

10 June 2008

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 10 JUNE, 2008 COMMENCING AT 6.35PM.

T46. OPENING OF MEETING

T46.1 Present

T47. WELCOME TO GALLERY

T48. APOLOGIES

T49. CONFIRMATION OF MINUTES

T49.1 Town Planning & Building Committee (Private Domain) – 13 May 2008

T50. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T50.1 George Street No. 88 – Mixed Use Development

T50.2 King Street No. 78 – Garden Shed

T51. REPORTS OF COMMITTEES

T51.1 Town Planning Advisory Panel – 27 May 2008

T52. REPORTS OF OFFICERS

T52.1 Receipt of Reports

T52.2 Order of Business

*T52.3 King Street No. 85 (Lot 337)
Applicant & Owner: Mark Sambrailo
Application No. P77/08*

*T52.4 Walter Street No. 3 (Lot 1)
Applicant & Owner: Mark Baldwin
Application No. P50/08*

*T52.5 Petra Street No. 67 (Lot 365)
Applicant & Owner: Antonio Cesario Lomma
Application No. P86/08*

*T52.6 Preston Point Road No. 58A (Lot 11)
Applicant: Tony Wilkie
Owner: Orlando & Susana Maria Andrade
Application No. P27/08*

*T52.7 George Street No. 88 (Lots 433 & 534)
Applicant: Jewelpark Pty Ltd
Owner: F & M Verdi
Application No. P83/08*

*T52.8 King Street No. 78 (Lot 356)
Applicant & Owner: Paul Brown
Application No. P107/08*



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T52.9 *Hubble Street No. 82 (Lot 280)*
Applicant: In Vogue
Owner: Romano, Maria & Paul Filippin
Application No. P42/08

T53. OTHER BUSINESS

T53.1 *Submission of Models / 3D Plans*

T53.2 *Cr de Jong - Town Planning 'White Paper'*

T54. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T55. CLOSURE OF MEETING

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 10 JUNE, 2008 COMMENCING AT 6.35PM.

T46. OPENING OF MEETING

T46.1

Present

Cr Stefanie Dobro	Presiding Member
Mayor Alan Ferris	
Cr Maria Rico	
Cr Alex Wilson	
Mr Chris Warrener	Consultant Town Planner
Mrs Peta Cooper	Minute Secretary
Cr David Arnold	Observer
Cr Dean Nardi	Observer

T47. WELCOME TO GALLERY

There were 6 members of the public in the gallery at the commencement of the meeting.

T48. APOLOGIES

An apology was submitted on behalf of Crs Barry de Jong & Richard Olson.

T49. CONFIRMATION OF MINUTES

T49.1

Town Planning & Building Committee (Private Domain) – 13 May 2008

Cr de Jong – Cr Wilson

That the Town Planning & Building Committee (Private Domain) minutes dated 13 May 2008 as adopted at the Council meeting held on 20 May 2008 be confirmed.

CARRIED

T50. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T50.1

George Street No. 88 – Mixed Use Development

Advice from Heritage Council and 3D images provided by the applicant.

Cr Wilson – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T31.4). CARRIED

T50.2

King Street No. 78 – Garden Shed

Adjoining Owner Comment Form as submitted by neighbour at 76 King Street advising no objection to nil boundary wall setback.

Cr Wilson – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T31.4). CARRIED

T51. REPORTS OF COMMITTEES

T51.1

Town Planning Advisory Panel – 27 May 2008

Meeting scheduled for 27 May 2008 not held due to there being only one referred item for which Panel members were invited to submit comments.

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T52. REPORTS OF OFFICERS

T52.1 Receipt of Reports

Cr Rico – Mayor Ferris
That the Reports of Officers be received.

CARRIED

T52.2 Order of Business

Cr Rico – Mayor Ferris
The order of business be altered to allow members of the public to speak to relevant agenda items.

CARRIED

Cr Dobro made the following impartiality declaration in the matter of 85 King Street: "As a consequence of my friendship with both the applicant and affected adjoining neighbour, 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.

T52.3 King Street No. 85 (Lot 337)
Applicant & Owner: Mark Sambrailo
Application No. P77/08
By Chris Warrener, Town Planner on 4 June 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 10.6m long x 1.7m wide x 2.5m high verandah fixed to the rear (west side) of the single storey house at 85 King Street.

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)
Council Policy 129 – Verandahs (CP 129)

Documentation

Plans and relevant forms date stamp received on 10 April 2008

Date Application Received

10 April 2008

Advertising

Adjoining land owners only

Date Advertised

28 April 2008

Close of Comment Period

12 May 2008

No. of Days Elapsed between Lodgement & Meeting Date

59 days

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

21 February 1994 Council grants approval for alterations to the appearance of the existing 1948 dwelling unit;
3 March 1994 Building Licence 208/2147 approved for alterations;

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- 11 March 1997 Council grants special approval for the erection of a boundary wall and a relaxation of standards for a reduced setback from 1.5m to 1m to the south for additions;
- 14 July 1997 Building Licence 016A/2545 approved for additions;
- 21 September 1999 Council grants special approval for reduced side & rear setbacks for a garden shed.

CONSULTATION

Public Submissions

A submission was received after the close of the advertising period due to the affected adjoining neighbour being on holiday.

- Tina & John Holder*
87 King Street
- February 08 noticed construction of verandah underway – owner agreed to cease work and apply for planning approval;
 - on return from holiday surprised to find that work had progressed and a roof added;
 - on viewing plans we were concerned that the side setback did not comply with the 1m requirement;
 - we ask that this verandah complies with the 1m boundary setback
 - we hope that our concern is not compromised by the fact that work on the verandah has commenced.

Site Inspection

By Consultant Town Planner on 30 October 2007

REPORT

Issues

Boundary Setbacks

The proposed verandah is set back 0.9m from the south side boundary common with 87 King Street.

Council Policy 129 states:

“The setback for a verandah shall be treated for setback purposes as a ground floor balcony/habitable room where the width of the verandah (as determined by Council) is greater than 3m.”

Therefore if a verandah is wider than 3m then the recommended setback is 1.5m (setback recommended for a ground floor wall with a major opening under the RDC).

The proposed verandah is 1.7m wide therefore under the RDC the recommended setback is 1m.

The setback on the south side is 0.9m therefore Council discretion is required to be exercised for the variation of 0.1m. (The setback on the north side is 1.27m therefore no discretion is required in regard to this boundary.)

Discussion

While this is an application for Planning Approval for a proposed verandah, at the time the application was lodged the works to construct the verandah had been commenced.

A photograph taken by the owner of the property on the south side (87 King Street) on 9 May 2008 indicates that works to construct the verandah are substantially commenced.

A file note from Council’s Principle Building Surveyor dated 15 May 2008 states that the owner was informed to “cease work immediately”.

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This application must now be treated as an Application for Planning Approval for unauthorised existing development.

Furthermore, TPS 3, Cl. 8.4 states:

"8.4. Unauthorized Existing Developments

8.4.1. The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2. Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

- Note:*
- 1. Applications for approval to an existing development are made under Part 9.*
 - 2. The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval."*

Pursuant to Note 2 above notwithstanding that it can approve an unauthorised existing development Council still retains the ability to take action for a breach of the Scheme.

The penalty prescribed in the Planning and Development Act 2005 (the Act) is \$50,000.00 and, in the case of a continuing offence, a further fine of \$5 000 for each day during which the offence continues.

Council has the ability pursuant to s. 215 of the Act to order the removal, or enter the property to remove, the unauthorised works.

While the verandah constitutes works which might be considered relatively minor in an overall sense, the works have an impact on adjoining properties, and pursuant to the RDC and TPS 3 the adjoining property owners should have had the opportunity of commenting on the works prior to their commencement, not as is now the case, "after the event".

The submission from the owners of 87 King Street states:

"All that we ask is that this new verandah complies with the standard Council regulation which we believe to be a distance of 1m from the boundary."

