

12 June 2007

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 12 JUNE 2007, COMMENCING AT 6.35PM.

PART II

T59.7 **Chauncy Street No. 11 (Lot 5044)**
Applicant: Webb & Brown-Neaves
Owner: Simon & Julia Knight
(Application No. P96/2007)
By Chris Warrener, Consultant Town Planner on 5 June 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house comprising:

- ground floor: triple garage, porch/entry, office, guest bedroom with en-suite, family room, dining room, kitchen, laundry & alfresco area;
- upper floor: balcony, sitting room, 4 bedrooms & 2 bathrooms.

The combined width of the 2 proposed garage doors represents 36.5% of the width of the property frontage.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5

Local Planning Strategy – Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies/Guidelines

Local Planning Policy 066 – Roofing (LPP 066)

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

Draft Residential Design Guidelines (Draft RDG)

Documentation

Plans and relevant forms date stamp received on 30 April 2007

Date Application Received

30 April 2007

Advertising

Adjoining land owners & sign on site

Date Advertised

4 May 2007

Close of Comment Period

21 May 2007

No. of Days Elapsed between Lodgement & Meeting Date

43 days

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

15 December 1998 Council grants conditional special approval for a shed on reduced setbacks.

CONSULTATION

Town Planning Advisory Panel Comments (TPAP)

This application was considered by TPAP at its meeting held on 22 May 2007 and the following comments were made:

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- orientation of living area/alfresco to the south – could consider north facing
- dominant double garage
- entry is informal and not welcoming
- more information re materials
- roof pitch lower than minimum

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Public Submissions

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

Mr & Mrs R Cammilleri

Concerns in 3 main areas:

Impact

Overall height and being forward on the block will impact on front lawn, garden and pool areas, height will create an imposing & daunting environment.

Privacy

Master bedroom & pool area will be exposed from the balcony, and noise factor from balcony will impact sleeping areas.

Overheight

Height to top of ridge is 9m not 8.1m.

Further letter from Mr & Mrs Cammilleri

- revisited Council Chamber and sighted plans which confirm that ridge height of 8.1m is complied with;
- confirmation that screen wall to 1850 would be appreciated.

Note: That all houses on the uneven numbers side have either a drive way or a set back from the adjoining fence line between two storey developments.

Site Inspection

By Consultant Town Planner on 3 May 2007

STATISTICS	Required	Proposed
Land Area		737m ² Existing
Open Space	55%	66.3% Acceptable
Zoning		R12.5
Heritage Listing		Not Listed

Setbacks:

Front (northeast)			
<i>Ground</i>	<i>Triple Garage Upgrade</i>	7.50	8.50 Acceptable
	<i>Double Garage</i>	7.50	7.70 Acceptable
	<i>Porch</i>	7.50	7.20 Discretion Required
	<i>Office</i>	7.50	9.20 Acceptable
<i>Upper</i>	<i>Ensuite</i>	7.50	10.00 Acceptable
	<i>Bed 1</i>	7.50	8.40 Acceptable
	<i>Balcony</i>	7.50	7.50 Acceptable

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Rear (southwest)			
Ground	Family	6.00	10.00
			Acceptable
	Alfresco	6.00	8.50
			Acceptable
Upper	Beds 3 & 4	6.00	10.00
			Acceptable
Side (northwest)			
Ground	Office, Guest Bed, Family	1.50	1.50
			Acceptable
Upper	Balcony	1.20	1.50
			Acceptable
	Sitting	1.20	1.50
			Acceptable
	Bed 4	1.30	2.88
			Acceptable
Side (southeast)			
Ground	Alfresco	1.50	0.50
			Discretion Required
	Kitchen	1.00	6.32
			Acceptable
	Laundry	1.50	6.80
			Acceptable
	Garage	1.00	1.96
			Acceptable
Upper	Beds 2 & 3	4.50	6.82
			Acceptable
	Ensuite	1.20	3.46
			Discretion Required
Height:			
Wall		5.60	5.70, 5.80, 6.00 & 6.20
			Discretion Required
Ridge		8.10	8.10
			Complies
<u>Overshadowing:</u>		9.9% of 9 Chauncy Street.	
<u>Privacy/Overlooking:</u>		Upper floor balcony on NW side is screened & much of the overlooking is of the Public domain.	
<u>Policies:</u>			
Roof		22 ^o proposal requires policy relaxation	
Solar Access & Shade		Complies	
Drainage		Complies	
Views		Nil	
Crossover		Existing	
Trees		No trees to be removed	

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REPORT

Issues

Building Height

Northeast Side

Common with Chauncy Street

The upper floor wall for an en-suite varies in height up to 5.7m above natural ground level (NGL), for Bed 1 up to 6m above NGL, and for a balcony up to 6.2m above NGL.

