is viewed from the street.

Documentation

Relevant forms date stamp received on 15 September 2011 and revised plans received 14 December 2011.

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Date Application Received

15 September 2011

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

20 November 2001 Council granted approval for the demolition of an existing outbuilding and construction of two storey additions in the rear yard of the existing residence.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between 18 October and 1 November 2011. At the close of advertising no submissions were received.

Town Planning Advisory Panel

The subject application was not assessed by the Town Planning Advisory Panel (TPAP) because of the minor nature of the proposal.

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	+55%	A				
Site Works	Less than 500mm	200mm	A				
Local Planning Policies:		Issues					
Policy 142	Carport nil setback		D				
Roof	No issues		A				
Solar Access & Shade	No issues		A				
Drainage	To be conditioned		A				
Views	No issues		A				
Crossover	Existing to remain		A				
Trees	Two large trees within the site may be impacted		D				
Other:		Issues					
Overshadowing	No issues		A				
Privacy/Overlooking	No issues		A				
Height:	Required	Proposed	Status				
Wall	7.0	4.5	A				
Ridge	9.0	5.3	A				
Roof type	Skillion						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
<i>Ground</i>	<i>Carport</i>				7.5	9.5	
Rear (east)							
<i>Ground</i>	<i>Carport</i>	3.0	3.0	N	1.0	2.0	A
	<i>Alfresco</i>	3.6	6.5	Y	1.8	10.2	A
Side (south)							
<i>Ground</i>	<i>Carport</i>	3.0	5.9	N	1.0	Nil	D
	<i>Alfresco</i>	2.5	4.1	Y	1.5	3.1	A
Side (north)							
<i>Ground</i>	<i>Alfresco</i>	4.5	4.1	Y	2.0	8.5	A

Site Inspection

By Matthew Ryan on 22 December 2011.

ASSESSMENT

Approval is sought for the construction of a carport and rear alfresco at No. 28 Bedford Street, East Fremantle.

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the nil setback proposed from the carport to the southern boundary.

Building on the Boundary

The application proposes to construct the carport adjacent the dwelling on the southern boundary. The R-Codes Acceptable Development criteria only permit the following in relation to buildings on the boundary:

"i Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension; "

Council's Local Planning Policy No. 142 provides for the construction of residences with walls situated closer to the boundary than permitted by the R-Codes where the following can be observed:

- "(a) Walls are not higher than 3m and up to 9m in length up to one side boundary;*
- (b) Walls are behind the main dwelling;*
- (c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;*
- (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*
- (e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions."*

The proposed nil setback to the side (southern) boundary from the carport satisfies the above criteria as demonstrated below:

- the maximum height of the carport on the southern boundary is 3.0 metres, as permitted;
- the proposed carport structure is below the maximum permitted length, being 5.9 metres; and
- the proposed carport location is directly adjacent an existing parapet wall on the northern boundary of 33 Moss Street, which is of greater dimension than the proposed carport.

CONCLUSION

The application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the R-Codes.

The only variation sought to the R-Codes and LPP No. 142 relates to the nil setback utilised from the carport to the southern boundary. The carport is proposed to be adjacent the existing boundary wall to the northern boundary at 33 Moss Street, which is of considerably greater dimensions. Consequently, the proposed carport on the boundary satisfies the Acceptable Development criteria of the R-Codes as well as LPP No. 142.

The proposed additions will not impact on the heritage significance of the residence. The impact of the carport on the streetscape is minimised by the considerable boundary wall adjacent, as well as the appropriate setback and minimal dimensions. The alfresco area is not visible from the street.

The application is therefore considered to be suitable for determination and is recommended for approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the setback requirements of the R-Codes and LPP No. 142 to allow a nil setback from the carport to the southern boundary for the construction of additions to the residence at No. 28 (Lot 55) Bedford Street in accordance with the plans date stamp received on 15 September 2011, subject to the following conditions:

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

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2. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site and clear of all boundaries.
6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

T15.4 Irwin Street No. 23A (Lot 1 on Strata Plan 11836)

Applicant: Bouse Builders

Owner: Ian & Susan Brown

Application No. P180/11

By Carly Pidco, Town Planner, on 6 February 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of an ensuite addition at 23A Irwin Street, East Fremantle.

BACKGROUND

Description of site

The subject site is:

- a survey strata lot with an area of **approximately** 435m²
- zoned Residential 12.5
- located in the Woodside Precinct
- assigned a B- Management Category in the Heritage Survey 2006
- improved with a single-storey single dwelling, pergola and garden shed

Statutory Considerations

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

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Addition visible from street.

