

8 November 2011

MINUTES

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 8 NOVEMBER 2011 COMMENCING AT 6.32PM.**

**T121. OPENING OF MEETING**

The Manager Planning Services opened the meeting.

**T121.1 Present**

Mayor Alan Ferris	Presiding Member
Cr Barry de Jong	
Cr Cliff Collinson	
Cr Siân Martin	
Cr Maria Rico	
Mr Jamie Douglas	Manager Planning Services
Ms Janine May	Minute Secretary

**T122. ELECTION OF PRESIDING MEMBER**

The Manager Planning Services assumed the chair for the election of a Presiding Member, which, as per advice from the CEO distributed with the agenda, was required. Again as per the CEO's memo the Manager Planning Services advised that a written nomination for the position of Presiding Member for the next two years had been received from Cr Wilson, who was unable to attend tonight's meeting. The Manager Planning Services then sought further nominations for the position.

Given there were no further nominations, the Manager Planning Services declared Cr Wilson elected unopposed, as Presiding Member of the Town Planning & Building Committee (Private Domain) for a two year term.

Given Cr Wilson's absence, the Manager Planning Services then sought nominations for Presiding Member for this evening's meeting.

Mayor Ferris indicated his willingness to chair the meeting.

**Cr Collinson – Cr Martin**

**That Mayor Ferris be appointed as Presiding Member for tonight's meeting. CARRIED**

The Mayor assumed the Chair.

**T123. 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."*

**T124. WELCOME TO GALLERY**

There were 28 members of the public in the gallery at the commencement of the meeting.

**T125. APOLOGIES**

Cr Wilson

**T126. CONFIRMATION OF MINUTES**

**T126.1 Town Planning & Building Committee (Private Domain) – 11 October 2011**

**Cr de Jong – Cr Collinson**

**That the Town Planning & Building Committee (Private Domain) minutes dated 11 October 2011 as adopted at the Council meeting held on 18 October 2011 be confirmed. CARRIED**

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**T127. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T127.1 Staton Road No. 57 (Lot 2)**

Emails received from neighbour at 59 Staton Road submitting comment regarding consideration of the development proposal for 57 Staton Road at tonight's meeting.

**Cr Rico – Cr Martin**

**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T132.4).**

CARRIED

**T128. REPORTS OF COMMITTEES**

**T128.1 Town Planning Advisory Panel – 25 October 2011**

**Cr Martin – Cr Rico**

**That the minutes of the Town Planning Advisory Panel meeting held on 25 October 2011 be received and each item considered when the relevant development application is being discussed.**

CARRIED

**T129. RECEIPT OF REPORTS**

**Cr de Jong – Cr Nardi**

**That the Reports of Officers be received.**

CARRIED

**T130. ORDER OF BUSINESS**

**Cr Collinson – Cr Rico**

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

CARRIED

**T131. REPORTS OF OFFICERS – STRATEGIC PLANNING**

**T131.1 Draft Local Planning Policy – Town Centre Redevelopment Guidelines**

*By Jamie Douglas, Manager-Planning Services on 24 October 2011*

**ATTACHMENTS**

1. Public Submissions (**attached separately to agenda**)
2. Revised Local Planning Policy

**SUMMARY OF CONSULTATION PROGRAM**

The following is a summary of the principal actions which have been undertaken as part of the Consultation Program to gain input into the development of the draft Local Planning Policy (LPP) and to comment upon the draft LPP;

- Workshop with Elected Members and Urban Design Consultant – Malcolm Mackay to establish visions for Concept Plan – August 2010
- Adverts and Media Release in Herald and Gazette, letters to Community Groups- invitation for public to attend Community Reference Group meetings – 26 March – 5 April 2011.
- Community Reference Group workshop No. 1- 13 April 2010.
- Community Reference Group workshop No.2- 20 April 2011
- Draft Planning Policy released to CRG participants for comment – 17 May 2011
- Council considers CRG feedback and approves release of draft LPP for public advertising and a Public Forum – 19 July 2011
- Advertisements placed in Herald, Gazette and on Website advising of draft LPP release and inviting comment – 30 July, 6 August 2011
- Advertisement in Herald and Website, open letter to all residents inserted in Herald, all absentee owners written to advising of Public Forum – 20 August 2011

- Public Information Forum – 1 September 2011
- Forum attendees advised in writing of extension of period for submissions till 23 September – 8 September 2011
- Adverts Herald and Gazette and Web site advising of extension of submission period – 10 September 2011
- Letter thanking persons who lodged submissions and letter to Forum attendees thanking them for attendance and providing a copy of Public Information Forum Report – 28 September 2011

#### ANALYSIS OF PUBLIC SUBMISSIONS

A total of 138 submissions were received. The majority of submissions (91) supported revitalisation of the town centre but raised various objections to the current format of the draft Local Planning Policy (LPP). The balance of the submissions (37) expressed support for the draft LPP.

A number of issues are common to many submissions and these issues are identified and responded to below. While it is not practical to respond in detail to each submission as this would necessarily require continual repetition in the responses, all of the substantive issues relevant to the draft policy have been addressed in this manner.

Numerous submissions were received as a pro-forma letter which was associated with a 'flyer' which was distributed by a third party. Unfortunately the 'flyer' misrepresented the proposed policy document in a number of areas and this consequently was reflected in the pro-forma response. However, given that 69 submissions were made on the basis of this pro-forma the issues raised are addressed in detail below before general responses are provided to the balance of the submissions received.

The submissions are attached in full to this report (see Attachment One).

#### ANALYSIS OF PRO-FORMA SUBMISSION

Summary of Issue/Comment	Response
Support revitalisation but require revisions in the plan to accommodate the following.	Support for revitalisation noted, proposed revisions addressed.
A reduction in the height of buildings allowed from eight stories (sic) to a maximum of three stories across the area impacted by the re-zoning.	<ul style="list-style-type: none"> <li>• There is NO rezoning proposed.</li> <li>• The max. 8 storey limit is applied only within the Town Centre Core which is at the centre of the policy area. It is removed from adjacent residential zones and building height will not have a material impact upon surrounding residential zones.</li> <li>• The current max height requirement under the Scheme is 10.5 m. The submission requests a reduction in the existing provisions.</li> <li>• The draft design guidelines require the 'setback' of the building elevation above 5 storey street wall so that the height and mass of the building is centralised. The maximum height visible from the street frontage will be 5 storeys.</li> <li>• When the natural landform of the site is taken into account there is an approximate site fall which equates to 2 storeys relative to Canning Highway which abuts the Core. Accordingly the max. height of buildings relative to the Highway will be no more than 6 storeys when the natural slope of the site is taken into account.</li> <li>• The proposed height is required to allow sufficient development density and range of uses necessary to facilitate economic redevelopment. It is also beneficial in urban design terms as the proposed</li> </ul>

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	<p>height will provide for buildings with sufficient 'presence' to establish the appropriate streetscape scale for the centre of town.</p>
<p>A reduction in height of the buildings allowed at the interface with existing residences from 3-5 stories (sic) to two stories, with a setback of at least 60 metres before additional stories can be added to a maximum of three stories.</p>	<ul style="list-style-type: none"> <li>• Current R Code provisions allow buildings to 9 metres in the residential zone– the submission proposes a substantial reduction in this existing development potential.</li> <li>• A 60 metre set back to second storey is impractical within a residential scale (will exceed the depth of some lots).</li> <li>• The need to protect existing expectations of residential amenity afforded by existing planning provisions is acknowledged. Accordingly it is proposed to reduce the extent of the Frame Precinct.</li> <li>• A detailed analysis of development potential has been undertaken to exclude lots which are constrained either through survey strata status or heritage significance or other physical development constraints. Accordingly the boundary of the Planning area has been redrawn to remove its interface with residential lots in Alexandra, Moss, Bedford Sts, Hillside Terrace and Andrews Road (refer Proposed Changes LPP).</li> </ul>
<p>Reducing the area encompassed by the rezoning, i.e. restricting it to the existing commercial boundaries as set in your planning Scheme #3</p>	<ul style="list-style-type: none"> <li>• There is NO rezoning proposed.</li> <li>• It is proposed the extent of the area subject to the design guidelines should be reduced to apply to the existing commercial 'mixed use zone' and the Canning Highway R12.5/R40 Dual Coded zone and those properties identified in Schedule 2 of the Scheme (refer Proposed Changes LPP).</li> </ul>
<p>A requirement that new buildings are to be in keeping with or complement the existing Federation style architecture and streetscape which characterises East Fremantle.</p>	<ul style="list-style-type: none"> <li>• The Heritage Survey undertaken in 2006 identified approximately 800 individual places of heritage significance. These places encompass a range of building styles which have occurred since the first settlement. While buildings from the Federation period are included in the Survey they do not 'characterise the 'streetscape' of East Fremantle.</li> <li>• The Local Planning Strategy defines seven distinct Planning Precincts in the Town. Building stock within the Precincts is diverse. For example, large scale contemporary dwellings are prevalent within the Riverside Precinct while worker's cottages dating back to the late 1800's predominate in the Plympton Precinct.</li> <li>• To attempt to enforce some pastiche of any architectural period would run contrary to the 'Burra Charter' principles of conservation and as such tend to diminish the streetscape qualities of the town. The form and function of contemporary buildings do not necessarily support Federation period architecture e.g. there is little evidence of supermarkets, service stations, and multi storey mixed use apartments from the Federation period.</li> <li>• The intent of the design guidelines is to encourage a high level of contemporary architecture which will be developed in sympathy to existing iconic buildings.</li> </ul>
<p>A commitment to preserve existing federation style buildings within the re-zoned area.</p>	<ul style="list-style-type: none"> <li>• There is NO rezoning proposed.</li> <li>• A defining factor in the "sense of place" for the Town is the emphasis given to the conservation of the</li> </ul>

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	<p>numerous significant heritage buildings and streetscape elements.</p> <ul style="list-style-type: none"> <li>• Every property within the area subject to the design guidelines (and generally throughout the Town) has been identified and assessed for its heritage significance.</li> <li>• It is an Aim of the Planning Scheme –<i>“To promote the conservation of buildings and places of heritage significance, and to protect and enhance existing heritage values of the Town”</i>. Accordingly, Council is committed to the preservation of heritage values including those associated with significant Federation style buildings.</li> </ul>
<p>Further consideration and regulation of traffic and parking to ensure that existing residents are not negatively impacted by the impacts of an additional 1,800 residents.</p>	<ul style="list-style-type: none"> <li>• There will not be 1,800 additional residents in the area subject to the design guidelines. The infill target of 600 dwellings is spread across the municipal area.</li> <li>• Comprehensive traffic and parking impact assessments will be required for all major development proposals. It is appropriate these elements be considered during the development assessment process when sufficient details of the form and nature of developments are known.</li> </ul>
<p>I would like a revision of the plan then to be presented at an additional public meeting with East Fremantle. This plan should then be discussed and re-advertised for a minimum of 42 days as per the statutory requirements for a scheme amendment which is of a magnitude to this proposal.</p>	<ul style="list-style-type: none"> <li>• The draft Guidelines are to be implemented as a Local Planning Policy.</li> <li>• Local Planning Policies are adopted under the Part 2 of TPS No. 3. Clause 2.4 of the Scheme requires that a proposed Policy is advertised for 2 consecutive weeks in a local newspaper and that submissions may be made during a period of not less than 21 days. Subsequent to the closure of the submission period, Council is then required to review the proposed Policy in the light of any submissions made and resolve whether or not to adopt the Policy with or without modification. If the Policy is adopted, a notice of the Policy must be advertised once in a local paper and it comes into force on the date of this advertisement.</li> <li>• Council has undertaken extensive public advertising and consultation of the draft Policy, in excess of the above statutory requirements. Details of the extensive consultation process which has been undertaken are explained in Summary of Consultation Program in this report.</li> <li>• In its deliberations on the various submissions and responses, Council will consider the comments and submissions received from the community at a meeting of the Town Planning and Building Committee and at a subsequent meeting of full Council – both of which are open to the public. The Town will then advise the community of the outcome of the advertising process and the process to be applied in respect to the progression of the draft Planning Policy. Outcomes from these meetings will be available for the public to review at the East Fremantle Council Offices and website, <a href="http://www.eastfremantle.wa.gov.au">www.eastfremantle.wa.gov.au</a></li> </ul>

**ANALYSIS OF NON PRO-FORMA SUBMISSIONS**

<b>CAR PARKING</b>	
<b>Summary of Issue/Comment</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>On site provisions applauded – objects to indication of potential for strategic parking location in open space next to Silas Street and St. Peters Road.</li> <li>Silas Street Roundabout – main southern gateway to centre requires planting with more stately tree – London Plane or Norfolk Pine</li> <li>Parking provisions must require off street and below ground parking.</li> <li>Concern for unassigned parcels of land to become car parking.</li> <li>TPS 20% reduction to parking requirements and the proposed development will cause increased street parking, creating vehicle movement issues.</li> </ul>	<ul style="list-style-type: none"> <li>It is appropriate that this site be identified as a potential location requiring further investigation. At this time there is insufficient information to determine the acceptability of any such proposal.</li> <li>Comments noted and will be given further consideration as part of any redevelopment activity.</li> <li>Agreed</li> <li>Parking demand arising from new developments will be addressed by on-site parking requirements.</li> <li>This reduction applies only to mixed use developments where there is a capacity for shared parking between different uses. One of the primary motivations for residents within a ‘mixed use’ activity centre is the reduced car dependency which has a corresponding reduction in the need for ‘traditional’ parking provisions.</li> </ul>
<b>TRAFFIC PLANNING</b>	
<b>Summary of Issue/Comment</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>Canning highway requires widening and a central median strip to allow for increasing traffic volumes.</li> <li>Increased retail/residential development will lead to increased traffic, creating safety and transport issues.</li> <li>Hillside Road is too narrow to support increased traffic flow.</li> <li>Demand for traffic calming measures to busy streets.</li> <li>The Policy should not be adopted pending the completion of a detailed Traffic Impact Assessment (TIA).</li> </ul>	<ul style="list-style-type: none"> <li>Planning for widening the road reserve is in place. Road widening provisions are applied for relevant subdivisions and developments. Main Roads WA responsible for future works within the road reserve for the Canning and Stirling Highways.</li> <li>Increased development will also provide justification for improved public transport. Main Roads WA is planning for projected capacity increases.</li> <li>Agreed. The Planning Area has been amended accordingly.</li> <li>Traffic calming will be instituted as required. All major development proposals will be subject to traffic analysis and the network impacts will be addressed.</li> <li>The need for a TIA is acknowledged. However it is not practical to undertake it at this point in time prior to the resolution of a strategic development application. A TIA will be required to support any application for a strategic development site within the Planning Area. This model can then support subsequent applications.</li> </ul>

<b>EXTENT OF THE AREA SUBJECT TO DESIGN GUIDELINES</b>	
<b>Summary of Issue/Comment</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>Interface with existing residences                             <ul style="list-style-type: none"> <li>Hillside Road is narrow and a cul-de-sac – cannot support increased traffic</li> <li>Five storey ‘canyons’ down Canning Highway</li> <li>Impact on heritage properties</li> <li>Should be restricted to existing commercial zones</li> </ul> </li> <li>Reduce the area covered by the new town plan. Exclusions should be made for heritage areas, cul-de-sac areas and public open space which must be preserved.</li> <li>Town centre extension should exclude the area north of Canning Highway (between Stirling Bridge and Preston Point Road). Area is already overdeveloped, creating traffic issues and reducing amenity.</li> <li>Proposal should allow for better connection to the Swan River.</li> </ul>	<ul style="list-style-type: none"> <li>A detailed analysis of development potential has been undertaken to exclude lots which are constrained either through survey strata status or heritage significance or other physical development constraints. Accordingly the boundary of the Planning Area has been redrawn to remove its interface with residential lots in Alexandra, Moss, Bedford Sts, Hillside Road and St Andrews Road (refer – Proposed Changes to draft LPP).</li> <li>It is proposed the extent of the area subject to the design guidelines should be reduced to apply to the existing commercial ‘mixed use zone’ and the Canning Highway R12.5/R40 Dual Coded zone and those properties identified in Schedule2 of the Scheme.</li> <li>It is proposed to realign the Planning Area boundary so that lots fronting the southern side of Hillside Road are excluded from the Planning Area for a depth of approximately 25 metres so that development potential and traffic generation using this road is restricted to current levels.</li> <li>Current open spaces adjacent to the Stirling Highway Bridge entry ramp and to the north of the Canning Highway are also recommended to be excluded from the Planning Area to protect views from the Town Centre to the river.</li> </ul>
<b>BUILDING HEIGHT</b>	
<b>Summary of Issue/Comment</b>	<b>Response</b>
<ul style="list-style-type: none"> <li><b>8 Storey Height Limit Town Centre Precinct</b> <ul style="list-style-type: none"> <li>Tall buildings engender social isolation</li> <li>reduce sense of community/engagement</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>There is no empirical data to support this assertion. See ‘The Consequences of Living in High-Rise Buildings, Robert Gifford, University of Victoria, British Columbia, Canada, January 2007’ who concludes;                             <p><i>“The consequences of living in high-rise buildings are many. A few may be caused by the building form itself, but many are moderated by non-architectural factors. Chief among these moderating factors are socioeconomic status, building location, parenting young children or not, gender, and stage of life. Although they have not been studied empirically in high-rises, whether one has a choice about housing form and indoor population density probably are also important.</i></p> <p><i>Irrefutable conclusions about the consequences of living in high rises cannot be drawn, because true experiments are virtually impossible in housing research and because outcomes are determined by multiple factors.”</i></p> </li> </ul>

