

12 February 2008

MINUTES

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 12 FEBRUARY, 2008 COMMENCING AT 6.35 PM.**

**T1. OPENING OF MEETING**

*T1.1 Present*

**T2. WELCOME TO GALLERY**

**T3. APOLOGIES**

**T4. CONFIRMATION OF MINUTES**

*T4.1 Town Planning & Building Committee (Private Domain) – 11 December 2007*

**T5. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T6. REPORTS OF COMMITTEES**

*T6.1 Town Planning Advisory Panel – 22 January 2008*

**T7. REPORTS OF OFFICERS**

*T7.1 Receipt of Reports*

*T7.2 Order of Business*

*T7.3 Allen Street No. 74 (Lot 24)  
Applicant: Pendlebury Construction  
Owner: Simone & Anthony Dale O'Grady*

*T7.4 Locke Crescent No. 20 (Lot 4989)  
Applicant & Owner: Setsu Masuda*

*T7.5 Clayton Street No. 41 (Lot 11)  
Applicant: Arkitektura  
Owner: Eddy Anthony & Margherita Sfreddo*

*T7.6 View Terrace No. 19 (Lot 247)  
Applicant: John Chisholm  
Owner: Rex Harrison Pty Ltd*

*T7.7 View Terrace No. 5 (Lot 241)  
Applicant & Owner: Stephen William & Katherine Ivy Gooderson*

*T7.8 Glyde Street No. 6B (Lot 2)  
Applicant: Kensington Design  
Owner: Louise & Bill Ward*

*T7.9 Canning Highway No. 83 (Lot 123)  
Applicant: MacCormac Architects  
Owner: Canning 83 Pty Ltd*

*T7.10 Locke Crescent No. 18 (Lot 4990)  
Applicant: Oswald Homes Pty Ltd  
Owner: Scott Gagen & Erica Lorimer*

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**T7.11**      *View Terrace No. 12 (Lot 279)*  
*Applicant: Alexander Planning Consultants*  
*Owner: John Tasman Pope*

**T8.**            **ADJOURNMENT**

**T9.**            **RESUMPTION**

**T10.**          **REPORT'S OF OFFICERS (Cont)**

**T10.1**        *St Peters Road & King Street (Lot 426 / Plan 1753)*  
*Applicant: Town of East Fremantle*  
*Owner: Her Majesty Queen Elizabeth 11 (The Crown)*

**T10.2**        *George Street No.113 (Lot 502)*  
*Applicant: Glasshouse Conservatories*  
*Owner: Jean & Barrington Dance*

**T10.3**        *Oakover Street No. 57 (Lot 292)*  
*Applicant: Patio Living*  
*Owner: Lisa Durston*

**T10.4**        *Irwin Street No. 42 (Lot 245)*  
*Applicant: Great Aussie Patios*  
*Owner: Scott Windram*

**T10.5**        *Angwin Street No. 13 (Lot 4)*  
*Applicant: Allerdin & Associates*  
*Owner: Ms S Booth*

**T10.6**        *Bedford Street No. 18 (Lot 8)*  
*Applicant: Arkitektura Architects*  
*Owner: Adrian & Jane Baker*

**T10.7**        *Reynolds Street No. 7 (Lot 35)*  
*Applicant & Owner: Gary Archer*

**T11.**          **REFERRED BUSINESS (NOT INCLUDED ELSEWHERE)**

**T12.**          **BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

**T13.**          **CLOSURE OF MEETING**

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**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 12 FEBRUARY, 2008 COMMENCING AT 6.35PM.**

**T1. OPENING OF MEETING**

The Presiding Member opened the meeting.

**T1.1 Present**

Mayor Alan Ferris  
Cr Stefanie Dobro                      Presiding Member  
Cr Barry de Jong  
Cr Alex Wilson  
Cr Maria Rico  
Mr Chris Warrener                      Consultant Town Planner  
Mrs Peta Cooper                         Minute Secretary

**T2. WELCOME TO GALLERY**

There were 31 members of the public in the gallery at the commencement of the meeting.

**T3. APOLOGIES**

An apology was submitted on behalf of Cr Richard Olson.