Conclusion

The Town Planner has discussed the options available to the owners of 85 and 87 King Street to resolve the situation regarding the unauthorised works, and the need to ensure that the structure meets the recommended standards having regard to setbacks and privacy.

The Town Planner suggested the installation of visually impermeable screening to eliminate the overlooking/privacy issue associated with the proximity of the verandah to the south side boundary.

The owners of 85 and 87 King Street verbally advised the Town Planner that this would be acceptable.

RECOMMENDATION

That Council grant approval, pursuant to Town Planning Scheme No. 3 Clause 8.4, for the unauthorised existing development comprising a 10.6m long x 1.7m wide x 2.5m high verandah fixed to the rear (west side) of the single storey house at No. 85 (Lot 337) King Street, East Fremantle subject to the following:

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1. fixed visually impermeable screening being fitted to the south side of the verandah to the satisfaction of the CEO in consultation with relevant Council officers;
2. the applicant/owner is to apply for a retrospective acknowledgement from Council's Building Surveyor for the unauthorised existing development.
3. the proposed verandah is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. the issue of whether legal action be taken in respect of the unauthorised development be delegated to the Chief Executive Officer.
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. 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 other 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 retrospective acknowledgement is to conform with the approved plans unless otherwise approved by Council.*
- (c) *the verandah may not be enclosed without the prior written consent of Council.*

Mr John Holder (adjoining neighbour) addressed the meeting.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Wilson

That Council grant approval, pursuant to Town Planning Scheme No. 3 Clause 8.4, for the unauthorised existing development comprising a 10.6m long x 1.7m wide x 2.5m high verandah fixed to the rear (west side) of the single storey house at No. 85 (Lot 337) King Street, East Fremantle subject to the following:

1. **fixed visually impermeable screening being fitted to the south side of the verandah to the satisfaction of the CEO in consultation with relevant Council officers;**
2. **the applicant/owner is to apply for a retrospective acknowledgement from Council's Building Surveyor for the unauthorised existing development.**
3. **the proposed verandah is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
4. **the issue of whether legal action be taken in respect of the unauthorised development be delegated to the Chief Executive Officer.**
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. **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 other 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 retrospective acknowledgement is to conform with the approved plans unless otherwise approved by Council.*
- (c) *the verandah may not be enclosed without the prior written consent of Council.*

CARRIED

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T52.4 **Walter Street No. 3 (Lot 1)**
Applicant & Owner: Mark Baldwin
Application No. P50/2008
By Chris Warrener, Town Planner on 29 May 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for unauthorised existing development comprising enclosing a carport with white coloured roll-a-doors at either end, and incorporating a wall along the north side boundary at 3 Walter Street.

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 4 March 2008

Date Application Received

4 March 2008

Additional information

Letter of endorsed support from owner of 5 Walter Street

No. of Days Elapsed between Lodgement & Meeting Date

69 days (to May)
97 days (to June)

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

21 August 2001	Council decides to advise the WAPC that it does not support the subdivision of 3 Walter Street into 2 lots;
26 September 2001	WAPC conditionally approves the battle axe subdivision of 3 Walter Street into 2 survey strata lots (1 X 426m ² , 1 X 485m ²);
20 August 2002	Council grants special approval for alterations and additions at the rear with setback variations, and a parapet wall on the north-side boundary for a garage;
20 May 2003	Council approves a carport next to the north side;
8 June 2003	Building Licence 122/3430 approved for carport;
14 October 2003	WAPC grants final approval to Survey Strata Plan 44581;
25 March 2004	Building Licence 122/2565 approved for alterations and additions.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 April 2008 and the following comments were made:

- should be timber doors not a roller door
- painted timber double doors with vertical opening (could be electric)
- should be recessed slightly (at least 100mm) from main building

Site Inspection

By Town Planner on 29 May 2008



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REPORT

Issues

Council Decision

At its Ordinary Meeting held on 20 May 2008 Council considered a recommendation from the Town Planning & Building Committee regarding unauthorised works to the carport at 3 Walter Street, and resolved:

“That the application be deferred to allow Council staff to further explore options in relation to the proposed garage door.”

Discussion

In response to the Council decision the Town Planner and Principal Building Surveyor (PBS) conducted a site visit for the purposes of taking measurements and to consider the options for the fitting of doors to the carport. Garage door companies were contacted to determine the specifications for the preferred door type.

The attached file note from the PBS summarises the outcome of this investigation.

In summary it is considered there is not adequate clearance within the existing carport opening to provide access for motor vehicles if the doors fitted to the carport are of the type suggested/recommended by the Town Planning Advisory Panel.

It is also not possible to install a tilt-a-door with the air conditioner remaining in its current location (again a situation not of Council's making).

Having concluded as above however, does not detract from the fact that this situation is effectively a result of a subdivision which Council did not support and a boundary wall which was built without approval.

Conclusion

Based on the investigation and research conducted by Council officers it is reluctantly recommended that the Council conditionally approve the roller doors as proposed by the owner/applicant.

RECOMMENDATION

That, pursuant to Town Planning Scheme No 3, clause 8.4, Council grant approval for unauthorised works comprising the enclosure of a carport incorporating a wall along the north side boundary at No. 3 (Lot 1) Walter Street, East Fremantle in accordance with the plans date stamp received on 4 March 2008 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 unauthorised works require approval from building; an acknowledgement for existing structures must be obtained from Council's Principal Building Surveyor.
3. the proposed carport enclosure is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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. this planning approval to remain valid for a period of 24 months from date of this approval.

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Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) 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).*
- (c) 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.*
- (d) in relation to Condition 2 the applicant/owner is advised to contact Council's Principal Building Surveyor Mr Paul Busby on 9339 9319.*

Mr & Mrs Mark & Taola Baldwin (applicants) addressed the meeting stating that they were satisfied with the officer's report.

RECOMMENDATION TO COUNCIL

Cr Wilson – Mayor Ferris

That, pursuant to Town Planning Scheme No 3, clause 8.4, Council grant approval for unauthorised works comprising the enclosure of a carport incorporating a wall along the north side boundary at No. 3 (Lot 1) Walter Street, East Fremantle in accordance with the plans date stamp received on 4 March 2008 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 unauthorised works require approval from building; an acknowledgement for existing structures must be obtained from Council's Principal Building Surveyor.**
- 3. the proposed carport enclosure is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 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. 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) 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).*
- (c) 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.*
- (d) in relation to Condition 2 the applicant/owner is advised to contact Council's Principal Building Surveyor Mr Paul Busby on 9339 9319.*

CARRIED

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Cr Wilson made the following impartiality declaration in the matter of 67 Petra Street: "As a consequence of my son attending the same school and being in the same class as the applicant's child, 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.

T52.5 **Petra Street No. 67 (Lot 365)**
Applicant & Owner: Antonio Cesario Lomma
Application No. P86/08
By Chris Warrener, Town Planner on 28 May 2008

BACKGROUND

Description of Proposal

A request to Council to initiate an amendment to Town Planning Scheme No 3 to re-code 67 Petra Street from R12.5 to R20

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Local Planning Strategy - Woodside Precinct (LPS)
Town Planning Regulations 1967

Documentation

Letter request from Owner date stamp received on 17 April 2008

Date Application Received

17 April 2008

No. of Days Elapsed between Lodgement & Meeting Date

52 days

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

16 March 1984	CEO grants approval for a second crossover;
19 October 1984	CEO grants approval for owner to cover verge with gravel, brick paving and ground cover natives;
17 December 1984	Council grants approval for an additional outbuilding with a maximum floor area of 69m ²
6 June 1985	Building Licence 078/990 issued for outbuilding;
19 August 1996	Council refuses an application for an additional dwelling unit to the rear;
8 January 1997	Minister for Planning dismisses appeal;
27 May 1997	Council refuses an application for additions to the existing house and an additional dwelling unit;
9 October 1997	Minister upholds appeal to allow additions and an additional dwelling unit; Building Licence 196/2594 issued for additions and additional dwelling unit;
12 March 2007	Demolition Licence 07/74 issued for house at the front;
6 November 2007	Council grants conditional approval for setback variations for a single storey house on a front strata lot.