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	<ul style="list-style-type: none"> <li>• There is significant documentation of social isolation in the suburban environment, driven in part by the “suburban home as fortress’ mentality and by excessive car dependence resulting in diminished use of, and human interaction in, the public domain. Urban environments engender more walking; greater use of the public domain, and, therefore, more social interaction. The value of the urban environment in engendering social interaction and a sense of community has been understood for many years, and was noted by leading planning commentators such as Jane Jacobs back in the 1960’s.</li> </ul>
<ul style="list-style-type: none"> <li>• Maintenance of tall buildings is more difficult and costly.</li> </ul>	<ul style="list-style-type: none"> <li>• Generally it can be concluded that newer buildings will have reduced maintenance costs and that more intense developments should achieve economies of scale such that management and maintenance costs per unit are reduced.</li> <li>• Not a determining factor for a planning consideration.</li> </ul>
<ul style="list-style-type: none"> <li>• Should the development not sell, be of poor quality, or poor design and amenity, the Town is left with a difficult to maintain giant.</li> </ul>	<ul style="list-style-type: none"> <li>• Funders require a significant level of pre sales before finance for development is issued. It is, therefore, highly unlikely that a significant new development will remain empty on completion. The Town Centre policy provisions and the DA process will help to ensure that new development is of an acceptable quality. Finally, Council does not have responsibility for the maintenance of private property.</li> </ul>
<ul style="list-style-type: none"> <li>• Will create overshadowing issues.</li> <li>• The scale will overshadow surrounding important buildings such as the Catholic Church, let alone the existing residential properties, and even given the exclusion zone, the council building will be dwarfed.</li> </ul>	<ul style="list-style-type: none"> <li>• It is not envisaged that overshadowing will impact surrounding residences given the separation to the Town Centre Core precinct.</li> <li>• Notwithstanding the above, R-Code overshadowing restrictions will continue to apply. These requirements insure that for dwellings in surrounding R12.5 zone any overshadowing cannot exceed 25% of the site area.</li> <li>• The eight-storey component cannot overshadow the Church, because it is to the south. The (revised) policy places a three-storey limit to new development where it is adjacent to existing residential properties outside the Town Centre area. The Town Hall sensitivity zone is specifically included in the policy to avoid ‘dwarfing’ the Town Hall.</li> </ul>
<ul style="list-style-type: none"> <li>• Many high-rise developments already exist in surrounding areas.</li> <li>• There are already many empty high-rise units in the</li> </ul>	<ul style="list-style-type: none"> <li>• There are two ‘high rise’ developments in the vicinity – 2 Angwin Street and 46 George Street. These are single function and visually unattractive flats built in the 1970’s. The proposed design guidelines, Scheme provisions and R-Codes would restrict the development of such buildings today. Nevertheless they remain sought after residential locations and are fully tenanted.</li> <li>• The number of vacant apartments in recently completed developments is a direct consequence</li> </ul>



<p>South Fremantle, Leighton and Claremont developments.</p>	<p>of the unforeseen Global Financial Crisis, and not a normal situation. These apartments will likely be sold/occupied before any town centre development is completed.</p>
<ul style="list-style-type: none"> <li>• Council has no power to regulate quality of building design,</li> </ul>	<ul style="list-style-type: none"> <li>• Statutory powers are provided under the Planning Scheme (see clause 10.2 for example) and the R-Codes. The proposed guidelines will enhance and elaborate upon these provisions.</li> <li>• The draft LPP provides a further mechanism for Council to regulate significant aspects of any proposed development. It is for this very reason that Council has prepared the draft LPP.</li> </ul>
<ul style="list-style-type: none"> <li>• Potential for rent rise driving tenants out of the area.</li> </ul>	<ul style="list-style-type: none"> <li>• There is no evidence to support this statement. Market forces will determine rates.</li> </ul>
<ul style="list-style-type: none"> <li>• Lack of community support for eight story development, the majority of CRG members supported 3-5 stories.</li> </ul>	<ul style="list-style-type: none"> <li>• This Statement is not correct as the following extract from the CRG's outcomes report indicates:  <i>The CRG key preferences for future development and recommendations for items to be considered for inclusion into any future policy should include the following:</i> <ul style="list-style-type: none"> <li>- Street wall height to be limited to 3 stories in line with the existing Town Hall building;</li> <li>- Height to be concentrated along Canning Highway frontage;</li> <li>- Provide high density in strategic nodes;</li> <li>- Provision of light corridors along Canning Highway to maintain north facing solar aspect;</li> <li>- Iconic built form structures to be located at key locations and road intersections;</li> <li>- Town scale height to be limited to 3-5 stories with the exception of key iconic structures limited to 8 stories;</li> <li>- Distinct and contemporary architecture to be utilised;</li> <li>- Provide low rise building scale at the edges of the Town Centre to complement the residential interface;</li> <li>- Provision of a number of smaller urban spaces, laneways and piazzas as opposed to a Town Square;</li> <li>- Encouraging roof top gardens and urban spaces to be provided;</li> <li>- Car parking to be rationalised and provided at basement or sub basement levels;</li> <li>- Provision of better access and legibility across Canning Highway;</li> <li>- Closure of Council Place and integration with Town Centre;</li> <li>- Provision for mixed use; and</li> <li>- Provision of sustainable built form and incorporation of appropriate green building technology.</li> </ul> <p>** Reference : Town of East Fremantle East Fremantle Town Centre CRG Workshop   Summary Outcomes Report</p> </li> </ul>
<ul style="list-style-type: none"> <li>• The plan should not include discretionary powers to</li> </ul>	<ul style="list-style-type: none"> <li>• This discretion could only be applied under the Policy where there is a demonstrated community</li> </ul>

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<p>increase heights above 8 storey maximum</p>	<p>benefit and where the additional height is set back to avoid visual intrusion, overshadowing etc. It is considered desirable to maintain some design flexibility in this instance</p>
<ul style="list-style-type: none"> <li>There is insufficient open space available to mitigate and offset the size of the buildings</li> </ul>	<ul style="list-style-type: none"> <li>The notion that buildings need open space around them is a suburban mindset that is not applicable to an urban area. Suburban and urban places are different. The intent of the policy is it create an urban town centre that is the focal point of, and a counterpoint to, the surrounding suburban area.</li> </ul>
<ul style="list-style-type: none"> <li>Setbacks cannot mitigate the height.</li> </ul>	<ul style="list-style-type: none"> <li>Setbacks do not reduce the overall height of buildings, and have limited impact on distant views. However, setbacks are widely acknowledged as the primary means of mitigating the perceived height of buildings from the adjacent street environment or adjacent properties.</li> </ul>
<p><b>FRAME PRECINCT, CANNING HIGHWAY PRECINCT – FIVE STORY HEIGHT LIMIT AT THE INTERFACE WITH RESIDENCES</b></p>	
<p><b>Summary of Issue/Comment</b></p>	<p><b>Response</b></p>
<ul style="list-style-type: none"> <li>Will be at the detriment of views and will impact negatively on scale and character.</li> <li>Should be limited to 2-3 stories.</li> <li>Development adjoining existing residences should be limited to two stories, to reduce issues associated with overlooking, blocking light and heritage amenity.</li> </ul>	<ul style="list-style-type: none"> <li>The reduction in the Planning Area described above addresses the majority of concerns.</li> <li>The submission requests height maximums be reduced. It is considered that height maximums in the 'acceptable development standards of the draft LPP' should be amended so that; <ul style="list-style-type: none"> <li>the 'street wall' height in the Canning Highway precinct is reduced from 5 to 3 stories;</li> <li>reduce the overall maximum height in the Frame Precinct from 5 to 3 stories and</li> <li>limit the height of all new development within 12 metres of adjacent existing residences beyond the Town Centre Precinct to 3 storeys.</li> </ul> </li> <li>The proposed height reduction will also address concerns expressed in regard to dwellings to the south of St. Peters Road.</li> <li>The impacts on views for existing dwellings to the south of the Planning Area between Stirling Highway and East Street have been further assessed. This viewscape analysis is summarised as follows: <p><b>Views from Sewell Street, Hubble Street and Glyde Street:</b> The following comments are based on on-site observations in Sewell Street, Hubble Street and Glyde Street. Observations were made in the public domain, with assumptions made about what the potential views might be from adjacent properties.</p> <p><b>Sewell Street:</b> Given the modest rise in ground level along the northern portion of Sewell Street; the height of the existing 'Tradewinds' Hotel/Function Centre; and the height and density of the trees along the open space reserve</p> </li> </ul>

immediately to the south of the 'Tradewinds', there are unlikely to be significant view opportunities towards the Swan River except for the view corridor along Sewell Street.

Redevelopment of the Canning Highway Precinct is unlikely to have an impact on views from properties in the northern portion of Sewell Street to the Swan River.

Three-storey redevelopment along the Canning Highway Precinct will have minimal impact on views of the Swan River/harbour from properties at the southern end of Sewell Street, (towards George Street) given the higher topography of the land, and the fact that the extent of views is predominantly determined by the location and size of neighbouring properties.

**Hubble Street and Glyde Street:** The availability of views of the Swan River/harbour from properties at the northern ends of Hubble Street and Glyde Street appear to be somewhat limited. The modest rise in ground level is insufficient to afford commanding views, and any glimpses to the north are subject to the location and size of neighbouring properties.

Where glimpses of the Swan River/harbour are available, they may be, in part, as a consequence of the vacant or original single-storey development on Canning Highway. Redevelopment of these sites to three storeys may result in a reduction of river/harbour glimpses, but the impact is likely to be minimal and a natural consequence of a growing and maturing city.

As is the case with Sewell Street, three-storey redevelopment along the Canning Highway Precinct will have minimal impact on views of the Swan River/harbour from properties at the southern ends of Hubble Street and Glyde Street, (towards George Street) given the higher topography of the land, and the fact that the extent of views is predominantly determined by the location and size of neighbouring properties.

- R-Code overshadowing restrictions will continue to apply. These requirements insure that for dwellings in the surrounding R12.5 zone any overshadowing cannot exceed 25% of the site area. The Guidelines will not alter the current situation in respect to the potential for overshadowing.
- R-Code setback requirements will continue to apply – these require setbacks to increase in accordance with wall height – result is higher building elements are staggered away from boundaries.

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	<ul style="list-style-type: none"> <li>R Code privacy provisions will continue to apply.</li> <li>Council will have regard to heritage and streetscape impacts when assessing development proposals pursuant with Clause 10.2 of the Scheme.</li> </ul>
<b>THREAT TO CHARACTER/AMENITY OF THE TOWN</b>	
<b>Summary of Issue/Comment</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>Concern that the proposed plan will not protect the character of East Fremantle.</li> <li>Increased density/height will be at the expense of the traditional residential character.</li> <li>New development should be required to complement the existing federation style architecture.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed design guidelines are applicable only within the Mixed Use Zone and adjacent areas along the Canning Highway. There is general agreement the existing Town Centre does not contribute to the character of the Town and should be redeveloped.</li> <li>Residential character within the existing Residential Zones will continue to be protected and enhanced.</li> <li>To attempt to enforce some pastiche of any architectural period would run contrary to the 'Burra Charter' principles of conservation and as such tend to diminish the streetscape qualities of the town. Developments such as supermarkets and multi storey mixed use apartments occurred after the Federation period and in most cases cannot, satisfactorily be "made" to complement the federation style.</li> <li>The intent of the design guidelines is to encourage a high standard of contemporary architecture which will be developed in sympathy to existing iconic buildings</li> </ul>
<b>HERITAGE CONSERVATION</b>	
<b>Summary of Issue/Comment</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>The plan will impair the conservation values of heritage properties, through inappropriate neighbouring development.</li> </ul>	<ul style="list-style-type: none"> <li>Every property within the area subject to the design guidelines (and generally throughout the Town) has been identified and assessed for its heritage significance.</li> <li>It is an Aim of the Planning Scheme – "<i>To promote the conservation of buildings and places of heritage significance, and to protect and enhance existing heritage values of the Town</i>". Accordingly, Council is committed to the preservation of heritage values including those associated with significant Federation style buildings.</li> </ul>
<b>CONSULTATION</b>	
<b>Summary of Issue/Comment</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>Time allowed for submissions. The timeframe for perusal and comment was too short given the magnitude of the plan.</li> </ul>	<ul style="list-style-type: none"> <li>Council has undertaken extensive public advertising and consultation of the draft Policy in excess of the statutory requirements. Details of the consultation process are detailed in the Summary of Consultation Program at the beginning of this report.</li> <li>In its deliberations on the various submissions and responses, Council will consider the comments and submissions received from the community at a</li> </ul>

	<p>meeting of the Town Planning and Building Committee and at a subsequent meeting of full Council – both of which are open to the public. The Town will then advise the community of the outcome of the advertising process and the process to be applied in respect to the progression of the draft Planning Policy. Outcomes from these meetings will be available for the public to review at the East Fremantle Council Offices and website, <a href="http://eastfremantle.wa.gov.au">eastfremantle.wa.gov.au</a></p>
<b>BROADER PLANNING CONSIDERATIONS</b>	
<ul style="list-style-type: none"> <li>• Existing major centre at Fremantle, East Fremantle centre does not require large scale development.</li> <li>• Development of town centre may be at the expense of the George Street precinct.</li> <li>• Multi storey buildings must have minimum basement ceiling height to allow the waste truck access to service bins. At least 2.4m is necessary for smaller trucks or 2.9m for larger trucks.</li> <li>• The Policy should be considered concurrently with an amendment to the Scheme.</li> <li>• The Town convene a 'Design Review Panel' for the purpose of guiding redevelopment on significant sites.</li> <li>• Energy efficiency – should be aiming for 7 or 8 star energy rating for residential development.</li> <li>• Lack of "Green Space" the development offers little green space.</li> </ul>	<ul style="list-style-type: none"> <li>• The existing centre is unviable in its present form. The State's Activity Centre Policy promotes multi-functional centres incorporating office and residential components to reduce car dependency and increase housing diversity.</li> <li>• The Scheme and associated land use policy will protect the current form and function of the George Street Precinct.</li> <li>• Agreed. A waste management plan will be required to support all major development proposals.</li> <li>• Following any resolution and final adoption of the Policy the Scheme will be amended as necessary to reflect changed planning provisions. In the interim an application may be determined pursuant with Clauses 5.3.5 and 5.6.1 of the Scheme notwithstanding any non-compliance with a standard prescribed under the Scheme.</li> <li>• The existing Town Planning Advisory Panel will provide design input to the assessment of development applications which impact upon the streetscape or heritage values.</li> <li>• The Policy requires all development to exceed the prevailing requirements of the BCA. Residential targets are set at 6 stars (NatHers) and commercial targets for commercial are 3.5 stars (NABERS) or better. This is considered a practical target at this time.</li> <li>• The Policy requires new developments of greater than 5,000 sqm net lettable floor area to provide additional publicly accessible open spaces of at least 150sqm. Additional requirements for public toilets and public art also apply. These represent a substantial enhancement to public amenities than would otherwise apply under the current Scheme provisions. However it is considered that the Public Art component should be increased from a maximum</li> </ul>

<ul style="list-style-type: none"> <li>• Infill targets are unachievable - State Government should provide necessary infrastructure capacity and public transport in advance of infill occurring.</li> <li>• Better images should be found for the document – the existing montage reduces that heritage to invisibility, replacing it with a bland post-modern internationalist style.</li> <li>• There are numerous restrictions to development in the Town Centre, including difficult to break caveats on land use.</li> <li>• Trees in the Town Centre should not be deciduous. Native vegetation should be used.</li> <li>• Recouping return on investment may result in detrimentally high rents.</li> </ul>	<p>value of \$50,000 per development to a maximum value of \$150,000 per development.</p> <ul style="list-style-type: none"> <li>• Current practice is that service enhancements are provided 'on demand' when new developments occur. Minimum standards of service provision are assured. Public transport will only be increased where there is sufficient demand to justify it – public transport will be attracted to service "hubs" of higher density – as in the case of the proposed activity centre.</li> <li>• Noted. The images are only proposed to indicate scale and proportions that may be attained at prescribed density levels – do not imply reduction in heritage significance.</li> <li>• Agreed. Council is working with landowners to facilitate co-ordination of development plans and resolution of constraints to development.</li> <li>• Agreed</li> <li>• Return on investment is an economic fact of life. Rental levels are not set on an arbitrary basis but are fundamentally driven by demand. If rental levels rise after redevelopment, it will be because East Fremantle is perceived as a better place to do business, which would be a benefit to both businesses and residents alike.</li> </ul>
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**SUBMISSIONS IN SUPPORT**

Summary of Issue/Comment

- Important to increase urban density in East Fremantle - increased density can actually be exciting, vibrant and sustainable if done well. Increasing density would also increase the availability of public transport in the area.
- Support the proposed heights mentioned in the guidelines and don't believe they should be reduced.
- A development done well could actually increase property prices.
- Australians have the highest per capita carbon emissions in the world and this is partly due to the sprawling low density form of our cities. This makes it hard to provide decent public transport and local facilities and results in entrenched car dependency.
- The current town centre, is a depressing, soulless agglomeration of uninspired single storey concrete buildings which is completely moribund at night. Increasing the density here, with residential buildings, maybe a bar or two, and some restaurants would inject real life into the area.
- Strongly agree with the development as currently proposed.
- The town centre is so run down and dated, that it's not very appealing for residents and business people to visit. East Fremantle is now an exclusive suburb and requires urgent redevelopment of its centre to on a par with those in other 'Western Suburbs'.

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- Congratulate all concerned with the comprehensive document presented to us entitled "Local Planning Policy – Town Centre Redevelopment Guidelines".
- I attended both focus groups and the public forum; I was surprised to hear some of the community were claiming a lack of consultation especially considering it was from a specific few that DID NOT make the effort to attend the focus group. I believe there has been sufficient consultation and therefore urge the Council to move forward and pass the draft policy. The vast majority of the residents cannot be ignored to satisfy the few.
- I understand that our very unattractive town centre cannot be redeveloped until this policy is adopted – for that reason request Council pass the policy without further delay.
- I believe the policy proposed is progressive and has included all the requirements of state government in relation to "liveable neighbourhoods"- "Activity Centres" – "Directions 2031".
- The requirements of the State Government for "infill development" should be strongly supported by the Council. Within the relatively small size of East Fremantle local government area, it would appear that building 600 dwellings is no easy task recognising the configurations of established houses throughout the district.
- The areas designated in the report will cause objections by some landowners based on how change will affect them personally. However the changes are for the broader social and community good. Not accommodating such changes consistent with infill policies would restrict the longer term advancement and benefit to the broader community.
- In view of the protracted nature of physical changes occurring after the development proposal being approved, it is suggested that action should proceed as soon as possible to upgrade areas of the existing Town Centre and Town Hall which have been shown to be in urgent need of repair and improvement.
- How can it be that we have the lowest residential densities applicable to 1000m<sup>2</sup> lots in the Perth residential area? Densities in the centre of Dalwallinu, Kojonup and Katanning area greater than they are in suburban East Fremantle ! To this end, it is hoped the Town of East Fremantle recognises that one or two persons, or a family of four living on 1000m<sup>2</sup>, is both unsustainable and clearly at odds with the objectives of Directions 2031.