**T4. CONFIRMATION OF MINUTES**

**T4.1 Town Planning & Building Committee (Private Domain) – 11 December 2007**

Mayor Ferris – Cr de Jong

That the Town Planning & Building Committee (Private Domain) minutes dated 11 December 2007 as adopted at the Council meeting held on 18 December 2007 be confirmed. CARRIED

**T5. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

Nil

**T6. REPORTS OF COMMITTEES**

**T6.1 Town Planning Advisory Panel – 22 January 2008**

Cr Martin – Cr Ferris

That the minutes of the Town Planning Advisory Panel meeting held on 22 January 2008 be received and each item considered when the relevant development application is being discussed. CARRIED

**T7. REPORTS OF OFFICERS**

**T7.1 Receipt of Reports**

Cr Rico – Mayor Ferris

That the Reports of Officers be received. CARRIED

**T7.2 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

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**T7.3 Allen Street No. 74 (Lot 24)**  
**Applicant: Pendlebury Construction**  
**Owner: Simone & Anthony Dale O'Grady**  
**Application No. P236/2007**  
By Chris Warrener, Consultant Town Planner on 7 February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for ground floor additions to the single storey house at 74 Allen Street comprising a double garage, en-suite, laundry, TV room, kitchen, family/meals, activity room, 2 bedrooms, bathroom & alfresco.

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Documentation**

Plans and relevant forms date stamp received on 19 December 2007

**Date Application Received**

19 December 2007

**Advertising**

Adjoining land owners only

**Date Advertised**

15 January 2008

**Close of Comment Period**

29 January 2008

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

55 days

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

19 February 1979	Council approves an application for a detached garage;
20 June 2000	Council grants conditional approval for a fibreglass swimming pool;
21 June 2000	Building Permit 61/2955 issued for swimming pool;
21 September 2004	Council decides to advise the WAPC that it does not support the subdivision of 74 Allen Street;
15 October 2004	WAPC conditionally approves the subdivision of 74 Allen Street into 2 survey strata lots (battleaxe);
7 July 2006	Demolition Licence DL06/174 issued for single storey brick & tile house.

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**STATISTICS**

Land Area

**Required**

**Proposed**

1085m<sup>2</sup>  
Existing

Open Space

55%

67.3%  
Acceptable

Zoning

R12.5

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**Setbacks:**

Front (west)	<i>Garage</i>	7.50		17.00 Acceptable
Rear (east)	<i>Bedroom 2 &amp; 3 &amp; Alfresco</i>	6.00		17.40 Acceptable
Side (north)	<i>Alfresco, Kitchen,</i>	1.50		1.45
	<i>Familyroom &amp; Laundry</i>		<b>Discretion Required</b>	2.65
	<i>Ensuite</i>	1.00		Acceptable
Side (south)	<i>Garage</i>	Nil	<i>Policy 142</i>	Nil Acceptable
	<i>Bathroom</i>	1.00		3.00 Acceptable
	<i>Bedroom 2 &amp; Activity Room</i>	1.50		1.55 Acceptable
				3.086 Acceptable
				6.90 Acceptable
				3.60 to 3.70 <b>Discretion Required</b>

**CONSULTATION**

**Public Submissions**

At the close of the comment period no submissions were received.

**Site Inspection**

By Consultant Town Planner on 31 May 2007

**REPORT**

**Issues**

*Boundary Setbacks*

The alfresco area, family, kitchen and laundry are set back 1.45m from the north side boundary common with 72 Allen Street.

The RDC recommend a 1.5m setback.

*Boundary Wall Height*

The parapet wall for the garage on the south side boundary varies in height between 3.6m and 3.7m above natural ground level (NGL).

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

**Discussion**

This application is for ground floor additions at the rear of the single storey house at 74 Allen Street.

This house was approved for demolition in July 2006.



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The owners wish to retain the existing house, and construct additions at the rear to match, which is a proposal that should be supported because it results in the retention of the existing housing stock and no impact on local streetscape.

*Boundary Setbacks*

The proposed setback variation on the north side at 0.5m is considered relatively minor and does not impact on the amenity of the adjoining property.

The potentially affected adjoining property owner has not objected to the application.

*Boundary Wall Height*

Similarly, the proposed variation to boundary wall height is considered minor varying from 0.6m to 0.7m above NGL, and does not impact on the amenity of the adjoining property.

The potentially affected landowner has not objected to the application.

**RECOMMENDATION**

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

- (a) variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.45m;
- (b) variation to boundary wall height pursuant to Local Planning Policy 142 from 3m to 3.7m;

for the construction of ground level additions at the rear of the single storey house at 74 Allen Street comprising a double garage, en-suite, laundry, TV room, kitchen, family/meals, activity room, 2 bedrooms, bathroom & alfresco in accordance with the plans date stamp received on 19 December 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed garage and extensions 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.
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. 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.
8. 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.

Ms Simone O'Grady (applicant) addressed the meeting.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Wilson**

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

- (a) variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.45m;
- (b) variation to boundary wall height pursuant to Local Planning Policy 142 from 3m to 3.7m;

for the construction of ground level additions at the rear of the single storey house at 74 Allen Street comprising a double garage, en-suite, laundry, TV room, kitchen, family/meals, activity room, 2 bedrooms, bathroom & alfresco in accordance with the plans date stamp received on 19 December 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed garage and extensions 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.
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.