The length of wall on this northeast side above 5.6m is approximately 14.6m.

Northwest Side

Common with 13 Chauncy Street

The upper floor wall for the balcony varies between 6m and 6.2m above NGL, for a sitting room it varies between 5.8m and 6m, and for bed 4 it varies between 5.5m and 5.8m above NGL.

The length of wall on this northwest side above 5.6m is approximately 18.9m.

Southeast Side

Common with 9 Chauncy Street

The upper floor wall for an en-suite varies up to 5.7m above NGL.

The length of wall on this southeast side above 5.6m is approximately 5.8m.

LPP 142 recommends a maximum wall height limit of 5.6m where views are an important part of an area's amenity; the subject property is in an area where this height limit applies.

Overlooking/Privacy

A proposed upper floor balcony at the front of the house overlooks an area of approximately 6m² of the adjoining property at 13 Chauncy Street.

The unscreened section of this balcony is set back 6m from the northwest boundary common with 13 Chauncy Street.

The RDC recommend a 7.5m setback

Roof Pitch

The roof of the proposed house is pitched at 23°45'.

LPP 066 states:

"dominant elements to be greater than 28°."

Draft RDG

The minutes of a Briefing Meeting held in the Council Chamber on Tuesday 24 April 2007 state:

"It was agreed that the Residential Design Guidelines would be 'tested out' in the June round of Council meetings."

This application has been further assessed having regard to the Acceptable Development Standard (ADS) and

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Performance Criteria (PC) proposed in the Draft RDG for property in the Richmond Hill precinct.

The only variation proposed by this application which would be affected by the Draft RDG relates to Building Height. The ADS states:

"A1.1

Category 'B' provisions as set out within Table 3 – Maximum Building Heights of the Residential Design Codes are applicable as the 'Acceptable Development' standards, except in localities where views are an important part of the amenity of the area then the maximum building height are as follows:

- 8.1m to the top of the pitched roof;
- 5.6m to the top of the external wall; and
- 6.5m to the top of an external wall (concealed roof)."

This application proposes variations to wall height at odds with the ADS under the Draft RDG, however the PC states:

"4.1 Building Height

A dwelling must not exceed two storeys in height. Council may consider an additional floor on sites where the height is not evident from the public areas or adjoining properties and in the instance of sloping sites, the excavation is not excessive.

The intention of this standard is to:

- *limit the height of dwellings so that not one dwelling dominates the other, and the streetscape is preserved;*
- *limit the extent of overshadowing and visual and aural intrusion on the private space of neighbouring properties;*
- *maintain the integrity of the existing streetscape."*

*Submission from Mr &
Mrs Cammilleri*

The submission concerns relate to building height, overlooking and privacy, however upon subsequent inspection as confirmed in a second letter the submission concurs that *"ridge height of 8.1m is complied with"*.

Discussion
Building Height

The subject land slopes downwards from the southeast boundary to the northwest boundary and it has been necessary to increase wall heights along the southwest and northeast elevations to maintain level floor and ceiling heights throughout the proposed house.

The increase to wall height pursuant to the limit recommended under LPP 142 is not considered significant (up to 0.7m above the recommended height limit), it is considered not to impact negatively on the amenity of property nearby, nor does it negatively impact on existing property views.

The proposed house complies with the maximum roof height limit of 8.1m under LPP 142.

Overlooking/Privacy

Under the RDC the acceptable development provisions are limited to protection of areas of any adjoining property

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behind its street setback line, while the performance criteria recognise the lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.

In the latter case, some discretion is involved, and consultation with the relevant adjoining property owners generally will be required to inform decision-making by the local government.

The area behind the street setback line overlooked by the proposed balcony at 13 Chauncy Street comprises approximately 3.64m². It is not a habitable room and comprises land in the front setback which the RDC consider is not an issue for privacy because this land is exposed to the public domain.

Roof Pitch

Of the 18 properties in Chauncy Street 7 contain houses which have roofs pitched lower than recommended in LPP 066. In February 2006 Council conditionally approved a 2-storey house at 5 Chauncy Street with a roof pitched at 15.5°.

Given the contemporary nature of development in this part of East Fremantle with a wide range of recent and modern housing styles with a wide variety of roof styles and pitches it is considered acceptable to permit a variation to roof pitch for this particular application.

Draft RDG

The proposed development does not exceed two storey in height, it is in a street where modern two storey development is common, there is no overshadowing, visual or aural intrusion on the private space of neighbouring properties, and it is considered that the integrity of the existing streetscape will be maintained.

Submission Concerns

In response to the submission the applicant states:

Impact

Positioning of the home on the block is within the council guidelines. It should be noted that the setback of the proposed dwelling is behind the neighbours front porch.

