

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 11 DECEMBER 2007, COMMENCING AT 6.32 PM.**

**T124. OPENING OF MEETING**

*T124.1 Present*

**T125. WELCOME TO GALLERY**

**T126. APOLOGIES**

**T127. PRESENTATIONS/DEPUTATIONS/PETITIONS**

**T128. PUBLIC QUESTION TIME**

**T129. CONFIRMATION OF MINUTES**

*T129.1 Town Planning & Building Committee (Private Domain) – 13 November 2007*

**T130. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

*T130.1 T7.1 Canning Highway No 251*

*T130.2 T7.6 Silas Street No 12*

*T130.3 T7.11 View Terrace No 16*

*T130.4 T7.11 View Terrace No 16*

*T130.5 T7.11 View Terrace No 16*

*T130.6 T7.11 View Terrace No 16*

**T131. ORDER OF BUSINESS**

**T132. REPORTS OF OFFICERS**

*T132.1 Receipt of Reports*

*T132.2 Canning Highway No 251*

*T132.3 View Terrace No 16*

**T133. ADJOURNMENT**

**T134. ADJOURNMENT**

**T135. REPORTS OF OFFICERS (CONTINUED)**

*T135.1 View Terrace No 16 (Continued)*

*T135.2 Hubble Street No 23*

*T135.3 Preston Point Road No 174*

*T135.4 Silas Street No 12*

*T135.5 Gill Street No 22*

**T135.6**     *Walter Street No 3A*

**T135.7**     *Walter Street No 18A*

**T135.8**     *Canning Highway No 83*

**T136.     EN BLOC RECOMMENDATION TO COUNCIL**

**T136.1**     *Dalgety Street No 39*

**T136.2**     *Osborne Road No 39, Unit 1*

**T136.3**     *Stratford Street No 2*

**T136.4**     *Munro Street No 11*

**T136.5**     *Angwin Street No 13*

**T136.6**     *Municipal Inventory*

**T137.     BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

**T138     CLOSURE OF MEETING**

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 11 DECEMBER 2007, COMMENCING AT 6.32PM.**

**T124. OPENING OF MEETING**

The Presiding Member opened the meeting.

**T124.1 Present**

Mayor Alan Ferris	
Cr Stefanie Dobro	Presiding Member
Cr Barry de Jong	
Cr Alex Wilson	
Cr David Arnold	Observer
Mr Stuart Wearne	Chief Executive Officer
Mr Chris Warrener	Town Planner
Ms Janine May	Minute Secretary

**T125 WELCOME TO GALLERY**

There were 27 members of the public in the gallery at the commencement of the meeting.

**T126. APOLOGIES**

An apology was submitted on behalf of Cr Maria Rico & Cr Richard Olson.

**T127. PRESENTATIONS/DEPUTATIONS/PETITIONS**

Nil.

**T128. PUBLIC QUESTION TIME**

Nil.

**T129. CONFIRMATION OF MINUTES**

**T129.1 Town Planning & Building Committee (Private Domain) – 13 November 2007**

**Mayor Ferris – Cr Wilson**

**That the Town Planning & Building Committee (Private Domain) minutes dated 13 November 2007 as adopted at the Council meeting held on 20 November 2007 be confirmed.**

CARRIED

**T130. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T130.1 T7.1 Canning Highway No 251**

**O Gleeson:** Advising that as the current owner of the property, 251 Canning Highway, she supports the proposal by the prospective purchaser for a dental practice.

**Mayor Ferris – Cr de Jong**

**That the correspondence from Ms Gleeson be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 132.2).**

CARRIED

**T130.2 T7.6 Silas Street No 12**

**J Kirkness:** Requesting Council consider the parking proposal for the medical centre at 12 Silas Street as a fresh planning application

**Mayor Ferris – Cr de Jong**

**That the correspondence from Mr Kirkness be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 135.4).** CARRIED

**T130.3 T7.11 View Terrace No 16**

**Simon Bain:** Submitting detailed comments on proposed development at 16 View Terrace and concluding that the proposed development will impact on the amenity of the locality and his clients' amenity by affecting a critical section of their view.

**Mayor Ferris – Cr de Jong**

**That the correspondence from Mr Bain be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 132.3).** CARRIED

**T130.4 T7.11 View Terrace No 16**

**Lewis Blyth & Hooper:** Enclosing copies of objections from residents of View Terrace regarding lack of appropriate advertising for development at 26 View Terrace. Seeking written confirmation by 4pm 11/12/07 that no decision on the proposal for 16 View Terrace be made at the Town Planning & Building Committee meeting this evening.

**Mayor Ferris – Cr de Jong**

**That the correspondence from Lewis Blyth & Hooper be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 132.3).** CARRIED

**T130.5 T7.11 View Terrace No 16**

**Dr Hornbuckle:** Advising that her previous correspondence advised that she would withdraw her objection to proposed development at 16 View Terrace providing the drawings were not a misrepresentation and were not over height. As the plans are still overheight, she now wishes Council to change her status to an objector to this proposal.

**Mayor Ferris – Cr de Jong**

**That the correspondence from Dr Hornbuckle be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 132.3).** CARRIED

**T130.6 T7.11 View Terrace No 16**

**Lewis Blyth & Hooper:** Seeking a deferral of the decision on 16 View Terrace for fourteen days to allow Simon Bain (town planning consultant) to review the amended plans for this lot.

**Mayor Ferris – Cr de Jong**

**That the correspondence from Lewis Blyth & Hooper be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 132.3).** CARRIED

**T131. ORDER OF BUSINESS**

**Cr Wilson – Mayor Ferris**

**That the order of business be changed to allow members of the public to speak to town planning applications.** CARRIED

**T132. REPORTS OF OFFICERS**

**T132.1 Receipt of Reports**

**Cr Wilson – Cr de Jong**

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

*Cr Dobro made the following impartiality declaration in the matter of 251 Canning Highway: "As a consequence of my friendship with the applicant, Dr Jean, 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.*

**T132.2 Canning Highway No 251**  
**Applicant & prospective purchaser: Dr Gillian Jean & Mr Michael Macuipa**  
**Application No P/2007**  
By Chris Warrener, Consultant Town Planner on 26 November 2007

## **BACKGROUND**

### **Description of Proposal**

A request to rezone 251 Canning Highway to permit the use Dental Practice.

### **Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5/40

Local Planning Strategy - Woodside Precinct (LPS)

### **Documentation**

Letter request date stamp received on 30 October 2007.

