

9 August 2011

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 9 AUGUST, 2011 COMMENCING AT 6.33PM.

T84. OPENING OF MEETING

T84.1 Present

Cr Alex Wilson	Presiding Member
Cr Cliff Collinson	
Cr Barry de Jong	
Cr Siân Martin	
Cr Dean Nardi	
Ms Gemma Basley	Town Planner
Mrs Peta Cooper	Minute Secretary

T85. 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.”

T86. WELCOME TO GALLERY

There was (1) member of the public in the gallery at the commencement of the meeting.

T87. APOLOGIES

Mayor Alan Ferris
Cr Rob Lilleyman
Cr Maria Rico

T88. CONFIRMATION OF MINUTES

T88.1 Town Planning & Building Committee (Private Domain) – 12 July 2011

Cr de Jong – Cr Collinson

That the Town Planning & Building Committee (Private Domain) minutes dated 12 July 2011 as adopted at the Council meeting held on 19 July 2011 be confirmed.

CARRIED

T89. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

T90. REPORTS OF COMMITTEES

T90.1 Town Planning Advisory Panel – 26 July 2011

Cr Wilson – Cr de Jong

That the minutes of the Town Planning Advisory Panel meeting held on 26 July 2011 be received and each item considered when the relevant development application is being discussed.

CARRIED

T91. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL

T91.1 Receipt of Reports

Cr Nardi – Cr Martin

That the Reports of Officers be received.

CARRIED

T91.2 Order of Business

Cr Nardi – Cr Martin

The order of business be altered to allow members of the public to speak to relevant agenda items and that the item pertaining to the adoption of the George Street Mixed Use Precinct New Development Contribution to Access and Parking Management Plan be considered at the conclusion of the Statutory items. CARRIED

T91.3 Preston Point Road No. 8 (Lot 1)

Applicant & Owner: Janet Williamson

Application No. P27/2011

By Gemma Basley, Town Planner on 4 August 2011

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval to construct a carport at the front of the residence and to increase the height of the front fence at No. 8 Preston Point Road, East Fremantle.

The application seeks a major variation to the requirements of Local Planning Policy No. 142 and a major discretion to the requirements of Local Planning Policy No. 143.

This report recommends that Council refuse the application.

BACKGROUND

Description of Proposal

The application proposes to construct a carport at the front of the residence and to increase the solid limestone front fence (which currently extends to 1.2 metres) to a maximum height of 1.8 metres.

The lot the subject of this application has previously been approved for Survey Strata Subdivision and has seen the parent lot subdivided into 3 smaller lots each accessed by a communal driveway along the southern boundary. The application deals with the front survey strata lot which shares a front boundary with Preston Point Road.

Description of site

The subject site is:

- a 431m² front lot with rear battleaxe lots
- zoned Residential R25
- developed with a single storey dwelling
- located in the Richmond Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

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

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

Impact on Public Domain

Tree in verge : No impact;

Light pole : No impact;

Crossover : Bitumen crossover in good condition;

Footpath : Red bitumen path within verge in good condition.

Streetscape : The proposal to locate a carport in front of the residence and to increase the height of the solid non permeable fence will impact adversely on the streetscape.

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Documentation

Plans and relevant forms date stamp received on 4 March, 5 April and 7 July 2011

Date Application Received

4 March 2011

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

20 July 2004	Council considers two applications for the subdivision of 8 Preston Point Road, one a 3-strata lot subdivision, the other a 2-green title lot subdivision, and decides to advise the WAPC that it conditionally supports both applications;
18 August 2004	Building Licence 139/3619 approved for internal alterations to existing dwelling;
18 August 2004	WAPC grants conditional approval for the subdivision of 8 Preston Point Road into 2 green title lots;
25 August 2004	WAPC grants conditional approval for the subdivision of 8 Preston Point Road into 3 survey-strata lots;
3 June 2006	Council advises the WAPC that the conditions of the three survey-strata lot subdivision approval have been satisfied;
18 July 2006	Council grants approval for a home occupation – screen printing business at the house on the front strata lot.
21 September 2006	WAPC endorses for final approval Survey-Strata Plan 48701 for the subdivision of 8 Preston Point Road into 2 survey-strata lots;
17 October 2006	Council grants approval for a 2-storey house on the battleaxe block at the rear of 8 Preston Point Road;
21 December 2006	Building Licence 06/300 approved for two a storey dwelling on a vacant rear survey strata lot.
17 February 2009	Council initiates an amendment to TPS 3 to recode 8 Preston Point Road to allow it to be subdivided into 2 lots.
27 October 2010	Council exercises its discretion and approves a single storey residence.
29 July 2011	Council grants approval for a front verandah.

No. of Days Elapsed between Lodgement & Meeting Date

157 days

CONSULTATION

Advertising

The application was advertised to adjoining land owners for two weeks between 15 & 29 March 2011. During this period no objections or submissions were received.