**PROPOSED CHANGES TO DRAFT LOCAL PLANNING POLICY**

In consideration of the various submissions received the following changes are proposed which will address many of the issues raised while not unreasonably prejudicing the Planning and Urban Design Objectives of the draft Policy.

- A detailed analysis of development potential has been undertaken to exclude lots which are constrained either through survey strata status or heritage significance or other physical development constraints. Based on this analysis, the boundary of the Planning area has been redrawn to remove its interface with residential lots in Alexandra, Moss, Bedford Sts, Hillside Road and St Andrews Road. Accordingly, it is proposed the extent of the area subject to the design guidelines should be reduced to apply to the existing commercial 'mixed use zone' and the Canning Highway R12.5/R40 Dual Coded zone and those properties identified in Schedule 2 of the Scheme.
- It is proposed to realign the Planning Area boundary so that lots fronting the southern side of Hillside Road are excluded from the Planning Area for a depth of approximately 25 metres so that development potential and traffic generation using this road is restricted to current levels.
- Current open spaces adjacent to the Stirling Highway Bridge entry ramp and to the north of the Canning Highway are also recommended to be excluded from the Planning Area to protect views from the Town Centre to the river.
- It is considered that height maximums in the 'acceptable development standards of the draft LPP should be amended so that;
  - the 'street wall' height in the Canning Highway precinct is reduced from 5 to 3 stories;
  - reduce the overall maximum height in the Frame Precinct from 5 to 3 stories and

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- limit the height of all new development within 12 metres of adjacent existing residences beyond the Town Centre Precinct to 3 storeys.
- It is considered that the Public Art component should be increased from a maximum value of \$50,000 per development to a maximum value of \$150,000 per development.

The above changes have been included within the amended Draft Local Planning Policy – Town Centre Redevelopment Guidelines which forms Attachment 2 to this report.

**FURTHER PUBLIC CONSULTATION**

It is necessary to consider whether a further Public Forum is necessary prior to any adoption of the revised LPP (as has been requested by some submitters). The following points are relevant in this regard;

- The draft LPP has been subject to a protracted period of Public Consultation during which time numerous advertisements have been placed in the local press, updates have been posted on the Town's website, an open letter has been sent to all residents via an insert in the Herald, absentee landowners have been written too, a Public Forum and two Community Reference Group meetings have been held and there have been a number of press releases. There has also been letterboxing by unknown third parties.
- The proposed changes to the draft LPP indicated above will address the major concerns of most objectors – i.e. potential impacts to existing residences in the vicinity – extent of planning area and building heights outside the Town Centre Precinct. Although it is acknowledged that some objectors will only be satisfied if there is no change and the present environment is maintained.
- Delaying the adoption of the draft LPP will leave the Town exposed in respect to achieving the desired Urban Design outcomes should a development application be lodged in the interim before the design guidelines are in place.
- The submissions and the proposed changes to the draft LPP will be considered by Elected Members at two meetings which are open to the Public – at the Town Planning & Building Committee and full Council.

In light of the above, it is recommended that Elected Members consider a report on the submissions and proposed changes to the draft LPP at meetings of the Town Planning and Building Committee and Council. Following Council's determination it is further recommended that all CRG members, submitters and attendees at the Public Forum be advised by open letter of Council's determination and changes to the LPP. The forgoing would be in addition to the statutory advertising of the adopted Policy and a press release in the local newspapers.

**RECOMMENDATION**

It is recommended that;

1. Pursuant to clause 2.4.2 of the Town of East Fremantle Town Planning Scheme No 3, Council adopt the amended Local Planning Policy – Town Centre Redevelopment Guidelines (which forms Attachment 2 to this report).
2. CRG members, submitters and attendees at the Public Forum be advised by open letter of Council's determination and changes to the LPP.

The Manager Planning Services outlined the recommended changes to the original Local Planning Policy – Town Centre Redevelopment Guidelines.

The Manager Planning Services then answered various questions raised by members of the public and elected members, mainly concerning:

- the clarity of the three storey definition and its reference to the height of the Town Hall
- clarification of the extent of the new proposed boundaries affected by the policy
- the effect of the policy on the future of heritage homes within the precinct.
- the proposed changes to maximum heights provisions in the Policy.



**RECOMMENDATION TO COUNCIL**

Cr de Jong – Cr Nardi

That:

1. pursuant to clause 2.4.2 of the Town of East Fremantle Town Planning Scheme No 3, Council adopt the amended Local Planning Policy – Town Centre Redevelopment Guidelines (which forms Attachment 2 to this report).
2. CRG members, submitters and attendees at the Public Forum be advised by open letter of Council's determination and changes to the LPP.

A member of the public commended Council on providing the opportunity for members of the community to participate in the development of this Policy.

**T132. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL**

**T132.1 Canning Highway No 231 & Irwin Street No 5 (Lots 500 and 1852 respectively)**

**Proposed 10 dwellings**

**Applicant: Paintessa Developments Pty Ltd**

**Owner: Peter Paino**

**Application No. P58/2011**

By Jamie Douglas, Manager Planning Services on 17 October 2011

**PURPOSE OF THIS REPORT**

This report considers an amended application for Planning Approval for eight two storey grouped dwellings and two, two storey single dwellings on a lot with frontage to 231 Canning Highway and a vacant lot at No. 5 Irwin Street. The application is recommended for approval.

**BACKGROUND**

The proposal is for eight grouped dwellings and two single dwellings to be developed on two conjoined lots with frontage to Canning Highway and Irwin Street. The subject site contains a former car yard which has existing developments comprising a hardstand area and office/workshop building while the conjoined lot with frontage to Irwin Street is vacant.

Following the initial lodgement of the application on 21 April 2011 the application was found to be incomplete and was deferred pending further information including an audio consultant's report, landscape plan and fencing/streetscape details. This was received and considered by the Town Planning Advisory Panel on 24 May 2011. Following further extensive consultation between planning staff and the applicant, the applicant submitted amended plans on 9 August 2011 which were subsequently readvertised to neighbours and reconsidered by the TPAP at its meeting on 23 August 2011.

Further amended plans incorporating balconies to the two units visible from Canning Highway were considered by Council at its meeting on 20 September 2011 which resolved:

*"That the application for eight grouped dwellings at 231 Canning Highway and two, single dwellings at No. 5 Irwin Street, which was received on 9 August and 16 September 2011, be refused for the following reasons:*

1. *It does not meet the requirements for R40 density development under clause 5.3.2 (c) of the Town of East Fremantle Town Planning Scheme No. 3, because dwellings with frontage to Canning Highway do not face the Highway.*
2. *It would conflict with the provisions of the Town of East Fremantle Town Planning Scheme No. 3, Clause 10.2 (j), (o), (q), (w) because access provisions are inadequate, it would detrimentally impact upon the visual amenity of the area and the streetscape and has inadequate landscaping provisions.*

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3. *It does not comply with relevant R-Code provisions in respect to on site facilities (clothes drying and rubbish bin storage areas, visitor car parking) and boundary wall setbacks.*
4. *It does not comply with Council's Local Planning Policies (LLP 66 Roofs, LPP 143 Fences and LPP 123 Crossovers) in respect to the pitch of the roofs, the height and permeability of the fence on Canning highway and the number and width of the proposed crossovers."*

The applicant has subsequently submitted amended plans and has requested Council reconsider its determination.

**Description of site**

The subject site is:

- a 2858m<sup>2</sup> block
- zoned Residential R12.5/ R 40
- vacant lot
- located in the Woodside Precinct.

**Statutory Considerations**

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

**Relevant Council Planning Policies**

Residential Development LPP 142  
Noise Attenuation LPP  
Roof Pitch LPP 66  
Front Fence LPP 143  
Crossovers LPP 123

**Impact on Public Domain**

Tree in verge : Yes three trees to be felled and replanted on Irwin Street  
Light pole : No impact  
Crossover : Proposed new crossovers  
Footpath : No impact  
Streetscape: : The proposal will impact the streetscape

**Documentation**

- Initial lodgement of plans and relevant forms date stamp received on 27 April 2011.
- In response to Council requests further information was lodged on 31 May 2011
- Revised plans were lodged on 9 August 2011.
- Revised plans and accompanying information received on 5 October 2011

**Date Application Received**

27 April 2011

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

Application for eight two storey grouped dwellings and two, two storey single dwellings refused by Council on 20 September 2011.

**Site Inspection**

By Manager Planning Services on 10 August 2011

**PROPOSED AMENDMENTS TO APPLICATION**

The following lists the changes which the applicant proposes to the application which was refused by Council on 20 September 2011.

- *"Deletion of security Gates at the entrance to the Grouped Dwellings which will allow casual visitors access to on-site visitor bays.*
- *Reduced the size of the visitor car bays to the side of Unit 8 and increased the size of the garden bed to accommodate more plants and a tree.*

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- Deleted visitor car bay near Unit 5 (excess to R-Code requirement) and altered ramp to front gate to provide better turning space for vehicle to reverse out of Unit 5 garage.
- Added large garden bed to front of Unit 5 to accommodate more plants and a tree.
- Deleted main gate to the Canning Highway frontage and altered the other two gates and fence to suit. This creates the appearance of individual gates to each of the units fronting Canning Highway and also allows the new tree and garden bed to be visible from the street.
- Shown clotheslines to Units 9 and 10 missing on previous site plan.
- Amended crossover widths to Units 9 & 10 to 5 metres to accommodate more off street parking.”

The applicant’s full submission forms Attachment 1 to this report.

**Advertising**

The proposed changes to the application have not been advertised however neighbours have been advised that amended plans would be considered by the Town Planning & Building Committee and Council at their November meetings.

**Town Planning Advisory Panel Comments**

The proposed changes to the application have not been referred to the TPAP as the issues have been previously addressed by the Panel in its two prior considerations of the application.

**STATISTICS**

Because of the complexity of this assessment, the proposal has been considered as follows:

- R-Code provisions applicable to the entire site
- R-Code provisions applicable to each dwelling
- Compliance with Local Planning Policies

As discussed in the previous report, the amended application has been assessed against the Scheme’s split coding (R12.5/R40) provisions which apply to this site, which are as follows:

*5.3.2 Highway frontage dual coding: In the case of those sites with frontage on to Canning Highway and which are designated with a dual density coding, development above the lower density coding is subject to the following requirements:*

- (a) Sole vehicular access to the site is to be via a street other than Canning Highway;*
- (b) Noise attenuation measures are to be included in all dwellings, which will in the opinion of the local government, reduce traffic noise to an acceptable level within all habitable rooms;*
- (c) Development is to be designed to face the frontage to Canning Highway, and any other street to which the site has frontage; and*
- (d) The heritage value of any place included on the heritage list under clause 7.1 of the Scheme, is to be maintained, to the satisfaction of the local government.*

Now that amendments to the original proposal are considered to have sufficiently addressed the issue of a satisfactory frontage to Canning Highway, it is concluded that the application can be appropriately assessed against the R40 criteria.

Accordingly, the amended application has been assessed against the relevant R40 standards as follows:

**SITE AREA CALCULATIONS AND R CODE ASSESSMENT**

<b>Total Site Area</b>	2858m <sup>2</sup> (excludes road widening reserve of 208m <sup>2</sup> )
<b>Primary Street Setback</b>	6.6m which exceeds the requirements of the R-Codes (6m)
<b>Secondary Street Setback</b>	Average of 4.5m which exceeds the requirements of the R-Codes (4m)
<b>Surveillance of the Street</b>	Each unit has an upper floor window and ground floor windows which provide the necessary surveillance to the roads and to the communal driveway.
<b>Access and Parking</b>	2 bays provided for each dwelling 3 visitors bays provided (3 required) Vehicle manoeuvring complies for all parking spaces
<b>Site Works</b>	Cut and retain to 1m at the front of the site - <b>Discretion</b>
<b>Building Height</b>	Complies with Table 3 of the R-Codes. Wall heights do not exceed 6m & top of pitch does not exceed 9m.
<b>Privacy Requirements</b>	No overlooking will occur between each unit. No overlooking will occur to adjoining properties with all windows to habitable rooms being setback as per the requirements of the R-Codes.
<b>Design for Climate</b>	Overshadowing does not exceed 35% of the site area and therefore complies with the R40 requirements of the R-Codes.
<b>Essential Facilities</b>	Each Unit has a store area which meets the minimum requirements of the R-Codes being 4m <sup>2</sup> . No communal storage area for rubbish bins for Units 1-3 (inclusive) and Units 6-8 (inclusive) - <b>Discretion</b>
<b>Communal Open Space</b>	Adequate clothes drying areas provided for each unit. Common driveway area only
<b>Outdoor Living Areas</b>	Minimum width is greater than 4m (incorporating open space adjoining outdoor living areas)

**INDIVIDUAL UNIT ASSESSMENT**

Unit 1	Unit 2	Unit 3
<b>Lot area</b> = 236m <sup>2</sup>	<b>Lot area</b> = 203m <sup>2</sup>	<b>Lot area</b> = 203m <sup>2</sup>
<b>Site Cover</b> = 140.20m <sup>2</sup> (excludes alfresco and porch)	<b>Site Cover</b> = 138.81m <sup>2</sup> (excludes alfresco and porch)	<b>Site Cover</b> = 138.00m <sup>2</sup> (excludes alfresco and porch)
<b>Open Space</b> = 50.74% (includes alfresco and porch and proportionate share of communal driveway)	<b>Open Space</b> = 44.84% (includes alfresco and porch and proportionate share of communal driveway) <b>Discretion</b>	<b>Open Space</b> = 45.2% (includes alfresco and porch and proportionate share of communal driveway)
<b>Communal Open Space</b> communal driveway – proportionate share = 48.62m <sup>2</sup>	<b>Communal Open Space</b> communal driveway – proportionate share = 48.62m <sup>2</sup>	<b>Communal Open Space</b> communal driveway – proportionate share = 48.62m <sup>2</sup>
<b>Outdoor Living</b> = 71.4m <sup>2</sup>	<b>Outdoor Living</b> = 71.4m <sup>2</sup>	<b>Outdoor Living</b> = 71.4m <sup>2</sup>
<b>Boundary Setbacks</b> = Compliant	<b>Boundary Setbacks</b> = Compliant	<b>Boundary Setbacks</b> = Compliant
<b>Boundary Walls</b> = 2 proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>	<b>Boundary Walls</b> = 2 proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>	<b>Boundary Walls</b> = 2 proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>
Garage Doors – not visible to street	Garage Doors – not visible to street	Garage Doors – not visible to street
Open Space calculations comply with R-Codes when assessed as one lot	Open Space calculations comply with R-Codes when assessed as one lot	Open Space calculations comply with R-Codes when assessed as one lot

Unit 4	Unit 5	Unit 6
Lot area = 244m <sup>2</sup>	Lot area = 264m <sup>2</sup>	Lot area = 203m <sup>2</sup>
<b>Site Cover</b> = 151.65m <sup>2</sup> (excludes alfresco and porch)	<b>Site Cover</b> = 148.8m <sup>2</sup> (excludes alfresco and porch)	<b>Site Cover</b> = 138.81m <sup>2</sup> (excludes alfresco and porch)
<b>Open Space</b> = 48.2% includes alfresco and porch and proportionate share of communal driveway)	<b>Open Space</b> = 52.41% includes alfresco and porch and proportionate share of communal driveway)	<b>Open Space</b> = 44.84% includes alfresco and porch and proportionate share of communal driveway)
<b>Communal Open Space</b> communal driveway – proportionate share = 48.62m <sup>2</sup>	<b>Communal Open Space</b> communal driveway – proportionate share = 48.62m <sup>2</sup>	<b>Communal Open Space</b> communal driveway – proportionate share = 48.62m <sup>2</sup>
<b>Outdoor Living</b> = 71.4m <sup>2</sup>	<b>Outdoor Living</b> = 71.4m <sup>2</sup>	<b>Outdoor Living</b> = 71.4m <sup>2</sup>
<b>Boundary Setbacks</b> = Compliant	<b>Boundary Setbacks</b> = Compliant	<b>Boundary Setbacks</b> = Compliant
<b>Boundary Walls</b> = 2 proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>	<b>Boundary Walls</b> = 2 proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>	<b>Boundary Walls</b> = 2 proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>
Garage Doors – not visible to street	Garage Doors – not visible to street	Garage Doors – not visible to street
Open Space calculations comply with R-Codes when assessed as one lot	Open Space calculations comply with R-Codes when assessed as one lot	Open Space calculations comply with R-Codes when assessed as one lot

Unit 7	Unit 8
Lot area = 203m <sup>2</sup>	Lot area = 205m <sup>2</sup>
<b>Site Cover</b> = 138.81m <sup>2</sup> (excludes alfresco and porch)	<b>Site Cover</b> = 138.81m <sup>2</sup> (excludes alfresco and porch)
<b>Open Space</b> = 44.84% includes alfresco and porch and proportionate share of communal driveway)	<b>Open Space</b> = 44.73% includes alfresco and porch and proportionate share of communal driveway)
<b>Communal Open Space</b> communal driveway – proportionate share = 48.62m <sup>2</sup>	<b>Communal Open Space</b> communal driveway – proportionate share = 48.62m <sup>2</sup>
<b>Outdoor Living</b> = 71.4m <sup>2</sup>	<b>Outdoor Living</b> = 71.4m <sup>2</sup>
<b>Boundary Setbacks</b> = Compliant	<b>Boundary Setbacks</b> = Compliant
<b>Boundary Walls</b> = 2 proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>	<b>Boundary Walls</b> = 2 proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>
Garage Doors – not visible to street	Garage Doors – not visible to street
Open Space calculations comply with R-Codes when assessed as one lot	Open Space calculations comply with R-Codes when assessed as one lot

Unit 9	Unit 10
Lot area = 200m <sup>2</sup>	Lot area = 200m <sup>2</sup>
<b>Site Cover</b> = 116.74m <sup>2</sup> (excludes alfresco and porch)	<b>Site Cover</b> = 116.3m <sup>2</sup> (excludes alfresco and porch)
<b>Open Space</b> = 42% (includes alfresco and porch)	<b>Open Space</b> = 42% (includes alfresco and porch)
<b>Communal Open Space</b> Nil	<b>Communal Open Space</b> Nil
<b>Outdoor Living</b> = 71.4m <sup>2</sup>	<b>Outdoor Living</b> = 71.4m <sup>2</sup>

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<b>Boundary</b>	<b>Setbacks</b>	=	<b>Boundary</b>	<b>Setbacks</b>	=
Compliant			Compliant		
<b>Boundary Walls</b>		=	<b>Boundary Walls</b>		=
proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>		2	proposed (1 permitted up to 1 lot boundary only under R-Codes) <b>Discretion required to approve second boundary wall</b>		2
Garage Doors – not visible to street			Garage Doors – not visible to street		
Open Space calculations comply with R-Codes when assessed as one lot			Open Space calculations comply with R-Codes when assessed as one lot		

**Compliance with Local Planning Policies**

- Roof Pitch LPP 66: Dominant elements less than 28 degrees and **Discretion required**
- Front Fence LPP 143: The fence fronting the Canning Highway exceeds the maximum height of 1.8 metres by 100mm and is not visually permeable above 1.2m.
- Crossovers LPP 123: The policy specifies a standard width of 3 metres for crossovers (5m for each of 3 crossovers proposed) and no street trees removed unless approved by absolute majority of Council (proposal requires three trees to be felled) –**Discretion required**
- Noise Attenuation LPP: The proposal is compliant with the Policy requirements

**ASSESSMENT**

This assessment considers the various issues arising from the amended plans and additional information which has been submitted by the applicant. This assessment should be read in conjunction with the original planning report which forms Attachment 2.