Any overlooking from the balcony is to a non habitable room and comprises of approx 3.64sqm. It should be noted that this area is also visible from the street. Privacy of the area is already under question.

Overall height

The overall height of the home is below the 8.1m height requirement and not 9m as per neighbour's submission. Drawings clearly show this and this has been noted in preliminary submission prepared by the council.

Wall height

The wall height at the front RHS is above the requirement of 5.6m. It is current proposed that the wall increase .07m not 1m as indicated by the neighbour.

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The block currently slopes from the SE boundary to the NW boundary as does most in Chauncy St. It should be noted that the following homes in the area all have wall heights that are above the 5.6m requirement No 1, 3, 7, 15 17. A home currently under construction on No11 Munro St East Fremantle has wall heights of 6.5m and 6.8m.

We believe that the rational for wall height and roof height restrictions in the area is to minimize impact on neighbours. The current proposal has no negative impact on the neighbour as the section of wall that exceed the 5.6m point is behind the building line and is on the 'dead' side of the neighbours home."

RECOMMENDATION

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

- (a) variation to roof pitch pursuant to LPP 142 from 28° to 23°45';
- (b) variation to wall height on the northeast side of the house pursuant to LPP 142 from 5.6m to 6.2m;
- (c) variation to wall height on the northwest side of the house pursuant to LPP 142 from 5.6m to 6.2m;
- (d) variation to wall height on the southeast side of the house pursuant to LPP 142 from 5.6m to 5.7m;
- (e) variation to the northwest boundary setback for a balcony pursuant to the Residential Design Codes from 7.5m to 6m;

for the construction of a 2-storey house comprising:

- ground floor: triple garage, porch/entry, office, guest bedroom with en-suite, family room, dining room, kitchen, laundry & alfresco area;
- upper floor: balcony, sitting room, 4 bedrooms & 2 bathrooms;

at No. 11 (Lot 5044) Chauncy Street in accordance with the plans date stamp received on 30 April 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 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. 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. 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.
6. 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.
7. 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.

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

Footnote:

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

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

Mr Simon Knight (owner) addressed the meeting.

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Olson

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

- (a) **variation to roof pitch pursuant to LPP 142 from 28° to 23°45';**
- (b) **variation to wall height on the northeast side of the house pursuant to LPP 142 from 5.6m to 6.2m;**
- (c) **variation to wall height on the northwest side of the house pursuant to LPP 142 from 5.6m to 6.2m;**
- (d) **variation to wall height on the southeast side of the house pursuant to LPP 142 from 5.6m to 5.7m;**
- (e) **variation to the northwest boundary setback for a balcony pursuant to the Residential Design Codes from 7.5m to 6m;**

for the construction of a 2-storey house comprising:

- **ground floor: triple garage, porch/entry, office, guest bedroom with en-suite, family room, dining room, kitchen, laundry & alfresco area;**
- **upper floor: balcony, sitting room, 4 bedrooms & 2 bathrooms;**

at No. 11 (Lot 5044) Chauncy Street in accordance with the plans date stamp received on 30 April 2007 subject to the following conditions:

1. **prior to the issue of a building licence the applicant to submit amended plans showing screening to the balcony, north west side, to a height of 1.85m as agreed between the owner and affected adjoining neighbour to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
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 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. **the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
5. **all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief**

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Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.

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

LOST

Reasons for not Supporting Officer's Recommendation

The Committee were of the view that the application for a two storey residence at No. 11 (Lot 5044) Chauncy Street, East Fremantle could not be supported given the dominance of the triple garage and its impact upon the existing streetscape.

T59.8

Fraser Street No. 71A (Lot 1)

Applicant: Broadview Design

Owner: P Downs & L Pearman

Application No. P101/2007

By Chris Warrener, Consultant Town Planner on 7 June 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-level house on the battleaxe lot at 71A Fraser Street comprising:

- lower/undercroft level - garage, entry, guest room with en-suite, a laundry and powder room;
- upper floor – family/dining room, 3 bedrooms, 2 bathrooms, kitchen, lounge, and alfresco area;
- gazebo

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Statutory Requirements

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

Relevant Council Policies/Guidelines

Local Planning Policy No. 142 – Residential Development (LPP 142)
Draft Residential Design Guidelines (Draft RDG)