### **Date Application Received**

30 October 2007

### **No. of Days Elapsed between Lodgement & Meeting Date**

42 days

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

- 15 July 1996: Council decides to enter into an agreement with John Sanders (Roy Weston Fremantle) to allow the use of 247/251 Canning Highway for a Real Estate Office prior to rezoning to allow office, subject to conditions;
- 22 Oct. 1996: Council decides to not support an application to rezone 247/251 Canning Highway;
- 10 Dec. 1996: Council decides to advise the WAPC that it supports the amalgamation and subsequent subdivision of 247 & 251 Canning Highway into 5 lots creating 2A, 2, 4A & 4B Oakover Street, and 251 Canning Highway;
- 26 Nov. 1998: WAPC grants final approval to the subdivision;
- 17 Sept. 2002: Council decides to defer an application for a change of use – consulting rooms for a Chiropractic Clinic;
- 20 Dec. 2004: CEO acting under delegated authority conditionally approves rear alterations and patio addition to an existing kitchen involving removal of a laundry and extension of the kitchen area;
- 23 Dec. 2004: Building Licence 227/3683 issued for alterations and additions;

## **CONSULTATION**

### **Site Inspection**

By Consultant Town Planner on 6 November 2007

## **REPORT**

### **Issues**

#### Land Use

251 Canning Highway is in the Residential zone under TPS 3, and a portion of the front of the property is a reserve for Primary Regional Roads under the Metropolitan Region Scheme.

This request by Dr Gillian Jean & Mr Michael Macuipa is to change TPS 3 to permit 2 dentists with 3 staff operating 2 surgeries.

Their request states:

*"We are seeking a rezoning to Local Centre to permit the building's use for a Dental Practice."*

This use is defined as "consulting rooms" under TPS 3, which states:

*"consulting rooms" means premises used by no more than 2 health consultants for the investigation or treatment of human injuries or ailments and for general outpatient care;*

Consulting rooms is an "X" use in the Residential zone under TPS 3, which *"means a use that is not permitted by the Scheme"*.

Therefore the Scheme has to be amended to permit this use.

#### Metropolitan Region Scheme

251 Canning Highway is affected by a Metropolitan Region Scheme (MRS) reserve for Primary Regional Road (PRR). The affected portion comprises a 10m wide strip of land across the front of the property.

However the WAPC has conducted a review of the land requirements for the PRR reserve for Canning Highway, and its advice in response to requests for "Clause 42" Certificates pursuant to the MRS is a land requirement for a 5.2m wide strip.

The impact of this in the future will be to reduce the land area of 251 Canning Highway.

#### Car Parking

The property presently has 4 on-site parking spaces, 2 at the front (1 in the drive-way and 1 in the single garage), and 2 at the rear accessed via a shared access leg (shared with 2 Oakover Street) to Oakover Street.

TPS 3, Schedule 11: Car Parking Standards specifies the following parking standard for consulting rooms:

Consulting Rooms	2 spaces for every consulting room, plus 1 space for every staff member.
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The applicants state that it is proposed to have 2 surgeries with a total of 5 staff therefore 9 spaces are required.

There is a current shortfall of 5 spaces.

#### Heritage

The property at 251 Canning Highway is not on the Heritage List under TPS 3 however it is in the Draft MI (Type of Place: Residence and Palm) with a "B" Management Category.

The Draft MI states with respect to B-rated property:

#### *"Category B*

*Places of considerable local heritage significance*

*Considerable heritage significance at a local level; places generally considered worthy of high level of protection, to be retained and appropriately conserved; provide strong encouragement to owners under the Town of East Fremantle Planning Scheme to conserve the significance of the place. A Heritage Assessment/Impact Statement to be required as corollary to any development application. Incentives to promote heritage conservation may be considered where desirable conservation outcomes may be otherwise difficult to achieve."*

#### Submission

While the proposal to amend TPS 3 has not been formally advertised an adjoining property owner has lodged a submission “strongly” objecting to the proposal.

The Town Planner had previously advised the applicants that it would be prudent to discuss the proposal with surrounding property owners to ascertain the degree of support or otherwise.

It was understood that if Council supports initiating an amendment to TPS 3 the amendment process includes formal advertising, and it would be a good idea to find out if there are any objections before proceeding further.

## **Discussion**

### Land Use

251 Canning Highway is situated immediately adjacent to property zoned “Special Business” in TPS 3.

Consulting rooms is a “P” use in the Special Business zone, which “*means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.*”

In this example if the property was in the Special Business zone the use would have to be approved by Council exercising discretion in regard to the parking shortfall.

It is not considered appropriate to expand the Special Business zone to include 251 Canning Highway because the Special Business zone allows uses that could be incompatible with the adjoining residential zone, with subsequent detrimental impact on amenity.

Notwithstanding that it is not in the Special Business zone the proposed use of the premises for consulting rooms is considered an acceptable land use in terms of its location next to commercial use property, and considered negligible impact on adjoining residential properties.

If Council decides that it is prepared to initiate an amendment to TPS 3 to allow consulting rooms at 251 Canning Highway, it is recommended that the property be added to “Schedule 2: Additional Use Sites and Requirements.”

This limits the use of the property to residential and consulting rooms.

### Car Parking

There are 4 car parking spaces at 251 Canning Highway accessed via separate driveways off Canning Highway at the front, and Oakover Street at the rear.

Including an allowance for the future widening of Canning Highway pursuant to the MRS the property has sufficient space for 6 parking spaces (4 currently developed, plus 2 spaces potentially available in the front yard). The attached site plan illustrates the parking arrangement that could be developed.

TPS 3 specifies that 9 spaces are required for the proposed use therefore subject to the redevelopment of the property to provide 6 spaces on-site there will then be a shortfall of 3 spaces.

TPS 3 allows variations to site and development standards and requirements (in this case – car parking) it is considered premature at this point to consider variations to the parking standard because the Scheme has not been amended.

It might be prudent for Council to further consider this matter during the Scheme amendment process, and subject to the outcome of the submission period if Council proposes to adopt the amendment for final approval the matter of car parking could be addressed at that time.

#### Heritage

The applicants intend to retain the existing house and convert it for use as consulting rooms.

It is considered appropriate for the property to be included on the Heritage List under TPS 3 given its high rating in the Draft MI.

If the amendment to permit the consulting room use of the property proceeds it is considered appropriate for the property owners to agree for its inclusion on the Heritage List.