The initial proposal did not meet a number of the necessary 'acceptable development' requirements of the R-Codes in relation to on site facilities (clothes drying and rubbish bin storage areas, visitor car parking, dimension of outdoor living areas) and setbacks. It was also considered the development did not adequately address the Canning Highway frontage. It is considered these matters have now been satisfactorily addressed.

The revised proposal still does not conform to Council's Local Planning Policies in terms of the pitch of the roofs, the height and permeability of the fence on Canning Highway and the number and width of the proposed crossovers. However it is considered that the building design and the relationship of the development in regards to how it addresses the Canning Highway frontage is now acceptable and that variations to the relevant Local Planning Policies are justified.

Improvements to the site plan will now provide adequate on site provisions for each dwelling in respect to the R-Code requirements. Additional landscaped areas have been provided and subject to the submission of a satisfactory, detailed landscape plan which specifies the irrigation provisions, plant species and maturity of trees to be planted, these are considered to be acceptable.

Of issue is the number and width of the proposed three crossovers and their impact upon parking and traffic movement in the vicinity of Lee Park. The applicant has stated he is not prepared to reduce the number of crossovers and has submitted information in support of the three crossovers. In fact the revised plan has increased the width of the crossovers servicing the two houses fronting Irwin Street from 4 metres to 5 metres and reduces the crossover width for the driveway servicing the remaining eight dwellings from 4 metres to 3.5 metres.

The applicant submits that by increasing the crossover width for the two Irwin Street dwellings, visitor parking will be increased for these houses. Each would have four visitor

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spaces- two in front of the double garage and a further two, jockey parked behind, within the 5m wide crossover/accessway. However this is counter to the objective of protecting the amount of kerbside parking available to the general public and limiting the impact of vehicle movements and parking upon the pedestrian access adjacent to the property frontage and the visual impact of the proposed driveways upon the streetscape. Accordingly, it is considered any approval should be conditioned to reduce the crossover/driveway width to 3 metres except in respect to the combined accessway where the proposed width of 3.5 metres which is justified given the volume and nature of traffic movements which the proposed eight dwellings would generate.

The regulatory framework for dealing with the crossover aspect (strictly speaking the proposed crossovers are outside of the property boundaries and thus, technically, not part of the planning application and in fact could be dealt with as a separate issue) is to be found in the Local Government (Uniform Local Provisions) Regulations 1996. In short, the relevant provisions do not mandate automatic approval of any crossover application but rather require a discretionary Council decision. If the decision was not accepted, appeal rights would apply. In other words, Council retains a discretion to approve or reject any crossover application, or approve subject to conditions.

It is noted that the LPP requires the approval of an absolute majority of Council for the proposed removal of the three existing street trees (the applicant proposes to replace these although no details of the size and type of tree have been specified and the proposed location will need to be assessed). While the loss of these trees is regrettable, it is not possible to retain them if three crossovers are to be developed, even if their widths are reduced. A proposed condition of approval (Condition 2) involving the provision of a landscape plan addresses the issue of the size and type of the replacement trees and a number of other relevant issues.

The landscape plan should also address proposed landscaping in the street verge and road widening given the prominence of the landscaping within the public domain and the ongoing maintenance issues such landscaping will represent. The proposal indicates that existing verge trees are to be relocated and that new trees are to be established. It is necessary that the landscape plan also address the feasibility of this and detail how these works are to be undertaken. The proposed new street trees should also be mature stock, accordingly the proposed planning condition specifies a 'Bag Size' of 300 litres which generally insures a tree of a minimum six years old.

### CONCLUSION

The amended proposal has reduced the number of individual variations required under the R-Codes from 18 to 11. The remaining variations are minor and will not cause significant off site issues.

The amended proposal is considered to satisfactorily address the Canning Highway frontage and accordingly meets the criteria identified in Clause 5.3.2 for consideration of development at R40 density.

The indicated increased landscape provisions in the plan will enhance the proposal if appropriately detailed within a landscape plan prepared by a professional landscape architect which should be submitted and approved prior to the issue of a Building Licence.

It is unfortunate the applicant has rejected the option to reduce the number of accessways, as this would increase the merit of the proposal. The applicant's position appears to be on the basis of cost issues, as the applicant has not demonstrated alternative design solutions, including access to the site via a single crossover, do not exist. The applicant contends that there is ample on-street parking in the vicinity to service Lee Park and that the development should not be denied in order to retain existing public kerbside parking. It should be noted that this is not the only issue with multiple crossovers – there are also pedestrian safety issues (ie the interface between pedestrians and vehicles at three crossovers as opposed to one) and visual amenity

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issues (ie loss of green verge and increased hardstand, thus detracting from the existing streetscape). In addition to the loss of existing parking opposite a park (estimated at 4 bays), there is also the issue of the loss of existing street trees. One of the intents of Council's Policy on Crossovers is to minimise both the number and width of crossovers and this application fails on both counts. Notwithstanding the applicant's claims, it is considered that the loss of kerbside parking is undesirable and should be minimised by reducing the width of the proposed crossovers where practical, to accord with Council's LPP – Crossovers. However it is concluded that it would be unreasonable to deny the development by refusing to allow the proposed three crossovers. Nevertheless, should Council approve the three crossovers, it is recommended that all but the shared accessway should comply with Council's relevant LPP 123 in respect to 3 metre maximum width. It is noted that LPP 123 requires the approval of an absolute majority of Council for the proposed removal of the 3 existing street trees.

In light of the above it is considered the amended proposal should be approved, subject to conditions.

**RECOMMENDATION**

That Council grant approval for the construction of eight grouped dwellings at 231 Canning Highway and two, single dwellings at No. 5 Irwin Street, East Fremantle in accordance with the amended plans date stamp on 5 October 2011, by exercising discretion in respect to the following variations and subject to the following conditions:

- (a) variation to the R-Codes to allow:
    - (i) for cut and fill of material in excess of 1 metre in depth,
    - (ii) lack of communal rubbish bin storage for units 1-3 and Units 6-8 (inclusive)
    - (iii) boundary wall setbacks for Units 1-10 (inclusive).
  - (b) variation to LPP 66 – roof pitch is less than 28 degrees for the dominant elements.
  - (c) variation to LPP 143 – front fencing to Canning Highway exceeds the maximum height of 1.8 metres by 100mm and is not visually permeable above 1.2 metres
  - (d) variation to LPP 123 – crossovers to allow the shared accessway to have a crossover width of 3.5 metres and the removal of 3 street trees (**Absolute majority of Council required**).
1. prior to the installation of any externally mounted air conditioning plant, a development application, which demonstrates that noise from the air conditioner will comply with the Environmental (Noise) Regulations 1997 (see footnote (i) below) is to be lodged and approved by Council
  2. prior to the issue of a Building Licence, a landscape plan, prepared by a qualified landscape architect, shall be submitted and approved by the CEO. The landscape plan shall include details of all plant species to be introduced and retained, a management plan for the installation and maintenance of all landscaped areas inclusive of adjacent street verge and road widening areas and an irrigation plan. The landscape plan shall also address the practicality and detail the method, for the relocation of existing street trees as identified on the Planning Application as to be removed and relocated and specify the means and location for the installation of any replacement new street trees and their ongoing maintenance. "Any new street trees planted pursuant to this application shall be mature stock with a minimum bag size of 300 litres.
  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 a building licence and the 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 dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
10. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost is to be borne by the applicant.
11. any new crossovers which are constructed under this approval are to be at the applicant's expense and have a maximum width of 3.0m except for the shared accessway which shall have a maximum width no greater than 3.5m. The footpath is to continue uninterrupted across the width of the site and the crossovers are to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers. Any modifications to the footpath resulting from this planning approval to be at the applicant's expense,
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 owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the 'alfresco' areas may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (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*

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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”*

Mr Paino (applicant) addressed the meeting in support of his revised proposal and the officer’s recommendation, however, stating that his preference was for the width of the two proposed crossovers to be 5m.

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr de Jong**

**That Council grant approval for the construction of eight grouped dwellings at 231 Canning Highway and two, single dwellings at No. 5 Irwin Street, East Fremantle in accordance with the amended plans date stamp on 5 October 2011, by exercising discretion in respect to the following variations and subject to the following conditions:**

- (a) variation to the R-Codes to allow:**
  - (i) for cut and fill of material in excess of 1 metre in depth,**
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- (e) variation to LPP 66 – roof pitch is less than 28 degrees for the dominant elements.**
- (f) variation to LPP 143 – front fencing to Canning Highway exceeds the maximum height of 1.8 metres by 100mm and is not visually permeable above 1.2 metres**
- (g) variation to LPP 123 – crossovers to allow the shared accessway to have a crossover width of 3.5 metres and the removal of 3 street trees (Absolute majority of Council required).**
- 1. prior to the installation of any externally mounted air conditioning plant, a development application, which demonstrates that noise from the air conditioner will comply with the Environmental (Noise) Regulations 1997 (see footnote (i) below) is to be lodged and approved by Council**
- 2. prior to the issue of a Building Licence, a landscape plan, prepared by a qualified landscape architect, shall be submitted and approved by the CEO. The landscape plan shall include details of all plant species to be introduced and retained, a management plan for the installation and maintenance of all landscaped areas inclusive of adjacent street verge and road widening areas and an irrigation plan. The landscape plan shall also address the practicality and detail the method, for the relocation of existing street trees as identified on the Planning Application as to be removed and relocated and specify the means and location for the installation of any replacement new street trees and their ongoing maintenance. “Any new street trees planted pursuant to this application shall be mature stock with a minimum bag size of 300 litres.**
- 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 a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 5. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council’s attention.**
- 6. the proposed dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 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. 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.
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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.*
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- (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.*
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- (g) *the 'alfresco' areas may not be enclosed without the prior written consent of Council.*
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- (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*

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**Environmental Protection document—"An Installers Guide to Air Conditioner Noise".**

**CARRIED**

**T132.2 No. 73 (Lot 390) Duke Street, East Fremantle**

**Owner/Applicant: Jim Lyon**

**Application No. P153/11**

By Gemma Claire Basley, Town Planner on 2 November 2011

**PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval for the construction of a garage with a free standing upper floor bedroom above in the rear yard of No. 73 Duke Street, East Fremantle.

The application seeks discretions to the requirements of Council's Local Planning Policy No. 142 with regard to constructing an additional boundary wall and as such is presented to Council for determination. This report recommends that conditional approval be granted.

**BACKGROUND**

**Description of Proposal**

The application proposes the following:

- Construct additions at the rear of the residence to accommodate a new laundry and pantry area;
- Construct a new covered alfresco area at the rear of the residence to provide a covered outdoor entertaining area; and
- Construct a double garage in the rear yard of the property to provide covered on-site parking and to construct an ancillary bedroom above the garage and partially within the roof structure of the garage.

**Statutory Considerations**

Town Planning Scheme No. 3

Local Planning Strategy – Plympton Precinct (LPS)

R20 Residential Design Codes (RDC)

B Management Category on Municipal Heritage Inventory

**Relevant Council Policies**

LP Policy No. 142: Residential Development

LP Policy No. 143 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 : The proposed structure will not be visible to the street.

**Documentation**

Plans and relevant forms date stamp received on 30 September 2011

**Date Application Received**

30 September 2011

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

Nil

**CONSULTATION**

**Advertising**

The application was advertised to adjoining neighbours for a two week period between the 7 and 21 October 2011. During the advertising period three objections to the application were received.

Submissions	Planning Response
<p>Rob and Natalie Whitham of 84 King Street object on the basis that the proposal, design and location impacts our privacy and solar access and open space.</p> <ul style="list-style-type: none"> <li>• The southern window cone of vision overlooks our outdoor area. The setback of 4.5 metres is not adequate. Whilst this distance may be considered appropriate for a bedroom in a main house, it is not appropriate in a room of this nature as the occupier would spend more time in this residence due to the distance from the main property.</li> <li>• The proposed location and height of the development would result in loss of morning sunlight and sense of open space.</li> <li>• The view from our property will be one of a steep rising roof which would detract from both the value of our property and the general enjoyment of being in our back yard.</li> <li>• The proposed roof colour would also reflect the sun due to the steep angle.</li> <li>• The development impacts all neighbours in a negative way but has little impact on the developer's current property. All the main windows are away from the main house.</li> <li>• The location of the double garage will result in cars being backed in and out and turning around which is not appropriate and will detract from the general ambience of a back yard environment.</li> </ul> <p>Regardless of the above comments on design and positioning, the current property at 73 Duke Street is a double storey house I don't think it is appropriate, with respect to the impact on neighbouring properties that an additional double storey building be built at the rear of the property.</p>	<p>The room is assessed as a bedroom and as such is required to be set back, in direct line of sight within the cone of vision, a minimum of 4.5 metres from the boundary.</p> <p>The application provides a 6 metre setback in direct line of site and satisfies the visual privacy requirements of the R-Codes and in this regard there is no basis to require an additional setback.</p> <p>Refer to applicant comments below for response to other questions.</p>
<p>Elizabeth Dutton of 86 King Street objects to the proposal with regard to the 2<sup>nd</sup> storey for the following reasons:</p> <ul style="list-style-type: none"> <li>• Imposing size</li> <li>• Large area of roof that will cause huge reflection</li> <li>• Overlooking from upper floor south facing windows.</li> </ul> <p>Why not face the windows east - towards the owner's house?</p> <p>The loft - is to contain a large bedroom, walk-in robe and bathroom. Is this in the future to be used for permanent/casual rental as one wall has been left blank where a sink, microwave and cupboards could easily be installed at a later date?</p>	<p>Refer comments above and below.</p> <p>The loft will be approved as an additional bedroom for ancillary accommodation which is a discretionary use within the residential zone and the approval will require that the accommodation be used only for family related members and that it not be used for short term or rental accommodation.</p>
<p>Nick and Claire Jones of 82 King Street object to the proposal to construct a 2 storey loft over a garage to be located 2.5m off their rear boundary. We have some concerns about overlooking, and the large scale/height of the</p>	<p>Refer comments above.</p> <p>Overlooking does not occur from the second storey addition to the residence associated with 73 Duke Street with the balcony being</p>

<p>building so close to the rear boundary. The plans show high level window on the north elevation and we request that this be obscured glazing. The lot already has a two storey house located as normal in the front/centre of the block. We feel that 2 storey houses are not the norm in Plympton and that we are already faced with overlooking from the west faced first floor balcony. The proposal for an additional 2 storey structure located so close to the rear adjoining boundary is considered to be excessive. If the proposed 2 storey structure was moved closer to the existing dwelling then we would be more supportive.</p>	<p>setback some 19 metres from the rear boundary.</p> <p>The position of the garage allows a large tree to be retained.</p>
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The applicant has responded to the submissions as follows:

- The new structure addresses the off street parking issue and provides under cover on- site parking and enables the vehicles to access the garage and the driveway in a forward direction
- The new structure acknowledges the local roof heritage; with its steep pitch and provides for a small spare bedroom with washroom and tea preparation facility.
- Overlooking of neighbours is 6.0 metres @ 45deg from boundary and this is greater than the 4.5 metre requirement of the R-Codes.
- This is not architecturally acknowledged as a two storey structure as there is only one wall servicing the upper floor with the rest of the upper floor being constructed within the roof pitch.
- The new structure is not a living entertainment area and is a bedroom (night time use) and as such the demand for northern light (thermal benefits) is not as great as that for a living area. In recognition though of heat loss, Comfort Plus glass will be installed on the southern window to prevent heat loss and a small highlight is between the bathroom and bedroom to facilitate borrowed northern light.
- Overshadowing midwinter – noon, will result in any shadow cast falling over the reversing area associated with the garage on 73 Duke Street and therefore does not affect solar access to adjoining properties.
- Roofing is not of reflective corrugated iron or zincalume, it is grey Colorbond.
- Noise, from the starting cars is within the garage; similarly sleeping in a bedroom is a quiet activity.
- Materiality is conducive to a 'cottage', local aesthetic i.e.: limestone, timber cladding boards, timber windows, bagged cream rendered walls and grey roofing and trim.

In summary, the submissions above are noted but because the proposed loft style ancillary accommodation is set back in accordance with the privacy requirements of the R-Codes there is no basis to seek an additional setback to this structure.