Documentation

Plans and relevant forms date stamp received on 11 May 2007

Date Application Received

11 May 2007

Advertising

Adjoining land owners only

Date Advertised

16 May 2007

Close of Comment Period

29 May 2007

No. of Days Elapsed between Lodgement & Meeting Date

32 days

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

25 February 1997	Council resolves to refuse an application for an additional dwelling unit to the rear of 71 Fraser Street;
12 May 1997	WAPC refuses an application to subdivide 71 Fraser Street into 2 lots because the rear battleaxe lot is below the 445m ² minimum effective lot area;
21 October 1997	Council resolves to refuse an application seeking to erect an additional dwelling unit behind the existing residence at 71 Fraser Street;
21 July 1998	Minister for Planning upholds an appeal to erect an additional dwelling unit to the rear of the existing residence at 71 Fraser Street;
20 May 2003	Council resolves to request that the Applicant submit amended plans for the garage and verandah extension to 71 Fraser Street demonstrating compliance with TPS 2 with regard to the front setback;
9 September 2003	Town Planning Appeal Tribunal dismisses appeal against 20 May 2003 Council decision;
26 July 2004	Council advises the WAPC that it does not support a survey strata subdivision of 71 Fraser Street;
7 September 2004	CEO advises the WAPC under delegated authority that Council does not support an amended plan for a survey strata subdivision of 71 Fraser Street;
21 September 2004	Council grants approval for a Home Occupation – Hypnosis Clinic at 71 Fraser Street;
21 October 2004	WAPC conditionally approves the battleaxe strata subdivision of 71 Fraser Street into 2 lots (1 X 399m ² , 1 X 445m ²);
28 November 2005	WAPC endorses Survey Strata Plan 48302 for the battleaxe subdivision of 71 Fraser Street into 2 lots (1 X 399m ² , 1 X 445m ²).

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CONSULTATION

Public Submissions

At the close of the comment period 3 submissions were received.

Glenn & Miriam Hefter
Owners: 67 Pier Street

- high roofline "will present (see north elevation) a continuous 'wall' of unbroken colourbond roofing, stretching across the entire block, except for the approximately 1 meter set-backs on the east & west boundaries. As the roof space contains no living or storage space there seems to be no justification for its height."
- site coverage "will not be sufficient space for reasonable sized trees to be planted. This is out of keeping with the adjoining houses."
- size and height "out of keeping with other dwellings in the locality."
- "reflection of light and heat from the roof of the proposed dwelling onto our property will reduce the amenity of our dwelling and garden."

Henry Shiel & Elaine
Bradley
Owners: 69 Pier Street

- effects of bulk on our amenity & views
- house will appear almost high rise compared to others in the vicinity
- front elevation will be 9.63m
- zincalume roof would be like an outdoor cinema screen, needs to be lower in height and pitch, and matte coloured finish not white or galvanised
- little room for any greenery such as trees or shrubs

G & N Ward
6 Penshurst Street

- proposed house will have a blocking-in effect impacting the amenity of our and adjoining properties
- height and expansiveness of the roof area in such close proximity would give an overbearing presence which is out of character to the local area

Site Inspection

By Consultant Town Planner on 5 June 2007.

STATISTICS	Required	Proposed
Land Area		445m ² Existing
Open Space	55%	56.7% Acceptable
Zoning		R12.5
Heritage Listing		Vacant Site
Setbacks:		
Front (south)		
<i>Ground</i> <i>Gazebo</i>	1.50	1.00
<i>Porch</i>	1.50	Discretion Required 4.00
<i>Guest</i>	1.50	Acceptable 5.00 Acceptable

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	<i>Porch</i>	1.50	4.50
			Acceptable
	<i>Garage</i>	1.00	6.00
			Acceptable
<i>Upper</i>	<i>Bath</i>	4.00	4.00
			Acceptable
	<i>Bed 2</i>	4.50	5.00
			Acceptable
	<i>Bed 3</i>	4.50	4.50
			Acceptable
	<i>Study</i>	4.00	6.70
			Acceptable
Rear (north)			
<i>Ground</i>	<i>Undercroft</i>	1.00	4.50
			Acceptable
	<i>Laundry</i>	1.00	10.20
			Acceptable
<i>Upper</i>	<i>Bed 1, Lounge, Kitchen</i>	1.50	4.50
			Acceptable
	<i>Alfresco</i>	1.50	2.80
			Acceptable
Side (east)			
<i>Ground</i>	<i>Garage</i>	1.00	1.20
			Acceptable
	<i>Undercroft</i>	1.00	1.70
			Acceptable
<i>Upper</i>	<i>Ensuite</i>	4.00	1.20
			Discretion Required
	<i>Bed 1</i>	4.00	1.70
			Discretion Required
Side (west)			
<i>Ground</i>	<i>Undercroft</i>	1.00	5.50
			Acceptable
	<i>Laundry</i>	1.00	1.50
			Acceptable
	<i>Porch</i>	1.50	1.50
			Discretion Required
<i>Upper</i>	<i>Alfresco</i>	0.00	<i>LPP142</i> 0.00
			Acceptable
	<i>Family Bath</i>	1.50	1.50
			Acceptable
Height:			
Wall		6.00	5.50
			Acceptable
Ridge		9.00	8.00
			Complies

**REPORT
Issues**

Local Planning Policy - No. 142 - Being situated on a battleaxe lot assessment of this application is subject to the following statements under LPP 142:

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(iii) Category 'A' provisions as set out within Table 3 – Maximum Building Heights of the Residential Design Codes are applicable as the 'Acceptable Development' standards for development on battleaxe lots.