#### Submission

The concerns raised in the submission relate to neighbourhood amenity and streetscape.

Parking and access to the site are raised as serious concerns as is the impact of commercial use of the property upon the residential uses nearby.

#### **RECOMMENDATION**

That Council advise Dr Gillian Jean & Mr Michael Macuipa that it is prepared to initiate an amendment to Town Planning Scheme No 3 to permit consulting rooms at 251 Canning Highway subject to the submission of the appropriate Scheme Amendment documentation.

The letter from Ms Gleeson, referred from correspondence (MB Ref 130.1) was tabled.

Dr Jean (applicant) addressed the meeting in support of her proposal.

Elected members advised the applicant that the parking situation would need to be satisfactorily addressed when the matter came back to Council for final consideration.

#### **RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

**That Council advise Dr Gillian Jean & Mr Michael Macuipa that it is prepared to initiate an amendment to Town Planning Scheme No 3 to permit consulting rooms at 251 Canning Highway subject to the submission of the appropriate Scheme Amendment documentation.** CARRIED

**T132.3**

***View Terrace No 16***

***Applicant: Greg Rowe & Associates***

***Owner: Mark Trupp & Jennifer McDonald***

***Application No. P201/2007***

By Chris Warrener, Consultant Town Planner on 6 December 2007

#### **BACKGROUND**

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

An Application for Planning Approval for additions to the rear of the single house at 16 View Terrace comprising a master bedroom, en-suite, library, living area, and balcony, and minor alterations and additions to the existing ground floor plan and entry.

The additions result in a 3-storey elevation at the rear of the house.

**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 066 – Roofing (LPP 066)  
Local Planning Policy No. 142 – Residential Development (LPP 142)

**Documentation**

Plans and relevant forms date stamp received on 12 October 2007

**Date Application Received**

12 October 2007

**Advertising**

Surrounding land owners as per attached location map.

**Date Advertised**

15 October 2007

**Close of Comment Period**

29 October 2007

**No. of Days Elapsed between Lodgement & Meeting Date**

60 days.

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

19 June 1976: Below ground concrete swimming pool registered;  
19 Nov. 2002: Council decides to advise the WAPC that it supports the subdivision of 14 & 16 View Terrace for the purposes of adjusting the common property boundary;  
13 Dec. 2002: WAPC conditionally approves the boundary adjustment subdivision;  
20 Nov. 2007: Council decides to defer making a decision on the application for additions pending a site visit.

**CONSULTATION****Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 23 October 2007 and the following comments were made:

- interesting design
- confirmation of materials to be provided
- some concern about height
- slot windows complement style of house

**Public Submissions**

At the close of the comment period 14 submissions were received, 10 objections and 4 letters of support.

4 of the 10 objectors subsequently withdrew their objections, and now support the application.

Therefore there are now 6 objections and 8 letters of support.

**1. Submission from 19 View Terrace**

- Our property will lose significant amount of amenity by loss of view
- Precedent will be set whereby those on the north side of View Terrace can exceed height rules.

2. *Submission from 21B View Terrace*
  - Proposal will affect amenity by obstructing views;
  - Change to streetscape, sets a precedent for residents on north side to exceed height limits;
  - Unfair to other residents who have had to build to comply with height limits;
3. *Submission from 23A View Terrace*
  - Objects to height limit being exceeded by 2200mm;
  - Application has no impact on my property but it sets a precedent;
4. *Submission from 23 View Terrace*
  - Objection;
  - Affects view from front of my property;
  - Development must comply with the building regulations as we had to when we built some 10 years ago;
5. *Submission from 25 View Terrace (now supports)*
  - Concerned at addition which exceeds allowable height;
  - Precedent set;
  - Effect on property values
6. *Submission from 25a View Terrace*
  - Objection;
  - Precedent;
  - Should be modified to be in keeping with present house heights;
7. *Submission from 29 View Terrace (now supports)*
  - Opposed to any approval to exceed maximum wall height by 2200mm
8. *Submission from 9 View Terrace*
  - Objection;
  - Unacceptable as it would set a precedent
9. *Submission from 11a View Terrace (now supports)*
  - Objection;
  - Existing rules should stand
10. *Submission from part owner of 27 View Terrace*
  - If allowed any variation will contribute to a lack of continuity, security and expectation along the escarpment for residents living beside and across the road on natural high ground.
11. *Submission from 15 View Terrace*
  - Supports proposal in current form as it will have less impact on reduced views and has a common sense approach to renovation, the family's needs and sympathetic to existing properties.
12. *Submission from 18 View Terrace*
  - No objection to proposed additions
13. *Submission from 14 View Terrace*
  - No objection to proposed additions including the variations sought.
14. *Submission from 11 View Terrace*
  - No objection, extensions do not affect me

## Site Inspection

By Consultant Town Planner on 23, 26 October & 30 November 2007

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		850m <sup>2</sup> Existing
Zoning		R12.5
Heritage Listing		Not Listed

### Setbacks:

Front (south)	<i>Not Applicable – Additions to the Rear</i>		
Rear (north)			
<i>Ground</i>	<i>Kitchen &amp; Dining</i>	6.00	15.40 Acceptable
<i>Upper</i>	<i>Balcony</i>	7.50	12.70 Acceptable
	<i>Master Bedroom</i>	6.00	15.30 Acceptable
Side (east)			
<i>Living</i>		1.40	3.50 Acceptable
Side (west)			
<i>Upper</i>	<i>Master Bedroom &amp; Ensuite</i>	4.50	8.20 Acceptable

### Height:

Wall	6.50	<i>LPP142</i>	7.90 to 8.10 <b>Discretion Required</b>
Building	Not applicable – Flat Roof		

## REPORT

### **Background**

At its meeting on 20 November 2007 Council considered an application for additions to the rear of the house at 16 View Terrace, and decided:

*“The adoption of the Committee’s recommendation which is as follows:  
That the application be deferred pending a site visit and the applicants be requested to erect temporary framing to illustrate the proposed wall height of the additions prior to this inspection.”*  
**CARRIED**

At this Council meeting the owner tabled plans incorporating revisions to the additions which propose that the roof over the additions slope downwards to the north to bring the height of the north side of the additions into compliance with the overall building height limit of 8.1m.

Notwithstanding the overall building height compliance the application continues to result in wall height being over the limit.

On 30 November 2007 Crs Dobro, Collinson, Rico and Wilson visited the subject property and properties on the south side of View Terrace to ascertain the impact of the proposed additions.