#### Town Planning Advisory Panel

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

#### Site Inspection

By Town Planner on 1 November 2011

#### Statistics

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	61.3%	A
Site Works	Less than 500mm	Less than 500 mm	

<b>Local Planning Policies:</b>		<b>Issues</b>					
<b>Policy 142</b>		<b>Boundary Wall discretion</b>				<b>D</b>	
Roof		Not dominant pitch & behind the main house				A	
Solar Access & Shade		UF maximises access to light				A	
Drainage		To be conditioned				A	
Views		No impacts				A	
Crossover		No impacts				A	
Trees		Large tree to be retained					
<b>Other:</b>		<b>Issues</b>				<b>Status</b>	
Overshadowing		No impacts on adjoining lots				A	
Privacy/Overlooking		No impacts				A	
<b>Height:</b>		<b>Required</b>	<b>Proposed</b>			<b>Status</b>	
Wall		6m	5.85			A	
Ridge		9m	6.17			A	
Roof type		Pitch					
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
Ground	No Change						A
Upper	No Change						A
Rear (west)							
Ground	Garage/Ancillary Accommodation	2.85	6.2	No	1.0	2/45	A
Upper	Bed	5.85 max	6	No	1.2	3.4	A
Side (north)							
Ground	<b>Garage</b>	<b>3.0</b>	<b>8.1</b>	<b>No</b>	<b>1.0</b>	<b>Nil</b>	<b>D</b>
Upper	WIR/Bathroom	5.85 max	5.4	No	1.2	3.4	A
Side (south)							
Ground	Garage/Porch	3.0	8.4	No	1.0	6.0	A
	<b>Pantry/Laundry</b>	<b>2.7</b>	<b>3.9</b>	<b>No</b>	<b>1.0</b>	<b>1.5</b>	<b>D</b>
Upper	Bedroom	5.85 max	5.6	Yes	2.8	5.2	A

### ASSESSMENT

Planning Approval is sought for the construction of a detached garage and loft style ancillary bedroom in the rear yard of 73 Duke Street.

The loft bedroom above the garage will only be utilised by the owner's family and will not be leased for short stay accommodation or rented out. A condition is included in the recommendation to restrict the use of the proposed development to ancillary accommodation for family members.

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

### Building on the Boundary

The application proposes to construct an additional boundary wall on the northern 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 (northern) boundary satisfies the above criteria as demonstrated below:

- the maximum height of the boundary wall on the northern boundary is 2.85 metres which is lower than the maximum boundary wall height permitted;
- the proposed boundary wall is at the rear of the residence and is separate to the residence;
- the construction of a boundary wall on the northern boundary will not result in any overshadowing of the adjoining properties and will only cast a shadow over the reversing area associated with the garage; and
- the proposed boundary wall will not be visible from the street.

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

- The proposed northern boundary wall will only restrict light to a garage area which is not a habitable room.
- The proposed northern boundary wall will not cast a shadow on the adjoining lots to the north or west.

Based on the above discussion and taking into account there was no objection from the northern neighbour the discretion to allow a boundary wall along the northern boundary is supported.

### **Conclusion**

The application proposes to provide a covered parking area in the rear yard of the property at No. 73 Duke Street and to sacrifice part of the rear yard to accommodate this. The provision of on-site parking within the Plympton Ward is supported and a discretion to allow a second boundary wall to accommodate the garage is considered to be acceptable.

The application also proposes to construct a loft above the garage which is predominantly contained within the roof pitch but which will present as a part second storey to the south. No overlooking will occur to the west as perceived from concerned neighbours or to the south because the loft has been provided with the necessary privacy setbacks as required under the R-Codes.

The use of the roof space for ancillary accommodation is considered to be a clever use of space. The building will not appear as a 2 storey building with a maximum height of 6.0 metres which is no taller than a single storey residence is permitted to be. A building of this height will not impact adversely on the adjoining neighbours.



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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 a small discretion is required the proposal is supported.

**RECOMMENDATION**

That Council exercise its discretion in approving a boundary wall along the northern boundary of the site and grant approval for the construction of a garage with an upper floor loft in the rear yard of No. 73 Duke Street, East Fremantle in accordance with plans date stamp received on the 30 September 2011, subject to the following conditions:

1. The loft bedroom above the garage shall not be leased for short stay accommodation or as any form of rental property, cannot be sold independently of the main dwelling and can only be used by a member of the family of 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.

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).*

Mr Lyon (applicant/owner) advised the meeting he was available to answer any queries regarding the proposed development.

**RECOMMENDATION TO COUNCIL**

**Cr Martin – Cr de Jong**

**That Council exercise its discretion in approving a boundary wall along the northern boundary of the site and grant approval for the construction of a garage with an upper floor loft in the rear yard of No. 73 Duke Street, East Fremantle in accordance with plans date stamp received on the 30 September 2011, subject to the following conditions:**

- 1. The loft bedroom above the garage shall not be leased for short stay accommodation or as any form of rental property, cannot be sold independently of the main dwelling and can only be used by a member of the family of the occupiers of the main dwelling.**

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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.

**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).*

*Cr Collinson made the following impartiality declaration in the matter of 12 Silas Street: "As a consequence of the applicant being known to me, as my doctor operates from the East Fremantle Medical Centre, 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".*

**T132.3**      **Silas Street No. 12 (Lot 594)**  
**Applicant: John Kirkness**  
**Owner: Desert Storm Pty Ltd**  
**Application No. P146/11**

By Jamie Douglas, Manager Planning Services on 27 October 2011.

**PURPOSE OF THIS REPORT**

This report considers an application for building extensions to a medical practice at 12 Silas Street. The application is recommended for conditional approval.

**BACKGROUND**

**Description of Proposal**

An application for Planning Approval for alterations and additions to the medical practice offices at 12 Silas Street comprising:

- Enclose undercroft car parking area to create 111m<sup>2</sup> of floor space to accommodate 2 consulting rooms, 3 offices, a waiting room/reception area and store.
- Development of 18 on site car spaces and a service vehicle/ambulance bay.

**Statutory Considerations**

Town Planning Scheme No. 3 – Town Centre

Draft Local Planning Policy – Town Centre Redevelopment Guidelines

**Impact on Public Domain**

- Tree in verge : No impact
- Light pole : No impact
- Crossover : Additional crossovers required
- Footpath : No impact
- Streetscape : The proposal will impact the streetscape elevation to St Peters Road.

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

- 19 April 2005 Council grants conditional approval for an extension of the existing medical centre comprising a two storey addition to the east, and an additional four residential units of 3 levels to the east of the medical centre;
- 2 May 2006 WAPC conditionally approves the amalgamation of Lots 594 and 621 (12 Silas Street & 25 May Street);
- 11 December 2007 Town Planning & Building Committee recommends that an application to amend the parking requirement be deferred to allow a report to be prepared in respect to the correspondence received from J Kirkness dated 10 December 2007;
- 19 December 2007 Council adopts the Town Planning & Building Committee recommendation regarding the application to amend the planning requirement in relation to the condition requiring car parking, which states:  
*“Cr Dobro – Mayor Ferris  
That the matter be deferred to allow a report to be prepared in respect to the correspondence received from J Kirkness dated 10 December 2007.”*
- 6 March 2008 Owner requests deferral of parking matter.
- 19 May 2009 Council defers consideration of an application for additions at the front pending the submission of a Heritage Impact Statement.
- 16 June 2009 Council approves application for additions at front

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel (TPAP) at its meeting held on 25 October 2011 and the following comments were made:

- The Panel supports the application subject to onsite car parking requirements being met.

**Neighbours Letters**

Seventeen neighbouring landowners received written advice of the application. One submission was received from Pam Nairn and Rob Day, owners of 26 May Street East Fremantle which is addressed below.

Do not object to the development in principle but the safety of the May Street crossover needs to be carefully considered.	The proposal plans to utilise the existing (unformed cross-over) on Lot 621 and expand its width to 4.5 m. It is considered this should be conditioned to comply with LPP 123- Crossover Policy max. width requirements of 3m. This will achieve a 7.5 m. separation to the corner with St. Peters Road. This will achieve adequate sight line and separation to turning vehicles and is appropriate for the level of vehicle traffic accessing the site.
Adding 5 consulting rooms will significantly increase the number of vehicles using the site.	Only 2 additional consulting rooms are proposed. It is proposed to apply a condition of approval to cap the number of consultants operating at any one time to below the current maximum potential usage. It is not anticipated that vehicles using the site will increase significantly.

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	The eastern portion of the site, Lot 621, is already used for car-parking, and the present application seeks to both formalise this use, including the sealing of the parking and crossover elements.
In the application it is stated that the intention is for the new sealed surface to be “consistent with the general natural fall of the land”. The natural level of the ground level in this block is considerably below the current ground level ground.	The current ground level of Lot 621 is consistent with natural ground level. It is proposed that the finished surface of the parking area will conform with natural ground level.

**Site Inspection**

By Manager Planning Services on 27 October 2011

**ASSESSMENT**

**Description**

The proposal is to increase the floor area of the existing medical practice by approximately 30% by infilling part of the existing undercroft ground floor parking area. The proposal will broaden the range of healthcare services available at the clinic and will include an after- hours General Practitioner service. The additional floor area of 111m<sup>2</sup> will accommodate 2 consulting rooms, 3 offices, a waiting room/reception area and a store. Patients will access the area via the existing front door from Silas Street. The area subject to the proposed additional floor area currently contains 5 car spaces. It is proposed that three jockey spaces will be retained.

The proposed new walls will be located between existing column and beam structures and new infill panels and fenestration will replicate those on the first floor above.

It is also proposed to formalise currently informal parking provisions on the adjacent Lot 621 by creating hard standing for 11 car bays and an access way. It is further proposed to form a new cross-over on St. Peter’s Road frontage to access four car spaces which have been developed on adjacent Lot 595 which has been leased from the Department of Main Roads until 31 March 2013 and thereafter subject to renewal at the discretion of the Department.

The existing footprint of the building will not increase and the form and scale of the proposed additions are considered to be satisfactory and are in compliance with the draft LPP Town Centre Redevelopment Guidelines. The development proposal is not of sufficient value or size to require open space or public art provisions under the draft LPP.

The issues for consideration are; the proposed plot ratio, car parking and landscaping which are identified and then discussed below.

**Issues**

Plot ratio

The subject site comprises multiple lots and the proposal will exceed the maximum Plot Ratio requirements of the Scheme unless amalgamation of the lots occurs.

The subject site comprises Lot 596 – 511m<sup>2</sup> and Lot 642- 464 m<sup>2</sup>. The existing buildings have a floor area of 301m<sup>2</sup>, and the additions increase the floor area by 111m<sup>2</sup> giving a total floor area of 412m<sup>2</sup>.

TPS 3 states:

“5.8.3 Plot Ratio: *Except as otherwise permitted by the local government, the maximum plot ratio in the Commercial Zones are to be as follows:*  
(a) Town Centre: 0.5:1”

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Council's discretion is required to be exercised for the plot ratio to be increased from 0.62:1 to 0.80:1 unless amalgamation of the lots is required as a condition of approval. If the two lots are amalgamated the plot ratio will be 0.42 which complies with the existing requirements of the Scheme.

Car Parking

The Car Parking requirements for 'Consulting Rooms' in Schedule 11 of TPS 3 are 2 spaces per consulting room and 1 space for every staff member.

The proposal will result in a total of 10 consulting rooms, ancillary office/reception and waiting rooms, two nurse rooms, a pathology laboratory, a GP registrar and one 'student' room. For the purpose of car parking assessment it is reasonable to conclude that potentially patients will receive treatment or consultation within the rooms designated for nurses while other consulting rooms are occupied. Accordingly 12 rooms are assessed as 'consulting rooms' for the purpose of car parking assessment which requires 24 spaces (Note, GP Registrar and Student Consultant Room have not been included as 'consulting rooms' for the purpose of car parking assessment).

Based on advice from the applicant and the floor plan, total staff numbers are estimated as follows;

3 receptionists  
1 Practice Manger  
1 laboratory staff  
2 Specialist Nurses  
1 GP Registrar  
1 Student Consultant  
9 Medical Consultants  
TOTAL STAFF 18

Based on the scheme requirements, the theoretical car parking requirement for the entire existing and proposed development is 42 on-site car spaces.

The proposal provides for 19 on- site bays if an Ambulance/Service delivery bay is included in the overall provision. Three of these bays would be for 'jockey' parking. The development proposes that eleven bays and driveway access be accommodated on the adjoining Lot 621. It is therefore necessary that this lot be amalgamated with the balance title to insure that car parking is not lost to the development at some future date. The proposal also incorporates four bays on the adjacent Lot 595 which are to be accessed by a proposed new cross-over to St. Peter's Road. The Department of Main Roads has granted a Licence for the applicant to use this lot for parking and landscaping for an initial period which expires in March 2013. The Licence will then be subject to extension at the discretion of the Department. While there is a risk that this area may be lost to the development in the future, this risk seems slight given the land has no apparent practical alternative use. It is therefore reasonable to accept this parking provision as on-site parking.

In the event this area of land was ever lost for parking purposes, this would effectively constitute a breach of the planning approval and the owner would need to make satisfactory equivalent parking arrangements.

Council's Operations Manager advises that the proposed crossover is satisfactory.

The current medical facility was approved in 2005 as part of a mixed-use development in conjunction with a grouped dwelling development on the adjoining Lot 621. The approval required 16 parking bays for the medical facility. The development therefore has an existing parking deficiency in respect to the Scheme requirements. Consistent with the approach taken in respect to recent development assessments (such as the George Street Wine Bar development) it is accepted that subsequent development applications should not be required to address existing variations to the parking standards which have been previously approved by Council. Accordingly this parking assessment is based

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upon the parking generation from the proposed additions plus the existing requirement for 16 on-site spaces. The additional floor area of 111m<sup>2</sup> will accommodate 2 consulting rooms, 3 offices, a waiting room/reception area and a store. Under the scheme provisions, the proposal would generate a requirement for 4 spaces for the consulting rooms and 6 spaces for the estimated six extra staff to be accommodated = 10 spaces. Accordingly the total car parking requirement is assessed as 26 spaces. The proposal therefore has an assessed deficiency of seven on-site bays.

Clause 5.8.5 provides that car parking is to be provided in accordance with the relevant standards, as discussed above.

In considering alternative means of addressing any on-site parking shortfall, the Scheme provides (3) options as follows:

Clause 5.8.6 provides for the acceptance of dedicated off-site parking, subject to certain conditions being met. However no such site or proposal has been put forward.

Clause 5.8.7 provides Council may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.

However the kerb side along the entire frontage of the subject site is designated – ‘no standing’ or is otherwise occupied by access ways. Similar restrictions exist on the opposing side of St. Peters Road. Accordingly, this option is not applicable.

Clause 5.8.8 states Council may accept or require cash-in-lieu of all, or a proportion of required car parking, based on the estimated cost of providing the requisite parking. Any such acquired funds are to be used to provide public car parking in the vicinity of the subject site.

Should Council wish to accept a variation in the on-site car parking requirements of the Scheme, it would be necessary to determine if it is appropriate to require cash-in-lieu for the above net parking shortfall of seven spaces at the current rate based on the Valuer General’s advice of \$22,500 per space ( $\$22,500 \times 7 \text{ spaces}$ ) = \$157,500.

The applicant has been consulted in respect to the assessed car parking deficiencies and has tendered the attached submission in response. The submission argues that Clause 5.6.1 of the Scheme enables Council to vary the requirement for cash-in-lieu and provides justification for not requiring a cash-in-lieu contribution. The applicant further contends that the provision of on-site deck parking would be cost prohibitive.

Clause 5.6.1 does provide the opportunity for Council to approve a development that does not comply with a standard or requirement of the Scheme, however any such determination would nevertheless need to address the requirements of the Scheme with respect to granting any such variation. Specifically, Clause 5.6.1 could only be utilised if:

- affected parties (i.e. neighbours) were consulted in accordance with Scheme requirements and the views of those parties were taken into account by elected members.
- elected members had regard to the matters listed in Clause 10.2.
- elected members determined *“the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality”*.

It is considered the proposal does not meet the Scheme’s criteria in regard to parking requirements and Council would also need to be cognisant of the undesirable precedent an unmodified approval would establish.

However, it is pertinent to note that the applicant states the maximum number of health care professionals that will see patients at any one time is six. It is evident from

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consultation with the applicant that the intent of this proposal is to broaden the range of facilities for medical care and research and to enable each practitioner to have a dedicated consulting room rather than increase the number of health care professionals practising at any one time. It is also intended to broaden the range of hours that the medical centre is open to provide an 'after hours GP service'. Thus the predicted maximum intensity of use even with the proposed extensions is less than could currently be achieved if all the eight existing consulting rooms were used to capacity.

In consideration of the above, the opportunity exists to condition any approval so that the maximum number of consulting rooms that may be used by health care professionals (doctors and nurse specialists) to treat patients at any one time is capped at six. In practical terms this would mean that parking demand is not increased from what can currently already occur and that onsite parking capacity is increased by two bays. Subject to a Condition of Approval limiting the number of health care professionals practising at any one time to six, it is considered that the requirement for cash-in-lieu of on-site car parking should be waived. The applicant has indicated they would not oppose such a condition.

In addition it is accepted that components of the medical centre will operate at different times and that the demand for staff and visitor parking spaces may not necessarily meet the assessed level of demand.

Landscaping

The development of the current vacant Lot 621 for Car Parking and driveway and the adjoining Lot 595 (held under licence) will impact upon the streetscape. There are several mature trees currently existing on site. Accordingly a detailed landscape plan which identifies the trees to be retained and those to be removed, and the treatment of the 'Landscaped Perimeter' should be a condition of any planning approval.

**CONCLUSION**

The proposed works will infill an existing undercroft area which is used for parking. It is considered the proposed works will improve the current streetscape impact of the building.

The proposal will not increase the site coverage of the building but will increase the floor area within the current building footprint. This increased floor area generates increased parking demand and increases the resultant plot ratio. It is considered the adjacent Lot 621 should be amalgamated as a condition of any approval in order for the development to comply with current plot ratio provisions of the Scheme and more importantly tie the proposed on-site car parking to the development.

The proposal has an assessed deficiency of seven on-site car bays. Given the community benefit derived from the existing and proposed land use and the complementary nature of the proposal to the general revitalisation and development of the Town Centre, it is considered there is justification for a variation in the on-site car parking provisions. However Council must be mindful of:

- the statutory requirements of the Scheme,
- the existing parking variation applicable to the site,
- the planned intensity of use within the Town Centre and
- the impact upon the development potential and efficient operation of other sites, when considering any relaxation in the minimum parking requirements.