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7. 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.
8. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

CARRIED

T7.4

**Locke Crescent No. 20 (Lot 4989)**

**Applicant & Owner: Setsu Masuda**

**Application No. P240/2007**

By Chris Warrener, Consultant Town Planner on 7 February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a new studio/ancillary accommodation comprising a music room, kitchen, bedroom, shower and toilet, new ground level decking, and a new upper level balcony/deck extension to the rear of the existing 2-storey house.

The gross floor area of the ancillary accommodation comprises 56.08m<sup>2</sup>.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy – Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

**Relevant Council Policies**

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

**Documentation**

Plans and relevant forms date stamp received on 20 December 2007

**Date Application Received**

20 December 2007

**Advertising**

Adjoining land owners only

**Date Advertised**

15 January 2008



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**Close of Comment Period**

29 January 2008

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

54 days

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

3 April 1989 Building Permit 41/1546 issued for a 2-storey brick and iron house;  
7 April 1989 Demolition Licence 268 issued for single storey brick and tile house.

**CONSULTATION**

**Public Submissions**

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

Jennifer & David Harrison (146 Preston Point Road)

- concerned about noise emanating from the proposed music room;
- concerned that balcony extension will involve relocating 2m diameter antenna becoming an even greater eyesore.

**Site Inspection**

By Consultant Town Planner on 4 February 2008

**REPORT**

**Issues**

*Boundary Setbacks* The proposed ancillary accommodation is set back 2.48m from the northeast (rear) boundary common with 144 Preston Point Road.

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

*Boundary Wall* The application proposes a new studio/ancillary accommodation utilising an existing 3.611m high x 11.15m long parapet wall along the northwest side boundary.

LPP 142 limits boundary walls to 3m high x 9m long along one side boundary.

**Discussion**

The proposed ancillary accommodation will replace an existing studio, which incorporates a parapet wall along the northwest side boundary. This parapet wall is proposed to be retained.

The proposed upper floor balcony extension is set back 10.4m from the rear boundary; the RDC recommend a 7.5m setback.

This balcony is set back 5m from the south east boundary common with 18 Locke Crescent, and is similarly setback 5m from the northwest boundary common with 22 Locke Crescent.

The application proposes that these sides of the balcony be screened to comply with the RDC.

*Boundary Setbacks* The existing studio is setback 2.48m from the northeast (rear) boundary; this application simply proposes to replace and upgrade this facility, which is not considered to impact on the amenity of the adjoining property.

The potentially affected property owner has not objected to the



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application.

*Boundary Wall*

The parapet wall along the northwest side boundary is an existing boundary wall, which is not considered to impact on the amenity of the adjoining property at 22 Locke Crescent. The potentially affected adjoining property owner has not objected to this application.

In regard to the concerns raised in the submission about noise the applicant's plans specify a higher rated insulation, and double glazing, which will ameliorate the potential noise impacts of the proposed music room.

Noise emissions must comply with the requirements of the Environmental Protection (Noise) Regulations 1997.

**RECOMMENDATION**

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

- (a) variation to the northeast (rear) boundary setback pursuant to the Residential Design Codes from 6m to 2.48m;
  - (b) variation to the length and height of a parapet wall along the northwest side boundary pursuant to Local Planning Policy 142 from 9m x 3m to 11.15m x 3.611m;
- for the construction of a new studio/ancillary accommodation comprising a music room, kitchen, bedroom, shower and toilet, new ground level decking, and a new upper level balcony/deck extension to the rear of the existing 2-storey house at 20 Locke Crescent in accordance with the plans date stamp received on 20 December 2007 subject to the following conditions:

1. use of the proposed studio/ancillary accommodation is confined to members of the same family as the occupiers of the main dwelling.
2. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. the proposed ancillary accommodation, deck, and upper floor balcony are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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 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. 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.*



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- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

Mr & Mrs David & Jennifer Harrison of 146 Preston Point Road addressed the meeting expressing concern regarding noise issues that may arise from the proposed music room.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

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

- (a) **variation to the northeast (rear) boundary setback pursuant to the Residential Design Codes from 6m to 2.48m;**
- (b) **variation to the length and height of a parapet wall along the northwest side boundary pursuant to Local Planning Policy 142 from 9m x 3m to 11.15m x 3.611m;**

**for the construction of a new studio/ancillary accommodation comprising a music room, kitchen, bedroom, shower and toilet, new ground level decking, and a new upper level balcony/deck extension to the rear of the existing 2-storey house at 20 Locke Crescent in accordance with the plans date stamp received on 20 December 2007 subject to the following conditions:**