Where upper level portions are nonetheless applied for, Council shall only give consideration to relaxation of height Category 'A' scheme where the following are strictly observed:

- the proposal demonstrates design, bulk and scale that responds to the established character or other site specific circumstances;
- the provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped;
- subject to the provisions of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy;
- 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
- 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.

Boundary Setbacks

South Side

Common with 71 Fraser Street

A gazebo proposed on the south side of the house is set back 1m from the south side boundary common with 71 Fraser Street.

The RDC recommend a 1.5m setback.

East Side

Common with 73 Fraser Street

The upper floor contains an en-suite and a bedroom set back 1.2m and 1.7m respectively from the east side boundary.

LPP 142 recommends a 4m setback for a second storey on a battleaxe lot.

Submissions

All of the submissions object to the application in the main their objection relates to the "bulky" appearance of the proposed roof, and the contention that the proposed house will be out of character with development in the locality.

Draft RDG

The minutes of a Briefing Meeting held in the Council Chamber on Tuesday 24 April 2007 state:

"It was agreed that the Residential Design Guidelines would be 'tested out' in the June round of Council meetings."

This application has been further assessed having regard to the Acceptable Development Standard (ADS) and Performance Criteria (PC) proposed in the Draft RDG for property in the Richmond precinct.

Being development on a rear/battleaxe lot this application is considered to be unaffected by the Draft RDG.

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Discussion

In response to the topography of the subject land the application proposes a 2 level house with the south and east sides containing what will appear as a second storey, therefore the upper floor setbacks recommended in LPP 142 are applied only to these sides of the house. The remainder of the house will appear as a single storey development.

The variations sought pursuant to LPP 142 for the upper floor setback on the east side are considered minor not impacting on the amenity of the adjoining property.

The potentially affected property owner has not objected to this variation.

Under the RDC the recommended setback for the en-suite is 1.1m, and for the bedroom it is 1m. Therefore the setbacks proposed comply with the setbacks recommended in the RDC.

Maximum wall height on this elevation is 4m so it could have been assessed as a single storey development, given that 2-storey development usually comprises wall heights which exceed 5m, and therefore the application could be considered to comply with LPP 142.

The reduced setback proposed for the gazebo is also considered minor not impacting on the adjoining property at 71 Fraser Street. The potentially affected property owner has not objected to this variation.

Submissions

The Consultant Town Planner met the applicant and owner of 71 Fraser Street on the site of the development to ascertain the impact of the proposed house on adjoining and neighbouring property.

The properties at the rear are on higher ground than the subject land and overlook the development site.

The house at 6 Penshurst Street (submission residence) is 2-storey, and is a bigger development than the application proposes, it well and truly overlooks the development site.

This application involves earthworks to excavate the site to enable the construction of a garage and undercroft room below what will appear as a single storey development from property views at the rear.

Compared to roof heights of houses nearby the application will result in a house not dissimilar in height from neighbouring houses lower in height than the single and 2-storey houses at the rear.

In response to the concerns raised by the owner of 71 Fraser Street regarding the proximity of the proposed gazebo to the common property boundary the applicant agreed to redesign the structure to achieve the recommended setback of 1.5m.

RECOMMENDATION

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

- (a) variation to the south side boundary setback for a gazebo pursuant to the Residential Design Codes from 1.5m to 1m;
 - (b) variation to the upper floor setback for an en-suite and a bedroom on the east side pursuant to Local Planning Policy 142 from 4m to 1.2m and 1.7m respectively;
- for the construction of a 2-level house on the battleaxe lot at No. 71A (Lot 1) Fraser

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Street comprising:

- lower/undercroft level - garage, entry, guest room with en-suite, a laundry and powder room;
- upper floor – family/dining room, 3 bedrooms, 2 bathrooms, kitchen, lounge, and alfresco area;
- gazebo;

in accordance with the plans date stamp received on 11 May 2007 subject to the following conditions:

1. prior to the issue of a building licence the applicant is to submit plans which illustrate compliance with the Residential Design Codes regarding the setback for the gazebo.
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 dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater 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. 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.
8. 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.
9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- (e) *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.*

Mr Steve Burns (Broadview Design) & Ms Kym Zagwocki addressed the meeting on behalf of the owners, Mr Peter Downs & Ms Lyn Pearman.