Town Planning Advisory Panel

The subject application was referred to the Town Planning Advisory Panel (TPAP) in March 2011. The Panel made the following comments about the proposed carport and front fencing:

- Demonstrate compliance with vehicle manoeuvring standards regarding carport.
- Query compliance of already constructed fence against LPP143.
- Query sightline impact of solid wall for vehicles exiting all lots.

It is interesting to note that the Panel considered a similar application for the subject site at its meeting of the 28 July 2009 where the following comments were made:

- drawings are of extremely poor quality making assessment difficult.
- carport pitch should match that of existing house.
- carport location is inconsistent with Council policy and should not be supported.
- fence contravenes Council's policy on fences and is far too high.
- amenity of front yard has not been properly considered.
- wall and carport should be refused.

The Town Planner supports the Panel's earlier and recent comments.

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Applicant Justification

Through the course of the application, the applicant has submitted numerous justifications in favour of their application. These will be detailed below in relation to each element of the application.

Construct a Fence that is not Visually Permeable above 1.2m

The Town's development guidelines envisage exactly these very circumstances where the only outside living and open space is at the front of the house. In such circumstances the policy allows, in the interest of privacy, for a variation to the standard requirement for visual permeability. This application is a request for a variation to be allowed in these circumstances so as to provide privacy in the form of visual screening from vehicular and pedestrian traffic on Preston Pt Road. Please note that the selection of natural limestone demonstrates the applicant's choice of an appropriate and attractive material.

The considerable set down of the existing dwelling, ranging from 1.5m to 2.5m, results in the existing dwelling being substantially below the road height and therefore largely absent in the streetscape. The unusually large setback of the existing dwelling, of approximately 14m average, more than double the standard minimum setback, further recesses the existing dwelling from the streetscape. The combination of the large set-down, and the large setback, effectively removes this dwelling from the appreciable streetscape.

The privacy screen limestone wall proposed, if approved, would obviate streetscape considerations for the subject property due to the unusual but particular circumstances. For these reasons, given there is no other location alternative for vehicle parking within the subject site, and notwithstanding the proposed carport is entirely behind the required front setback, the particular other circumstances support any necessary variations.

Construction of a Carport at the front of the Residence

The Town will be aware of the division of the former subject site to create two lots. Council supported a spot rezoning for this purpose and recently has issued a building license for the newly created strata lot to the east of the existing dwelling. The newly created lot occupies the full extent of outside living and all open space formerly to the east of the existing dwelling. As a result, the existing dwelling has all its outside living and open space to the west, between the existing dwelling and Preston Point Road.

The approval of an additional residence east of the subject site eliminates former open space for parking to the rear of the existing dwelling. Although relevant policies prefer parking to the rear of dwellings, this is not possible in the new circumstances of the subject property. The proposal is therefore to provide covered parking in the form of an open-sided double carport to the west of the existing dwelling between the existing dwelling and Preston Point Road frontage.

The proposed carport is to be setback 8m from Preston

Point Road which is 2m behind the standard required 6m front setback.

ASSESSMENT

Approval is sought to construct a carport forward of the residence and to increase the height of the solid front fence above 1.2 metres and up to a height of 1.8 metres. Neither elements of the application comply with the requirements of Council's LPP's or with the requirements of the Residential Design Codes. In addition to this the application has not been supported by the Town Planning Advisory Panel.

The application will be assessed in two separate parts below.

Proposed Carport

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

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

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

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

"Main Building Line" refers to the dominant wall of the front of the house (the widest section of wall occupying the greatest part of the frontage of the dwelling). When applying this to the subject application, the main wall of the house is that which is behind the proposed carport. The location of the garage does not therefore accord with the requirements of Local Planning Policy No. 142.

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

Front fence

This application proposes to increase the height of the solid front fence from 1.2 metres to a maximum of 1.8 metres.

LPP 143 states:

"Part 3 - Fence Design

Council requires front fences and walls above 1.2m to be visually permeable defined as:

Continuous vertical gaps of at least 50mm width occupying not less than 60% of the face in aggregate of the entire surface that is at least 60% of the length of the wall must be open. (Note: This differs from the 'R' Codes)

Part 4 – Council Approval Required

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 1.8m:

- 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*

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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 applicant/owner submits that the reason for the proposed front fence is to provide visually impermeable screening for the primary outdoor living area associated with the residence at 8 Preston Point Road and to avoid headlight glare associated with the units on the opposite side of Preston Point Road.

Whilst the applicant's pursuit of privacy is understood, the applicant's justifications for the variations to LPP 143 are not supported. Firstly it is considered that this could have been achieved in other ways (before pursuing subdivision and subsequent rezoning of the site). In addition to this it is considered that the set down of the residence (as described by the applicant above) combined with the existing 1.2 metre high solid limestone fence already provides the residence and the front yard with some privacy. It is considered the set down of the house below the road and the existing wall denies any impact of headlight glare into windows of habitable rooms as defined by the Policy.