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Documentation

Plans and relevant forms date stamped received on 12 December 2011
Revised plans date stamped received on 20 December 2011

Date Application Received

12 December 2011

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

18 April 1983 Council approves the conversion of an existing single residence to a Class 1A duplex conversion
28 May 1983 Building Permit 156/666 approved for a new duplex unit
8 November 1983 Town Clerk endorses Strata Plan 11836 for a single storey brick and tile duplex
27 May 1991 Council refuses approval for a carport within the front setback
18 November 1991 Council defers determination of an application for a carport with a reduced front boundary setback pending a site inspection by the Town Planning & Building Committee.
16 December 1991 Council approves construction of a carport subject to conditions
22 October 1992 Building Permit 153A/1996 approved for a carport extension
17 March 2009 Council approved construction of a patio at 23A Irwin Street

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 21 December 2011 to 13 January 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 31 January 2012. The applicant has provided a response to the concerns raised in a letter dated 3 February 2012. The Panel's comments and applicant's and officer's responses are detailed below.

Panel Comment	Applicant's Response	Officer's Comment
Panel queries the approval of car parking in front of the building designated as a carport	The car parking was approved as parking for 2 bays as per subdivision requirements prior to 1983 when the subdivision was approved	It is necessary to distinguish between "car parking" and a "garage" or "carport" for planning purposes. Car parking can include an open area for the purpose of parking a vehicle and does not necessarily need to be provided under a structure (ie garage or carport). The ensuite addition will not affect the open area in front of the dwelling or the residents' ability to use this area for car parking. It is understood that the Panel's comment refers to the existing pergola, which abuts an existing gate and crossover. The pergola is an approved structure. However, a site visit indicates that the pergola is being utilised as a carport. The site inspection also revealed that 2 street trees which were apparent on earlier aerial photographs have been removed. It is proposed to apply a condition of approval requiring the regularisation of the unapproved development and reinstatement of the verge vegetation and curbing as necessary.

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<p>The panel wishes to foreshadow a concern that the ensuite will occupy space that could be utilized for a carport</p>	<p>There is physically enough room for 2x car parking bays in tandem as we have 11.29m for tandem parking when by regulations we only need 11m</p>	<p>The distance between the existing dwelling and boundary is 2.7m. Standards for design of car parking spaces require a minimum width of 2.4m and a minimum boundary setback of 0.5m, which combined exceeds the space available. If the landowners were to contemplate an enclosed garage with parapet wall, the minimum width required increases to 3.0m. The space available is not sufficient to accommodate a compliant carport or garage and so the ensuite is unlikely to prejudice future development of this type. It should be noted that adequate space for <i>car parking</i> remains at the front of the dwelling.</p>
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Site Inspection

By Town Planner on.30 January 2012.

ASSESSMENT

The proposed development is an ensuite extension to an existing brick and iron dwelling. The existing roofline will be extended to accommodate the ensuite and the extension will be visible from the street. The ensuite is to be of harditex and iron construction and finished to match the existing dwelling facade.

The proposed development is consistent with the objectives for the Residential Zone and generally complies with the relevant R-Codes 'Acceptable Development' standards and the Town's Local Planning Policies. A variation to boundary setback requirements is being sought, as detailed below.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	~59%	A
Site Works	Less than 500mm	Less than 500 mm	A
Local Planning Policies:			
LPP 142 Residential Design	Variation to boundary setback requirements		
LPP 066 Roofing; LPP023 Reflective Roofing Material	Hip roof, extension of existing dominant roof element. Colorbond Iron roof to match existing – apply standard zincalume condition.		A
Solar Access & Shade	Located on southern side of house, preserving northern side for outdoor living		A
Drainage	To be conditioned		A
Views	No impacts		A
Crossover	No impacts		A
Trees	No impacts		A
Other:			
Issues	Issues		Status
Overshadowing	Total overshadowing from 23A ~25m ² ; within acceptable percentage		A
Privacy/Overlooking	No impacts – Less than 500mm change to levels		A
Height:			
Required	Proposed	Status	
Wall	5.6m	2.6m	A
Ridge	8.1m	3.5m	A
Roof type	Hip roof		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
<i>Ground</i>	<i>Ensuite</i>	2.6	1.9	No	7.5	10.5	A
Rear (west)							
<i>Ground</i>	<i>Behind existing development</i>	N/A	N/A	N/A	N/A	N/A	A
Side (south)							
Ground	Ensuite	2.6	4.0	No	1.0	0.8	D
Side (north)							
<i>Ground</i>	<i>Abuts existing development</i>	N/A	N/A	N/A	N/A	N/A	A

Part 3 of the LPP 142 provides standards for assessing proposed boundary setback variations. The subject variation complies with criteria 'a' and 'c' (relating to height, length, overshadowing) and is consistent with the intent of criteria 'd' (relating to impact on amenity and views). It is not consistent with criteria b, which provides that walls are to be behind the main dwelling. The impact of the reduced setback in this location is not considered to adversely impact neighbours or the streetscape, however, as it is sympathetically designed, continuing the existing roof line, and only single storey in height. The proposal is also inconsistent with criteria e, which states "where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions". However, the variation is still considered supportable as it is minor in nature and no objections from affected neighbours have been received.