It is considered that a variation in onsite car parking can be supported, if a condition of Planning Approval is applied that limits (to six) the maximum number of consulting rooms that may be used by Health Care Professionals (doctors and nurse specialists) to treat patients at any one time,.

Subject to the above, it is considered the application merits conditional approval.

### RECOMMENDATION

That Council grants approval for a variation to Car Parking Standards in Schedule 11 of Town Planning Scheme No 3 from 26 onsite bays to 19 onsite bays for the construction of alterations and additions to the medical practice offices at 12 Silas Street comprising:

- enclosure of undercroft car parking area to create 111m<sup>2</sup> of floor space
- development of 18 on site car spaces and a service vehicle/ambulance bay

in accordance with the plans date stamp received on 27 September 2011 subject to the following conditions:

1. 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*)
2. the maximum number of consulting rooms to be used by Health Care Professionals (doctors and nurse specialists) to treat patients at any one time shall not exceed six.
3. the applicant shall amalgamate of Lots 594 and 621 as shown on the Proposal Plan and will meet all conditions of subdivision and have attained a new Title for the amalgamated Lot on or before twelve months from the date of this approval.
4. prior to the issue of a Building Licence, a Landscape Plan, prepared by a qualified Landscape Architect, shall be submitted and approved by the CEO. The Landscape Plan shall include details of all plant species to be introduced and retained and a management plan for the installation and maintenance of all landscaped areas inclusive of adjacent street verge. No trees on the subject property or the adjacent street verge are to be removed prior to receipt and approval of the landscape plan.
5. any crossovers constructed pursuant to this approval shall be at the applicant/s expense and shall not exceed 3 metres in width and shall comply with Councils Local Planning Policy LPP 123- Crossover Policy
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. 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. 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.
9. the proposed additions are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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.
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. this planning approval to remain valid for a period of 24 months from date of this approval.

#### Footnote:

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

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



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- (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 Kirkness (applicant) addressed the meeting clarifying parking/access issues from St Peters Road. Dr Fine (owner) advised she had been one of only two successful WA recipients for funding under this particular Commonwealth grant program and stressed the benefits in providing extended primary health care services based in East Fremantle.

**RECOMMENDATION TO COUNCIL**

**Cr Martin – Cr Nardi**

**That Council grants approval for a variation to Car Parking Standards in Schedule 11 of Town Planning Scheme No 3 from 26 onsite bays to 19 onsite bays for the construction of alterations and additions to the medical practice offices at 12 Silas Street comprising:**

- enclosure of undercroft car parking area to create 111m<sup>2</sup> of floor space
  - development of 18 on site car spaces and a service vehicle/ambulance bay
- in accordance with the plans date stamp received on 27 September 2011 subject to the following conditions:**

1. 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*)
2. the maximum number of consulting rooms to be used by Health Care Professionals (doctors and nurse specialists) to treat patients at any one time shall not exceed six.
3. the applicant shall amalgamate of Lots 594 and 621 as shown on the Proposal Plan and will meet all conditions of subdivision and have attained a new Title for the amalgamated Lot on or before twelve months from the date of this approval.
4. prior to the issue of a Building Licence, a Landscape Plan, prepared by a qualified Landscape Architect, shall be submitted and approved by the CEO. The Landscape Plan shall include details of all plant species to be introduced and retained and a management plan for the installation and maintenance of all landscaped areas inclusive of adjacent street verge. No trees on the subject property or the adjacent street verge are to be removed prior to receipt and approval of the landscape plan.
5. any crossovers constructed pursuant to this approval shall be at the applicant/s expense and shall not exceed 3 metres in width and shall comply with Councils Local Planning Policy LPP 123- Crossover Policy
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. 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. 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.
9. the proposed additions are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

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

CARRIED

**T132.4**     **Staton Road No. 57 (Lot 2)**  
**Application No. P91/09**  
**Owner: W & C Zalewski**  
**Applicant: Kim Stirling Architects**  
By Gemma Basley, Acting Town Planner, 3 February 2011

**BACKGROUND**

**Purpose of the Report**

This report considers an application for Planning Approval for modifications to an existing Planning Approval to accommodate an additional upper floor room. The application seeks a discretion to the privacy requirements of the Residential Design Codes and is presented to Council for determination.

This report recommends that the application be approved conditionally.

**Description of Proposal**

An application has been lodged to modify a recent planning approval granted by Council for alterations and additions to 57 Staton Road, East Fremantle. The modification being sought is listed below:

- Construction of a north facing upper floor sitting room

**Description of subject site**

The subject site is:

- zoned Residential R12.5;
- located in the Richmond Precinct;
- 794m<sup>2</sup> in area; and
- development site – new residence under construction

**Statutory Considerations**

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

**Relevant Council Policies**

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)
- Local Planning Policy – Rainwater Tanks (LPP144)

**Date Application Received**

4 October 2011  
Revised Plans submitted 2 November 2011

**CONSULTATION**

**Advertising**

Adjoining landowners were advised of the subject application and were given a two week period in which to lodge any submissions on the application. One submission was submitted by the neighbours that adjoin to the north and will be detailed below:

Submission	Planning Response
<p>Kathy and Greg Powell of 59 Staton Road. East Fremantle</p> <ol style="list-style-type: none"> <li>1. Plans do not comply with the 6 metre privacy setback requirements of the R-Codes.</li> <li>2. Request that sitting room be set back 6 metres from the northern boundary</li> <li>3. Request confirmation that the roof area of 57 Staton Road has not been approved as an outdoor living area/roof deck</li> <li>4. Concerns with the height of the northern boundary fence that has been constructed and request for this to be amended.</li> </ol>	<ol style="list-style-type: none"> <li>1. Noted. The proposed sitting room will be assessed against the performance criteria/privacy requirements of the R-Codes in the Assessment section of this report</li> <li>2. Refer above.</li> <li>3. The roof area of 57 Staton Road has not been approved as an outdoor living area/roof deck. The revised plans do not propose any door/window openings onto the roof area which will make it inaccessible from inside the residence.</li> <li>4. The northern boundary fence does not form part of this application and has been approved previously. The requests of No. 59 Staton Road have been conveyed to the owners of No. 57 Staton Road for resolution amongst the landowners.</li> </ol>

The neighbour submission was referred to the applicant who has responded by submitting revised plans which provide some screening to address the potential overlooking from the sitting room window.

**Town Planning Advisory Panel**

The revised plans were considered by the Town Planning Advisory Panel at its meeting of the 25 October 2011. The Panel made the following comment:

- Panel supports minor amendment subject to no adverse impact regarding potential overlooking of northern neighbour.

The Panel's comment will be further discussed in the Assessment section of this report.

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

15 December 2009 Council approves a two storey addition and extension to an existing single house.

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- 20 July 2010 Council approved the demolition of the existing residence and the development of a two-storey residence, garage, swimming pool and boundary fencing.
- 15 February 2011 Council exercises its discretion and approves modifications to the existing approval.

**REPORT**

The application seeks amendments to the existing Planning Approval to accommodate a north facing upper floor living room.

The sitting room is proposed to be set back by between 4.5 metres and 5.3 metres from the northern (side) boundary and with the window being setback by between 5 and 5.2 metres from the boundary.

Visual Privacy is one of the design elements under the control of the Residential Design Codes. The Codes specify Acceptable Development provisions which illustrate one way of meeting the associated Performance Criteria. In relation to visual privacy the Codes state the Acceptable Development Provisions are as follows:

- “A1 Major openings and unenclosed outdoor active habitable spaces (balconies, verandas, terraces or other outdoor living areas) which have a floor level more than 0.5 metres above natural ground level and which overlook any part of any other residential property behind its street setback line to comply with the following:*
- i Are setback, in line of sight within the cone of vision, from the boundary a minimum of:*
    - 6 metres in the case of habitable rooms other than bedrooms and studies; or*
  - ii Are provided with permanent vertical screening to restrict views within the cone of vision from any major opening of an active habitable space; or*
  - iii Are provided with permanent vertical screening or equivalent, preventing direct line of sight within the cone of vision to ground level of the adjoining property if closer than 25 m to the opening or equivalent.”*

The Performance Criteria in relation to Visual Privacy reads as follows:

*“Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscape, or remoteness. Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscured glass. Where these are used, they should be integrated with the building design and have minimal negative effect on residents’ or neighbours’ amenity. Where opposite windows are offset from the edge of one window to the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows”.*

A site visit has been undertaken to assess the overlooking impact and photos are attached to the report. The photos identify that the view from the upper floor of 57 Staton Road is over the rooftop of 59 Staton Road and not into any habitable room windows (because this is screened by the dividing fence and vegetation adjacent to the fence). The sitting room will overlook the front yard however because this is already open to the street and is not used as a formal outdoor entertaining area, privacy does not need to be addressed here. The only potential area of overlooking is into the central courtyard of No. 59 Staton Road which will be minimally visible from the proposed sitting room.

The applicants have submitted revised plans (the subject of this report) which extends the western wall of the proposed sitting room forward of the sitting room window by 1.4 metres. This wall will act as a privacy screen preventing overlooking from the sitting

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room into the central courtyard. A condition is included in the recommendation to ensure the wall extension meets the screening requirements of the R-Codes.

**CONCLUSION**

It is considered that the proposed modification to the existing planning approval to accommodate an upper floor sitting room is acceptable and subject to the appropriate construction of the screen walls will not materially impact upon neighbour amenity or the streetscape

**RECOMMENDATION**

Council exercises its discretion to allow a sitting room window that is only partially screened to be closer than 6 metres to the boundary and grants approval for modifications to the existing approval at No. 57 Staton Road, East Fremantle, as shown on plans date stamped 4 October and 2 November 2011 and subject to the following conditions, which are in addition to the requirements of the Planning Approval dated 26 November 2009, 20 July 2010 and the 15 February 2011:

1. 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 (c) below*)
2. Prior to the issue of a Building Licence, revised plans are to be submitted which demonstrate that the screen walls associated with the sitting room meet the screening requirements of the R-Codes.
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 a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. 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) *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 emails from Mrs Powell, referred from Correspondence, (MB Ref T127.1) was tabled.

**RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Nardi**

**Council exercises its discretion to allow a sitting room window that is only partially screened to be closer than 6 metres to the boundary and grants approval for modifications to the existing approval at No. 57 Staton Road, East Fremantle, as shown on plans date stamped 4 October and 2 November 2011 and subject to**

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the following conditions, which are in addition to the requirements of the Planning Approval dated 26 November 2009, 20 July 2010 and the 15 February 2011:

1. 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 (c) below*)
2. Prior to the issue of a Building Licence, revised plans are to be submitted which demonstrate that the screen walls associated with the sitting room meet the screening requirements of the R-Codes.
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 a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. 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) *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

**T133. EN BLOC RECOMMENDATION TO COUNCIL**

Cr de Jong – Cr Nardi

That Council adopts en bloc the following recommendations of the Town Planning & Building Committee Meeting of 8 November 2011 in respect to Items MB Ref T133.1 to T133.6.

CARRIED

**T133.1 King Street No. 92 (Lot 1) – Alterations-Additions**

***Applicant: Graham Kershaw Architect***

***Owner: Feonagh Campbell Cooke***

***Application No. P144/2011***

By Matthew Ryan/Gemma Basley, Town Planner on 27 October 2011

**PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval for the construction of a free standing addition to the rear of the existing dwelling at No. 92 King Street, East Fremantle.

The application seeks discretions to the setback requirements of the R-Codes as well as LPP No. 142 with respect to the location of the addition on the southern boundary.

This report recommends that conditional approval be granted

### BACKGROUND

#### Description of Proposal

The subject application proposes a free standing addition beyond the main dwelling, and involves the following:

- Construction of a single storey bedroom/store, using rendered masonry and timber weatherboard cladding, to the southern boundary approximately 8.4 metres beyond the main residence.

The application seeks a discretion to the setback requirements of the Residential Design Codes (R-Codes) and LPP No. 142, relating to the parapet wall to the southern boundary, which will be discussed in the Assessment section of this report.

#### Description of Site

The subject site is:

- a 256m<sup>2</sup> block
- zoned Residential R20
- developed with a single storey, semi-detached dwelling
- 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 26 September 2011

#### Date Application Received

26 September 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 two week period between the 6 and the 20 October 2011. At the close of advertising one (1) submission was received from the adjoining neighbour at No. 94 King Street, which will be detailed and responded to below:

Submission	Planning Response
Main concern relating to the impact the proposed addition will have on the amenity of the approved patio at No.94 King Street (P169/10). Concerned that outdoor living amenity will be jeopardised, believing the 18 degree roof pitch is unnecessarily high, and should be lowered to 13 degrees.	The 18 degree pitch and ridge height of 3.9m are compliant with both the R-Codes and LPP 142. An 18 degree pitch is necessary in order to keep the ceiling height against the boundary to a minimal 2.0m, any lower and the ceiling height would be oppressive and require air conditioning.

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<p>Additionally, concerned the parapet wall to the shared boundary will have an overshadowing effect on the outdoor living space at No.94 King Street.</p> <p>Finally, request that a condition be placed on the approval disallowing the installation of an air conditioning unit to the addition, due to noise impact upon the adjacent outdoor living area.</p>	<p>Furthermore, a change in pitch from 18 to 13 degrees would in no way reduce solar access or increase overshadowing.</p> <p>The parapet wall to the shared boundary is not in compliance with the R-Codes or LPP 142, given it is the second parapet wall to the boundary. The additional shadow cast of 3.4% of No. 94 King Street is both minimal and compliant.</p> <p>The applicant has expressed they will not be installing an air conditioner. A condition has been placed on this report to ensure any air conditioning plant installation is to be first approved by Council and is in accordance with the Environmental (Noise) Regulations 1997.</p>
--	---

With regards to the above submission it is worthy to note that the owners of No. 94 King Street, on 16 December 2010, received planning approval (P169/10) for the construction of a roofed sundeck and outdoor shower similarly located to the proposed addition. As demonstrated above the proposed addition will have no adverse affects on the approved addition at No. 94 King Street, and as such it is reasonable that both neighbours are able to develop within their rear yards.

**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	50%	50.06%	A					
Site Works	Less than 500mm	Less than 500 mm	A					
<b>Local Planning Policies:</b>		<b>Issues</b>						
<b>Policy 142</b>	<b>Second Parapet wall on property</b>		<b>D</b>					
Roof	Skillion		A					
Solar Access & Shade	Maximises		A					
Drainage	To be conditioned		A					
Views	No impact		A					
Crossover	No change		A					
Trees	No trees to be removed		A					
<b>Other:</b>	<b>Issues</b>		<b>Status</b>					
Overshadowing	Minor impact but R-Code compliant		A					
Privacy/Overlooking	No impact		A					
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>					
Wall	3.0	2.6	A					
Ridge	6.0	3.5	A					
Roof type	Skillion							
<b>Setbacks:</b>								
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status	
Front (west)								
	<i>Ground</i>	<i>Existing – No change</i>	n/a	n/a	n/a	n/a	n/a	
Rear (east)								
	<i>Ground</i>	<i>Bedroom</i>	2.6	9.1	Yes	1.5	2.6	A
Side (north)								
	<i>Ground</i>	<i>Bedroom</i>	2.6	4.4	Yes	1.5	1.6	A
<b>Side (south)</b>								
	<b><i>Ground</i></b>	<b><i>Bedroom</i></b>	<b>2.6</b>	<b>7.4</b>	<b>No</b>	<b>1.0</b>	<b>Nil</b>	<b>D</b>



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**Site Inspection**

By Town Planner on 5 October 2011.

**ASSESSMENT**

Approval is sought for the construction of an outbuilding (store/bedroom) in the rear yard of No. 92 King Street.

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

**Building on the Boundary**

The application proposes as part of the free standing addition to construct a boundary wall to the southern boundary, in addition to the existing residence and outhouse which utilise boundary walls to the southern boundary. The R-Codes Acceptable Development criteria 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; "*

Additionally, the performance criteria of the R-Codes stipulate buildings may be built up to the boundary where the following can be demonstrated:

- make effective use of space;
- enhance privacy;
- otherwise enhance the amenity of the development;
- not have any significant adverse effect on the amenity of the adjoining property; and
- ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.

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 for the free standing addition satisfy the above criteria as demonstrated below:

- the maximum height of the boundary wall on the southern boundary is 2.6 metres which is lower than the average and maximum boundary wall height permitted;
- the proposed boundary wall is at the rear of the residence and is separate to the residence;
- the proposed boundary wall will not be visible from the street because it is at the rear of the property, consequently having no impact upon the character of the streetscape;
- the proposed boundary wall will cause only minor and compliant overshadowing on the adjoining neighbour and will not compromise the amenity of the outdoor living area adjacent;
- Given the width of the lot (6.1 metres), the proposed nil setback is required to allow north light access to the proposed addition.

**Heritage Assessment**

The residence at No. 92 King Street is included on Council's Municipal Heritage Inventory as an 'B+' Management Category. The proposed free standing addition is considerably setback to the rear of the property beyond the main residence, and will not impact the streetscape or the way the existing 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 a variation to the R-Codes and LPP No. 142, it is considered to be minor and have minimal impacts upon the adjoining neighbour, and is consequently deemed acceptable. The proposed additions will not impact on the heritage significance of the residence and will not be visible to the street.

With regards to the objection from the adjoining neighbour, the proposed addition will not impact the approved addition at No. 94 King Street and is generally compliant with the Town's requirements and the R-Codes, and consequently it is deemed acceptable that both neighbours be able to develop within their rear yards.

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 the following:

- variation to the requirements of LPP No. 142 to allow an additional boundary wall that is the second on the property to the southern boundary for the construction of additions to the residence at No. 92 (Lot 1) King Street in accordance with the plans date stamp received on 26 September 2011, subject to the following conditions:
  1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
  2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council
  3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without
  4. all stormwater is to be disposed of on-site and clear of all boundaries.
  5. 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.
  6. face by way of agreement between the property owners and at the applicant's expense.
  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).*

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- (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*

T133.2

**Oakover Street No. 22 (Lot 340)**

**Owner/Applicant: Rod & Bindi Pavlovich**

**Application No. P227/2010**

By Jamie Douglas, Manager Planning Services 13 October 2011

**PURPOSE OF THIS REPORT**

This report considers amended plans for a non-compliant front and side boundary fence which has been constructed at 22 Oakover Street and recommends that, subject to the fence being altered in accordance with the amended plans, retrospective Planning Approval be granted.