REPORT

Background

At its meeting on 6 November 2007 Council approved a single storey house on reduced setbacks, on a property described on the applicant's site plan as "Front Strata Lot 434m²".

The owner subsequently applied for a Building Licence however this is not able to be approved/issued because the proposed house will not be built on a separate title, rather it will be built on a property which already contains a single dwelling that was approved by the Minister for Planning on appeal in 1997.

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The property comprises 994m², and is zoned Residential with a density code of R12.5. It is therefore able to accommodate a single dwelling house. For two houses to be permitted on this property it would need to be at a density code of at least R20.

What has happened is that the application for Planning Approval for a house, for which a Building Licence cannot be issued, was submitted with a site plan, which shows the house on a front strata lot comprising 434².

The application for Planning Approval was assessed, considered, and determined on the basis that the proposed house would be on a separate strata lot.

In subsequent discussions with the owner's wife it was discovered that a subdivision application had never been lodged nor approved by the WAPC, and the strata lot, upon which the proposed house was to have been built, could not be created.

The only way that the proposed house can be built is for the parent lot to be at a density that allows for it, in this case R20.

Issues

Scheme Amendment

Implementation of the current request requires the preparation of an amendment to TPS 3, and Council's subsequent initiation of that amendment.

Approval to build the proposed house/issue of a Building Licence would be contingent upon the scheme amendment being granted final approval by the Minister for Planning.

This process could take up to 2 years to finalise, however in light of the 'minor nature' of the amendment the timeframe is more likely to be around 12 months.

Residential Density

67 Petra Street is in the "Woodside" precinct in TPS 3, and under the LPS.

Properties in the Woodside precinct are zoned Residential with the prevailing density code being R12.5.

Discussion

Issue of Planning Approval

The form, submitted with the plans date stamp received on 14 September 2007 for the single storey house, describes the address as 67 Petra Street, East Fremantle with the applicant/owner residing at 67A Petra Street. At the time the application was received there were two houses on the property (the house at the rear had been approved on appeal to the Minister for Planning in 1997).

The Site Plan accompanying the application form shows the proposed house on its own separate "front strata lot"

The Residential Design Codes define "Site" as follows:

"Site

- *In the case of a single house, the green title or survey strata lot on which it stands.*
- *In the case of a grouped dwelling, the area occupied by the dwelling together with any area allocated (whether by way of strata title or otherwise) for the exclusive use or benefit of that dwelling.*
- *In the case of a multiple dwelling development, the lot (or parent lot where the lot is subdivided under strata title) on which the dwellings stand."*

At all times the subject land was described and defined as a separate property or lot.



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A search of the relevant Certificate of Title reveals that the subject land is not a separate property/lot.

It is not a requirement under TPS 3 for an application for Planning Approval to be accompanied by a Certificate of Title (see Clause 9.2 Accompanying material) for the property it is proposed to develop.

Conclusion

It would appear that the application for Planning Approval for the house for which a Building Licence cannot now be issued was submitted with incorrect/misleading information, which the owner now seeks to rectify through an amendment to TPS 3.

Under TPS 3 corner lots in an R12.5 coded area can be developed up to a density of R20 subject to certain conditions (see Cl 5.3.1 Density Bonus for Corner Lots). 67 Petra Street is not a corner lot therefore this provision cannot be applied.

Support for an amendment as proposed in isolation could have the potential to lead to other similar applications, which would if implemented lead to the densification of the Woodside precinct contrary to Council's stated intentions for the area.

The LPS states for land use in the Woodside precinct:

"It is the Council's intention to conserve the precinct's heritage and to retain its existing character by maintaining single residences on large lots, avoiding pressures to remove mature trees, and preserve the spacious character of the area as reflected in the streetscapes and generous curtilages. New development in the precinct will generally be restricted to single residential. Some additional group housing may be permitted with street frontage on corner lots."

Whilst Planning Approval was granted for the proposed new house, that approval was predicated on information supplied by the applicant/owner that indicated that the house would be built on its own separate lot. This proved not to be the case, and a Building Licence cannot be issued unless the house is on its own separate lot/title otherwise it conflicts with the allowable density under TPS 3.

RECOMMENDATION

That Council advises Antonio Cesario Lomma that it is not prepared to initiate an amendment to re-code No. 67 (Lot 365) Petra Street, East Fremantle from R12.5 to R20 on the grounds that it would conflict with the intention for land use in the Woodside Precinct under the Local Planning Strategy for the maintenance of single residences on large lots.

Mrs Lomma (applicant) addressed the meeting.

RECOMMENDATION TO COUNCIL

Cr Dobro – Mayor Ferris

That pursuant to oral advice from the Town Planner on the matter of No. 67 (Lot 365) Petra Street, East Fremantle the application to initiate an amendment to Town Planning Scheme No. 3 by re-coding the subject lot from R12.5 to R20 be deferred pending a further report including a review of plans approved on 6 November 2007.

CARRIED

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T52.6 **Preston Point Road No. 58A (Lot 11)**
Applicant: Tony Wilkie
Owner: Orlando & Susana Maria Andrade
Application No. P27/2008
By Chris Warrener, Town Planner on 5 June 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval to redevelop 58A Preston Point Road by demolishing the gable roofed 6 multiple dwellings and replacing them with a flat/concealed roof over 6 new multiple dwellings comprising a basement parking area, 3 units on the first floor each with 2 bedrooms, living, dining, kitchen and study, and 3 units on the second floor each with 2 bedrooms, living, dining, kitchen and study.

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Amended plans date stamp received on 5 June 2008

Date Application Received

1 February 2008

Advertising

Adjoining landowners, sign on site, and advertisement in local newspaper

Date Advertised

15 February 2008

Close of Comment Period

29 February 2008

No. of Days Elapsed between Lodgement & Meeting Date

129 days

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

21 June 1964	Plans & specifications submitted for 6 flats by L.W. Buckeridge;
26 October 1964	Council approves plans for flats;
5 July 1965	Public Health Department approves of a septic tank installation for the flats;
19 October 1981	Council conditionally agrees to strata titles for the 6 flats;
19 September 1983	Council considers the property unsuitable for strata titling;
16 December 1985	Council decides to seek the advice of the State Planning Commission on proposed Strata Titling of 6 units in view of the new Strata Titles Act 1985;
17 March 1986	Council refuses to agree to Strata Titling;
21 April 1986	Council decides that a fence must be brought into conformity otherwise legal proceedings will be instigated;

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CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 22 April 2008 and the following comments were made based on colour perspectives of the proposed development:

- modernist look is acceptable
- should not allow for height concessions in this location
- design is totally out of character with anything else in this area

Public Submissions

At the close of the comment period 10 submissions were received.