1. **use of the proposed studio/ancillary accommodation is confined to members of the same family as the occupiers of the main dwelling.**
2. **the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
3. **the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
4. **the proposed ancillary accommodation, deck, and upper floor balcony are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
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 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. **this planning approval to remain valid for a period of 24 months from date of this approval.**

**Footnote:**

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

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

**CARRIED**

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**T7.5 Clayton Street No. 41 (Lot 11)**  
**Applicant: Arkitektura**  
**Owner: Eddy Anthony & Margherita Sfreddo**  
**Application No. P224/2007**

By Chris Warrener, Consultant Town Planner on 7 February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a single storey house comprising a double garage, 4 bedrooms, 2 bathrooms, living, dining, kitchen, pantry, sitting room and outdoor alfresco area at 41 Clayton Street.

The garage door width occupies 24.62% of the property frontage.

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Documentation**

Plans and relevant forms date stamp received on 26 November 2007

**Date Application Received**

26 November 2007

**Advertising**

Adjoining land owners only

**Date Advertised**

15 January 2008

**Close of Comment Period**

29 January 2008

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

78 days

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

25 May 1960      Commissioner for Public Health approves a bacteriolytic sewage treatment installation;  
3 January 1976      A brick rendered swimming pool registered;  
31 October 2007      Demolition Licence B07/260 issued for single storey brick & tile house.

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**STATISTICS**

Land Area

**Required**

**Proposed**

931m<sup>2</sup>  
Existing

Open Space

55%

58%  
Acceptable

Zoning

R12.5

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**Setbacks:**

Front (east)			
	<i>Garage</i>	7.50	8.50 Acceptable
	<i>Porch</i>	7.50	6.40 <b>Discretion Required</b>
	<i>Bedroom 1</i>	7.50	7.50 Acceptable
Rear (west)			
	<i>Alfresco</i>	6.00	5.40 <b>Discretion Required</b>
	<i>Dining</i>	6.00	5.40 <b>Discretion Required</b>
	<i>Bedroom 2</i>	6.00	6.00 Acceptable
Side (south)			
	<i>Bedroom 2 &amp; 3</i>	1.50	4.50 Acceptable
	<i>Laundry</i>	1.00	6.80 Acceptable
	<i>Garage</i>	1.00	5.50 Acceptable
Side (north)			
	<i>Bedroom 1</i>	1.00	2.50 Acceptable
	<i>Ensuite</i>	1.00	1.50 Acceptable
	<i>Verandah</i>	1.50	2.50 Acceptable
	<i>Living/Alfresco</i>	1.50	6.10 Acceptable
<b><u>Height:</u></b>			
	Wall	6.00	3.70 Acceptable
	Ridge	9.00	7.50 Acceptable

**CONSULTATION**

**Town Planning Advisory Panel Comments**

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

- garage dominates
- faux Tuscan house which is regrettable
- not appropriate for existing streetscape
- roof pitch is desirable

**Public Submissions**

At the close of the comment period no submissions were received.

**Site Inspection**

By Consultant Town Planner on 29 January 2008.

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**REPORT**

**Issues**

*Boundary Setbacks*

East Side Boundary (Front)

A proposed porch is set back 6.4m from the front boundary.

The RDC recommend a 7.5m setback.

West Side Boundary (Rear) – Common with 79 Pier Street

A wall for a dining room is set back 5.4m from the rear boundary.

The RDC recommend a 6m setback.

*TPAP Comments*

The panel considered that the design of the proposed house was not appropriate.

**Discussion**

*Boundary Setbacks*

The variation proposed to the front setback for the porch is considered very minor and does not have any impact on local streetscape given the reduced setbacks of structures on adjoining properties, and is supported.

Similarly the rear setback variation is considered minor especially given that the encroachments are for two short lengths of wall for a barbeque next to the alfresco area, and a 2.6m long embayment for the dining room.

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

*TPAP Comments*

The applicant refutes the comments made by TPAP.

Inspection of properties along both sides of Clayton Street reveals a wide variety of housing styles built in a wide variety of eras. There is no typical architectural style.

In relation to Design in the Richmond precinct the LPS states:

*"No specific design is characteristic of development in the precinct. Town-wide design guidelines are therefore considered appropriate to encourage good development. It would be desirable for the original minimum lot size to preserve the historical integrity, with the remaining land being subdivided in order to maintain gross development potential. Heritage guidelines would thus be appropriate to assist landowners with refurbishment of this housing.*

*With regard to development standards, a high degree of flexibility is required for the precinct since the existing development exhibits so much variety."*

**RECOMMENDATION**

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

- (a) variation to the east side (front) boundary setback pursuant to the Residential Design Codes from 7.5m to 6.4m;
- (b) variation to the west side (rear) boundary setback pursuant to the Residential Design Codes from 6m to 5.4m;

for the construction of a single storey house comprising a double garage, 4 bedrooms, 2 bathrooms, living, dining, kitchen, pantry, sitting room and outdoor alfresco area at No.