**BACKGROUND**

Retrospective approval of the constructed fence would require an exercise of discretion in respect to the following:

- variation to Local Planning Policy 143 to allow the boundary fencing along Millenden Street to extend to a maximum height of 2.25m.
- variation to LPP 143 to allow the pillars associated with boundary fencing along Oakover Street to extend to a height of 2.2m.

It was recommended to Council at its meeting on 12 July 2011 that retrospective approval be granted subject to the fence being made visually permeable above 1.2 metres between the western most two pillars on Millenden Street or alternatively the height of the wall between the fence pillars being reduced to a height of 1.8 metres along the Millenden Street boundary.

Council deferred determination of the application "to allow the Manger – Planning Services to provide options for Council consideration which reduced the height of the wall and pillars".

**Description of the Proposal**

The fence consists of sandstone block work contained between capped pillars. On the Oakover street frontage, the fence incorporates wrought iron panels between the pillars and it is visually permeable above 1.2 metres however; the fence pillars and portions of the wrought iron infill extend higher than 1.8 metres and up to a height of 2.22 metres (retaining wall included).

The fencing along Millenden Street is solid limestone and does not have any visual permeability. The fence (retaining walls included) has been constructed to a maximum height of 2.13 metres along this frontage.

**Statutory Considerations**

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

**Relevant Council Policies**

Local Planning Policy No. 143 – Fencing (LPP 143)

**Date Application Received**

16 December 2010

Revised proposal received 9 September 2011

**Documentation**

Plans and relevant forms date stamp received on 16 December 2010, revised proposal received 9 September 2011

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

17 August 2004	Council grants special approval for reduced front setback from 6m to 3.6m for a garage for the single storey house at 9 Millenden Street (adjoining property).
15 April 2008	Council exercises its discretion and grants approval for the construction of a two storey house including boundary fencing at No. 22 Oakover Street.
28 January 2009	Council issues a Demolition Licence for the demolition of a single storey duplex half.
5 February 2009	Council issues Building Licence B09/3 for the construction of a two storey residence and boundary fencing.
19 July 2011	Council resolves to defer determination for retrospective approval front and side boundary fence.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on the 28 January 2011 where the following comments were made:

- Retrospective approval is not recommended.
- Fence should be height compliant.
- Query retention of Oakover Street crossover.

The revised proposal was not resubmitted to the Panel since it proposed to bring the fence more into conformity with it's earlier determination.

**Site Visit**

The Mayor and Manager Planning Services met with the applicants on site on 20 July 2011 and discussed options for ameliorating the impact of the fence.

**RELEVANT PLANNING PROVISIONS**

Local Planning Policy 143 – Policy on Local Laws Relating to Fencing states:

*“Where the application does not conform to the Local laws and or this Policy the proposal is to be the subject of a Planning Consent and a report to Council. Council has discretion to approve an application for a fence or wall which does not conform to the Local Law or this Policy.”*

*Part 3 of LPP No. 143 specifies that the maximum height of any part of the fence is to be 1.8 m.”*

*Part 4 of LPP No. 143 states that under special circumstances including those listed below Council may approve a fence to be less visually permeable and or with a maximum height greater than 1.8 m:*

- 4.1 *a higher fence/wall is required for noise attenuation.*
- 4.2 *a less visually permeable fence would aid in reducing headlight glare from motor vehicles. This would apply more particularly where the subject property is opposite or adjacent to an intersection which could lead to intrusion of light into windows of habitable rooms.*
- 4.3 *where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence.*
- 4.4 *where the applicant can demonstrate to Council that there is a need to provide visual screening to an outdoor living area. This may apply in situations where there is no alternative private living space other than in the front of the residence or for part of the secondary side boundary of a corner lot.”*

It is considered that 4.3 is applicable to the subject site and is therefore arguably appropriate grounds to vary Council's LPP 143.

Council TPS No. 3 (Clause 10.2) lists matters to be considered by Council and includes the following relevant considerations:

- “(j) the compatibility of a use or development with its setting;*
- “(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,”*

### **ASSESSMENT**

The applicants have previously submitted that the site has always been raised above road level and that based on Council's Planning Approval dated 15<sup>th</sup> April 2008 which approved a FFL of 10.4 metres (which is between 0.34 metres and 0.85 metres higher than the adjoining footpath, road pavement and the NGL of the site), retaining has been required on the boundary of the site, which has contributed to the increased height of the fencing.

### **Proposed changes to the existing Fence**

Following the onsite consultation, the applicants have submitted an amended proposal which comprises the following;

1. Oakover Street – Limestone pillars and iron infill panels to remain as constructed.
2. Millenden Street – Truncation – remove solid limestone wall between the columns and replace with wrought iron infill panel to match the Oakover Street elevation.
3. Millenden Street – fence (full length) reduce height of fence and pillars by one course of blocks.

While the above broadly meets with the suggested changes arising from the onsite consultation, the applicants have noted that in respect to the Millenden Street frontage that;

*“As we will be continuing planting theme from Oakover Street to Millenden Street (including truncation) with fast growing pleached privacy hedges, we are hoping to avoid reducing height of pillars and fence in this area. Hedge plant heights will most definitely exceed our current fence height as they stand. In particular the northern side (Millenden) as this is primarily our entertaining and outdoor area and leads from our dining/kitchen to outside”. (see attached photographs)*

The proposed changes will increase the permeability of the fence on the Millenden Street truncation as recommended in the previous planning report and will lower the height of the wall on Millenden Street frontage from 2.55m to 2.24 (top of capped pillars) and from 2.24m to 1.975m (top of capped infill between pillars). The applicants have stated that they are unable to source additional similar wrought iron panels for this wall and desire a solid wall to provide privacy to outdoor living areas. However lowering the height of the wall as proposed is considered a reasonable compromise between the visual impact of the structure on the streetscape and the applicant's desire for privacy, given the difference between the finished level of the lot and natural ground level along the street frontage.

The applicant's comments in respect to proposed hedge planting are noted, however given the wall is a permanent feature and any proposed vegetation is subject to change at the whim of the property owner, lowering of the wall is still considered to be justified.

### **Conclusion**

A fence has been constructed at No. 22 Oakover Street which exceeds the height requirements of LPP No. 143. The applicants have submitted justifications for the increased height, being the raised FFL of the site and the additional fill which has been required to provide the necessary fall for connection to the sewerage mains. The applicant's justifications are partly supported.

Whilst the fence is over height, if it is amended as proposed, it is considered that it will not unreasonably impact upon the streetscape because it complements the residence and uses materials which are common in this area.

It is considered appropriate to grant Retrospective Planning Approval for the over height fence subject to portion of the solid fencing along Millenden Street being made visually permeable above 1.2 metres between the first two pillars (western most) and the lowering of the balance of the Millenden Street elevation of the wall as proposed in the amended application.

#### RECOMMENDATION

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

- variation to Local Planning Policy 143 to allow the boundary fencing (which includes retaining walls) along Millenden Street to extend to a maximum height of 2.25m.
- variation to LPP 143 to allow the pillars associated with boundary fencing (which includes retaining walls) along Oakover Street to extend to a height of 2.2m.

for the construction of a front and side fence at 22 Oakover Street, East Fremantle in accordance with the plans date stamp received on 16 December 2010 (and subsequently amended by correspondence date stamp received on 9 September 2011) subject to the following conditions:

1. The fence to be made visually permeable above 1.2 metres between the western most two pillars on Millenden Street within 60 days of the date of building licence approval.
2. The height of the wall between the fence pillars to be reduced to a height of 1.975 metres with a maximum pillar height of 2.25 metres along the Millenden Street boundary within 60 days of the date of building licence approval.
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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. 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).*

#### **T133.3 Duke Street No. 76 (Lot 497), East Fremantle**

**Owner: Roderick and Sarah Travis**

**Applicant: John Chisholm**

**Application No. 139/2011**

By Matthew Ryan/Gemma Basley, Town Planner on 1 November 2011.

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

This report considers an application for planning approval to construct additions to the rear of the residence at No. 76 Duke Street, East Fremantle. The application seeks a to the side setback requirements of the Residential Design Codes.

This report recommends conditional approval.

## BACKGROUND

### Description of Proposal

The application proposes the following:

- to remove the existing verandah/deck to the rear of the lot;
- to extend the ground floor eastwards to accommodate a living room and ensuite;
- to construct a lower ground floor in the undercroft below the proposed extension to accommodate a cellar and a family room.

The extension of the residence to accommodate the additions is at the upper floor level and is proposed to be constructed in weatherboard cladding to match the existing residence, and the undercroft level additions are proposed to be constructed in rendered masonry.

### Statutory Considerations

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

### Relevant Council Policies

Local Planning Policy No. 142 – Residential Development  
Local Planning Policy No. 66 - Roofing

### Impact on Public Domain

Tree in verge: No impact  
Light pole: No impact  
Crossover: No impact  
Footpath: No impact  
Streetscape: The alterations and additions are at the rear of the residence and will not alter the way the residence is viewed from the street. The additions are at the rear of the residence and do not propose any upper floor additions.

### Documentation

Plans and relevant forms date stamp received on 8 September 2011.

### Date Application Received

8 September 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 two week period between the 15 and the 30 September 2011. During this period no objections or submissions were received.

### Town Planning Advisory Panel

The subject application was not referred to the Town Planning Advisory Panel because the proposed extension is at the rear of the residence and will not have a streetscape impact.

## STATISTICS

File P/139/11  
Zoning R20  
Lot Area 515m<sup>2</sup>  
Heritage Listing B-

Site:	Required	Proposed	Status				
Open Space	50%	50%	Acceptable				
Site Works	Less than 500mm	n/a	Acceptable				
Local Planning Policies: Issues							
Policy 142	No issues.		Acceptable				
Roof	Existing pitch retained.		Acceptable				
Solar Access & Shade	No issues.		Acceptable				
Drainage	Soakwells provided.		Acceptable				
Views	No impact.		Acceptable				
Crossover	No issues.		Acceptable				
Trees	No issues.		Acceptable				
Other: Issues Status							
Overshadowing	18% coverage of adjoining lot.		Acceptable				
Privacy/Overlooking	No issues		Acceptable				
Height:	Required	Proposed	Status				
Wall	6.0 max	5.3	Acceptable				
Ridge	9.0 max	7.0	Acceptable				
Roof type	Pitched						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
Ground	Verandah (existing)				6.0	2.9	Discretion
Rear (east)							
Ground	Additions	5.3	4.7	Yes	2.5	11.5	Acceptable
	Bath/Laundry	5.3	5.0	No	1.2	15.9	Acceptable
Undercroft	Family	2.5	5.7	Yes	1.5	11.5	Acceptable
Side (north)							
Ground	Bed-Laundry (existing)	5.0	18.2	No	1.8	Nil	Discretion
	Additions	5.3	4.9	Yes	2.5	5.0, 6.2	Acceptable
Undercroft	Family/Stairs	2.5	8.0	Yes	1.5	5.0, 6.2	Acceptable
Side (south)							
Ground	Verandah	3.1	9.9	No	1.5	5.0	Acceptable
	Bed-Additions	4.6	12.7	No	1.5	1.1	Discretion
Undercroft	Family/Cellar	2.5	8.0	No	1.0	1.1	Acceptable

### ASSESSMENT

Approval is sought for the construction of additions to the rear of the residence at No. 76 Duke Street, East Fremantle. The site slopes away from the road and the application proposes to extend the ground floor eastwards and to construct a lower ground floor in the undercroft below the proposed extensions.

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the reduced building setback to the southern boundary. This will be assessed separately below.

### Side Boundary Setback

The ground floor wall to the southern boundary is proposed to be setback 1.1 metre from the boundary, in lieu of the 1.5 metres required by the R-Codes. Council's Local Planning Policy No. 142 however 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;



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- (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 reduced setback to the southern boundary is supported and satisfies the above criteria as demonstrated below:

- The proposed additions are at the rear of the residence and will have no impact upon the streetscape;
- The proposed discretion allows for northern light access to the proposed living areas at both levels;
- The construction of the non-compliant wall will not result in any overshadowing impacts to the adjoining neighbour; and
- The reduced setback is consistent with the character and narrow lots found in the Plympton area, and will cause no negative impacts upon amenity, views or solar access.

**CONCLUSION**

The application proposes additions to the rear of the residence and will not impact on the streetscape or the amenity of the locality. The design is considered to be appropriate for the locality and to have maximised opportunities for passive solar design. The proposed variations are considered relatively minor not impacting negatively on the amenity of any adjoining properties.

The application is recommended for approval subject to conditions.

**RECOMMENDATION**

That Council exercises its discretion and approve a setback of 1.1 metres to the southern boundary in lieu of the 1.5 metres required under the R-Codes and grant approval for the construction of alterations and additions to the residence at No. 76 Duke Street, East Fremantle in accordance with the plans date stamp received on 8 September 2011 subject to the following conditions:

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

**T133.4 George Street No. 150 (Lot 79), East Fremantle**  
**Owner/Applicant: Rowan & Jill Strong**  
**Application No. 157/2011**

By Matthew Ryan/Gemma Basley, Town Planner on 1 November 2011.

**PURPOSE OF THIS REPORT**

An application for Planning Approval to construct a shed and dividing fence and extend an existing retaining wall to the rear yard of No 150 George Street East Fremantle is the subject of this report.

This report recommends that conditional approval be granted.

**BACKGROUND**

**Description of Proposal**

The subject application proposes additions and alterations for the purposes of landscaping to the rear yard of the existing single storey residence at No 150 George Street East Fremantle. The application includes the following works:

- demolition of a portion of the existing retaining wall to make way for the new design;
- construction of a new retaining wall, which will extend the existing retaining wall and garden bed to the total width of the property;
- construction of a new garden shed at the rear of the property to the western boundary; and
- construction of a 1.9 metre timber fence to the rear portion of the western boundary.

The application seeks several discretions to the setback requirements of the Residential Design Codes (R-Codes) and LPP No 142, as well as a discretion to the fencing requirements of LPP No 143 which will be discussed in the Assessment section of this report.

**Description of Site**

The subject site is:

- a 678m<sup>2</sup> block
- zoned R20
- developed with a single storey dwelling
- located in the Woodside Precinct

**Statutory Considerations**

Town Planning Scheme No. 3  
Local Planning Strategy - Woodside Precinct (LPS)  
Residential Design Codes (RDC)  
B ^ Management Category on 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 (LPP 143)

**Impact on Public Domain**

Tree in verge: No impact  
Light pole: No impact  
Crossover: No impact  
Footpath: No impact  
Streetscape: No impact, proposed additions/alterations within the rear yard.

**Documentation**

Plans and relevant forms date stamp received on 12 October 2011.

**Date Application Received**

12 October 2011

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

17 February 2003 Delegated approval granted for the replacement of the roof to the residence.  
22 April 1998 Council resolved to grant approval for additions to residence.

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 17 and 31 October 2011. During this period no objections or submissions were received.

**Town Planning Advisory Panel**

The subject application was not referred to the Town Planning Advisory Panel because of the minor nature of the proposal.

**STATISTICS**

Site:	Required	Proposed	Status
Open Space	50%	+50%	Acceptable
Site Works	Less than 500mm	605mm	Discretion
<b>Local Planning Policies:</b>	<b>Issues</b>		
Policy 142	Reduced setbacks to garden shed and retaining wall		Discretion
Roof	No issues		Acceptable
Solar Access & Shade	No issues.		Acceptable
Drainage	No issues.		Acceptable
Views	No impact.		Acceptable
Crossover	No issues.		Acceptable
Trees	No issues.		Acceptable
Fencing	1.9m high fence proposed to a portion of the western boundary.		Discretion
<b>Other:</b>	<b>Issues</b>		<b>Status</b>
Overshadowing	No issues		Acceptable
Privacy/Overlooking	No issues		Acceptable
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>
Wall	3.0m	1.9m	Acceptable
Ridge	4.0m	1.9m	Acceptable
Roof type	Pitched		

<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Rear (north)							
	Ground Shed	1.9	0.9	No	1.0	2.7	Acceptable
	Retaining	0.6	4.0	No	1.0	Nil	Discretion
Side (west)							
	Ground Shed	1.9	1.8	No	1.0	0.6	Discretion
	Retaining	0.6	2.55	No	1.0	Nil	Discretion
Side (east)							
	Ground Shed	1.9	1.8	No	1.0	15+	Acceptable
	Retaining	0.6	6.0	No	1.0	1.0	Acceptable

**ASSESSMENT**

The subject application proposes the addition of a small shed to the rear of the property on the western boundary, a new timber dividing fence to a portion of the western boundary at the rear of the property and the alteration and extension of the existing retaining wall and associated garden bed at the rear of the property.

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the reduced boundary setbacks to the shed and retaining walls, as well as the height of the dividing fence to the western boundary.

The application will be assessed in three separate parts below.

### **Shed**

The application proposes to construct a garden shed 1.9 metres high with an area of approximately 1.6 metres squared.

### Boundary Setbacks

A setback of 0.6 metres is proposed from the shed to the western boundary, in lieu of the 1.0 metre setback required by the R-Codes. Council's Local Planning Policy No 142 however provides for the construction of 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 0.6 metre setback to the side (western) boundary for the shed satisfies the above criteria as demonstrated below:

- The maximum height of the shed wall on the western boundary is 1.9 metres which is lower than the average and maximum boundary wall height permitted;
- The maximum length of the boundary wall is 1.8 metres which is below the maximum wall length permitted;
- The proposed shed wall is at the rear of the residence and is separate to the residence;
- Due to the minor nature and scale the proposed shed will have no impact on the neighbouring property, which has an existing carport and rear yard adjacent.

### **Retaining Wall**

The application proposes to construct a 0.6 metre high retaining wall, to extend the existing 0.6 metre high retaining wall and associated garden bed at the rear of the property.