Heritage

The existing dwelling is assigned a B- Management Category in the Town's Heritage Survey. The proposed development will impact the appearance of the dwelling but is not considered to be unacceptable. The addition has been designed to blend with the existing dwelling and will be incorporated under an extension of the existing roofline. The wall facing the street is of minimal width and set back from the main building line. The TPAP has not raised any objection to the proposal on heritage grounds. It is recommended that a condition be applied to any approval requiring a schedule of external colours and materials to ensure that the addition is finished sympathetically to the existing dwelling.

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 setback of 0.8m at the ground storey for the construction of an ensuite addition at No. 23A (Lot 1 on Strata Plan 11836) Irwin Street, East Fremantle, in accordance with the plans date stamped received on 20 December 2011 subject to the following conditions:

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

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5. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence is issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed ensuite is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
11. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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

By Pina Mastrodomenico, Town Planner on 19 January 2012

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for loft addition and new roof to the existing residence at No. 1 Salvado Avenue, East Fremantle.

This report recommends that conditional approval be granted.

BACKGROUND

Description of Proposal

The subject application proposes alterations to the outside of the existing residence including the following:

- Removal of section of existing roof and re-roofing of residence in a zincalume material to match the existing roof;
- Existing section of skillion roof to north elevation to be removed;
- New extension to verandah to Salvado Street (south elevation); and
- New loft addition.

Description of Site

The subject site is:

- a 507m² block
- zoned Residential R12.5
- developed with a heritage dwelling

Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 3 January 2012

Date Application Received

3 January 2012

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

17 July 2007 Council grants retrospective approval for a storeroom

10 October 2006 Council resolved to grant approval for additions to existing dwelling

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 10th and the 25th January 2012. At the close of advertising no submissions were received.

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 31 January 2012 and the following comments were made:

- Panel supports the application.

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	53%	A
Site Works	N/A	N/A	A
Local Planning Policies:			
	Issues		
Roof	Pitched roof		A
Views	No impacts		A
Crossover	N/A		N/A
Trees	No impacts		A
Other:			
	Issues		Status
Overshadowing	N/A		A
Privacy/Overlooking	No impacts		A
Setbacks:			
	Required	Proposed	Status
Front (West)	6.0	7.0	A
Side (North)	1.5	3.4	A
Side (South)	1.5	9.1	A
Rear (East)	1.5	13.2	A

ASSESSMENT

The subject application proposes a loft addition and new roof to the existing residence. The material of the proposed new roof is zincalume which will match the existing roof material.

The loft proposes a balcony that faces east. The balcony is setback 13.2 metres from the side boundary and therefore fully complies with the privacy requirements of the Residential Design Codes.

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies.

Heritage Impact

The residence at No. 1 Salvado Street is included on Council's Municipal Heritage Inventory as a 'B^' Management Category and as such is considered to have heritage significance at a local level and is a place generally considered worthy of a high level of protection, to be retained and appropriately conserved.

The proposed additions will result in the existing skillion roof being removed and replaced with a pitched roof. The additions have been designed to match the pitch of the heritage dwelling and will enhance the streetscape and the way the existing residence is viewed from the street.

The proposed additions are sympathetic to the original house and will not detract from the heritage significance of the place.

Conclusion

The application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the R-Codes. The application has been supported by the Town Planning Advisory Panel.

The proposed additions will not impact on the heritage significance of the residence. The application is therefore considered to be suitable for determination and is recommended for approval.

RECOMMENDATION

That Council grant approval for a Loft Addition and New Roof to existing dwelling to the residence at No. 1 (Lot 1) Salvado Road in accordance with the plans date stamp received on 3 January 2012, subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site and clear of all boundaries.
6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
7. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
8. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

T15.6

Petra Street No. 79 (Lot 360)

Applicant: Daniel & Ann-Marie Dunnet

Owner: Daniel & Ann-Marie Dunnet

Application No. P194/11

By Carly Pidco, Town Planner, on 7 February 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of a garage addition and rear extension at 79 Petra Street, East Fremantle.