The owners' sons stood on top of the roof of the house holding upright PVC poles with rope between to illustrate the location of the proposed additions.

The owner had also erected PVC poles and rope between to illustrate the location of additions based on a pitched roof option, which 'complies' with LPP 142.

The following report is submitted for Council consideration, and is based on the amended plans tabled at the 20 November Council meeting, and formally received by email on 6 December 2007.

### **Assessment**

The application is for extensions to a house built on a sloping site. The site was excavated to build an extensive basement area for the house, which appears as a single storey development (1950's "Art Deco" style) from View Terrace.

In assessing building height the RDC allow for a "deemed natural ground level" (DNGL) in lieu of natural ground level (NGL) where the terrain is irregular, in this case the irregularity is a combination of the sloping site and excavation undertaken to build a basement.

The applicant has based building height on the application of DNGL or as the applicant's plans notate: "average ground line".

This is an acceptable method for determining building height and was the method applied to the assessment of heights for the adjoining property at 18 View Terrace (a similar sloping block, with excavation for a basement), for which Council conditionally approved additions in October 2006 (following an Application for Review at SAT) with wall height increased from 5.6m to 7.6m and building height increased from 8.1m to 8.86m.

### **Issues**

#### Building Height

At the rear (north side) the wall for a proposed master bedroom is 8.1m above DNGL.

On the east side the wall for a living room varies up to between 8.1m above DNGL, and on the west side the wall for the master bedroom and an en-suite also varies up to 8.1m above DNGL.

LPP 142 recommends a wall height limit of 6.5m for a concealed/flat roof building.

#### Precedent

This issue was raised by the applicant in support of the application, specifically with reference to 18 View Terrace.

It must be stated that every application is treated on its merits, and decisions made about applications, which may be subject to entirely different circumstances, do not set a precedent for other applications.

The applicant refers to the example of the approved additions to the adjoining property at 18 View Terrace, and the height variations, which were permitted by Council.

In that example at its meeting on 18 July 2006 Council conditioned the application on it being in compliance with the height limits of LPP 142.

The applicant applied to the State Administrative Tribunal (SAT) for a review in response to the condition of planning approval, which required that the application comply with the height limits under LPP 142.

Following SAT hearings Council conditionally approved the application with variations to wall and roof height.

#### Submissions

14 submissions were received, 6 object to the application, and 8 support it.

All of the objections are from owners of properties on the south side of View Terrace, and the letters of support are from the two immediate neighbours on the north side, and six from the south side.

#### **Discussion**

##### Building Height and Views

Under TPS 3 “view protection” is primarily dealt with by way of LPP142.

LPP 142 states with respect to views:

##### **“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.”*

On 26 October 2007 the Town Planner met a number of the objectors, and undertook evaluations of the potential impact of the application on their property views.

Photographs were taken from the north side upper floor balconies of 19 and 21B View Terrace.

It is evident that the application will have an impact on the existing north and north-north west views from these two properties.

However in terms of views of the river and surrounding areas, the view that will be obscured is not considered to be significant, in that the major views are considered to be northeast up river to the city, and the view northwest and west down river to the ocean. These “main” views are unaffected by the application.

Most of the objections are from properties views from which are not affected by the application.

The owners of the adjoining properties support the application.

#### **Conclusion**

The application includes an elevation which illustrates how “complying height” additions with a pitched roof might appear. This elevation indicates that the impact on views by this approach would be far greater than what is proposed.

The existing single storey house is considered to make a positive contribution to local streetscape.

The application proposes to retain this house with additions to the rear which are considered to complement the house and not detract from its appearance.

The objections are from property owners the majority of whose views are not affected, and of the small number of those that are the impacts are considered minor. None of the objections are from ‘adjoining’ properties.

An investigation into the approvals that were granted by Council for the objectors' houses revealed that all of these houses and additions thereto were conditionally approved with variations some to setbacks some to height, some with setback and height variations.

It is also worth noting that when the objectors' houses and additions thereto were proposed building height was based on averaging the corner point heights of the respective properties to determine "ground level".

This building height calculation changed in December 2004 when TPS 3 came into force.

The current method of calculating building height is based on the height of the structure at any point above the natural ground level immediately below that point.

What has happened is that many of the 2-storey houses approved for construction prior to December 2004 are higher than the 2-storey houses approved after that time because the calculation of building height meant that the starting level or "natural ground level" was higher than the actual natural ground level particularly in the front and mid sections of lots.

Based on retaining the existing house and the low key nature of the additions viewed from the street, this application is supported based on the amended plans received on 5 December 2007.

### **RECOMMENDATION**

That Council grant approval for

- (a) variation to wall height on the north side pursuant to Local Planning Policy 142 from 6.5m to 8.1m;
- (b) variation to wall height on the east side pursuant to Local Planning Policy 142 from 6.5m to 8.1m;
- (c) variation to wall height on the west side pursuant to Local Planning Policy 142 from 6.5m to 8.1m;

for the construction of additions to the rear of the single house at 16 View Terrace comprising a master bedroom, en-suite, library, living area, and balcony, and minor alterations and additions to the existing ground floor plan and entry in accordance with the plans date stamp received on 6 December 2007 subject to the following conditions:

1. the works 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. the proposed additions **are not** to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. 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) *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.*
- (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).*

Letters from Lewis, Blyth & Hooper, Simon Bain and Dr Hornbuckle, referred from Correspondence (MB Ref 130.3-130.6) were tabled.

Mr S Blyth (Lewis Blyth & Hooper solicitors) addressed the meeting, on behalf of a number of objectors to this proposal and made the following points:

- the application did not indicate AHD levels and therefore was incomplete
- appropriate community consultation had not been carried out and therefore the application should be readvertised.
- a valuer's report had indicated that the property at 21B View Terrace would have a potential reduction in value of \$100,000 should the development at 16 View Terrace go ahead.
- given he and the town planning consultant had not yet received a copy of the revised proposal received by Council on 6 December, requesting that the application be held over for 14 days to allow Mr Bain to assess the new proposal and provide a report to his clients.

Mr S Bain (SJB Town Planning & Urban Design) tabled photographs and a concept plan indicating the view currently enjoyed by surrounding properties that would be lost under this proposal and addressed the meeting in relation to views and natural ground level.

Mr A Lohman (Greg Rowe & Associates) addressed the meeting in support of the proposal advising:

- all levels relating to the proposal had been supplied to Council
- the application should not be considered in conjunction with proposals for 18 and 26 View Terrace
- the application should not be readvertised.