It is considered that increasing the height of the fence above 1.2 metres and providing no visual permeability would have a detrimental impact on the local streetscape, considering that it will be the only one of its type along this section of Preston Point Road and would completely remove the front elevation of the residence from the streetscape and obscure the transition zone between the house and the street of which would otherwise provide for mutual surveillance. It is noted that a raised garden bed has been developed behind the front wall. As vegetation within this bed matures it will afford increased privacy for the front outdoor living area.

The proposal to increase the height of the fence above 1.2 metres and to not provide visual permeability is therefore not supported.

CONCLUSION

The application deals with the front lot of an approved Survey Strata Subdivision. The application proposes to construct a carport entirely forward of the building line and to construct a solid front fence up to a height of 1.8 metres.

The variations being sought will impact adversely on the existing streetscape view and will introduce a discordant element into the streetscape would detract from the visual amenity of the streetscape and could establish a precedent for similar structures on other front property boundaries and within the front setback area.

RECOMMENDATION

That Council refuses to grant planning approval for a double carport at the front of the residence and to increase the height of the front limestone fence from 1.2m to 1.8m at No. 8 Preston Point Road, East Fremantle in accordance with the plans date stamp received on 4 March, 5 April and 7 July 2011 for the following reasons:

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

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2. The proposed front fence contravenes Local Planning Policy 143 and will have a detrimental impact on the local streetscape in conflict with the following matters as set out in Part 10, Clause 10.2 of the Town of East Fremantle Town Planning Scheme No 3:
 - (o) the preservation of the amenity of the locality; and
 - (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.
3. The proposal is contrary to Clause 6.2.7 of the Residential Design Codes because the location of the garage does not comply with the requirements of Local Planning Policy No. 142 and because the fence does not comply with the requirements of Local Planning Policy 143.

Ms Janet Williamson (applicant/owner), in addressing the meeting, cited traffic noise, headlight glare and loss of privacy as justification for requesting the increased fence height. In regard to the carport, Ms Williamson stated that there was little scope for an alternative location given the siting of the house on the subject lot.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

That Council refuses to grant planning approval for a double carport at the front of the residence and to increase the height of the front limestone fence from 1.2m to 1.8m at No. 8 Preston Point Road, East Fremantle in accordance with the plans date stamp received on 4 March, 5 April and 7 July 2011 for the following reasons:

1. **The location of the garage is forward of the main building line and does not meet the requirements of Local Planning Policy No. 142 (Part 2 – Streetscape) and will have a detrimental impact on the local streetscape in conflict with the following matters as set out in Part 10, Clause 10.2 of the Town of East Fremantle Town Planning Scheme No. 3:**
 - (o) **the preservation of the amenity of the locality;**
 - (p) **the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;**
2. **The proposed front fence contravenes Local Planning Policy 143 and will have a detrimental impact on the local streetscape in conflict with the following matters as set out in Part 10, Clause 10.2 of the Town of East Fremantle Town Planning Scheme No 3:**
 - (o) **the preservation of the amenity of the locality; and**
 - (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.**
3. **The proposal is contrary to Clause 6.2.7 of the Residential Design Codes because the location of the garage does not comply with the requirements of Local Planning Policy No. 142 and because the fence does not comply with the requirements of Local Planning Policy 143.**

CARRIED

T91.4

Locke Crescent No. 12 (Lot 4993)

Owner & Applicant: Darryn & Rachel Sargant

Application No. 102/2011

By Gemma Basley, Town Planner on 3 August 2011

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for the replacement of a shade sail with a roofed structure at the rear of the residence located at No. 12 Locke Crescent, East Fremantle.

This report recommends that conditional approval be granted.

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BACKGROUND

Description of Proposal

The application proposes to replace an existing shade sail which covers a rear upper floor balcony with a Colorbond Trimdeck roofed structure. The upper floor balcony has previously been approved by Council however a privacy and a height discretion is required to approve the subject application.

Description of site

The subject site is:

- a 706m² block
- zoned Residential R12.5
- developed with a two storey dwelling
- adjoins a Pedestrian Access Way
- located in the Richmond Hill Precinct

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP 066)
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 date stamp received 12 July 2011

Date Application Received

12 July 2011

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

17 February 2004 Council grants approval for two storey alterations/additions.
22 April 2005 Building Licence No. 3730 issued for 1 & 2 storey additions.

No. of Days Elapsed between Lodgement & Meeting Date

27 days

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 20 July & 3 August 2011. At the close of advertising no submissions were received. The neighbour adjoining the Right-of-Way at No. 14 Locke Crescent has signed the plans acknowledging their support for the application.

Town Planning Advisory Panel Comments

This application was not referred to the Town Planning Advisory Panel because it relates to an existing structure which is located at the rear of an existing residence and is not visible to the street.