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Martin

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

- (a) **variation to the south side boundary setback for a gazebo pursuant to the Residential Design Codes from 1.5m to 1m;**
- (b) **variation to the upper floor setback for an en-suite and a bedroom on the east side pursuant to Local Planning Policy 142 from 4m to 1.2m and 1.7m respectively;**

for the construction of a 2-level house on the battleaxe lot at No. 71A (Lot 1) Fraser Street comprising:

- **lower/undercroft level - garage, entry, guest room with en-suite, a laundry and powder room;**
- **upper floor – family/dining room, 3 bedrooms, 2 bathrooms, kitchen, lounge, and alfresco area;**
- **gazebo;**

in accordance with the plans date stamp received on 11 May 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.**

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

CARRIED

T59.9

Preston Point Road No. 19 (Lot 35)

Applicant & Owner: G & J Archer

Application No. P223/2006

By Chris Warrener, Consultant Town Planner on 24 May 2007

BACKGROUND

Description of Proposal

An Order from the State Administrative Tribunal (SAT) that:

- 1. The applicant is to prepare and give to the respondent preliminary elevation drawings shown the modifications as discussed at the directions hearing held on 2 May 2007, by Friday 18 May 2007.*
- 2. The respondent is to consider the preliminary elevations at its meeting of 19 June 2007 and provide comment on the proposed modifications.*
- 3. The matter is listed for directions hearing on Friday, 22 June 2007.*

Statutory Requirements

Planning & Development Act 2005

Documentation

Plans date stamp received on 16 May 2007

Date Application Received

13 November 2006

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

6 March 2007

Council resolved: "That the application for the construction of a 3 level house at No. 19 (Lot 35) Preston Point Road, East Fremantle be refused on the basis of:

- 1. the number and magnitude of discretions required*
- 2. the final impact the building would have on the subject site.*

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Reason for not Supporting Officer's Recommendation
Council was of the view that given the number and magnitude of discretions sought, size, bulk and scale, comments of the Town Planning Advisory Panel and the treatment of both the Reynolds Street and Preston Point Road frontages, the application for the construction of a 3 level house at No. 19 (Lot 35) Preston Point Road, East Fremantle with front door to Reynolds Street, and a 2-storey building comprising, a garage, carport and upper floor studio with frontage to Preston Point Road in accordance with the plans date stamp received on 6, 13, 16 & 30 November 2006, could not be supported."

REPORT

Issues

Appeal

At its meeting held on 6 March 2007 Council decided to refuse an Application for Planning Approval for a 3 level house, with front door to Reynolds Street, and a 2-storey building, comprising a double garage, and upper floor studio, with frontage to Preston Point Road.

The applicant/owner appealed the Council decision, and a Directions Hearing was held at SAT on 2 May 2007. In attendance for the Respondent were the Chief Executive Officer Mr Stuart Wearne, and Consultant Town Planner Mr Chris Warrener.

Revised Drawings

In response to the 9 May 2007 SAT Order the Applicant has submitted "preliminary elevation drawings" which incorporate the following revisions to the plans previously refused.

- the building next to Preston Point Road incorporates a pitched/gable roof instead of a flat roof;
- the design of the house with entry to Reynolds Street has been changed to reduce the amount of upper level floor space, which therefore reduces the overall building bulk, with subsequent reductions in wall heights.

Discussion

The new elevation drawings are considered to address the concerns Council had with the original application (the plans which Council decided to refuse at its meeting in March 2007 are reproduced for comparative purposes).

The following table provides a comparison between the two applications regarding wall and roof heights at the rear of the multi-level house with frontage to Reynolds Street:

	REFUSED APPLICATION	PLANS SUBMITTED AFTER SAT
Wall height	12.099m	8.35m
Roof height	13.149m	9.179m

It is considered that the revised plans result in substantive reductions in building height, bulk and scale, and will if implemented result in a multi-level house not dissimilar to the multi-level house at 9 Reynolds Street in terms of size, bulk & scale, albeit a different contemporary design.

The new drawings are also considered to reflect the modifications discussed at the SAT hearing.

RECOMMENDATION

That Council considers the preliminary elevations date stamp received on 16 May 2007 for a 3 level house, with front door to Reynolds Street, and a 2-storey building,

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comprising a double garage, and upper floor studio, with frontage to Preston Point Road, and provides comments to the State Administrative Tribunal for its directions hearing at 10am on Friday 22 June 2007.

Mr Gary Archer (applicant/owner) addressed the meeting.

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Ferris

That the Chief Executive Officer in consultation with relevant officers prepare a report based on the elevations received on 16 May via SAT for consideration at the June meeting of Council. The report to list discretions sought including heights and setbacks, however the Committee, with the information before it, is still concerned about proposed relaxations to Preston Point Road and Reynolds Street including the issue of fill. CARRIED

T59.10 ***East Fremantle Yacht Club – Marina Development***
By Beryl Foster, Acting Town Planner on 29 May 2007

BACKGROUND

Description of Proposal

The Swan River Trust (SRT) have requested Council comment on the proposed construction of an additional 64 mooring pens, relocation of dinghy storage rack, provision of a sullage pump out facility and the upgrade of the seawall abutting the lower car park to the East Fremantle Yacht Club (EFYC).