BACKGROUND

Description of site

The subject site is:

- a green title lot with an area of 979m²
- zoned Residential 12.5
- located in the Woodside Precinct

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- assigned a B Management Category in the Heritage Survey 2006
- improved with a single-storey 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 : To be widened
Footpath : Crossover to be widened
Streetscape : Garage visible from street

Documentation

Plans and relevant forms date stamped received on 19 December 2011
Revised plans date stamped received on 7 February 2012

Date Application Received

19 December 2011

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

19 February 1990 Council approved application for rear extension to the existing dwelling

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 21 December 2011 to 13 January 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 31 January 2012. The applicant has prepared revised plans to address the front setback to the garage. The Panel's comments and officer's responses are detailed below.

Panel Comment	Officer's Comment
Panel supports the additions to the rear	Support the Panel's comment.
Panel doesn't support the garage forward of the building line	Support the Panel's comment. The LPP 142 requires garages to be located at or behind the main building line to reduce the visual impact on the streetscape. This is particularly important for a heritage property of high value and sound condition (B Category). There is ample space behind the garage for it to be moved rearwards and thus increase the front setback. The applicant has prepared revised plans relocating the garage so as to comply with the LPP 142 (refer attached plans dates stamped received 7/2/12).
Panel appreciates the design of the garage as sensitive to the existing residence	Support the Panel's comment.
Plans do not include approval for a garage door	Noted. It is recommended that an advice note be attached to any approval reminding the applicant that a garage door may require separate approval.

Site Inspection

By Town Planner on.30 January 2012.

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ASSESSMENT

The proposed development is a garage addition and rear extension to an existing brick and tile dwelling. The garage is located in alignment with the building frontage (refer revised plans) at the front of the property and is designed in a style sympathetic to the existing heritage dwelling. The rear addition comprises Alfresco, Family Room and additional space for the Kitchen and Bed 1. The rear addition continues the existing side setbacks and roof form/pitch, but will increase the overall height of the current rear / proposed middle roof element. This will make the new roof visible from the street, however, it is not likely to negatively impact the streetscape as it will be mostly masked by the existing dwelling and finished in a style to complement the existing dwelling.

The proposed development is consistent with the objectives for the Residential Zone and generally complies with the relevant R-Codes 'Acceptable Development' standards and the Town's Local Planning Policies. The original submitted plans showed the garage forward of the main dwelling, but in response to the TPAP's comments, the applicant has revised the plans to bring the garage into compliance with LPP 142. The assessment table provided below is based on the revised plans dated 7 February 2012.

Key: A = Acceptable, D = Discretion

<u>Site:</u>	Required	Proposed	Status
Open Space	55%	75.1%	A
Site Works	Less than 500mm	Less than 500mm	A
Local Planning Policies:			
Policy 143	Boundary setback variation		D
Policy 66 Roof	22.5 degrees		D
Solar Access & Shade	Alfresco, family, dining face north		A
Drainage	To be conditioned		A
Views	N/A		N/A
Crossover	6.5m		D
Trees	No impact		A
Other:			
Overshadowing	Acceptable		A
Privacy/Overlooking	Acceptable		A
Height:			
Wall	Required	Proposed	Status
Wall	6.0	3.5	A
Wall (Concealed Roof)	7.0	N/A	N/A
Ridge	9.0	6.4	A
Roof type	Gable roof to garage, pitched roof to additions		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
Ground	Garage	N/A	N/A	N/A	7.5	7.2	D
Rear (west)							
<i>Ground</i>	Dwelling	N/A	N/A	N/A	6.0	17.9	A
<i>Side (south)</i>							
Ground	Garage	2.9	6.4	N	1.0	Nil	D
	<i>Balance of dwelling</i>	3.5	24.6	Y	1.5	4	A
<i>Side (north)</i>							
<i>Ground</i>	<i>Dwelling</i>	3.5	24.3	Y	1.5	3	A

* Wall length as calculated for assessment purposes

Roof Pitch

The Town's LPP 66 Roofing requires dominant roof elements to have a minimum roof pitch of 28 degrees. The proposed garage roof, although not the main roof as such, is considered a dominant roof element due to its prominence at the street level. The proposed roof pitch for the garage is 22.5 degrees. This roof pitch mimics the existing gable roof elements visible from the street, and is designed to blend with the heritage facade. The reduced roof pitch is supported.

Front Setbacks

The proposed garage is set 0.3m forward of the setback line as specified in the Residential Design Codes. Notwithstanding this, the LPP 142 provides that buildings may be set back "such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality" and garages to be located "at or behind the main building line of the house on the property". The proposed garage is consistent with both of these provisions. Nearby dwellings on Petra Street are mostly setback in line with, or slightly forward of, the subject dwelling. The garage is located to be in line with the main front wall of the dwelling (the lounge) in keeping with the Policy. A projection to the lounge and the porch both protrude forward of this building line and will create articulation and reduce the visual impact of the garage.