Site Inspection

By Town Planner on 25 July 2011

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STATISTICS

File	P/LOC12
Zoning	R12.5
Lot Area	706m ²
Heritage Listing	Not listed

Site:	Required	Proposed	Status
Open Space	N/A	N/A	N/A
Site Works	N/A	N/A	N/A

Height:	Required	Proposed	Status
Wall	5.6	6.387m	Discretion
Ridge	8.1	6.7 max	Acceptable
Roof type	Skillion		

Other:	Issues	Status
Overshadowing	N-S oriented lot (No impact)	Acceptable
Privacy/Overlooking	Upper floor balcony not screened to north western boundary	Discretion

Setbacks:

The setback of the balcony to the side and rear boundaries does not alter under this application and the setbacks have previously been approved by Council at its meeting dated 17 February 2004.

ASSESSMENT

A two storey residence is developed at No. 12 Locke Crescent, East Fremantle and includes an upper floor balcony which has been developed at the rear of the residence. The existing balcony is an irregular shape and has a varying setback to the north western boundary ranging from 2.5 metres to 4.1 metres. The balcony is currently covered with a shade sail structure. The proposal complies with most of the quantitative provisions of the Residential Design Codes, TPS No. 3 and Council Policies with the exception of building height and overlooking to the northwest and will be discussed separately below.

Building Height

Building height limits in this area of East Fremantle are controlled under LPP 142. The Policy establishes a maximum wall height of 5.6 metres for a pitched roof. These building height restrictions are intended to help protect neighbouring property views.

With regard to the issue of views LPP 142 states:

“Part 4 – Views

Where Council is requested to exercise discretion under its Policies or the Performance Criteria of the Residential Design Codes, Sections 3.2 – Streetscape, 3.3 – Boundary Setbacks and 3.7 – Building Height, the Council will have regard for the impact a proposed building may have on views that owners of adjoining property(s) may enjoy.”

The application proposes to replace an existing shade cloth structure with a skillion pitched Colorbond roof. The height of the proposed structure does not comply with Council’s building height requirements and proposes a maximum wall height of 6.387 in lieu of the 5.6 metres wall limit required under LPP No. 142. The increased wall height is sought so that the proposed Colorbond roof will integrate with the existing wall and roof heights associated with the existing residence.

The proposed height variation has been assessed and is supported for the following reasons:

- The upper floor balcony is an existing structure and the application only proposes to replace the roofing material.

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- The proposed roofing over the existing balcony will be lower than the ridge height of the existing roof of the residence and as such will not impact on the streetscape or on existing view corridors and will not result in any impacts of overshadowing on neighbouring properties.
- Provision of a non-permeable roof will allow this balcony area to be used for extended periods of the year.
- The balcony is at the rear of the site.

The discretion to the building height to allow the provision of a roof to the upper floor balcony is supported.

Privacy Requirements

The existing balcony structure has been approved by Council at its meeting dated 17 February 2004. More specifically, Council granted special approval for the balcony to have a reduced setback from 5m to 2.5m to the north-west boundary. Since Council granted this approval in 2004 Council has adopted a new Town Planning Scheme which has adopted the Residential Design Codes.

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 7.5m to a boundary and which is unscreened. As such this element of the application (although it is existing) 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 subject site is separated from the neighbouring property (No. 14 Locke Crescent) by a Pedestrian Access Way which has a width of 4.0m and which provides considerable separation between the subject and neighbouring properties. Dense vegetation also lines part of the side boundary (abutting the Pedestrian Access Way) which obscures views over the Access Way and into the neighbour's property. Finally, the residence in the neighbouring property has no windows to habitable rooms on the wall that abuts the Pedestrian Access Way.

A discretion to allow an unscreened balcony to be located closer than 7.5m to a boundary is supported based on the above discussion.

CONCLUSION

The application proposes to replace the roofing material which currently covers the upper floor balcony at the rear of the residence at No. 12 Locke Crescent, East Fremantle with a non permeable Colorbond material. The application requires Council to exercise its discretion and grant approval for the construction of a wall height that exceeds the requirements of LPP No. 142 and to acknowledge an existing unscreened balcony located closer to the boundary than is permitted.

It is considered the exercise of discretions will have no adverse impact on the streetscape or on neighbouring properties. The discretions are necessary in order to incorporate the proposed roof with the design of a two storey residence which was approved under Council's earlier Town Planning Scheme No. 2 and not under the requirements of the Residential Design Codes. The discretions and the application are considered to be suitable for Council approval.

RECOMMENDATION

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

- variation to the privacy requirements of the Residential Design Codes to allow an unscreened balcony to be located between 2.4m and 4.1m from the north western boundary in lieu of the required 7.5m setback;
- variation to the building requirements of LPP No. 142 to allow a wall height to extend to 6.4m in lieu of the 5.6m requirement;

for the construction of skillion roof structure to replace a shade sail structure over the upper floor balcony at the rear of No. 12 Locke Crescent, East Fremantle in accordance with the plans date stamp received on 12 July 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 demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. 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).*

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

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

- **variation to the privacy requirements of the Residential Design Codes to allow an unscreened balcony to be located between 2.4m and 4.1m from the north western boundary in lieu of the required 7.5m setback;**
- **variation to the building requirements of LPP No. 142 to allow a wall height to extend to 6.4m in lieu of the 5.6m requirement;**

for the construction of skillion roof structure to replace a shade sail structure over the upper floor balcony at the rear of No. 12 Locke Crescent, East Fremantle in accordance with the plans date stamp received on 12 July 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 demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**

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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).*

CARRIED

Cr Wilson made the following impartiality declaration in the matter of 73A Dalgety Street: "As a consequence of my having served on Council with the former Mayor, Mr Jim O'Neill, who has submitted comment on the following application, 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".