Statutory Requirements

Town Planning Scheme No. 3 – Parks and Recreation

Relevant Council Policies

Council Policy No. 079 – Foreshore Policy, Policy Plan and Design Guidelines

Documentation

Plans and relevant forms

Date Application Received

21 December 2007

Additional Information Received

23 April 2007 and 7 May 2007

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

Council at its meeting held 15 November 2005 considered a proposal by the EFYC and the East Fremantle Lawn Tennis Club (EFLTC) to convert two of the existing tennis courts into car parking and to connect the EFYC to the EFLTC with a boardwalk across the native embankment between the two Clubs.

The intent of the proposal was to provide additional parking for the EFYC and in return the EFYC would fund the construction of two replacement tennis courts plus other upgrades for the EFLTC.

Council resolved the following regarding this proposal:

That on a "without prejudice" basis:

- (i) the application be approved in principle.*
- (ii) subject to the East Fremantle Yacht Club entering into a written agreement with Council, which is to be prepared by Council's solicitors with the costs met by the Yacht Club, that the additional parking as contained in this application will only be accepted as catering for the existing club facilities and not as a precursor to meet the demand for additional boat pens, Council forward the application to the*

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Department of Land Information and the Swan River Trust with a recommendation for approval.

- (iii) *final consideration of the granting of planning consent is to take place once the responses from all relevant government agencies have been received and Council receives a more detailed plan in respect to the engineering design of the proposal.*

The arrangement between the two Clubs regarding the above proposal has now ceased.

REPORT

Issues

Impact on parking and riverbed

Discussion

The SRT requests Council comment on the proposed Marina Development at the EFYC.

The EFYC proposes to stage the development over a 10 year period involving modification and increase to the riverbed lease area and construction of an additional 64 mooring pens to the existing 132 pens, resulting in a total of 196 mooring pens.

It is proposed that the existing 145 on site car parking bays servicing all club activities be considered in this application. The applicant wishes also to continue discussions with Council about an overflow parking area within close proximity to the Club to provide for the proposal and major Club events and doubling up of Club activities.

Car Parking

Town Planning Scheme No. 3 parking provisions are as follows:

Club Premises

1 space for every 5 seats or

1 space for every 5 persons the facility is designated to accommodate, whichever is the greater.

Marina

1 space for every 2 boat pens, and

1 space for every 2 hard standing boat bays (other than maintenance areas).

Marina	Club Rooms	Proposed
Existing Mooring Pens: 132 (66 car bays)	Existing 79 car bays (395 seats/persons)	Total Existing car bays 145 (66 + 79)
Required car bays:		
<u>Stage 1:</u> 26 mooring pens - 13 car bays	(79 – 13 = 66 car bays) (330 seats/patrons)	
<u>Stage 2:</u> 18 mooring pens - 9 car bays	(66 – 9 = 57 car bays) (285 seats/patrons)	
<u>Stage 3:</u> 20 mooring pens - 10 car bays	(57 – 10 = 47 car bays) (235 seats/patrons)	
	Total Club Room parking after Stage 3 = 47 bays	Total Proposed Car Bays for Marina at Stage 3 = 98 bays
	Number of patrons = 235	Number of mooring pens = 196

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Applicant Justification

The main applicant justification is summarised as follows:

- Membership comprises of a number of distinct activity groups using facilities at different times.
- Generally when activities do not overlap parking is not problematic, however on special occasions when sections are involved in combined activities parking problems are experienced.
- In programming events the Club endeavours to minimise combined activities.
- Members on the waiting list for a mooring pen currently use existing facilities as active involvement in club activities is encouraged.

Comment

The proposed additional mooring pens require an additional 32 car parking bays. The ratio of car parking for Club premises and marina will be impacted should additional parking not be provided.

It is recommended that car parking be provided in accordance with the Scheme requirements at each stage of the marina development as it is considered that existing parking is not adequate.

Riverbed Lease

Approval is sought to modify the existing riverbed lease which currently follows the shoreline to reflect additional mooring pens towards the north.

The overall size of the lease area is proposed to increase towards open water rather than following the shoreline.

Applicant Justification

The main applicant justification is summarised as follows:

- The increase to the existing Riverbed Lease is minor (.30Ha or 16%) and achieves an alignment between the corners of the existing Riverbed Lease boundary.
- No dredging will be required for this development.
- The portion of the Riverbed relinquished will result in better use of beach activities and the development involves the extension of existing jetty structures which will not impact negatively on the foreshore or any environmentally sensitive areas.
- The development area sits well within the outside line of swing moorings located on the western and eastern side of the existing Riverbed Lease and is well outside the area used by other river users and does not impinge on their use of the river or disturb local navigation of surrounding waters.