Side Setbacks

The proposed garage is to incorporate a nil setback to the southern side boundary. The reduced setback is consistent with criteria (a) through (d) for setback variations outlined in the LPP 142. Criteria (e) states that the setback variations can be supported "where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions". The garage parapet is not consistent with this criteria, however, it is not likely to have an undue impact on the solar access, privacy or amenity of the affected neighbour and is therefore supported.

Crossover

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

RECOMMENDATION

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 nil side setback at the garage on the southern boundary; and
- (b) vary the roof pitch requirements of the Local Planning Policy No. 66 to permit a 22.5 degree roof pitch to the garage;

for the construction of a garage addition and rear extension at No. 79 (Lot 360) Petra Street, East Fremantle, in accordance with the plans date stamped received on 7 February 2012 subject to the following conditions:

1. A detailed schedule of external materials and finishings (including paint colours) to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer.
2. The eastern (front) facade to the garage is to remain open in complete conformity with the approved plans.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.

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6. The proposed garage and extension are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
8. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
11. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
12. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
13. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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

Applicant: In House Building Design

Owner: Bevin Brakespeare

Application No. P1/12

By Carly Pidco, Town Planner, on 6 February 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of a two-storey dwelling at No. 3A Walter Street, East Fremantle.

BACKGROUND

Description of site

The subject site is:

- a 428m² vacant survey strata lot
- zoned Residential 12.5
- located in the Richmond Precinct
- encumbered by an access easement to the benefit of No. 3 Walter Street over the truncation to Walter Street
- encumbered by a sewage access point in the north-west corner of the lot

Statutory Considerations

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

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)

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

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : To be widened
- Footpath : No impact
- Streetscape : No impact (rear battleaxe lot)

Documentation

Plans and relevant forms date stamped received on 3 January 2012

Date Application Received

3 January 2012

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

- 21 August 2001 Council resolves to advise the WAPC that it recommends refusal of a subdivision application for No. 3 Walter Street
- 26 September 2001 WAPC grants conditional approval for subdivision of 3 Walter Street into two survey strata lots
- 14 October 2003 WAPC endorses Survey Strata Plan 44581 creating No. 3 and No. 3A Walter Street
- 20 September 2005 Council resolves to approve an application for construction of a two-storey single dwelling on No. 3A
- 18 December 2007 Council resolves to approve an application for construction of a two-storey single dwelling on No. 3A
- 2 April 2008 Letter sent to landowner advising that an existing masonry wall across the truncation with Walter Street constitutes unauthorised works
- 8 December 2011 Letter sent to landowners of No. 3 and No. 3A advising that an existing masonry wall across the truncation with Walter Street requires and application for retrospective planning approval

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CONSULTATION

Advertising

The proposed development was advertised to surrounding neighbours from 21 December 2011 to 13 January 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 31 January 2012. The Panel supports the application.

Water Corporation

A sewage access point (Water Corporation asset) is located in the north-west corner of the property. Informal comment from the Water Corporation advised that buildings must have a minimum setback of 2.5m from the sewer main and sewer spigots, or 1.0m with piles under the foundations to below sewer main invert level. It is recommended that a condition be placed on any approval for the applicant to comply with the Water Corporation's requirements.

Site Inspection

By Town Planner on 9 December 2011.

ASSESSMENT

The proposed development is a two-storey single dwelling. The dwelling is of brick and Zincalume construction with feature weatherboard cladding.

The proposed development is consistent with the objectives for the Residential Zone but does propose a number of variations to the relevant R-Codes 'Acceptable Development' standards and the Town's Local Planning Policies.

Site:	Required	Proposed	Status					
Open Space	50%	65.1%	A					
Site Works	Less than 500mm	Less than 500mm	A					
Local Planning Policies:								
Policy 142	Height; boundary setbacks; privacy		D					
Roof	Gable roof; 30 degrees; Zincalume roof – apply standard condition		A					
Solar Access & Shade	Outdoor living faces north. Major openings to northern wall of living area.		A					
Drainage	To be conditioned		A					
Views	Within concealed roof and pitched roof maximum heights; exceeds external wall maximum heights		D					
Crossover	3m		A					
Trees	No impact		A					
Other:								
Issues			Status					
Overshadowing	14.7m ² overshadowing No. 1 Walter; 2.86m ² overshadowing No. 10 Gill.		A					
Privacy/Overlooking	1m intrusion to No. 3 at eastern boundary		D					
Height:								
	Required	Proposed	Status					
Wall	3.0	5.8m	D					
Wall (Concealed Roof)	4.0	6.2m	D					
Ridge	6.0	7.3m	D					
Roof type	Gable Roof							
Setbacks:								
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status	
Front (east)								
	Ground	Garage	2.8	6	N	1	Nil	D
		Dining / Living	2.7	14.9*	Y	1.5	5.4	A
	Upper	Bed 3	5.7	4.7	N	1.2	1.2	A
		Master	5.6	4.3	Y	2.8	5.9	A
		Ensuite	6.2	13.4*	N	1.9	5.4	A