Mr M Trupp (owner) addressed the meeting in support of his proposal urging Council to support this relatively modest environmentally friendly design.

**T133. ADJOURNMENT**

**Cr Wilson – Mayor Ferris**

**That the meeting be adjourned at 7.55pm to allow further discussion regarding the proposed development at 16 View Terrace.** CARRIED

**T134. ADJOURNMENT**

**Mayor Ferris – Cr Wilson**

**That the meeting be resumed at 8.16pm with all members present prior to the adjournment, in attendance.** CARRIED

**T135 REPORTS OF OFFICERS (CONTINUED)**

**T135.1 View Terrace No 16**

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Wilson**

**That the application for additions to 16 View Terrace be refused on the following grounds:**

- (i) the building does not comply with maximum wall heights pursuant to Local Planning Policy 142**
- (ii) there would be some loss of views as a result of the relaxations sought.**

CARRIED

**T135.2**

**Hubble Street No 23**

**Applicant & Owner: Brian & Tania Toole**

**Application No. P210/2007**

By Chris Warrener, Consultant Town Planner on 27 November 2007

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for 2-storey ancillary accommodation at the rear of the single storey house at 23 Hubble Street

The property when developed with the proposed ancillary accommodation will contain 65% open space.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R20

Local Planning Strategy - Plympton Precinct (LPS)

Residential Design Codes (RDC)

**Relevant Council Policies**

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

**Documentation**

Plans and relevant forms date stamp received on 30 October 2007

**Date Application Received**

30 October 2007

**Advertising**

Adjoining land owners only

**Date Advertised**

7 November 2007

**Close of Comment Period**

21 November 2007

**No. of Days Elapsed between Lodgement & Meeting Date**

42 days.

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

19 Oct. 1999: Council approves a swimming pool;

15 Feb. 2000: Building Licence 125/2919 issued for swimming pool;

20 Jun 2000: Council grants special approval for a setback relaxation for the erection of single storey additions;

30 Aug. 2000: Building Licence 65/2978 issued for additions;

16 Sept. 2003: Council grants special approval for setback variations for a carport, and shed/studio additions;

8 Jan. 2004: Building Licence 123A/3526 issued for carport, and shed;

**CONSULTATION**

**Public Submissions**

At the close of the comment period 2 submissions were received.

*1 Submission from 20 Glyde Street*

- Opposed to application;
- Feel we are being “boxed in”;
- Will see an over-towering & imposing wall down driveway;
- Higher than allowed boundary fence;
- Want south facing windows in obscure glass.

*2 Submission from 18 Glyde Street*

- Strongly object;
- Loss of eastern light;
- Loss of visual amenity;
- Visual impact;
- Scale of building will have a negative visual and light effect on our property

### **Site Inspection**

By Consultant Town Planner on 23 November 2007

### **REPORT**

#### **Issues**

#### Boundary Walls

The application proposes to erect ancillary accommodation in the northwest corner of 23 Hubble Street.

The proposed building has a wall on two side boundaries.

A proposed parapet wall along the west side boundary common with 20 Glyde Street is 6.59m long X 6.355m high.

A proposed parapet wall along the north side boundary common with 21 Hubble Street is 4.95m long X 5.268m high.

LPP 142 allows a 9m long X 3m high boundary wall along one side boundary only.

#### Submissions

The two submissions are from property owners to the west of the subject property.

No 20 Glyde Street is immediately adjacent to the west side boundary, and 18 Glyde Street is northwest of the property.

Both submissions have concerns regarding the visual impact of the proposed additions.

#### **Discussion**

The RDC define ancillary accommodation as follows:

#### ***“Ancillary Accommodation***

*Self-contained living accommodation on the same lot as a Single House that may be attached or detached from the Single House occupied by members of the same family as the occupiers of the main dwelling.”*

The area of the proposed ancillary accommodation comprises 52.26m<sup>2</sup>; the RDC limit the size of ancillary accommodation to 60m<sup>2</sup> therefore the application complies.

The applicant states that the addition is to an existing shed to provide additional room for the family because the primary dwelling only has 2 bedrooms.

#### Boundary Walls

The proposed ancillary accommodation building in the northwest corner of 23 Hubble Street will be adjacent to a shed at the rear of 20 Glyde Street, and similar height ancillary accommodation at 21 Hubble Street.

Being situated adjacent to two other structures on adjoining properties the proposal is not considered to negatively impact on the amenity of these other properties, and the 2 boundary walls can be supported.

#### Submissions

The concerns raised in the submissions are questionable given the position of the proposed ancillary accommodation, and the presence of other similar sized structures adjacent to the proposed development.

The Town Planner undertook a site visit to ascertain the impact if any of the proposed development on neighbouring property.

It is evident that the subject property is overlooked by adjoining property development, and the proposed ancillary accommodation will have little if any impact on the neighbours.

The applicants/owners have prepared responses to each of the submissions, and the content of these responses are considered to address the stated concerns.

#### **RECOMMENDATION**

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

- (a) variation to Local Planning Policy 142 for the height of a boundary wall along the north side from 3m to 5.268m;
- (b) variation to Local Planning Policy 142 for the height of a boundary wall along the west side from 3m to 6.355m;

for the construction of 2-storey ancillary accommodation at the rear of the single storey house at 23 Hubble Street in accordance with the plans date stamp received on 30 October 2007 subject to the following conditions:

1. the ancillary accommodation is to be for the exclusive use of the members of the same family as the occupiers of the main dwelling;
2. the works 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. the proposed ancillary accommodation **is not** to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. all parapet walls 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.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

#### Footnote:

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

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

- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*

Mr G Palmer (adjoining owner) addressed the meeting objecting to the 6.355m parapet wall proposed on his boundary.

Mr & Mrs Toole (owners) addressed the meeting in support of their applicant, providing a model of their proposal and existing structures on adjoining lots in the vicinity.

#### **RECOMMENDATION TO COUNCIL**

**Cr Dobro – Mayor Ferris**

**That the application be deferred pending the submission of revised drawings that conform with Local Planning Policy 142 in relation to wall height and parapet walls.**

CARRIED

**T135.3**

***Preston Point Road No 174***

***Applicant & Owner: Tony & Anthea Jack***

***Application No P/2007***

By Chris Warrener Town Planner on 26 November 2007

#### **BACKGROUND**

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

A request to amend Town Planning Scheme No 3 to allow 2 residences to be built at 174 Preston Point Road.