Comment

An objective of Council's Foreshore Policy is: *To prevent further loss of open water surface through building construction such as for jetties, buildings or similar structures.*

It is understood that the proposed Riverbed Lease area would not extend past the outer limits of the current lease area and would utilise a central area between swing moorings.

Notwithstanding the above, it is noted that existing jetty structures are closer to the shoreline and proposed structures would project further into the river.

The environmental impact of this proposal has not been demonstrated for the Town to provide comment of support for the increased Riverbed Lease and further expansion of the jetties.

Conclusion(s)

The current Club parking provides for both the Club premises and marina and any marina development will reduce existing Club premises parking, and is considered to have an adverse impact on parking amenity within the immediate locality.

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The proposed marina development is not supported without a clear undertaking as to how additional parking will be provided as it is unlikely that the Club patronage would be reduced to facilitate the expansion of the marina.

Given the absence of expert environmental advice confirming a minimal environmental impact on the river as claimed by the Club, the general increase in size of the Riverbed lease and lack of car parking for additional moorings; the expansion to the marina is considered to have an actual or potential adverse impact on the amenity of the immediate area, and is not supported.

RECOMMENDATION

That Council advise the Swan River Trust that the increased Riverbed Lease and expansion of the East Fremantle Yacht Club marina is not supported for the following reasons:

- (a) The expansion of the marina without the provision of additional car parking will have an adverse impact on the amenity of the locality.
- (b) The expansion of the marina and associated increased usage of slipways for boat maintenance may have an adverse environmental impact on water and sediment quality, in the absence of professional expert advice to the contrary.

Mr John Tissott (Club Manager) and Mr Ray O'Byrne (Commodore) addressed the meeting on issues raised in the officer's report including environmental impact and parking.

Mr Tissott tabled correspondence from Swan River Trust advising the Club of the Minister's approval to commence a slipway contaminants containment system and a spreadsheet showing a comparison of the various methods used to calculate the number of parking bays required for the proposed marina expansion.

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Olson

That the Chief Executive Officer in consultation with relevant officers be requested to prepare a report for the June meeting of Council that gives Council's in principal support for the increased river bed lease and expansion of the East Fremantle Yacht Club marina subject to a memorandum of agreement or similar, to address issues of parking that may arise and the environmental impact including Council's responsibility/role in terms of an environmental impact assessment.

CARRIED

T60. ADJOURNMENT

Cr Wilson – Cr Ferris

That the meeting be adjourned at 9.15pm.

CARRIED

T61. RESUMPTION

Cr Olson – Cr Ferris

That the meeting be resumed at 9.20pm with all those present at the adjournment in attendance.

CARRIED

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T62. REPORT'S OF OFFICERS (Cont)

- T62.1** *Jerrat Drive – Reserve No's. 33997 & 7800*
Applicant: *East Fremantle Lacrosse Club*
Owner: *Crown, in Swan River Trust Management Area, vested with Town of East Fremantle*
By Chris Warrener, Consultant Town Planner on 6 June 2007

BACKGROUND

Description of Proposal

An Application for Approval of Development pursuant to the Swan River Trust Act 1988 for a 7m long X 4m wide X 2.5m high storage shed on the east side of the cricket nets on Reserve 7800 Jerrat Drive.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) –
Metropolitan Region Scheme Reserve – Parks and Recreation
Local Planning Strategy – Preston Point Precinct (LPS)

Documentation

Plans and relevant forms date stamp received on 13 March 2007

Date Application Received

12 March 2007

CONSULTATION

Referral to Other Authorities

Swan River Trust

Site Inspection

12 & 27 March 2007	Consultant Town Planner
25 May 2007	CEO, A/Works Supervisor & Consultant Town Planner

REPORT

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

20 March 2007 Council resolved: *"That the matter be deferred pending a site inspection on Tuesday, 27 March 2007 at 5.30pm."*

27 March 2007 At the site meeting Mr Peter Smirk for the Lacrosse Club opened up the clubrooms to show Councillors where the equipment for the Lacrosse players is stored, and the means of access to this store room.

Those present at the site meeting also inspected the proposed site of the proposed storage shed.

Mr Smirk and the Lacrosse Club President indicated that the club's requirements for ease of access to the playing fields could be met with modifications being made to the access to the current storage room within the clubrooms building, however their preference was for the purpose built shed next to the cricket nets.

15 May 2007 Council resolved: *"That this matter be deferred and the Chief Executive in consultation with relevant officers prepare a report on alternative options."*