- | | |
|---|---|
| <i>Louise Good</i>
<i>2/60 Preston Pt</i> | <ul style="list-style-type: none">- Objection - building height – impact on views- Proposed design appears to be an improvement |
| <i>Moreschini Nominees</i>
<i>2/60 Preston Pt</i> | <ul style="list-style-type: none">- Objection – height- Access will increase traffic hazards on Preston Point Road- Concerns raised regarding dust and structural damage during construction |
| <i>Cathryn Brown</i>
<i>11/60 Preston Pt</i> | No objection to redevelopment of buildings to the current height |
| <i>Andrew Wheeler</i>
<i>3/60 Preston Pt</i> | <ul style="list-style-type: none">- Oppose any development that exceeds the height limit- My harbour views may be affected by the development |
| <i>Max Barton</i>
<i>6/60 Preston Pt</i> | <ul style="list-style-type: none">- Disapprove and raise objection to plan- Building will curtail at least a third of my views |
| <i>Uliana Pullella</i>
<i>4/60 Preston Pt</i> | Objection – would affect the view |
| <i>Martin Johnson</i>
<i>8/60 Preston Pt</i> | Objects if the development is overheight |
| <i>Sue & John Moody</i>
<i>1 Fraser Street</i> | <ul style="list-style-type: none">- Object-stand to lose substantial views- Ugly flat roof;- Encroaching our north and south facing views |
| <i>Amanda Thomas</i>
<i>7/60 Preston Pt</i> | Do not agree because it will significantly block my river views |
| <i>Plan-It</i>
<i>on behalf of</i>
<i>J & S Moody</i> | <ul style="list-style-type: none">- Concerns raised:- top of new building must not exceed height of existing ridge- setbacks to be more in keeping with existing streetscape- building is bland & unimaginative- roof must be concealed and in non-reflective material- there are to be no air-conditioners or other roof projections- there will not be a 'forest' of aerials & satellite dishes- Council to condition its approval to take into consideration the above concerns |

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Sabine Frichot Asking Council to consider all ratepayers fairly and to
5/60 Preston Pt ensure that the river views of 60 Preston Point Road
are not compromised by the development

Site Inspection

By Town Planner on 8 April 2008, and by Councillors and the Town Planner on 3 June 2008

STATISTICS		<i>Required</i>	<i>Proposed</i>
Land Area			852m ² Existing
Zoning			R12.5
Setbacks:			
Front (west)			
<i>Undercroft</i>	<i>Carpark</i>	4.00	4.40 Acceptable
<i>Ground</i>	<i>Balconies</i>	3.00	3.502 Acceptable
<i>Upper</i>	<i>Balconies</i>	3.00	3.502 Acceptable
	<i>Bedrooms</i>	4.00	4.40 Acceptable
Rear (east)			
<i>Ground</i>	<i>Bedrooms</i>	1.50	4.30 Acceptable
<i>Upper</i>	<i>Bedrooms</i>	3.00	4.30 Acceptable
Side (north)			
<i>Ground</i>	<i>Bedroom & Study</i>	1.00	2.50 Acceptable
<i>Upper</i>	<i>Bedroom & Study</i>	2.00	2.50 Acceptable
Side (south)			
<i>Undercroft</i>	<i>Carpark</i>	1.00	4.20 to 4.60 Acceptable
<i>Ground</i>	<i>Balcony</i>	2.00	3.40 Acceptable
	<i>Living</i>	2.00	4.026 to 4.70 Acceptable
<i>Upper</i>	<i>Balcony</i>	2.00	3.40 Acceptable
	<i>Living</i>	2.00	4.026 to 4.70 Acceptable
Height:			
Wall		6.50	6.50 to 6.70 Discretion Required

REPORT
Background

Around the years 1964-65 the block of 6 flats named "Derna Court" was built.

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The current application proposes to redevelop the site by demolishing "Derna Court" and building 6 attached multiple dwellings in its place.

The existing building is a rather "tired" looking 2-storey salmon brick and gable tiled roof structure, with car parking on an open hardstand area at the rear accessed via a driveway crossover to Fraser Street.

The proposed building is a 3-level (car parking to be provided at basement level accessed via a crossover to Preston Point Road, with 2 floors of multiple dwellings above) concealed/flat roofed structure.

At its meeting held on 18 March 2008 Council resolved:

"That Council defers its decision on the application for the redevelopment of No. 58A (Lot 11) Preston Point Road, East Fremantle by demolishing the gable roofed 6 multiple dwellings and replacing them with a flat/concealed roof over 6 new multiple dwellings comprising a basement parking area, 3 units on the first floor each with 2 bedrooms, living, dining, kitchen and study, and 3 units on the second floor each with 2 bedrooms, living, dining, kitchen and study in accordance with the plans date stamp received on 20 February 2008 pending the submission of additional information including colour perspectives of the development, and plans illustrating the context of the building in respect to the streetscape of Preston Point Road and Fraser Street, and design modifications to bring the whole of the proposed building into compliance with the height limits specified in LPP 142."

In response the applicant surveyed the property, positioned boundary pegs, and line marked the extent/boundary of the proposed building. In addition the applicant prepared and submitted colour images depicting the appearance of the proposed development, and plans illustrating the context of the building in respect to the streetscape of Preston Point Road and Fraser Street.

At its meeting held on 20 May 2008 Council reconsidered the application and resolved:

*"The adoption of the Committee's recommendation which is as follows:
That the application for redevelopment of No. 58A (Lot 11) Preston Point Road, East Fremantle be deferred:
(a) pending site visits of adjoining properties being undertaken ie No. 1 Fraser Street and 60 Preston Point Road; and
(b) the Committee noted that plans showing compliance with the height requirements of "Local Planning Policy No. 142 – Residential Development" have yet to be submitted."*

On 3 June 2008 Councillors conducted site visits in response to the above decision.

On 5 June 2008 the applicant provided the Town Planner with "up-to-date" plans for the proposed development specifying revised roof height limits.

It was decided in response to concerns raised regarding building height that additional earthworks should be undertaken to further reduce building height. The proposed building will now be 0.3m lower than the ridge height of the existing building.

The effect of this will be to improve the views from the adjoining properties at 1 Fraser Street, and 60 Preston Point Road.

The proposed building now proposes a 0.2m height variation in the southwest corner. All other parts of the building are below the 6.5m height limit.

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Issues

Zoning & Density

The subject land comprises 852m², and it is zoned Residential R12.5 under TPS 3.

Under the R12.5 density code the property can accommodate a single dwelling.

The existing block of 6 multiple dwellings comprises development that equates with a density code of R70.

The use "Multiple Dwelling" is an 'X' use in the Residential zone in areas with a density coding of less than R40.

On the above basis this application could not be considered or approved however TPS 3 includes the following special provision:

"5.3.3 Existing Non-Complying Development

Where a lot contains an existing authorised development which exceeds the prescribed density coding, the local government may permit redevelopment of the lot up to the same density as the existing development, or of a different form than otherwise permitted, provided that:

- (a) in the opinion of the local government, the proposed development will contribute more positively to the scale and character of the streetscape, the improvement of the amenity of the area, and the objectives for the precinct than the existing building; and*
- (b) except where proposed development comprises minor alterations to the existing development which, in the opinion of the local government, do not have a significant adverse effect on the amenity of adjoining land, advertising of the proposed development has been undertaken in accordance with the provisions of clause 9.4."*

This application has been assessed as complying pursuant to this provision based on the development being at a density of R70.

Building Height

The upper floor wall in the south west corner of the building for the living room for Unit 6 varies up to 6.7m above Natural Ground Level (NGL).

LPP 142 recommends a height limit of 6.5m for a concealed/flat roofed development in this area of East Fremantle.

Roof Pitch

The roof of the proposed development is flat/concealed.

LPP 066 states:

"dominant elements to be greater than 28°."

Submissions

The submissions from the multiple dwellings at 60 Preston Point Road object to the application because in their opinion the height of the proposed building will interfere with or block their views. 3 of these submissions advise that they have no objections if the building complies with the height limits.



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The submission from 1 Fraser Street similarly objects to the application because the proposed building will interfere with north and south facing views.

A town planning consultant acting for the owners of 1 Fraser Street advises that the application would be supported provided Council applies conditions on the development which address building height, setbacks, appearance, roof material and colour, and roof projections.

Council Decision

The colour images of the proposed development illustrate a contemporary building based on an "art deco" theme typical of some of the remnant buildings still remaining in this area of East Fremantle. There are a number of examples in View Terrace. The curved corner walls ("Serpentine walls") are the key design element of this theme.

Discussion

Building Height

Most of the proposed building is within or below the height limit specified in LPP 142. The applicant's plans illustrate that the proposed building will be lower than the roof ridge of the existing building.

A portion of the proposed building along its west side (facing Preston Point Road) and in the southwest corner is "over-height", varying up to 6.7m above natural ground level (NGL).

This portion of the building will have a negligible impact on views from properties at the rear, namely 60 Preston Point Road ("Panorama Views"), and the small view that will be obscured by this portion of the development is not a significant view.