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Rear (west)							
Ground	Laundry / Bath / Study	2.5	8.5	N	1	1.1	A
	Kitchen / Pantry	2.5	5.5	N	1	1.1	A
	Living	2.9	18.4*	Y	1.5	3.1	A
Upper	Dwelling	5.2	13.5	N	3.5	3.1 at WIR & Landing	D
Side (south)							
Ground	Study	2.7	4.7	N	1	1.5	A
	Balance of dwelling	3.3	13.4	N	1.5	4.9 at porch	A
Upper	Bath	5.8	10.3*	N	1.5	4.8	A
	Bed 2 / Bed 3	5.5	5.7	Y	2.5	6.7	A
Side (north)							
Ground	Dining	3.2	8.2	Y	1.5	1.5	A
	Carport	2.5	13.4*	N	1.5	9.2	A
Upper	Master	5.7	4.7	N	1.2	3.0	A
	Balance of dwelling	5.5	10.3	Y	2.9	9.8	A

* Wall length as calculated for assessment purposes

Building Height

The Town's LPP 142 provides that the Category A height provisions of the R-Codes apply to development on rear battleaxe lots. The Category A provisions are consistent with standard heights for a single-storey development. The Policy's intent is to minimise privacy and amenity impacts on surrounding properties in cases of higher density development, and to preserve the integrity of heritage streetscapes. The LPP 142 provides the following criteria for the assessment of height variations:

- *The proposal demonstrates design, bulk and scale that responds to the established character or other site specific circumstances.*

The subject site is small in area and shallow in dimensions. This makes it difficult to build a family-size home within a single-storey while still complying with requirements for setbacks and open space. The upper storey is contained within a modest footprint and is considered to demonstrate design, bulk and scale that responds to site specific circumstances.

- *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped.*

The applicant has not provided a landscaping plan with the development application. The development achieves 65.1% open space in accordance with the R-Codes definition. Although not all of this area will be available for landscaping, the 50% requirement is achievable.

- *Subject to the provisions of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy*

The proposed development does not have an unacceptable overshadowing impact on neighbours and is considered to comply with Element 9. A variation to the privacy requirements in Element 8 is being sought, however, this is supported (see section below).

- *A maximum of 30% of the ground floor area (including garages and roofed areas enclosed on three sides) being contained in all upper level portions of the dwelling*

The upper storey footprint represents 61% of the ground floor area. Although this is significantly higher than 30%, the impact of upper storey bulk is limited by the upper storey generally having greater boundary setbacks than the ground floor. It must also be acknowledged that the effective lot area is small and it is difficult to achieve a

substantial ground floor area.

- *Setbacks to the second storey being a minimum of 4m from all boundaries unless it is demonstrated to Council's satisfaction that a lesser setback will not adversely impact on amenity*

A range of setbacks are provided to the upper storey. This creates articulation which softens the appearance of bulk for adjoining properties. The proposed setbacks are not considered to have an undue impact on the privacy, amenity or solar access of neighbouring properties.

Although the development does not accord with all of the criteria laid out in LPP 142, its impact on neighbours and the streetscape are minimal. The subject lot is located at the lower end of Walter Street, where views to the river are minimal. The upper storey footprint is modest with greater setbacks than the lower storey and few windows overlooking neighbours. It is also worth noting that the dwelling is within the maximum height for second storey development in the surrounding area. Given the unobtrusive nature of the second storey, the proposed height variations can be supported.

Privacy Requirements

The major opening to the northern wall of Bedroom 3 constitutes a variation to the privacy setback requirements of the R-Codes along the eastern boundary. The intrusion is minor (1m) and being at an angle, rather than directly overlooking, will have a minimal impact. The affected landowner has not lodged an objection during the comment period. The proposed variation is not considered to have an undue impact on the affected landowner and the variation is therefore supported.