T91.5 Dalgety Street No. 73A (Lot 2)

Applicant: Edit Architecture

Owner: Karine Lucas

Application No. P94/2011

By Jamie Douglas, Manager - Planning Services on 2 August 2011

PURPOSE OF THIS REPORT

This report considers an application for a two storey single dwelling on a vacant battleaxe lot at 73A Dalgety Street and recommends conditional approval of the application.

BACKGROUND

Description of site

The subject site is:

- a 580m² rear battleaxe block
- zoned Residential R12.5
- vacant
- located in the Woodside Precinct.

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)
Local Planning Policy No. 142 : Residential Development (LPP 142)
Local Planning Policy No. 143 : Fencing (LPP 143)
Council Policy 138 : Development on Rear Battleaxe Lots

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : New cross over required
Footpath : Driveway will cross footpath

Documentation

Forms date stamp received on 28 June and plans received on 28 June & 19 July 2011

Date Application Received

28 June 2011

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

20 October 2005 Subdivision Approval (WAPC Ref. 630/02) survey approved.
20 April 2010 Council resolves to grant approval for a two storey single house.
28 June 2010 Building Licence No. 191 issued for a two storey single house.
23 September 2010 Council grants approval for a below ground swimming pool.

No. of Days Elapsed between Lodgement & Meeting Date

41 days

Site Inspection

By Manager, Planning Services on 2 August 2011

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 5 July & 22 July 2011. At the close of advertising two submissions were received from the owners of No. 75 Dalgety Street and 72 Allen Street, which will be detailed and responded to below:

Submission	Planning Response
<p>N & R Ferraro - 75 Dalgety Street Requests council mindful of need to minimise intrusion for neighbours arising from developments built on battle axe lots</p>	<p>Noted. Privacy impacts from battle axe lots are generally problematic however this proposal is a reasonable response in terms privacy impacts.</p>
<p>Opposed to reduction in side setback adjoining our property to 1 metre. Reduction in setback not necessary. Development on rear lots should be made to fully comply with R-Codes and proposal should be modified to maintain 1.5m setback.</p>	<p>The objection does not specify the perceived impact, if it is visual privacy the following is noted. The subject wall on the south boundary is staggered. It exceeds setback requirements for the majority of its length. The 11 metre length of wall which is to be setback 1 metre from the boundary accommodates bedrooms and a bathroom. The living areas of the house and outdoor living space are orientated to the north away from the objector's house. The exercise of discretion will not materially impact upon the privacy of the objector's property.</p>
<p>James O'Neill - 72 Allen Street Requests council does not approve any relaxations in regards to wall and building height, window openings and balconies</p>	<p>The application is compliant in terms of setbacks and height relevant to the objector's property. The relevant windows facing the objector's property are high level and are not related to the principal living areas. Accordingly, there will not be any unreasonable loss of privacy occurring.</p>
<p>The site appears to have been filled along the western boundary without the issue of any retaining structures – request council investigate natural ground levels for the subject site.</p>	<p>A survey plan supports the application which identifies natural ground levels. It does not indicate site fill to the western boundary. The site falls approximately 0.5 m. to the west. The pad height aligns with natural ground level of RL 8 accordingly the pad will be raised at its highest point 0.5 m above natural ground level but this will be at a distance of 1.6 m from the subject boundary. The proposed house is compliant in terms of its overall height requirements and the issue of ground level is not considered to impact upon the planning assessment.</p>

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 26 July 2011 and the following comments were made:

- Panel supports the application and appreciates the minor nature of the relaxations requested.
- Good use of the site, solar passive has been sensitively incorporated.

ASSESSMENT

As stated, Planning and Building approval was granted last year for a house on the subject site which was substantially larger, and required substantially more variations to the R-Codes, and Planning Policies than the present proposal. The previous approval was for a house of 399m² floor area which required variations to R-Code and planning policies in respect to its boundary setbacks, site coverage, height, roof pitches (which were to range from 24 – 26°, in lieu of the required 28°) and the size of the upper floor area (which was 36% of the ground floor, in lieu of the required 30%).

The current proposal is substantially smaller (319 m² total floor area) and complies with the required 30% maximum upper floor area (nominally shown as 31% on plans based on external dimensions) and roof pitch requirements of the relevant Local Planning Policies. The design is compliant with the 'acceptable development' standards of the R-Code except in respect to the variations listed below. These variations are relatively minor and do not have a material impact upon neighbouring properties.