Conclusion

The subject site is in a very prominent location of East Fremantle and its redevelopment should be carefully undertaken to provide the most aesthetically pleasing result.

The TPAP comments in general are positive in regard to the design of the building, and its impact on streetscape. The one negative comment is to a large degree queried given the wide variety of building styles along Preston Point Road, particularly the section within which the subject land is situated.

Based on the applicant's perspective images the building is considered to make a positive, attractive contribution to the local streetscape, and will result in significant improvements to the outlook and amenity of adjoining properties.

The proposed height variation is not significant, and it does not obscure any significant views from the multiple dwellings at 60 Preston Point Road or from the single house at 1 Fraser Street.

The multiple dwellings at 60 Preston Point Road will no longer overlook a "run down" salmon brick and asbestos roofed block of flats, but rather a modern expensively finished development considered to contribute to an increase in their property values.

Access is proposed off Preston Point Road not Fraser Street as is the current arrangement, and this element will significantly improve the amenity of 1 Fraser Street, which will no longer be next to an open area carpark and crossover. The current river views from 1 Fraser Street will not be detrimentally affected by the proposed development.



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RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to height in the southwest portion pursuant to Local Planning Policy 142 from 6.5m to 6.7m for the redevelopment of No. 58A (Lot 11) Preston Point Road, East Fremantle by demolishing the gable roofed 6 multiple dwellings and replacing them with a flat/concealed roof over 6 new multiple dwellings comprising a basement parking area, 3 units on the first floor each with 2 bedrooms, living, dining, kitchen and study, and 3 units on the second floor each with 2 bedrooms, living, dining, kitchen and study in accordance with the plans date stamp received on 5 June 2008 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 multiple dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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 introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. 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 6.0m, 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.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



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- (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/builders is to contact Council's Works Supervisor.
- (f) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

Mr Tony Wilkie (applicant) addressed the meeting in support of his application.

RECOMMENDATION TO COUNCIL

Cr Wilson – Mayor Ferris

That the application for redevelopment of No. 58A (Lot 11) Preston Point Road, East Fremantle be deferred pending the submission of revised drawings that show a reduction in the bulk and scale of the building including the use of glass balustrading, the provision of a schedule of finishes (ie external colour scheme including roof colour and material) and a landscaping plan. CARRIED

T52.7 **George Street No. 88 (Lots 433 & 534)**
Applicant: Jewelpark Pty Ltd
Owner: F & M Verdi
(Application No. P83/08)
By Chris Warrener, Town Planner on 5 June 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for the redevelopment of 88 George Street comprising the refurbishment and re-use of the 2 existing ground level shops with the addition of mezzanines, and construct a 3-level residence with:

Ground Floor: double garage and store, entry, study, lift, and wc;

Mezzanine: lift, landing, bedroom, bathroom/powder room, laundry & balcony

Upper Floor: lift, landing, main bedroom, w/c & ensuite, livingroom, diningroom, kitchen, music retreat, linen, wc, balcony & terrace

Statutory Requirements

Town Planning Scheme No. 3 – Mixed Use
Local Planning Strategy – Plympton Precinct
Residential Design Codes

Relevant Council Policies

Local Planning Policy No. 142 – Residential Development

Documentation

Plans and relevant forms

Date Application Received

22 April 2008

Additional Information Received

22 May 2008

Amended plans date stamp received on 5 June 2008

Advertising

Adjoining land owners, sign on site & local newspaper

Date Advertised

1 May 2008

Close of Comment Period

16 May 2008



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No. of Days Elapsed between Lodgement & Meeting Date

47 days

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

27 January 1981	Application received for use as craft shop selling pottery, macramé, weaving etc;
16 February 1981	Council refused application on grounds that the property is zoned single residential and group housing;
6 March 1981	Received request to change zoning to "Business";
24 April 1981	Council advises that comments in relation to TPS2 will be assessed prior to forwarding to Hon Minister;
20 September 1982	Council refuses an application for use of property as an 'art gallery as the property is zoned Residential – Area 2';
19 December 1983	Council refuse an application for use of the property as a retail shop for musical instruments as the property had lost its 'Non Conforming' use and reverted to a residential zoning;
22 February 1990	Application received for use of room facing George Street for workshop purposes;
19 March 1990	Council granted approval for use of one room of the premises as a workshop;
17 July 1990	Application received for George Street Cottage Crafts to trade from the premises;
17 December 1990	Council refused application for retail outlet to operate on a co-op basis;
19 February 1996	Council grants approval to conduct a home occupation as office for a mobile therapeutic massage service;
20 September 2007	Council advises owners that the building is showing signs of structural weakness, particularly the corner adjacent to 86 George Street.

CONSULTATION

Town Planning Advisory Panel Comments

This application was circulated to members of the Town Planning Advisory Panel. Two of the Panel members commented on the application; their comments are summarised below as are the responses (in italics) from the applicant:

1. The materials proposed for the building are not described, but it appears that a Precast Concrete or rendered brick solution is proposed.

The boundary parapets are proposed to be tilt up construction (although cavity brick may be considered), and painted. Remaining walls will be rendered cavity brickwork.

2. The addition does not honour the existing historic building, it is plain and very cheap.

This comment is clearly based on the initially submitted drawing. Drawing development since would lessen the relevance of the comment.

3. Toilet at rear should be retained if it has a curved roof.

Clearly an obstruction to the proposal.

4. The windows proposed are generally of a horizontal proportion which is out of context with the original building style. These would appear more appropriate if a vertical or at least square proportion was used.

This comment is clearly based on the initially submitted drawing. I suggest the context of this comment should apply to the street façade. It is noted that there is a

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combination of larger shop front glazing in a rectangular/square format with a more vertically rectangular entry point adjacent. I would argue that street elevation to residence over is representative of the larger shop front format and shares proportion and alignment while the set back portion in the access-way incorporates vertical opening relevant to the entry point. In totality I read the existing building as horizontal largely because of the shop-front windows and the width to height ratio.

5. The proposed building is a very large addition to the existing small pair of shops. Whilst a tall structure the existing building is delicately detailed.

This has been considered in the design by maintaining a setback to the proposed structure and the retention of the existing side wall return (as recommended by the Heritage Architect). I believe to context this will present to existing (delicately detailed) building to the street at street level in the same it is today.

6. The proposed building, by comparison is brutal and imposes a new and inappropriate stylism across the building. It would be better that the applicant deleted the window surrounds and inappropriate scotia detailing to the parapet and instead opted for a less "tuscanesque" appearance. The proportions of the fenestration to all facades is not sensitive to the existing building.

This could be argued differently under the Burra Charter. The practice of not mocking the existing is an accepted/preferred practice. I am of the opinion that this approach is important to this proposal to preserve the presents of the existing street context. Wall treatment to the proposed can be developed but should not follow the replication of the detailing of the existing building.

7. Whilst the proposed upper level apartment glazing and wall surfaces are set back from the existing George Street façade the proposal is brutal and would benefit from a pergola or canopy element to provide depth of shade at the upper level, reducing the visual impact of this addition.

This aspect could be incorporated into the proposal although it would need to be sensitively accommodated in that structure brought forward to the extents of the existing façade will compromise the presents of the existing façade.

8. The proposal appears not to acknowledge climate or living environment. The balconies are not shaded and large glazed areas are proposed, albeit these are north facing, but these elements will require shading, particularly where these are exposed to the west.

This comment is clearly based on the initially submitted drawing as the more recent drawing indicate roof cover to the balconies.

9. There will be an overlooking issue to address with all surrounding neighbours.

This acknowledged although it is noted that existing vegetation provides effective screening and it is on this basis I am to understand the adjacent owner has withdrawn their comment.

10. The privacy screen shown on elevation 4 does not appear on the plans. It is assumed that this is located on the eastern boundary?

It is assumed that this relates to the frontal terrace (south/eastern cnr). It has been assumed that fire separation would be required to protect the bed window. Clarification under the BCA in terms of building class is required to resolve.