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41 (Lot 11) Clayton Street, East Fremantle in accordance with the plans date stamp received on 26 November 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all 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. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mrs Margherita Sfreddo (applicant) addressed the meeting.

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**RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Rico**

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

- (a) variation to the east side (front) boundary setback pursuant to the Residential Design Codes from 7.5m to 6.4m;**
- (b) variation to the west side (rear) boundary setback pursuant to the Residential Design Codes from 6m to 5.4m;**

**for the construction of a single storey house comprising a double garage, 4 bedrooms, 2 bathrooms, living, dining, kitchen, pantry, sitting room and outdoor alfresco area at No. 41 (Lot 11) Clayton Street, East Fremantle in accordance with the plans date stamp received on 26 November 2007 subject to the following conditions:**

- 1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 5. all 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. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.**
- 7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.**
- 8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.**
- 9. this planning approval to remain valid for a period of 24 months from date of this approval.**

**Footnote:**

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

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



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- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
  - (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
  - (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- CARRIED

Mayor Ferris made the following impartiality declaration in the matter of 19 View Terrace: "As a consequence of Mr John Chisholm, the architect for the development, being known to me as my children attend the same school and are in the same class as his children, 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.

Cr Dobro made the following impartiality declaration in the matter of 19 View Terrace: "As a consequence of Mr John Chisholm, the architect for the development, being known to me through our association with the East Fremantle Primary School, 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.

**T7.6 View Terrace No. 19 (Lot 247)**

**Applicant: John Chisholm**

**Owner: Rex Harrison Pty Ltd**

**Application No. P233/2007**

By Chris Warrener, Consultant Town Planner on 7 February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for additions at the rear of the 2-storey house at 19 View Terrace comprising a 6.2m long x 4.5m wide x 3.5m high gable roofed pavilion and decking, and a 4.7m long x 1.9m wide x 2.45m high pool equipment enclosure in the rear southeast corner.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy – Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

**Relevant Council Policies**

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

**documentation**

Plans and relevant forms date stamp received on 13 December 2007

**Date Application Received**

13 December 2007

**Advertising**

Adjoining land owners only

**Date Advertised**

15 January 2008

**Close of Comment Period**

29 January 2008

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

61 days

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

10 September 1980 Council approves development of street verge with fine red pebble finish;  
29 March 1982 Building Licence issued for timber framed asbestos clad second storey additions;  
10 March 1987 Building Licence issued for upper floor extensions;  
17 June 1996 Council grants special approval for extension of a terrace and the erection of a wall on the western boundary;  
30 October 1998 Building Licence issued for a screen wall to the carport;  
1 June 2005 WAPC refuses an application to subdivide 19 View Terrace into 2 lots (2 x 445m<sup>2</sup>);  
20 December 2006 CEO acting under delegated authority conditionally approves alterations and additions.

**CONSULTATION**

**Public Submissions**

At the close of the comment period no submissions were received.

Four submissions were received after the submission period closed:

*A Tuba* - extension to rear of second storey will obstruct harbour view;  
*21B View Terrace* - request that the matter be stood down and not finally determined by Council.

*T Lowenhoff* Object as proposal could "wipe out our views of the ocean at  
*23A View Terrace* the rear of our property.

*J Gorey* Strongly object as it will obstruct approximately 60% of our  
*21A View Terrace* harbour view.

*R Cook* - Concerned at removal of screen trees on the boundary –  
*28 Pier Street* overlooking between the properties;  
- Annoyance from noise of pool pump.

**REPORT**

**Issues**

This application does not propose development, which includes variations that would otherwise require the exercise of Council's discretion to approve.

Submissions

3 of the 4 submissions are from property owners east of the application. All of them oppose the application because it will result in a diminution of their rear property views to the west to Fremantle harbour, and the ocean.

**Discussion**

This application is for additions at the rear, which had been the subject of an application that had been approved under delegated authority by the CEO in December 2006.

It is proposed to relocate and alter the size of the pavilion (previous approval for 5.5m long x 5.5m wide x 4.5m high, current application is for 6.2m long x 4.5m wide x 3.5m high), and relocate a pool enclosure. Both structures had been the subject of the previous application, but are now proposed to be in different positions at the rear of the property.

The submission from 21B View Terrace is concerned about the impact on harbour views by the second storey additions (proposed master bedroom and adjoining balcony) at the

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rear, however these additions do not propose any variations which would otherwise require Council to exercise its discretion to approve, and in any event they are the subject of the delegated authority approval granted in December 2006.