##### **Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

##### **Documentation**

Letter date stamp received on 8 November 2007

##### **Date Application Received**

8 November 2007

##### **No. of Days Elapsed between Lodgement & Meeting Date**

33 days.

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

This property was once owned by former WA Premier John Tonkin, and was the subject of an appeal against a Council decision to refuse demolition, which was ultimately upheld.

19 April 2005: Council grants conditional approval for reduced setbacks for a front balcony for a 2-storey house;

#### **REPORT**

##### **Issues**

##### Residential Density

174 Preston Point Road is zoned Residential with a density of R12.5 under TPS 3.

The RDC specify that the minimum site area per dwelling for an R12.5 coded property is 700m<sup>2</sup> with an average site area per dwelling of 800m<sup>2</sup>.

Therefore an area of 1,600m<sup>2</sup> is required for a property coded R12.5 to allow 2 dwellings/residences to be built.

This property comprises 1,033m<sup>2</sup>; 2 dwellings cannot be built on it under the R12.5 code applicable under TPS 3. However 2 dwellings could be built if the property is coded R20 (average site area per dwelling of 500m<sup>2</sup>).

A Scheme Amendment is therefore required to change the density code from R12.5 to R20 to allow 2 dwellings/residences on this property, and for its subdivision into 2 lots.

#### Precedent

The applicants state *“that a subdivision of our block to allow for the construction of two residences would be in keeping with the housing density in the neighbourhood.”*

Their letter identifies 12 other properties nearby which have been subdivided and have *“multiple residences”*.

#### **Discussion**

Prior to the gazettal of TPS 3 in December 2004, TPS 2 was the Scheme in force. Under TPS 2 East Fremantle was divided into 7 geographic areas.

Depending on which “area” a property was located, and depending on the size of the property it could potentially be subdivided under TPS 2.

The prescribed minimum lot area in Area 1 was 666m<sup>2</sup>, in Area 2 – 500m<sup>2</sup>, in Area 3 – 450m<sup>2</sup>, and in Area 4 – 450m<sup>2</sup>.

The subject land and all other properties in the Richmond Hill precinct (under TPS 3) are in “Area 1” under TPS 2.

Furthermore, in Area 1 a “Duplex House” was a permitted use if the property comprised a minimum lot area of 890m<sup>2</sup>.

Therefore if a property in Area 1 comprised a minimum area of 890m<sup>2</sup> (2 X 445m<sup>2</sup>) Council could support its development for a Duplex House, and subsequent strata lot subdivision.

Subdivision, for the purposes of creating “green titles” or “survey strata lots”, requires a minimum lot area of 1,332m<sup>2</sup> applied (2 X 666m<sup>2</sup>)

TPS 3 allows for the development of corner lots up to a density of R20 therefore corner lots are potentially subdividable in an R12.5 coded area.

The property examples provided by the applicants in support of their request were investigated.

The following is a summary report of the relevant issues:

#### 160 Preston Point Road (cnr Gordon Street)

160 Preston Point Road is a corner lot.

On 16 April 2002 Council decided to advise the WAPC that it does not support an application to subdivide the property into 2 survey-strata lots (because it comprised less than 1,332m<sup>2</sup>).

On 9 October 2002 the WAPC conditionally approved the subdivision application

164 Preston Point Road

In November 1999 Council approved the demolition of an existing duplex and the redevelopment of this property for a 2-storey duplex pair.

A strata lot subdivision application was approved in 1999.

166 Preston Point Road

On 20 June 2000 Council conditionally approved the demolition of an existing duplex and the erection of a 2-storey plus one level duplex pair, and on 19 December 2000 Council approved amendments to the approved plans for the duplex pair.

On 22 December 2004 Council decided to advise the WAPC that it does not support an application to subdivide the property into 2 "green title" lots.

On 15 January 2005 the WAPC refused the application to subdivide the property into 2 "green title" lots.

On 11 July 2005 the WAPC reconsidered the application and decided to approve a survey-strata subdivision of the property.

168 Preston Point Road

On 17 August 2004 Council decided to advise the WAPC that it does not support the subdivision of this property into 2 strata title lots.

On 25 October 2004 the WAPC approved the subdivision.

172 & 172A Preston Point Road

In 1988 the Town Clerk endorsed a strata plan for an "old duplex".

176 & 176A Preston Point Road

An application to subdivide 176 Preston Point Road was approved in 2003 because the lot sizes were in accord with TPS 2 Area 1 minimum lot size.

182 Preston Point Road (cnr Clayton Street)

182 Preston Point Road is a corner lot.

On 17 September 2002 Council decided to advise the WAPC that it supports the subdivision of 182 Preston Point Road into 2 lots.

On 10 October 2002 the WAPC approved the subdivision resulting in the creation of 70 Clayton Street and 182 Preston Point Road.

61 Clayton Street (cnr Preston Point Road)

61 Clayton Street is a corner lot.

On 13 October 1981 the Town Planning Board approved a strata plan for the single house, which has resulted in the creation of 3 strata lots, 180 Preston Point Road, and 61 and 63 Clayton Street.

2 Philip Street (cnr Gordon Street)

2 Philip Street is a corner lot.

On 17 December 2002 Council decided to advise the WAPC that it supports the subdivision of this property into 2 survey strata lots.

On 2 January 2003 the WAPC approved the subdivision.

This approval lapsed on 2 January 2007, the property has not been subdivided, and it contains a 2-storey single house.

8 Philip Street

On 27 December 2000 Council decided to advise the WAPC that it does not support the battleaxe subdivision of this property into 2 lots.

On 7 February 2001 the WAPC conditionally approved the subdivision.

12 Philip Street

On 18 November 2003 Council decided to advise the WAPC that it does not support the survey strata subdivision of this property.

On 17 December 2003 the WAPC approved the subdivision.

20 Philip Street (cnr Clayton Street)

20 Philip Street is a corner lot.

There are no records to indicate when this property was subdivided, nor under what circumstances.

In summary, of the 12 examples (precedents) identified by the applicants, 5 are corner lots for which Council can conditionally support R20 development and subsequent subdivision, 4 were recommended for refusal by Council but subsequently approved by the WAPC, and 3 were supported on the basis that they complied with the lot size provisions under TPS 2.

When it prepared TPS 3 Council was mindful of the need to preserve lower densities throughout the municipality in response to the problems which higher density infill development had created under TPS 2, including but not limited to its impacts on neighbours and adjoining property, and its intrusion on local streetscape and neighbourhood amenity.