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11. The designer should be asked whether the lift over-run will be accommodated within the parapet height shown.

It is assumed that the lift will be of a type that does not require a motor/winch house. ie hydraulic or induction electric motor. Typically a domestic type.

Comment By Town Planner

Regarding Applicant's comments 2, 4 & 8, the drawing which the Panel received is attached as "A". The new drawing is marked "B".

Referral to Other Authorities

Heritage Council of WA

Public Submissions

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

- B Beattie*
38 Sewell Street
- I recently made application for a single storey development as parking requirements for two storey development could not be met;
 - how will 88 George Street meet the requirements of six bays as only two provided on site and two on the road;
 - the plans otherwise look very good.
- Kim Waters & Kevin Bailey*
36 Sewell Street
- strongly object if this development means our morning light will be blocked;
 - strongly object to loss of backyard privacy due to overlooking from balcony.
- Janie Corke & Richard Warren*
87 George Street
- register their strong support for the project;
 - the development recognises the heritage issues and seeks to preserve the portion of existing premises which are worthy of preservation;
 - these premises have long been neglected;
 - the development provides a good balance between residential and commercial;
 - the additional storey comprised in the residential portion does not dominate or overwhelm the shop façade and will preserve and enhance the streetscape;
 - we hope the development is given the 'green light'.

Site Inspection

By Town Planner on 20 February 2008.

**REPORT
Issues**

Heritage 88 George Street is on the Heritage List under TPS 3. The building has a B+ management category rating in the MI, which states for 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*

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promote heritage conservation may be considered where desirable conservation outcomes may be otherwise difficult to achieve."

The applicant obtained Heritage Advice (attached), and the application was referred to the Heritage Council for comment.

At the time of wishing to finalise this report the comments of the Heritage Council had not been received; the Heritage Council officer dealing with the application is on annual leave.

It is considered that on this ground alone the application should be deferred to allow for this advice to be received and the applicant has supported this conclusion, although on the basis the application will still be tabled for discussion in order to received preliminary feedback from elected members such as to help inform the officers final report and ascertain whether there are issues requiring clarification.

Deferral will also allow:

- (i) time for the applicant to better justify the discretions which are being sought (see below); and
- (ii) the Town Planning Advisory Panel to be given the opportunity to consider the revised drawings.

Car Parking

The application is for 2 shops and a 2-bedroom residence.

Pursuant to TPS 3 and the RDC a total of 9 on site car parking spaces are required (4 each for the 2 shops, and 1 for the residence).

The application proposes the provision of 4 on site car parking spaces therefore there is a shortfall of 5 spaces.

Building Height

The application proposes a building height of 8.7m.

Under TPS 3 except as otherwise permitted by Council the maximum overall building height in the Mixed Use zone is 8m.

*Boundary Setbacks /
Privacy*

The cone of vision for a balcony on the mezzanine level (Level 2) extends into rear of the adjoining property at 36 Sewell Street by up to 1.2m. This balcony is set back 5.9m from the west side property boundary.

The cone of vision for the balcony on Level 3 extends into the rear of 36 and 38 Sewell Street by up to 2.3m. This balcony is set back 3.1m from the west side property boundary.

The RDC recommend that these balconies be screened where they are less than 7.5m from the property boundary.

Plot Ratio

The plot ratio of the proposed redevelopment comprises 1.185:1.

TPS 3 specifies that plot ratio in the Mixed Use zone should be no more than 0.5:1 therefore the proposed redevelopment exceeds the specified plot ratio by 0.685.

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Submissions One submission, while supporting the application, states concern regarding the availability of on on-site parking.

One submission opposes the redevelopment because of a loss of morning light and backyard privacy.

One submission supports the redevelopment.

Preliminary Conclusion

This application proposes to redevelop the property at 88 George Street and will result in the complete refurbishment and re-use of an old shop-front building, which positively contributes to the character, amenity, and heritage of George Street. This aspect of the application is supported.

However in the absence of Heritage Council advice regarding the potential impact of the proposed new development on the existing heritage building having been received at the time of this report, it is considered prudent to wait for that advice before recommending a decision on the application. This would also allow the Panel to view the revised drawings and time for the applicant to better justify the discretions which are being sought.

RECOMMENDATION

That Council defer making a decision on the redevelopment of No. 88 (Lots 533 & 534) George Street, East Fremantle comprising the refurbishment and re-use of the 2 existing ground level shops with the addition of mezzanines, and construct a 3-level residence with:

Ground Floor: double garage and store, entry, study, lift, and wc;

Mezzanine: lift, landing, bedroom, bathroom/powder room, laundry & balcony

Upper Floor: lift, landing, main bedroom, wir & ensuite, livingroom, diningroom, kitchen, music retreat, linen, wc, balcony & terrace

in accordance with the plans date stamp received on 5 June 2008 pending receipt of advice from the Heritage Council, reconsideration by the Town Planning Advisory Panel and further information from the applicant with respect to the discretions being sought.

ALTERNATIVE RECOMMENDATION

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

(a) variation to plot ratio pursuant to Town Planning Scheme No 3 from 0.5:1 to 1.185:1;
(b) variation to the provision of on site parking pursuant to Town Planning Scheme No 3 from 9 spaces to 4 spaces;

(c) variation to building height pursuant to Town Planning Scheme No 3 from 8m to 8.7m;

(d) variation to the setback from the west side boundary pursuant to the Residential Design Codes for a balcony on the mezzanine level (Level 2) and a balcony on Level 3 from 7.5m to 6.3m and 5.2m respectively;

for the redevelopment of No. 88 (Lots 533 & 534) George Street, East Fremantle comprising the refurbishment and re-use of the 2 existing ground level shops with the addition of mezzanines, and construct a 3-level residence with:

Ground Floor: double garage and store, entry, study, lift, and wc;

Mezzanine: lift, landing, bedroom, bathroom/powder room, laundry & balcony

Upper Floor: lift, landing, main bedroom, wir & ensuite, livingroom, diningroom, kitchen, music retreat, linen, wc, balcony & terrace

in accordance with the plans date stamp received on 5 June 2008 subject to the following conditions:

1. prior to the issue of a Building Licence the applicant/owner is to pay for the manufacture and installation of 5 stainless steel U-rail bicycle parking racks;
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.

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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 development 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. compliance with all relevant engineering, building and health requirements.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision 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.*

Correspondence from the Heritage Council and 3D images provided by the designer were tabled (MB Ref T50.1).

Mr Peter Broad (designer) addressed the meeting in support of the application including the issues of building height, plot ratio and overlooking.

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RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Rico

That Council defer making a decision on the redevelopment of No. 88 (Lots 533 & 534) George Street, East Fremantle comprising the refurbishment and re-use of the 2 existing ground level shops with the addition of mezzanines, and construct a 3-level residence with:

Ground Floor: double garage and store, entry, study, lift, and wc;

Mezzanine: lift, landing, bedroom, bathroom/powder room, laundry & balcony

Upper Floor: lift, landing, main bedroom, w/c & ensuite, livingroom, diningroom, kitchen, music retreat, linen, wc, balcony & terrace

in accordance with the plans date stamp received on 5 June 2008 pending comment on the advice from the Heritage Council, further information from the Town Planner including the height of the development opposite, reconsideration by the Town Planning Advisory Panel, further information from the applicant with respect to the discretions being sought and the undertaking of a site visit by elected members.

CARRIED

T52.8

King Street No. 78 (Lot 356)

Applicant & Owner: Paul Brown

Application No. P107/2008

By Chris Warrener, Town Planner on 4 June 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2.4m x 2.4m x 1.95m high Stratco Heritage garden shed at the rear in the northeast corner of 78 King Street.