In light of the fact that this application does not propose development that incorporates variations to setbacks or building height established under TPS 3/LPP 142 the application is supported.

**RECOMMENDATION**

That Council grants approval for the construction of additions at the rear of the 2-storey house at 19 View Terrace comprising a 6.2m long x 4.5m wide x 3.5m high gable roofed pavilion and decking, and a 4.7m long x 1.9m wide x 2.45m high pool equipment enclosure in the rear southeast corner at No. 19 (Lot 247) View terrace, East Fremantle in accordance with the plans date stamp received on 13 December 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed pavilion and pool enclosure are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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.
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).*

Mr Albert Tuba (owner of 21B View Terrace) addressed the meeting and expressed concern over the earlier application for alterations/additions to the residence approved under delegated authority in 2006.

Mr John Chisholm (architect) and Mr Travis French (owner) addressed the meeting.

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#### RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council grants approval for the construction of additions at the rear of the 2-storey house at 19 View Terrace comprising a 6.2m long x 4.5m wide x 3.5m high gable roofed pavilion and decking, and a 4.7m long x 1.9m wide x 2.45m high pool equipment enclosure in the rear southeast corner at No. 19 (Lot 247) View terrace, East Fremantle in accordance with the plans date stamp received on 13 December 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed pavilion and pool enclosure are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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.
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).*

CARRIED

T7.7

**View Terrace No. 5 (Lot 241)**

**Applicant & Owner: Stephen William & Katherine Ivy Gooderson**

**Application No. P1/2008**

By Chris Warrener, Consultant Town Planner on 7 February 2008

#### BACKGROUND

##### Description of Proposal

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

a cellar, a 9.6m long x 4.4m wide below ground swimming pool, and

Ground Floor: triple garage, 4 bedrooms, 2 bathrooms, entry, laundry, store, living room and outdoor living area;

Upper Floor: alfresco, 2 balconies, dining/family kitchen, walk-in pantry, bedroom, walk-in-robe, en-suite and study.

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The width of the garage door occupies 23.33% of the property frontage.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5  
Local Planning Strategy - Richmond Hill (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 11 January 2008

**Date Application Received**

4 January 2008

**Additional information**

1 February 2008: Applicant's amended plans received pushing the triple garage back to the required 7.5m front setback.

**Advertising**

Adjoining landowners and sign on site

**Date Advertised**

15 January 2008

**Close of Comment Period**

29 January 2008

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

39 days

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		890.51m <sup>2</sup> Existing
Open Space	55%	64.67% Acceptable
Zoning		R12.5
<b>Setbacks:</b>		
Front (north)		
<i>Ground</i> <i>Garage</i>	7.50	6.80 <b>Discretion Required</b>
<i>Verandah</i>	7.50	7.745 Acceptable
<i>Upper</i> <i>Alfresco</i>	7.50	5.64 <b>Discretion Required</b>
<i>Balcony</i>	7.50	7.74 Acceptable
Rear (south)		
<i>Ground</i> <i>Bedroom 4</i>	6.00	14.50 Acceptable
<i>Living</i>	6.00	15.00 Acceptable

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	<i>Laundry</i>	6.00	24.60
			Acceptable
<i>Upper</i>	<i>Bedroom 1</i>	6.00	14.50
			Acceptable
	<i>Balcony</i>	6.00	15.00
			Acceptable
	<i>Kitchen</i>	6.00	24.60
			Acceptable
Side (east)			
<i>Ground</i>	<i>Living</i>	1.50	7.80
			Acceptable
	<i>Garage</i>	1.00	1.50
			Acceptable
<i>Upper</i>	<i>Balcony</i>	7.50	7.80
			Acceptable
	<i>Study</i>	2.30	7.80
			Acceptable
	<i>Alfresco</i>	1.10	2.56
			Acceptable
Side (west)			
<i>Ground</i>	<i>Verandah</i>	1.50	1.52
			Acceptable
	<i>Bedroom 2, 3 &amp; 4</i>	1.50	1.52
			Acceptable
<i>Upper</i>	<i>Balcony</i>	1.20	1.52
			Acceptable
	<i>Familyroom</i>	1.20	1.52
			Acceptable
	<i>Ensuite</i>	1.20	1.52
			Acceptable
	<i>Bedroom 1</i>	1.20	1.52
			Acceptable
<b>Height:</b>			
Wall		5.60	5.50 to 5.90
			<b>Discretion Required</b>
Ridge		8.10	8.50
			<b>Discretion Required</b>

**CONSULTATION**

**Town Planning Advisory Panel Comments**

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

- garage to line up with verandah in accordance with Council policy
- building proportions a little clumsy
- no symmetry with windows and roof design
- design too detailed – should be simplified
- the Panel noted their disappointment in losing another bungalow - consider alterations/additions to the existing residence

**Public Submissions**

At the close of the comment period 1 submission was received. After the comment period closed another 3 submissions were received, two supportive.