**RECOMMENDATION**

That Council advise the applicants/owners that it is not prepared to amend Town Planning Scheme No 3 to allow for two residences to be constructed, either as strata titled dwellings or by subdividing the block into two separate titles at 174 Preston Point Road.

Ms B Thompson (representing the applicants) addressed the meeting in support of the proposal.

**RECOMMENDATION TO COUNCIL**

**Cr Wilson – Cr de Jong**

**That Council advise the applicants/owners that it is not prepared to amend Town Planning Scheme No 3 to allow for two residences to be constructed, either as strata titled dwellings or by subdividing the block into two separate titles at 174 Preston Point Road.**

CARRIED

*Cr Dobro made the following impartiality declaration in the matter of 12 Silas Street: "As a consequence of my friendship with the applicant and the fact that my husband previously served as an elected member on Council with him, 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.*

**T135.4 Silas Street No 12**  
**Applicant: John Kirkness**  
**Owner: Desert Storm Pty Ltd**  
**Application No. P207/2007**

By Chris Warrener, Consultant Town Planner on 27 November 2007

## **BACKGROUND**

### **Description of Proposal**

An application to amend condition 2 of the Planning Approval granted for a Medical Centre on 19 April 2005.

Condition 2 states:

*"2. the owner making satisfactory arrangements with Council for the provision of (7) parking bays in terms of cash-in-lieu, allocation of bays in the Saint Peters Road verge or the reduction in the number of units or practices to meet the parking standards to the satisfaction of the Chief Executive Officer and relevant staff."*

### **Statutory Considerations**

Town Planning Scheme No. 3 – Town Centre, Schedule 11 – Car Parking Standards  
Local Planning Strategy – Town Centre Precinct (LPS)

### **Documentation**

Letter request to vary planning approval date stamp received on 26 October 2007

### **Date Application Received**

26 October 2007

### **No. of Days Elapsed between Lodgement & Meeting Date**

46 days.

### **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 with a two storey addition to the east, and an additional four residential units of 3 levels to the east of the medical centre

## **CONSULTATION**

### **Site Inspection**

By Consultant Town Planner on 15 November 2007

## **REPORT**

### **Issues**

#### Amending Planning Approval

The applicant seeks an amendment to the original planning approval, specifically the following condition:

*2. the owner making satisfactory arrangements with Council for the provision of (7) parking bays in terms of cash-in-lieu, allocation of bays in the Saint Peters Road verge or the reduction in the number of units or practices to meet the parking standards to the satisfaction of the Chief Executive Officer and relevant staff.*

Under certain circumstances TPS 3 allows for a planning approval to be amended. Clause 8.3 states

**“8.3. Amending or revoking a planning approval**

*The local government may, on written application from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.”*

This application has been submitted by an applicant countersigned by the owner, and is therefore accepted pursuant to Clause 8.3.

The extensions to the medical centre, which attracted the imposition of condition 2, have been completed, and the medical centre is fully operational.

**Discussion**

Council does not have the ability to vary a planning approval if the use or development has commenced, in this case the medical centre is built, and the use commenced therefore the application cannot be considered pursuant to Clause 8.3.

In this case the appropriate time to apply to Council to vary its planning approval was before the medical centre development was completed or its use commenced.

**RECOMMENDATION**

That Council advises John Kirkness for Dr Hilary Fine that pursuant to Town Planning Scheme No 3, Clause 8.3 Council is not in a position to vary its planning approval granted on 19 April 2005 because the medical centre development at 12 Silas Street has been completed, and its use has commenced.

The letter from Mr J Kirkness, referred from correspondence (MB Ref 130.2) was tabled.

Mr J Kirkness (applicant) addressed the meeting seeking a deferral to allow the officer to consider the application as a fresh planning application and requested, if possible, for the matter to be considered at the Council Meeting on 18 December 2007 as the owners were keen to commence stage 2 of the development.

**RECOMMENDATION TO COUNCIL**

**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.** CARRIED

**T135.5**

**Gill Street No 22**

**Applicant & Owner: Todd Grierson**

**Application No. P160/2007**

By Chris Warrener, Consultant Town Planner on 29 November 2007

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a single storey house at 22 Gill Street comprising 3 bedrooms, 2 bathrooms, laundry, double garage, office, porch, foyer, living and meals area.

The double garage door occupies 46.9% of the width of the property frontage.

**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 066 – Roofing (LPP 066)

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

**Documentation**

Plans and relevant forms date stamp received on 17 August 2007

**Date Application Received**

17 August 2007

**Additional information**

Letter dated 29 November 2007 from Owner requesting variations.

**No. of Days Elapsed between Lodgement & Meeting Date**

12 days.

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

- 15 April 2003: Council decides to advise the WAPC that it does not support the green title subdivision of 22 Gill Street, and advises of its required conditions should the WAPC approve the application;
- 12 June 2003: WAPC grants conditional approval to subdivide 22 Gill Street into 2 X 455m<sup>2</sup> lots;
- 15 June 2004: Council grants approval for the demolition of the house at 22 Gill Street;
- 15 July 2005: Demolition Licence issued;
- 8 Nov. 2005: WAPC grants final approval to the subdivision;
- 18 April 2006: Council grants special approval for a 2-storey house on reduced front rear and side boundary setbacks at 22A Gill Street;
- 11 July 2006: Building Licence issued for 2-storey house at 22A Gill Street;
- 17 Oct. 2006: Council grants conditional approval for setback variations for a 2-storey house at 22 Gill Street.
- 16 Oct. 2007: Council decides to defer an application for a single storey house.

**CONSULTATION****Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 28 August 2007 and the following comments were made:

- appearance of overbearing garage door
- not much amenity to the street concerning front entrance
- little interaction with the street

**Public Submissions**

At the close of the comment period 1 submission was received.

*Submission from 20 Gill Street*

- Prefers current application over previous approved plans (2006);
- Concern regarding retaining walls next to the common boundary.

**Site Inspection**

By Consultant Town Planner on 22 August 2007

**REPORT****Issues**Recent Council decision

At its meeting on 16 October 2007 Council decided:

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

*That the application for a single storey residence on Lot 301 (No. 22) Gill Street be deferred to allow the applicant the opportunity to submit revised plans showing compliance with the open space requirement of 55% pursuant to the Residential Design Codes and to address the following issues raised by the Town Planning Advisory Panel:*

- *appearance of overbearing garage door*
- *not much amenity to the street concerning front entrance*
- *little interaction with the street."*

CARRIED

#### Boundary Setbacks

*West side (front) boundary.*

An office is set back 6m, and a double garage is set back 6.36m from the front boundary.