The current design of the house has reduced the height and massing of the previously approved dwelling so that overshadowing in respect to the neighbour to the south at 75 Dalgety Street is 9.2% as opposed to the 25% maximum over shadowing allowed under the R-Codes.

The proposal plan indicates an automatic gate is to be installed at the driveway entrance to the subject lot. This proposed gate is not detailed on the plans. Any approval should therefore be conditioned to require the gate to conform with Council's Fencing Policy and that details of the proposed gate be submitted with Building Plans.

The proposal is a passive solar design and accordingly has the principal internal and external living areas and major openings orientated to the north, away from existing neighbouring houses and facing a vacant lot at 71B Dalgety Street. In addition to the passive solar design, the proposed dwelling will incorporate solar arrays for power and hot water generation and three rainwater tanks installed under the eaves. The proposed house has a general setback from the adjoining property at 71B Dalgety Street of 7.6 meters which is sufficient to allow for vehicular entry and manoeuvring on site and the installation of a pool and outdoor living areas. This adjoining owner has not submitted an objection to the proposal and sufficient design flexibility is retained for the construction of a satisfactory dwelling on this lot.

Requirement	Proposed	Planning Officer Comments
R-Codes: <u>Building Setbacks:</u> Lower floor setback to south Required 1.5m	1.0m	Supported – The subject wall has varying setbacks with 1.0 m being the closest distance to the boundary and relates to a 11.17m section of wall. The wall is relative to three bedrooms and the bathroom. Given these are not the principal living areas of the proposed house and the added screening effect of a side boundary fence, the exercise of discretion will not materially impact visual privacy.

Requirement	Proposed	Planning Officer Comments
<p>LPP 142 - Residential Development: The Residential Development Policy allows for an upper floor on battleaxe sites where the following is "strictly observed":</p> <ol style="list-style-type: none"> 1. The proposal demonstrates design, bulk and scale that responds to the established character or other site specific circumstances; 2. The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; 3. A maximum of 30% of the ground floor area (including garages and roofed areas enclosed on three sides) being contained in all upper level portions of the dwelling; and 4. Setbacks to the second storey being a minimum of 4m from all boundaries unless it is demonstrated to Council's satisfaction that a lesser setback will not adversely impact on amenity." 	<p>N/a</p> <p>N/a</p> <p>30% of the ground floor area is being contained in the upper floor (based on internal dimensions of the floor plan).</p> <p>Upper Floor (South) 3.84m. All other upper floor setbacks are compliant.</p>	<ol style="list-style-type: none"> 1. Complies – The design of the proposal is considered compatible with other developments in the area. Given that the proposal is compliant with open space and overshadowing the bulk and scale of the dwelling is supportable. 2. Supported – It is recommended that any planning approval be conditioned to require a landscaping plan in accordance with the provision, being provided and endorsed by the CEO prior to the issue of a Building Licence. 3. Complies 4. Supported – As the proposed dwelling as complied with 3 out of the 4 upper floor setbacks, and the variation is only minor (16 millimetres), it can be supported. Furthermore, the proposal complies with overshadowing and privacy requirements of the R-Codes.

CONCLUSION

The current proposal is considered to be a substantial improvement upon the previously approved design in terms of its impacts upon neighbours and compliance with the R-Codes and Local Planning Policy requirements. The site sensitivity and sustainability of the building form has been endorsed by the Town Planning Advisory Panel.

The nature of the variations are considered to be minor and will not materially impact upon the visual amenity or privacy of neighbours. The application is considered to merit approval subject to conditions which include the requirement for a landscape plan and a front gate which conforms with the front fences policy.

RECOMMENDATION

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

- (a) variation to the south side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.0m;
- (b) variation to the Local Planning Policy:142 Residential Development upper storey setback requirements from 4m to 3.84m;

for the construction of single dwelling at No. 73A Dalgety Street, East Fremantle in accordance with the plans date stamp received on 19 July 2011 subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
2. A minimum of 50% of the effective lot area is to be landscaped in accordance with Part 1(iii) of the Residential Development Policy (LPP142). In this regard a landscaping plan is to be provided to and endorsed by the CEO prior to issuance of a building licence.
3. The 'automatic gate' proposed at the entrance to the subject site is to comply with the provisions of Local Planning Policy – 'Policy on Local Laws Relating to Fencing' and details of the proposed gate shall be included on plans submitted for a Building Licence.
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. 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.
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. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
11. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
12. That the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
13. This planning approval to remain valid for a period of 24 months from date of this approval.