### Site Works

The construction of the garden bed at the rear of the property associated with the proposed retaining wall proposes a finished level 0.605 metres above ground level. The R-Codes permit the following in relation to site works:

*“A1.4 Filling behind a street setback line and within 1m of a common boundary not more than 0.5m above the natural level at the boundary except where otherwise stated in a local planning policy or equivalent.”*

The R-Codes performance criteria relating to excavation or fill provides for excavation or fill greater than 0.5 metres where the following can be observed:

*“Development that retains the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property.”*

The proposed 0.6 metre fill satisfies the above criteria as demonstrated below:

- the proposed garden bed is to be used only for aesthetic and landscaping purposes;
- the proposed garden bed is an extension of the existing garden bed to the rear boundary, which already utilises a 0.6m fill without any adverse effects;
- the proposed garden bed will not have any impact on the adjoining neighbours, with a driveway adjacent to the rear (north) and carport and yard to the side (west); and
- the proposed garden bed will not be visible from the street.

### Boundary Setbacks

A nil setback is proposed to the side (western) and rear (northern) boundaries from the retaining wall, in lieu of the 1.0 metres required by the R-Codes. Council's Local Planning Policy No 142 however provides for the construction of walls situated closer to the boundary than permitted by the R-Codes (see previously reprinted extract under section on "Shed").

The proposed nil setback from the retaining wall to the side (western) and rear (northern) boundaries satisfy the above criteria as demonstrated below:

- The proposed height of the retaining wall is 0.6 metres which is lower than the average and maximum height permitted;
- The proposed length of the retaining walls is 4.0 metres (north) and 2.5 metres (west) which is below the maximum length permitted;
- The proposed retaining walls are at the rear of the residence and are separate to the residence; and
- The proposed retaining walls are screened by boundary fences and will not be visible or have any impact upon adjoining properties.

### **Dividing Fence**

The application proposes a 1.9 metre high dividing fence, for a portion of the western boundary beyond the studio to the rear boundary for a length of 5.75 metres. The Town of East Fremantle Fencing Local Law – 2004 requires the following in relation to sufficient residential dividing fences:

*"(g) the height of the fence to be 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 7."*

Council's Local Planning Policy No 143 provides for the construction of fences higher than 1.8 metres where the following can be observed:

- 4.1 a higher fence/wall is required for noise attenuation.*
- 4.2 a less visually permeable fence would aid in reducing headlight glare from motor vehicles. This would apply more particularly where the subject property is opposite or adjacent to an intersection which could lead to intrusion of light into windows of habitable rooms.*
- 4.3 where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence.*
- 4.4 where the applicant can demonstrate to Council that there is a need to provide visual screening to an outdoor living area. This may apply in situations where there is no alternative private living space other than in the front of the residence or for part off the secondary side boundary of a corner lot."*

The 1.9 metre fence proposed for the rear portion of the western boundary satisfies the above criteria as demonstrated below:

- The adjacent neighbouring driveway to the north slopes downwards from east to west, meaning the existing fence height to that boundary varies and at the western end is established at 1.9 metres. The proposed fence height of 1.9 metres to the western boundary would allow these two fences to intersect at the same height; and
- The neighbouring property to the western boundary includes a carport utilising a nil setback adjacent a portion of the proposed fence area. The carport parapet wall is approximately 3.0 metres high and the applicant hopes to provide continuous screening to this wall and the adjacent yard beyond.

### **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 several variations to the R-Codes and Local Planning Policies and Laws, they are considered to be minor in nature and to be acceptable. The

proposed additions and alterations will not impact upon adjoining neighbours and will not be visible from the street.

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

#### **RECOMMENDATION**

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

- (a) a variation to the requirements of LPP No 142 to allow an additional boundary wall on the west/side boundary;
- (b) a variation to the R-Codes to allow site works to exceed 0.5 metres by 0.2 metres;
- (c) a variation to the requirements of LPP No 143 to allow for a dividing fence 1.9 metres high in lieu of the 1.8 metre maximum

for the construction of additions to the residence at No. 150 George Street (Lot 79), East Fremantle in accordance with the plans date stamp received on 12 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 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. 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.*

#### **T133.5 Glyde Street No. 82 (Lot 167) – Retaining Wall**

**Owner: Steven Bell**

**Applicant: Tony Cattalini**

**Application No. P84/2011**

By Matthew Ryan/Gemma Basley Town Planner on 3 November 2011

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

This report considers an application for Planning Approval for the construction of a limestone retaining wall in the rear yard of the residence at No. 82 Glyde Street, East Fremantle. This application seeks a discretion to the side setback requirements of the Residential Design Codes.

This report recommends conditional approval.

#### **BACKGROUND**

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

The application proposes to construct a new retaining wall and garden beds to retain the existing retaining wall which is failing and to support the existing raised pergola area.

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**Description of site**

The subject site is:

- a 505m<sup>2</sup> block
- zoned Residential R20
- developed with a single storey residence
- 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 : The addition is at the rear of the property at ground level and will not alter the way the residence is viewed from the street.

**Documentation**

Revised Plans date stamp received on 6 October 2011.

**Date Application Received**

7 June 2011

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

- 22 Nov 1995: Council refused to grant planning approval for the construction of a carport on the grounds of unsatisfactory documentation;
- 1 Mar 1996: Council resolved to hold over an application for the construction of a carport pending discussions between the applicant and Planning Officer/Comments from the adjoining owner at 80 Glyde Street; and
- 22 Sep 1997: Council resolves to grant approval for additions to the rear of the residence.

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 9 and the 23 June 2011. At the close of the advertising period one submission was received from the owners of No. 80 Glyde Street, which will be detailed and responded to below:

Submission	Planning Response
<p>The submission supported the construction of a new retaining wall immediately beyond the existing retaining wall, but raised the following concerns:</p> <p>Considerable infilling will be required to the retaining wall to the north of the pergola which will cause problems for the existing retaining wall/fence to the shared northern boundary;</p> <p>The patio area will be extended by 94cm causing overlooking issues regarding No. 80 Glyde Street to the east;</p>	<p>The structural requirements of the retaining wall will be dealt with at building licence stage.</p> <p>The patio is not to be extended. The proposal is only for the addition of a retaining wall incorporating two garden beds. The existing patio area is adequately screened with brushwood privacy screen fencing to</p>

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<p>The garden beds associated with the proposal would facilitate overlooking of No. 80 Glyde Street to the east.</p>	<p>the northern and eastern boundaries.</p> <p>The garden bed area is solely for the use of landscaping and is not a habitable area, and as such no overlooking issues are present.</p>
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The applicant was requested to respond to the neighbour submission and to provide additional information. In this regard the applicant submitted revised plans on the 6 October 2011 which were advertised for a two week period between the 17 and 31 October 2011. At the close of advertising no submissions were received indicating that the neighbour's previous concerns have been addressed.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

The subject application was not referred to the Town Planning Advisory Panel because of the minor nature of the proposal.

**Site Inspection**

By Town Planner on 29 June 2011

**STATISTICS**

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	%	N/A
Site Works	Less than 500mm	Less than 500 mm	A
Local Planning Policies:		Issues	
<b>Policy 142</b>	<b>Reduced setback to the northern boundary</b>		<b>D</b>
Roof	No change		A
Solar Access & Shade	No change		A
Drainage	To be conditioned		A
Views	No change		A
Crossover	No change		A
Trees	No trees to be removed		A
Other:	Issues		Status
Overshadowing	No change		A
Privacy/Overlooking	No impact		A
Height:	Required	Proposed	Status
Wall	3.0	1.1	A
Ridge			N/A
Roof type	N/A		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
	<i>Ground Existing – No change</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>
Rear (east)							
	<i>Ground Retaining wall</i>	<i>1.1</i>	<i>8.0</i>	<i>N</i>	<i>1.0</i>	<i>141</i>	<i>A</i>
<b>Side (east)</b>							
	<b><i>Ground Retaining wall</i></b>	<b><i>1.1</i></b>	<b><i>1.2</i></b>	<b><i>N</i></b>	<b><i>1.0</i></b>	<b><i>Nil</i></b>	<b><i>D</i></b>
Side (south)							
	<i>Ground Retaining wall</i>	<i>1.1</i>	<i>1.2</i>	<i>N</i>	<i>1.0</i>	<i>4.2</i>	<i>A</i>

**ASSESSMENT**

Approval is sought for the construction of a limestone retaining wall to support the existing pergola in the rear yard of No. 82 Glyde Street, East Fremantle. The application does not propose to alter or enlarge the pergola area in any way.



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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 between the northern boundary and the retaining wall.

**Buildings on the Boundary**

The application proposes to extend the existing retaining wall on the northern boundary by 1.2 metres in order to accommodate the new retaining wall to the east. Building walls currently exist to both side boundaries of the lot. 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; "*

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 to the side (northern) boundary for the limestone retaining wall addition satisfies the above criteria as demonstrated below:

- the maximum height of the retaining wall addition is 1.1 metres, which is lower than the average and maximum boundary wall height permitted;
- the overall length of the retaining wall on the boundary is 7.2 metres, which is lower than the maximum length permitted;
- the proposed boundary wall is at the rear of the residence and is separate to the residence;
- the proposed boundary wall will not be visible from the street because it is at the rear of the property, consequently having no impact upon the character of the streetscape;
- the proposed boundary wall not cause any overshadowing affects on the adjoining property; and
- the proposal is only for the 1.2 metre addition, the boundary retaining wall has been in existence for some time and has no adverse affects upon the adjoining neighbours.

**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 variation to the R-Codes, it is considered to be minor and to have no impacts upon the adjoining neighbour, and is consequently deemed acceptable. The proposed additions will not impact on the heritage significance of the residence and will not be visible to 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 the following:

- variation to the north side boundary setback pursuant to the Residential Design Codes from 1.0m to 0.0m.

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for the construction of a limestone retaining wall to the rear of the residence at No. 82 Glyde Street in accordance with the plans date stamp received on 6 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 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. 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).*

**T133.6 Preston Point Road No. 136 (Lot 4954) – Alterations inc. Balcony**

**Owner/Applicant: Virgilio & Regina Ferreira**

**Application No. P118/2011**

By Gemma Basley, Town Planner on 2<sup>nd</sup> November 2011

**PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval for the construction of alterations and additions to the existing two storey residence at No. 136 Preston Point Road, East Fremantle.

The application seeks discretions to the requirements of Council's Local Planning Policy No. 142 and as such is presented to Council for determination. This report recommends that conditional approval be granted.

**BACKGROUND**

**Description of Proposal**

The application proposes alterations and additions to the existing two storey residence at No. 136 Preston Point Road including the following:

- Undertake structural repairs to existing residence;
- Replace the existing tiled roof with a Colorbond roof;
- Extend the garages forward by between 1.32 and 2.1 metres and replace the garage doors.
- Extend the balcony forward by 1.0 metre to extend forward of the garages below and to accommodate a more useable balcony space and to add visual interest and articulation to the front of the residence;
- Upper floor extension at the rear of the residence to accommodate 2 additional bedrooms, an ensuite and bathroom; and
- Internal modifications to make better use of the space currently within the residence.

**Description of Site**

The subject site is:

- a 819m<sup>2</sup> block

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- zoned Residential R12.5
- developed with a two 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)

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : The alterations and additions will alter the presentation of the house by restoring and modernising a dilapidated and dated residence.

**Documentation**

Plans and relevant forms date stamp received on 12 August 2011 and the 19 August 2011.

**Date Application Received**

12 August 2011

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

20 June 2000 Council resolved to grant approval for a belowground swimming pool

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 16 and the 20 August 2011. 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 23 August 2011 and the following comment was made:

- Acceptable development

**STATISTICS**

Site:	Required	Proposed	Status
Open Space	55%	63%	A
Site Works	Less than 500mm	Less than 500 mm	A
<b>Local Planning Policies:</b>	<b>Issues</b>		
<b>Policy 142</b>	<b>Existing and proposed garage position forward of main building line</b>		<b>D</b>
Roof	Pitched to 25 and 30 degrees		A
Solar Access & Shade	Maximises access to northern sun		A
Drainage	To be conditioned		A
Views	Buildings do not exceed Height and surrounding topography ensure no view impact		A
Crossover	Use existing two crossovers		A
Trees	No Trees to be removed		A

Other:		Issues		Status				
Overshadowing		Nil impacts or issues		A				
Privacy/Overlooking		All major openings have been set back to meet the R-Code requirements and/or have been screened with the exception of the balcony.		D				
Height:		Required	Proposed	Status				
Wall		5.6	5.29	A				
Ridge		8.1	7.9	A				
Roof type		Pitched and Colorbond						
Setbacks:								
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status	
Front (south)								
	Ground	Garage	2.57	7.75	No	7.5	7.5	A
		Family/Entry	2.57	8.62	Yes	7.5	8.5	A
		Garage	2.57	4.0	No	7.5	7.5	A
	Upper	Balcony	5.29	22.18	Yes	6.5 to 7.5	6.5 to 7.5	A
Rear (north)								
	Ground	Laundry	2.57	4.8	No	1.0	13+	A
	Upper	Whole	5.29	11.3	Yes	2.9	13+	A
Side (west)								
	Ground	Whole	2.57	5.3	No	Nil to 1.0	Nil	A
	Upper	Whole	5.29	16	Yes	3.5	2.8	D
Side (east)								
	Ground	Existing – No Change	n/a	n/a	n/a	n/a	n/a	n/a
	Upper	Existing – No Change	n/a	n/a	n/a	n/a	n/a	n/a

### Site Inspection

By Town Planner on 13 October and 3 November 2011

### ASSESSMENT

The subject application proposes alterations to the front of the residence and additions to the rear of the residence. The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the existing and proposed garages which sit forward of the main building line, a setback variation to the western boundary and some minor overlooking issues which will be assessed in the following section of this report.

### Garage Position

The existing residence has two garages each of which sit forward of the main wall of the residence. The application proposes to retain the garages in their current position and to extend these forward by between 1.3 metres and 2.1 metres to provide additional storage and car manoeuvring space. The application also proposes to improve the appearance of the existing garages by installing contemporary garage doors that will soften the appearance of the garage structures.

The position of garages is controlled by Local Planning Policy No. 142 (LPP No. 142) which states:

*“Part 2 – Streetscape*

- (i) *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.*
- (ii) *Notwithstanding (i) above, garages and carports located at or behind the main building line for primary and secondary streets and in accordance with Table 1 – Minimum Setbacks of the Residential Design Codes.”*

As detailed above, the application proposes to extend the length of the garages and to pull the front wall of the garage further forward of the residence to project further into the front setback area. The issue to consider here is the impact that the garages will have on the streetscape if located further forward of the main building line. It is considered that the further extension of two garages forward of the building line would conflict with the objectives of LPP No. 142 to limit the dominance of garages within the buildings front elevation. It is therefore considered that the proposed plans should be amended to retain the existing alignment of the garages.

#### **Side Setback Discretion**

As identified in the Statistics section of this report the application seeks a boundary setback discretion and proposes a 2.8 metre setback to the western boundary for the upper floor in lieu of the 3.5 metres which is required under the R-Codes.

The applicants have justified the reduced setback based on the majority of the upper floor wall already existing with the same setback and the proposed addition not incorporating any windows that would overlook the adjoining property.

The Performance Criteria for boundary setbacks is listed below:

- provide adequate direct sun and ventilation to the building;
- ensure adequate direct sun and ventilation being available to adjoining properties;
- provide adequate direct sun to the building and appurtenant open spaces;
- assist with protection of access to direct sun for adjoining properties;
- assist in ameliorating the impacts of building bulk on adjoining properties; and
- assist in protecting privacy between adjoining properties.

The proposed reduced setback satisfies the above criteria and the setback reductions to the western boundary are therefore supported.

#### **Privacy/Overlooking**

The Residential Design Codes require that any development be assessed against the privacy requirements of the Residential Design Codes. The subject application deals with an existing balcony which is located closer than 7.5 metres to a boundary and which is unscreened. As such this element of the application (although it is an existing structure) must be assessed against the Performance Criteria of the Residential Design Codes as detailed below:

- The Performance Criteria in relation to Visual Privacy states that direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and remoteness.

The application proposes to alter the centre of the front balcony so that it projects further into the front yard. This is permissible under the R-Codes. The existing balcony will not change in any other way and will continue to overlook the front setback area of the adjoining residences which are partially open to the street and do not function as private outdoor living areas for these properties. In this regard the applicants request for a discretion to the privacy requirements of the R-Codes to allow the existing unscreened balcony to remain unscreened is supported on the basis that it will not materially impact upon the private outdoor living areas of the neighbouring properties.

#### **CONCLUSION**

The existing residence at No. 136 Preston Point Road is in a dilapidated state and does not present well to the street. The application proposes to retain the residence in entirety and to undertake alterations and additions that will open up the facade of the residence so that it presents better to the street and to provide additional living area to make the residence more useable. The minor discretions that are sought are supported on the basis that it will facilitate the redevelopment of an existing residence rather than its demolition.

**RECOMMENDATION**

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

- (a) variation to the setback requirements to allow an upper floor setback of 2.8 metres to the western boundary in lieu of the 3.5 metres required under the Policy.
- (b) variation to the privacy requirement to allow an existing unscreened balcony to be located closer than 7.5 metres to a boundary.

for the construction of alterations and additions and a side fence to the residence at No. 136 Preston Point Road in accordance with the plans date stamp received on 12 and 19 August 2011, subject to the following conditions:

1. Prior to the issue of a Building Licence amended plans shall be submitted and approved to the satisfaction of the CEO which incorporate the retention of the existing alignment of the garages.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. The proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. All stormwater is to be disposed of on-site and clear of all boundaries.
7. Development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer.
8. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

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**T134. CONFIDENTIAL BUSINESS**

**T134.1 Assessment of Consultant Proposals – Review of Local Planning Strategy and Town Planning Scheme No.3**

Cr Martin – Cr de Jong

That this matter be dealt with on a confidential basis, in accordance with Section 5.23(2)(c) as it relates to details of a contract. CARRIED

The Committee considered a confidential report from the Manager Planning Services regarding consultancy proposals for the review of the Local Planning Strategy and Town Planning Scheme No 3. **CONFIDENTIAL ATTACHMENT**

Cr de Jong – Cr Rico

That the report, which concluded that the proposal by Eugene Ferraro of Ferraro Planning & Development Consultancy to undertake a Review of the Local Planning Strategy and Town Planning Scheme No 3 had been accepted, be received.

CARRIED

**T135. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

Nil.

**T136. CLOSURE OF MEETING**

There being no further business the meeting closed at 8.10pm.

*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 **8 November 2011**, Minute Book reference **T121. to T136.** were confirmed at the meeting of the Committee on*

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*Presiding Member*