Boundary Setbacks

The development proposes two variations to boundary setback requirements, the first being a nil setback to the eastern boundary and the second being 0.4m below requirement at the western boundary. The LPP 142 provides criteria by which boundary setback variations are to be assessed:

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

The subject wall to the eastern boundary is within the height and length requirements. The wall to the western boundary exceeds these, however, the variation is minor and a 3.1m setback is provided. Reduced boundary setbacks to two boundaries is considered supportable as these will not be visible from the streetscape or have an undue impact on neighbours.

- *Walls are behind the main dwelling*

The wall to the western boundary complies. The wall to the eastern boundary is technically the front of the dwelling. However, the dwelling is located on a battleaxe lot and the subject wall will not be visible from the streetscape.

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

The development is sited on a battleaxe lot and will not impact upon the character of the streetscape. The development is located on the lower end of Walter Street and will not impact upon neighbouring property's views.

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

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The subject walls abuts the rear yards of the affected neighbours.

Although the proposed setback variations are not consistent with all of these criteria, they are minor in nature and the impact on neighbouring properties is minimal and there is no impact on the streetscape.

Unauthorised Existing Development

The Town was made aware of an unauthorised boundary fence on the subject property in 2008 which was constructed by the neighbouring property owner of the front lot at 3 Walter Street. The issue has recently been brought to the Town's attention again, with the interested landowners having recently been advised to lodge an application for retrospective approval to determine whether the wall can be retained. The subject plans do not depict the existing unauthorised wall. The wall obscures the sightline from the driveway of No. 3A and will impact upon safe ingress/egress from the site. In anticipation of a dwelling being constructed and residents utilising the driveway, it is recommended that a condition be placed on any approval requiring the truncation to comply with relevant requirements to ensure safety.

CONCLUSION

The proposed development is consistent with the objectives of the residential zone. Several variations to the Town's Local Planning Policies and the R-Codes are being proposed, relating to visual privacy requirements, building height and building setbacks. No objections were received during the public consultation period and the TPAP is in support of the development. The proposed variations will have minimal impact on the streetscape and neighbouring properties and are therefore supported.

RECOMMENDATION

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

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

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

1. Development must achieve building setbacks and/or piling to the sewer access chamber to the specifications of the Water Corporation.
2. The truncation to the battleaxe driveway at the Walter Street frontage is to achieve adequate sight lines in keeping with the requirements of the Residential Design Codes.
3. The zincalume roofing be treated to Council's satisfaction to reduce reflectivity in the first two years following installation, at the owner's expense.
4. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

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7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
9. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
11. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
13. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
14. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
15. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

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

T16. REPORTS OF OFFICERS – STRATEGIC PLANNING (CONTINUED)

T16.1 Planning & Development Services – Status Report

By Jamie Douglas, Manager Planning Services on 6 February 2012

PURPOSE OF THIS REPORT

This report provides Elected Members with information on the progress of the various Strategic Planning and Development Projects currently identified within the Planning Program and current planning department resources.

STRATEGIC PLANNING

Residential Design Guidelines

Griffiths Architects together with Chris Antill Town Planning & Urban Design were appointed in September 2011 to undertake the development of a consolidated set of Design Guidelines for residential development. The Guidelines have been developed following a detailed analysis of the Town's existing built form to identify those building elements which are important to conserve and promote. The consultants have assessed the various relevant existing Local Planning Policies and consolidated elements from these which are to be retained within the proposed Guideline document.

The following major components of this work are now complete and draft documents were presented to the Town Planning Advisory Panel on 31 January 2012. The consultants will give a further presentation to the Town Planning & Building Committee at its meeting on 14 February 2012. The Advisory Panel and Committee comments will be assessed and incorporated within a final draft for determination at subsequent meeting of the Town Planning & Building Committee and Council.

Research consisting of the following:

- An analysis of all relevant information, base mapping, strategic and statutory planning provisions;
- Site surveys and examination of historical data to determine building typologies, significant features and streetscape character for each precinct;
- Identification and description of prevailing building typologies, significant features and streetscape character for each precinct;
- Sketches, photographs, and explanations necessary to describe the existing desirable built form and design elements of each precinct; and,
- Identification of the desired future character for each Precinct, the elements which contribute to that character, and the range of design elements appropriate for guidelines applicable specifically to each Precinct, or applicable generally throughout the Policy Area.

Residential Guidelines consisting of the following:

- An analysis of all existing relevant Local Planning Policies which can be adopted into the Design Guideline Planning Policy;
- An analysis of relevant R Code provisions which could be modified and adapted to suit the requirements of the streetscape character of each Precinct;
- Identification and establishment of standards for land use and development that apply to both the entire Suburb and individual Precincts ;

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- Statements, desired development outcomes, performance criteria and acceptable development provisions that developments have to comply to for each standard; and,
- Information required when submitting a development application.