- C & J Johnson* - reject the current proposal on the grounds that it does not  
*7 View Terrace* comply with planning requirements for building height and

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- the front setback;
- argue strongly that the second storey balcony setback should be at 7.5m;
  - remove screen from east side of balcony because it obstruct line of site.

*P & M Doig  
9 View Terrace*

Object to application because of proposed front setback and building height variations.

*J & L Beetham  
3 View Terrace*

No objections to the proposal.

*L & R Croll  
16 Pier Street*

Support the proposal.

**Site Inspection**

By Consultant Town Planner on 24 January 2006

**REPORT**

**Issues**

*Building Height*

The wall for bedroom 1 facing the south side (rear) boundary varies in height between 5.5m and 5.9m above natural ground level (NGL).

LPP 142 limits wall height in this area of East Fremantle to 5.6m above NGL.

Roof height of the proposed house varies up to 8.5m above NGL.

LPP 142 limits roof height to 8.1m above NGL.

*Boundary Setbacks*

At ground level a proposed triple garage is set back 7.5m, and an upper level alfresco, which is cantilevered over the garage, is set back 6.14m from the front boundary.

The RDC recommend a 7.5m front setback, however part 3.2.2 of the RDC allow minor incursions of the type proposed in this application into the street setback area.

*Submissions*

Two of the submissions object to the application because it proposes variations to allowable building height and the front setback; the submission from 7 View Terrace also requests deletion of the obscure glazing from the west side of the balcony at the front.

**Discussion**

*Building Height*

The adjoining property owner at 7 View Terrace has objected to the proposed height variation, and unless there are particular extenuating circumstances to allow a variation roof height of the proposed house should be no higher than permitted under the policy.

If roof height is brought into compliance then the proposed wall height increase will similarly be affected, and also comply.

*Boundary Setbacks*

The applicant submitted amended plans for the garage to be at the recommended 7.5m front setback with the alfresco area cantilevered over the garage set back 6.15m.



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The amended plans are acceptable in terms of the revised front setback.

*Submissions*

The applicant has provided a comprehensive response to the two objections; the content of this response is supported in terms of it addressing the concerns raised.

**Conclusion**

Building height is the most sensitive issue confronting the development of property in this area of East Fremantle, particularly along View Terrace.

Council needs to be mindful of its local planning policy (LPP 142) on this issue, which states in regard to views:

*“Part 4 – Views*

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

The application is for a 2-storey house which proposes a very minor increase over the height limits under LPP 142, and combined with the topography of the subject land the increased height is considered not to have any impact on adjoining property views.

The steeply pitched roof is considered to ‘balance’ the appearance of the development making a positive contribution to the local streetscape and is supported.

**RECOMMENDATION**

That Council grants approval for the construction of a 2-storey house incorporating:

a cellar, a 9.6m long x 4.4m wide below ground swimming pool, and

Ground Floor: triple garage, 4 bedrooms, 2 bathrooms, entry, laundry, store, livingroom and outdoor living area;

Upper Floor: alfresco, 2 balconies, dining/family kitchen, walk-in pantry, bedroom, walk-in-robe, en-suite and study;

at No. 5 (Lot 241) View Terrace, East Fremantle in accordance with the amended plans date stamp received on 11 January 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 dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all 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. 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





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- approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
  8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
  9. the proposed works for the swimming pool are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
  10. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
  11. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
  12. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
  13. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
  14. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
  15. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
  16. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Julian Beetham of 3 View Terrace addressed the meeting in support of the proposed development.

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Mr Stephen Gooderson (owner) and Mr Daniel Prestipino (designer) addressed the meeting.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

**That the application for a two storey residence at No. 5 (Lot 241) View Terrace, East Fremantle be deferred to the February meeting of Council pending the submission of revised drawings showing compliance with Council Policy 142.**

CARRIED

*Mayor Ferris made the following impartiality declaration in the matter of 6B Glyde Street: "As a consequence of the applicant, Mr Bill Ward, being known to me by way of my involvement with soccer, 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.*

**T7.8**

**Glyde Street No. 6B (Lot 2)**

**Applicant: Kensington Design**

**Owner: Louise & Bill Ward**

**Application No. P227/2007**

By Chris Warrener, Consultant Town Planner on 7 February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for second storey additions at the rear of the terrace house at 6B Glyde Street comprising a master bedroom, en-suite, and study

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R20

Local Planning Strategy - Plympton Precinct (LPS)

Residential Design Codes (RDC)

**Relevant Council Policies**

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

**Documentation**

Plans and relevant forms date stamp received on 30 November 2007

**Date Application Received**

30 November 2007

**Advertising**

Adjoining land owners only

**Date Advertised**

15 January 2008

**Close of Comment Period**

29 January 2008

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

74 days

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

3 Nov. 1998

Strata Plan 35020 registered for 6A & 6B Glyde Street;

16 March 2004

Council decides to hold over, on the specific request of the applicant, an application for 3<sup>rd</sup> storey additions.