The RDC recommend a 7.5m front setback for R12.5 coded property.

*East side (rear) boundary common with 13 Walter Street*

Bedroom 3 is set back 4.05m from the rear boundary.

The RDC recommend a 6m rear setback for R12.5 coded property.

*North side boundary common with 22A Gill Street*

A porch is set back 1.3m from the north side boundary.

The RDC recommend a 1.5m setback.

#### Open Space

The application proposes development which will result in there being 50.2% open space on the property.

The RDC recommend the provision of 55% open space for R12.5 coded property.

#### Roof Pitch

The application is for a single storey house with a colourbond roof pitched at 25°.

LPP 066 states:

*"dominant elements to be greater than 28°."*

#### Submission

The submission is concerned that there will not be sufficient retaining works alongside the common property boundary. The submission has not explained why this is the case.

This is a matter that will be attended to at the Building Licence stage, and is noted in a footnote to the officer's recommendation.

#### **Discussion**

##### Recent Council decision

The applicant has prepared perspective drawings to illustrate the appearance of the proposed house, and in a covering letter requests with justification the proposed variations.

The garage door will be partially obscured by the fact that the subject property slopes downwards away from Gill Street.

It is proposed to install a sectional garage door with translucent panels, similar to the garage door at 30B Gill Street, which will further diminish its overall size, and appearance.

The study to the front being a habitable room is considered to provide street surveillance and interaction with the street.

While it is not the entry it is considered to provide a measure of interaction with the street, and can be supported.

#### Boundary Setbacks/Streetscape

The housing stock along this section of Gill Street is quite variable a number of properties have been subdivided, and their resultant lot areas more suited to an R20 density code. They include the subject land and 22A Gill Street, numbers 24A, 24B, 26, 26A, 30A, 30B, 32A & 32B Gill Street.

The houses built and under construction on these properties reflect unique contemporary design approaches (see especially 22A and 30A Gill Street), and all have by necessity been approved with discretions to take into account the constraints to developing R20 size lots in an R12.5 coded precinct.

The subject land has similar constraints yet only proposes single storey development, which is considered to have less impact on streetscape than a 2-storey development. The house being built at 24A Gill Street illustrates the impact of 2-storey development, with the second storey being built to the front.

While the proposed front setback at 6m is less than the recommended setback under the RDC there are recently approved houses nearby on a similar setback.

Next door the house at 22A Gill Street with a double garage forward of the main building line is at 6m.

The proposed variation to the rear setback is required to accommodate the building footprint of a single storey development, and allow for a more generous setback on the north side for an outdoor living area which takes advantage of the northern exposure.

The proposed variation to the north side boundary setback for a Porch from 1.5m to 1.3m is considered relatively minor not impacting on the amenity of the potentially affected property at 22A Gill Street. The potentially affected property owner has not objected to this variation.

#### Open Space

As discussed the subject land comprises an area suited to an R20 code. The RDC recommend the provision of 50% open space for R20 coded property.

The proposal is for 50.2%.

Being a single storey house the resultant building footprint is bigger than a 2-storey development with the equivalent floor space (which would probably comply with the RDC for open space).

However a single storey development is considered to be a better built form in terms of its impact on the streetscape, lifestyle of the occupants, and in terms of its impact on the environment generally.

The variation is considered relatively minor comprising a shortfall of 4.8%, it does not impact on streetscape or neighbouring properties, and can be supported.

### Roof Pitch

Roof pitch of houses nearby varies from the recommended pitch of 28°. Reduced roof pitch can be found at 22A, 24, 28, 30A, and 30B Gill Street.

At 25° this variation is not considered to compromise the prevailing local streetscape, and can be supported.

### **RECOMMENDATION**

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

- (a) variation to the west side (front) boundary setback for an office and a double garage pursuant to the Residential Design Codes from 7.5m to 6m and 6.36m respectively;
- (b) variation to the east side (rear) boundary setback for bedroom 3 pursuant to the Residential Design Codes from 6m to 4.05m;
- (c) variation to the north side boundary setback for a porch pursuant to the Residential Design Codes from 1.5m to 1.3;
- (d) variation to the provision of open space pursuant to the Residential Design Codes from 55% to 50.2%;
- (e) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25°

for the construction of a single storey house at 22 Gill Street comprising 3 bedrooms, 2 bathrooms, laundry, double garage, office, porch, foyer, living and meals area in accordance with the plans date stamp received on 28 August 2007 and perspective drawings date stamp received on 29 November 2007 subject to the following conditions:

1. the works 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. 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.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval 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.
8. 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.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

### Footnote:

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

- (a) *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) *in regard to retaining works along the south side boundary next to 20 Gill Street the builder is to ensure that all works are undertaken to maintain the right of support to the adjoining property.*

Mr Grierson (owner) addressed the meeting in support of his proposal and advised that a recalculation of the open space indicated that the proposal provided 50.2% open space, not 49.8% as indicated in the officer's report.

## **RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

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

- (a) **variation to the west side (front) boundary setback for an office and a double garage pursuant to the Residential Design Codes from 7.5m to 6m and 6.36m respectively;**
- (b) **variation to the east side (rear) boundary setback for bedroom 3 pursuant to the Residential Design Codes from 6m to 4.05m;**
- (c) **variation to the north side boundary setback for a porch pursuant to the Residential Design Codes from 1.5m to 1.3;**
- (d) **variation to the provision of open space pursuant to the Residential Design Codes from 55% to 50.2%;**
- (e) **variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25° for the construction of a single storey house at 22 Gill Street comprising 3 bedrooms, 2 bathrooms, laundry, double garage, office, porch, foyer, living and meals area in accordance with the plans date stamp received on 28 August 2007 and perspective drawings date stamp received on 29 November 2007 subject to the following conditions:**
  1. **the works 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. **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.**
  4. **all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
  5. **all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
  6. **where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.**

7. any new crossovers which are constructed under this approval 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.
8. 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.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) 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) in regard to retaining works along the south side boundary next to 20 Gill Street the builder is to ensure that all works are undertaken to maintain the right of support to the adjoining property.*

THE MOTION WAS CARRIED ON THE CASTING VOTE OF THE PRESIDING MEMBER

Cr Wilson left the meeting at 9.23pm.