It is proposed that following Council approval for public release of the documents, an extensive public advertising program will be conducted prior to consideration of adoption of the Guideline document as a Local Planning Policy.

Review of Local Planning Strategy and Town Planning Scheme No.3

Ferraro Planning and Development Consultancy was appointed to undertake the project in October 2011. The project comprises the following:

- Review of the Town of East Fremantle Town Planning Scheme No3 Local Planning Strategy ;
- The identification of areas where infill development could be supported in conformity with the Town's planning objectives;
- The drafting of a scheme amendment report to support guided infill development in the R12.5 residential zone; and
- The drafting of a scheme amendment report to designate subdivision and plot ratio requirements for developments in the 'Mixed Use' zone.

The consultant has completed a survey of the existing housing density and development pattern to inform revisions to the Planning Strategy and Scheme. An initial draft of the revised Planning Strategy and proposed Scheme amendments have been submitted for review by the Manager Planning Services. The consultant is now preparing revised drafts for presentation to the Town Planning Advisory Panel and the Planning & Building Committee in March 2012.

Access and Parking Management Plan – George Street Precinct

Tender documents and a Project Brief have been prepared to seek submissions from consultants to undertake the Plan. Through this Plan, the Town is seeking advice/recommendations on the most appropriate range of responses for residents, workers and customers to access the precinct and for the provision of parking. It is anticipated that a holistic approach will be required which incorporates consideration of:

- Urban design responses which facilitate movement and parking within the public domain;
- Improving management of both on-street and off-street car parking to achieve optimal utilisation and turnover;
- Maximising the availability of existing parking by better managing demand through the encouragement and promotion of alternative access modes – walking, cycling and public transport;
- Residents parking scheme and other time limited on street parking management strategies;
- Promotion of linkages with the Town Centre;
- Consideration of strategically located peripheral parking sites;
- A parking guidance system which provides information on the location and availability of parking spaces; and
- Automated management and control of parking restricted areas.

An initial contribution to the Plan has been received arising from the approval of a Wine Bar at 48 George Street. This contribution is considered sufficient to cover the initial consultant's costs and allow for the tendering process to commence. However, the depositing of the contributions received to date in a trust fund, as per the adopted policy, caused difficulties due to relevant statutory provisions, in having those funds released. The CEO has recently managed to resolve this issue which will now enable the commencement of the call for tenders.

Conservation Works Town Hall and Former Police Station

A Project Plan has been prepared by the Manager Planning Services and Manager Operations to manage a series of works to be undertaken to conserve the Town Hall and former Police Station. The Project Plan aims to:

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- Advise Elected Members of the project approach and proposed works;
- Set the boundaries for the project scope;
- Identify and plan for project risks, increasing the chance of project success;
- Identify the Key Performance Indicators, to provide a basis for selection of the preferred Tenderer and gauge project performance;
- Give Elected Members a basis to monitor the success of the project; and
- Advise Elected Members of the resources and relevant expenditure allocated to the project.

A copy of the Project Plan is attached for information. It is intended that preferred tenders will be selected for each work package by the end of February 2012 with initial works commencing in March 2012. A further report will be prepared for consideration at the Council Meeting on 20 March 2012 which will identify the preferred tenders and the cost and timing for completion of the various work packages.

Planning Staff

Contract Town Planner Gemma Basley left Council employ on 13 January 2012 to commence with the Department of Planning. The vacancy has been temporarily filled on a job share basis by contract Town Planners Carly Pidco and Pina Mastrodominico. The position of 'Senior Town Planner' has been advertised in the press and on the internet to find a permanent replacement. A total of nine applications were received from domestic and overseas candidates at the close of the submission period on 6 February 2012.

The position of 'Administration Officer - Development Services' was also advertised on 24 January 2012 with applications closing on 6 February 2012. This position continues to be filled on a temporary basis pending the appointment of a permanent employee to the position.

Request for Amendment to Local Planning Policy – Town Centre Redevelopment Guidelines

Ms Kate Lowe has submitted a request that the *Local Planning Policy – Town Centre Redevelopment Guidelines* be amended in respect to the inclusion of services and roof top structure within the maximum height requirements. Ms Lowe was advised by letter on 1 February 2012 that the matter would be tabled for the consideration of the Town Planning & Building Committee in March 2012.

RECOMMENDATION

That the information be received.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

That the information be received.

CARRIED

T17. CONFIDENTIAL BUSINESS

Nil.

T18. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

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T19. CLOSURE OF MEETING

There being no further business the meeting closed at 10.15pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **14 February 2012**, Minute Book reference **T1. to T19.** were confirmed at the meeting of the Committee on*

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Presiding Member