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Footnote:

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

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

Amendment

Cr Nardi – Cr Wilson

That the southern side setback be increased from 1.0m to 1.5m pursuant to the Residential Design Codes. THE AMENDMENT ON BEING SUBMITTED WAS LOST

RECOMMENDATION TO COUNCIL

Cr Martin – Cr de Jong

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

- (a) variation to the south side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.0m;**
- (b) variation to the Local Planning Policy:142 Residential Development upper storey setback requirements from 4m to 3.84m;**

for the construction of single dwelling at No. 73A Dalgety Street, East Fremantle in accordance with the plans date stamp received on 19 July 2011 subject to the following conditions:

- 1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.**
- 2. A minimum of 50% of the effective lot area is to be landscaped in accordance with Part 1(iii) of the Residential Development Policy (LPP142). In this regard a landscaping plan is to be provided to and endorsed by the CEO prior to issuance of a building licence.**
- 3. The 'automatic gate' proposed at the entrance to the subject site is to comply with the provisions of Local Planning Policy – 'Policy on Local Laws Relating to Fencing' and details of the proposed gate shall be included on plans submitted for a Building Licence.**
- 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. 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.**
- 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. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
11. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
12. That the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
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) *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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

T91.6 Gill Street No. 32B (Lot 88) - Home Occupation – Preparation of Cakes
Owner & Applicant: Jared & Kendra Robertson
Application No. P104/2011

By Gemma Basley, Town Planner on 9 August 2011

BACKGROUND

Purpose of this Report

An Application for Planning Approval for a Home Occupation cake preparation business at No. 32B Gill Street, East Fremantle is the subject of this report. More specifically, the application proposes to utilise the kitchen of the existing house for preparation of cakes.

This report recommends conditional approval.

Statutory Considerations

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

Relevant Council Policies

LP Policy No. 143 : Residential Development

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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 14 July 2011

Date Application Received

14 July 2011

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

Nil

CONSULTATION

The application has not been advertised for public comment on the basis that the proposed business will not entail customers visiting the site nor deliveries being made to the site.

ASSESSMENT

Issues

Home Occupation

The applicant is seeking approval for a Home Occupation – Cake Preparation. The following information outlines the maximum proposed use and hours of operation of the home occupation:

- The hours of operation proposed are from 9am to 4pm;
- A 20m² area of the kitchen is the only room that will be utilised for the cake decorating; and
- Sufficient parking is provided on site (driveway and visitors parking area).

Home Occupation is a “D” use in the Residential zone, which means:

“that the use is not permitted unless the local government has exercised its discretion by granting planning approval.” (TPS 3, sub-clause 5.3.2)

The following table provides compliance details in relation to Home Occupation use under Town Planning Scheme No.3:

Home Occupation - Required	Comment
Does not employ any person not a member of the occupier's household.	Owner is only employee
Will not cause injury to or adversely affect the amenity of the neighbourhood.	No Impact on neighbourhood
Does not occupy an area greater than 20 square metres.	Kitchen (20m ² area) to be used
Does not display a sign exceeding 0.2 square metres.	Condition applied
Does not involve the retail sale, display or hire of goods of any nature.	Condition applied
In relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence,	There is parking on site

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Home Occupation - Required	Comment
use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles.	
Does not involve the use of an essential service of greater capacity than normally required in the zone.	Complies

Discussion

The proposal is considered to be a low key activity, which will have a minimal impact (if any) on the amenity of adjoining or nearby properties or on the neighbourhood generally.

The Home Occupation will be monitored over the next 12 months to see if there is any impact on the amenity of the surrounding residential area in terms of noise and/or vehicle movements. If it is evident that the business is operating in accordance with this approval then it would be acceptable to renew the home occupation approval.

Given that the proposal meets all relevant acceptable development provisions and no discretionary decisions are required by Council, the home occupation is supported subject to conditions.

RECOMMENDATION

That Council grant approval for a Home Occupation (Food Preparation) at No. 32B Gill Street, East Fremantle, in accordance with the application received on 14 July 2011, subject to the following conditions:

1. All parking associated with the home occupation to be accommodated within the subject property only. On-street parking is not permitted.
2. No signage shall be displayed that is exceeding 0.2 square metres.
3. The home occupation shall not involve the retail sale, display or hire of goods of any nature.
4. The home occupation shall not employ any person who is not a member of the occupier's household.
5. The Town of East Fremantle requires all food businesses to complete a mandatory notification form in accordance with the Food Act 2008; and to notify the Town of any changes to the food business.
6. The food business is to comply with the Food Act 2008 at all times.
7. The proprietor of the food business is to ensure that the premises and practices comply with Chapter 3 of the Australia New Zealand Food Standards Code including Standard 3.1.1, Standard 3.2.2 and Standard 3.2.3. (Copy attached)
8. The food business will be subject to annual inspections conducted by Council's Principal Environmental Health Officer.
9. The home occupation approval is valid for 12 months only from the date of the "Approval to Commence Development" and the applicant is required to seek renewals thereafter to enable continuance of the home occupation. During the review of the renewal process, assessment of car parking, noise and safety will be undertaken.