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 28 May 2008

Date Application Received

28 May 2008

Advertising

Adjoining land owner at 76 King Street

No. of Days Elapsed between Lodgement & Meeting Date

13 days

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

27 April 2006	CEO grants approval under delegated authority for a below ground concrete swimming pool;
23 May 2006	Building Licence BL06/86 approved for swimming pool;
7 June 2006	CEO grants approval under delegated authority for single storey alterations and additions to the rear of the existing house;
21 June 2006	Building Licence BL06/95 approved for additions to house;
14 November 2006	Building Licence BL06/257 approved for brick boundary walls;
25 June 2007	CEO grants approval under delegated authority for a water wall, rear deck, and re-roof the garage;
4 July 2007:	Building Licence BL07/38 issued for deck, water wall and re-roofing garage.

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REPORT

Issues

The proposed shed will be set back 0m from the north side boundary common with 76 King Street.

The RDC recommend a 1m setback.

Discussion

The existing house is built with a 14.6m wall along the north side boundary. As the shed proposes an additional boundary wall along this boundary Council's discretion is required to be exercised to allow a variation for a 0m setback for it.

The potentially affected adjoining property owner has endorsed the setback variation for the shed, which is not considered to have any impact on the amenity of this property.

Conclusion

There are no compelling grounds for refusing this application.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1m to 0m for the construction of a 2.4m x 2.4m x 1.95m high Stratco Heritage garden shed at the rear in the northeast corner of No. 78 (Lot 356) King Street, East Fremantle in accordance with the plans date stamp received on 28 May 2008 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed shed is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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Adjoining Owner Comment Form submitted by neighbour at 76 King Street advising no objection to nil boundary wall setback was tabled (MB Ref T50.2).

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Wilson

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1m to 0m for the construction of a 2.4m x 2.4m x 1.95m high Stratco Heritage garden shed at the rear in the northeast corner of No. 78 (Lot 356) King Street, East Fremantle in accordance with the plans date stamp received on 28 May 2008 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed shed is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

Mayor Ferris made the following impartiality declaration in the matter of 82 Hubble Street: "As a consequence of the applicant being known to me due to my having worked with him for a number of years, 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.

T52.9 **Hubble Street No. 82 (Lot 280)**
Applicant: In Vogue
Owner: Romano, Maria & Paul Filippin
Application No. P42/08
By Chris Warrener, Town Planner on 5 June 2008

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BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 82 Hubble Street comprising:

Ground floor: double garage, entry, study, master suite with en-suite, store, theatre room, kitchen, dining and living room, laundry and alfresco;
First floor: 3 bedrooms, bathroom, activity room, and balcony.

The width of the garage (door plus supporting structures) occupies 48.08% of the frontage at the setback line.

The acceptable development provision under the Residential Design Codes (Variation 1) states:

"A8 Where a garage is located in front or within 1 m of the building, a garage door and its supporting structures (or garage wall where a garage is aligned parallel to the street) facing the primary street are not to occupy more than 50 per cent of the frontage at the setback line as viewed from the street. This may be increased to 60 per cent where an upper floor or balcony extends for the full width of the garage and the entrance to the dwelling is clearly visible from the primary street."

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

Date Revised Application Received

23 April 2008

Additional information

Cone of vision plan and overshadow plan date stamp received on 5 June 2008

Advertising

Adjoining land owners only

Date Advertised

28 April 2008

Close of Comment Period

12 May 2008

No. of Days Elapsed between Lodgement of Revised Application & Meeting Date

47 days

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

Council considered an application for a two storey residence at its meeting held on 15 April 2008 and resolved:

"That the application for the construction of a 2-storey house at No. 82 (Lot 280) Hubble Street, East Fremantle comprising:

Ground floor: double garage, entry, study, master suite with en-suite, store, theatre room, kitchen, dining and living room, laundry and alfresco;

First floor: 3 bedrooms, bathroom, activity room, and balcony;

be deferred pending the submission of revised plans that address the following issues:

- 1. the double garage being forward of the main building line which conflicts with "Local Planning Policy No. 142 – Part 2 – Streetscape" (and hence the R-Codes as varied by the Policy) and*

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states:

- (i) Buildings are to be set back such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality.
 - (ii) Notwithstanding (i) above, garages and carports located at or behind the main building line for primary and secondary streets and in accordance with Table 1 – Minimum Setbacks of the Residential Design Codes.”
2. non-compliance with the Local Planning Strategy as the proposed development is not small scale, nor is it sympathetic to the character (form, mass, and materials) of existing development in Hubble Street, and the Plympton precinct.
 3. the detrimental impact on the local streetscape due to the style and type of house proposed to be built.
 4. the proposed development is inconsistent with the objective of Clauses 10.2(a), 10.2(b), 10.2(g), 10.2(o) and 10.2(p) of TPS No. 3. CARRIED

CONSULTATION

Town Planning Advisory Panel Comments

The original application was considered by the Town Planning Advisory Panel at its meeting held on 25 March 2008 and the following comments were made:

- very ordinary replacement of current cottage – proposal ‘below average’
- prefer retention and restoration or original front cottage with development pushed back – similar to 94 Hubble Street
- unfortunate that surrounding properties have been ‘botched’ with regards to original architecture
- double garage set forward of the remainder of the house should be significantly altered – applicant should be encouraged to provide a more contextually appropriate solution whereby the house addresses the street

Public Submissions

At the close of the comment period no submissions were received in response to the revised application.

Site Inspection

By Consultant Town Planner on 27 March 2008

STATISTICS		Required	Proposed
Land Area			508m ² Existing
Open Space		50%	60% Acceptable
Zoning			R20
Setbacks:			
Front (west)			
	Ground	Verandah	6.00
			3.90
			Discretion Required
		Garage	6.00
			4.40
			Discretion Required
	Upper	Balcony	6.00
			5.80
			Discretion Required
		Activity	6.00
			5.80
			Discretion Required
Rear (east)			
	Ground	Laundry & Dining	1.50
			14.80
			Acceptable
		Alfresco	1.50
			15.30
			Acceptable

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<i>Upper</i>	<i>Bedroom 3 & 4</i>	4.50		23.10 Acceptable
Side (north)				
<i>Ground</i>	<i>Alfresco</i>	1.50		1.70 Acceptable
	<i>Living</i>	1.50		1.70 Acceptable
	<i>Master Bedroom</i>	1.50		1.20 Discretion Required
	<i>Verandah</i>	1.50		1.20 Discretion Required
<i>Upper</i>	<i>Bed 3 & Bed 2</i>	4.50		2.20 Discretion Required
	<i>Balcony</i>	2m		2.20 Acceptable
Side (south)				
<i>Ground</i>	<i>Garage</i>	Nil	<i>LPP 142</i>	Nil Acceptable
	<i>Theatre</i>	1.50		1.57 Acceptable
	<i>Kitchen</i>	1.00	<i>LPP 142</i>	Nil Discretion Required
<i>Upper</i>	<i>Activity & Bedroom 4</i>	1.50		1.50 Acceptable
Height:				
	Wall	6.00		5.60 Acceptable
	Building	9.00		8.00 Acceptable
	Parapet Wall Height	3.00		2.50 Acceptable
Overshadowing:		25.4%		
Privacy:		Bedroom (2) is set back 2.2m from the north side boundary common with 80 Hubble Street.		

**REPORT
Issues**

Boundary Walls

The application proposes a double garage, and a kitchen and laundry with 2 walls along the south side boundary common with 84 Hubble Street.

LPP 142 states:

“(a) Walls are not higher than 3m and up to 9m in length up to one side boundary;”

The application proposes two walls ie one more than allowed under the Policy therefore Council’s discretion is required to be exercised to approve, in this case, the kitchen and laundry wall.

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Setbacks

Front (West)

A proposed verandah is set back 3.9m, a double garage is set back 4.4m, and an upper floor balcony and activity room are set back 5.8m from the front boundary.

The RDC recommend a 6m setback for R20 coded property.

Side (North)

A master bedroom and a verandah are set back 1.2m from the north side boundary common with 80 Hubble Street. The RDC recommend a 1.5m setback.

The cone of vision for upper floor bedroom 2, which contains a major opening, indicates a setback of 2.8m from the north side boundary common with 80 Hubble Street; the RDC recommend a 4.5m setback.