Footnote:

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

- (a) *an Annual Renewal Fee for this Home Occupation is required to be paid to enable continuation of the practice.*
- (b) *the applicant be advised that failure to comply with the above conditions of this approval or if the activity causes a nuisance or annoyance to owners or occupiers of land in the neighbourhood, Council may revoke its approval of the home occupation.*

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RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That Council grant approval for a Home Occupation (Food Preparation) at No. 32B Gill Street, East Fremantle, in accordance with the application received on 14 July 2011, subject to the following conditions:

1. All parking associated with the home occupation to be accommodated within the subject property only. On-street parking is not permitted.
2. No signage shall be displayed that is exceeding 0.2 square metres.
3. The home occupation shall not involve the retail sale, display or hire of goods of any nature.
4. The home occupation shall not employ any person who is not a member of the occupier's household.
5. The Town of East Fremantle requires all food businesses to complete a mandatory notification form in accordance with the Food Act 2008; and to notify the Town of any changes to the food business.
6. The food business is to comply with the Food Act 2008 at all times.
7. The proprietor of the food business is to ensure that the premises and practices comply with Chapter 3 of the Australia New Zealand Food Standards Code including Standard 3.1.1, Standard 3.2.2 and Standard 3.2.3. (Copy attached)
8. The food business will be subject to annual inspections conducted by Council's Principal Environmental Health Officer.
9. The home occupation approval is valid for 12 months only from the date of the "Approval to Commence Development" and the applicant is required to seek renewals thereafter to enable continuance of the home occupation. During the review of the renewal process, assessment of car parking, noise and safety will be undertaken.

Footnote:

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

- (a) ***an Annual Renewal Fee for this Home Occupation is required to be paid to enable continuation of the practice.***
- (b) ***the applicant be advised that failure to comply with the above conditions of this approval or if the activity causes a nuisance or annoyance to owners or occupiers of land in the neighbourhood, Council may revoke its approval of the home occupation.***

CARRIED

T92. REPORTS OF OFFICERS – STRATEGIC PLANNING

T92.1 *George Street Mixed Use Precinct New Development Contribution to the Management of Access and Parking*

By Jamie Douglas, Manager - Planning Services on 29 July 2011

Purpose of this Report

This report recommends that the proposed Local Planning Policy – George Street Mixed Use Precinct New Development Contribution to Access and Parking Management Plan be adopted in accordance with the procedures for 'Making a Local Planning Policy' specified in clause 2.4 of Town Planning Scheme No. 3.

Background

At its meeting on 17 May 2011 Council endorsed the proposed Policy for the purpose of public advertising.

The Policy requires contributions by developers at the rate of \$9,000 per space for each space not provided on site, after onsite and immediately adjacent on-street parking spaces (where it is determined that these can be attributed to meet the parking demand of the development) have been deducted from the estimated parking space requirement. The contribution will be required as a condition of Planning Approval and payment will be required prior to the grant of a building licence.

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Statutory Process for the Adoption of a Local Planning Policy

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.

Consideration

The implementation of a Local Planning Policy to require all proposed developments within the George Street Mixed Use Precinct to contribute to the proposed Parking and Access Management Plan where parking demand cannot be wholly contained on site, is an equitable and practical way of effectively managing future access and parking demands in the Precinct to the benefit of commercial and residential land users.

The advertising period for the proposed Policy has expired without any submissions being received and it is therefore proposed the Policy be adopted without modification.

RECOMMENDATION

It is recommended that pursuant with clause 2.4.2 of the Town of East Fremantle Town Planning Scheme No 3, Council adopt the Local Planning Policy – George Street Mixed Use Precinct New Development Contribution to the Access and Parking Management Plan without modification.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr de Jong

That pursuant with Clause 2.4.2 of the Town of East Fremantle Town Planning Scheme No. 3, Council adopt the Local Planning Policy – George Street Mixed Use Precinct New Development Contribution to the Management of Access and Parking be adopted subject to the deletion of the following paragraph:

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

CARRIED

T93. CONFIDENTIAL BUSINESS

T93.1 Preston Point Road No 138 (Lot 4953) – Front Fence

Councillors had before them a report prepared by the Manager – Planning Services on 3 August 2011 and marked “Confidential”.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

That Council exercise its discretion in granting approval for a variation to the front fencing requirements of Local Planning Policy No. 143 to allow a fence that provides 50% visual permeability above 1.2m in lieu of the 60% required under Local Planning Policy No. 143 for the construction of a front fence at No. 138 Preston Point Road, East Fremantle in accordance with the amended plans submitted by the Applicant dated 19 July 2011 and subject to the following conditions:

- 1. The area immediately in front of the proposed solid section of front fence is to be landscaped to a high standard utilising shrubs/trees that will soften the appearance of the fence. In this regard a landscaping plan is to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.**

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

Footnote:

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

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

CARRIED

T94. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T95. CLOSURE OF MEETING

There being no further business the meeting closed at 7.54pm.

*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 **9 August 2011**, Minute Book reference **T84. to T95.** were confirmed at the meeting of the Committee on*

.....

Presiding Member