Roof Pitch

The application proposes a zincalume roof pitched at 25°38'. LPP 066 states: "*dominant elements to be greater than 28°.*"

Overshadow

The proposed 2-storey house will cast a 25.4% shadow over the adjoining property at 84 Hubble Street; the RDC recommend a 25% limit on overshadow.

Discussion
Streetscape

There are 84 properties which front Hubble Street.

Three properties (No's 54, and 84 & 86) contain eleven 2-storey grouped dwellings.

16 properties contain 2-storey houses. Of these 10 contain the original single storey element at the front with 2-storey additions at the rear.

There are 65 single storey houses along Hubble Street, and the vast majority are the original "worker cottage" housing stock with reduced frontages and verandahs that were built between 1890 and 1915.

Of the total 84 properties 75 contain the original housing stock or at least contain significant elements of that stock (10 contain additions at the rear).

This application proposes to demolish one of the 'old cottages' and replace it with a 2-storey brick and iron house.

The plans submitted with the application proposed a house which was not considered to be sympathetic in its design with the local streetscape.

The revised plans for this house now propose a pitched roof verandah element in front of the double garage, and matching glaze panelled double doors to a study and entry.

The attached plan illustrates the difference between the original and now proposed/revised plans for the house.

The revised plan is considered to be a significant improvement on what was originally proposed.

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Issues

With respect to the above-listed issues the following comments are made.

Boundary Walls

The proposed boundary walls abut 84 Hubble Street, which contains six 2-storey grouped dwellings. The land adjacent to the common boundary comprises a bitumen access-way and carparking area including a large carport for the use of the residents of the six grouped dwellings.

The proposed additional boundary wall will not adversely affect the amenity of 84 Hubble Street, and is supported.

Overshadow

The overshadow of this property at 25.4% exceeds the limit recommended under the RDC however the land, which is subject to the overshadow contains the parking and access area of this property, and its amenity is not negatively affected by this variation.

Setbacks

The proposed variation to the front setback, while it does not meet the recommended R20 setback standard, does accord with the predominant setback of housing along Hubble Street. This variation will not adversely affect the streetscape, in fact it will more closely match the prevailing built element setback on Hubble Street, and is supported.

The ground floor setback variations on the north side are relatively minor, they are considered not to adversely impact on the amenity of the adjoining property at 80 Hubble Street and are supported.

The upper floor privacy setback for bedroom 2 is relatively minor comprising approximately 1m², and is not considered to unduly affect the amenity of the affected property.

Roof Pitch

In regard to roof pitch this particular element is variable throughout the precinct, and in Hubble Street there are 24 houses with roofs pitched lower than LPP 066 recommends.

At 25°38' the proposed roof pitch does not vary significantly from the pitch recommended in LPP 066, the roofs on the dwellings on the adjoining properties are similar, and this variation is considered not to adversely impact on local streetscape.

CONCLUSION

The amended plans are considered to be an improvement on the original application, however concerns remain with respect to some issues, in particular scale, design and degree of sympathy with existing streetscape.

Nevertheless those are somewhat subjective issues, thus it is considered appropriate to propose the following alternative recommendations.

RECOMMENDATION

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

- (a) variation to the front (west side) boundary setback pursuant to the Residential Design Codes from for a verandah, garage, upper floor balcony and activity room from 6m to 3.9m, 4.4m, and 5.8m respectively;
- (b) variation the north side boundary setback pursuant to the Residential Design Codes for a master bedroom and verandah on the ground floor from 1.5m to 1.2m;

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- (c) variation to the south side boundary setback for a kitchen and laundry wall pursuant to Local Planning Policy 142 from 1.5m to 0m;
- (d) variation to overshadow pursuant to the Residential Design Codes from 25.4% to 25%;
- (e) variation to the cone of vision setback for upper floor bedroom 2 pursuant to the Residential Design Codes from 4.5m to 2.8m;
- for the construction of a 2-storey house at No. 82 (Lot 280) Hubble Street, East Fremantle comprising:
- Ground floor: double garage, entry, study, master suite with en-suite, store, theatre room, kitchen, dining and living room, laundry and alfresco;
- First floor: 3 bedrooms, bathroom, activity room, and balcony;
- in accordance with the revised plans date stamp received on 23 April 2008 subject to the following conditions:
1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 3. 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 is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 6. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
 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. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 8. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
 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. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
 11. this planning approval to remain valid for a period of 24 months from date of this approval.

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Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) 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) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

ALTERNATIVE RECOMMENDATION

That Council refuse an application for the construction of a 2-storey house at No. 82 (Lot 280) Hubble Street, East Fremantle comprising:

Ground floor: double garage, entry, study, master suite with en-suite, store, theatre room, kitchen, dining and living room, laundry and alfresco;

First floor: 3 bedrooms, bathroom, activity room, and balcony;

on the following grounds:

1. the number of variations from Acceptable Development Standards of the R-Codes being sought.
2. non-compliance with the Local Planning Strategy as the proposed development is not small scale, nor is it sympathetic to the character (form, mass, and materials) of existing development in Hubble Street, and the Plympton precinct.
3. the detrimental impact on the local streetscape due to the style and type of house proposed to be built.
4. the proposed development is inconsistent with the objective of Clauses 10.2(a), 10.2(b), 10.2(g), 10.2(o) and 10.2(p) of TPS No. 3.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Wilson

That Council refuse an application for the construction of a 2-storey house at No. 82 (Lot 280) Hubble Street, East Fremantle comprising:

Ground floor: double garage, entry, study, master suite with en-suite, store, theatre room, kitchen, dining and living room, laundry and alfresco;

First floor: 3 bedrooms, bathroom, activity room, and balcony;

on the following grounds:

1. the number of variations from Acceptable Development Standards of the R-Codes being sought.
2. non-compliance with the Local Planning Strategy as the proposed development is not small scale, nor is it sympathetic to the character (form, mass, and materials) of existing development in Hubble Street, and the Plympton precinct.
3. the detrimental impact on the local streetscape due to the style and type of house proposed to be built.
4. the proposed development is inconsistent with the objective of Clauses 10.2(a), 10.2(b), 10.2(g), 10.2(o) and 10.2(p) of TPS No. 3. CARRIED

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T53. OTHER BUSINESS

Cr Dobro – Mayor Ferris

That Crs David Arnold & Dean Nardi be invited to join the meeting to participate in discussion on the following items. CARRIED

T53.1 Submission of Models / 3D Plans

At the Council meeting held on 20 May 2008 Cr Arnold sought to table a motion for consideration at the next Council which involved requiring development applications over \$200,000 to be accompanied by a physical scale model.

It was agreed, following comments by the Chief Executive Officer, that the matter be discussed at the next Town Planning meeting, at least in the first instance.

Following are a few of the issues involved:

- (i) practical / cost issues involved
- (ii) relevant Scheme requirements
- (iii) what other local governments do
- (iv) applicant refusal to comply / deemed refusal implications / appeal implications

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Rico

That this matter be deferred for consideration along with the Town Planning “White Paper” and in the meantime the Chief Executive Officer in consultation with relevant officers, to obtain pertinent information from other Councils on the matter of submission of models / 3D plans. CARRIED

T53.2 Cr de Jong - Town Planning ‘White Paper’

The Chief Executive Officer has advised this matter has been listed on the agenda for the July 1 Council Meeting and he will prepare advice for that meeting. Elected members who have not already done so are invited to make comment to the Chief Executive Officer in the next 10 days.

RECOMMENDATION TO COUNCIL

Cr Dobro – Mayor Ferris

That the Chief Executive Officer’s advice be noted. CARRIED

It should be noted that neither Cr Arnold nor Cr Nardi voted on the above items.

T54. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T55. CLOSURE OF MEETING

There being no further business the meeting closed at 8.45pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **10 June 2008**, Minute Book reference **T46. to T55.** were confirmed at the meeting of the Committee on*

.....

Presiding Member