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**CONSULTATION**

**Town Planning Advisory Panel Comments**

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

- a flat / skillion roof pitched towards the rear would be more appropriate
- design out of character with existing dwelling and surrounds
- heritage impact assessment required

**Public Submissions**

At the close of the comment period 4 submissions were received.

- J Chisholm*  
*11 Hubble Street*
- objects to development involving a parapet boundary wall up to 4.6m high;
  - drawings do not scale accurately;
  - overlooking.
- S & S Hill*  
*6A Glyde Street*
- hoping that the addition will be in keeping with the existing charm and ethos of East Fremantle;
  - concerned that addition will be extremely close to the parapet wall, anxious that damage may occur during construction;
  - concerned about the height of the parapet wall.
  - believe that the addition/alterations will detract from the character of the building and surrounding area.
- P Larkin*  
*4 Glyde Street*
- impact on streetscape;
  - impact of scale of building;
  - overlooking concerns.

**Site Inspection**

By Consultant Town Planner on 11 January 2008

**REPORT**

**Background**

At its meeting on 16 March 2004 Council considered a similar application for additions to 6B Glyde Street and decided at the request of the applicant to 'hold' the application over. The decision states:

*"Cr Kirkness – Cr Carosella*

*That the application for the development of an additional third storey to No. 6b (Lot 86) Glyde Street, East Fremantle be held over, on the specific request of the applicant, on the following grounds:*

- 1. the proposed works are not consistent with the Town Planning Scheme No. 2 "Zoning and Development Table" with regard to plot ratio.*
- 2. the plot ratio which cannot be relaxed beyond 5% under TPS No. 2 and where the proposed additions impact on existing heritage fabric.*
- 3. considerable relaxations with regard to height and setbacks are required.*
- 4. the proposed development would impact on the integrity and physical setting of this building of considerable local significance.*

*Footnote:*

- 1. Council may give consideration to the addition of an upper level that does not impact on the heritage significance of the building and where amenity of neighbours can be considered and accommodated subject to consideration being given to the listing of the premises on the Schedule of Places of Heritage Value under TPS No. 2 that would provide a mechanism for the relaxation of the plot ratio requirement under TPS No. 2.*
- 2. The holding over of this submission is based on an understanding that the applicants will not proceed to appeal until a further submission has been received and considered by Committee and Council.*

**CARRIED**

The current application is for a similar size addition but in a different design, lower in height, and incorporates dormer windows facing north and south.



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**Issues**

Boundary Wall Height

The application proposes to increase the height of two parapet walls on the north and south sides.

On the south side next to 8 Glyde Street a 9m long wall is increased from 3.4m to 4.4m above natural ground level (NGL), and on the north side next to 6B Glyde Street a 7m long wall is increased from 3.9m to 5.4m above NGL.

LPP 142 limits boundary walls to one side only 3m high x 9m long.

While the subject property has two existing "above height" side boundary walls their height is proposed to be further increased above the limit specified in LPP 142.

Overall roof height is proposed to vary from 6.85m to 8.4m above NGL, which is within the 9m limit under the RDC.

Heritage

Of relevance to the heritage significance of the property is the following reason and footnote extracted from the Council decision to defer a similar application on 16 March 2004:

- "4. the proposed development would impact on the integrity and physical setting of this building of considerable local significance.*

Footnote:

*Council may give consideration to the addition of an upper level that does not impact on the heritage significance of the building and where amenity of neighbours can be considered and accommodated subject to consideration being given to the listing of the premises on the Schedule of Places of Heritage Value under TPS No. 2 that would provide a mechanism for the relaxation of the plot ratio requirement under TPS No. 2."*

The property is not on the Heritage List under TPS 3 however it is very 'highly rated' in the Draft MI.

The following extracts from the Draft MI are relevant:

*"Category A - Places of high local heritage significance, including places of potential State Register significance.*

*High heritage significance at a local level, and having potential State Heritage significance; informed consideration should be given to nomination for State Register listing prior to or at the time of consideration for further development, and prior determination of any significant development application for the place. Places to be generally retained and conserved, and worthy of a high level of protection. Conservation Plans may be required depending on relative significance and apparent impact of development on the place; detailed Heritage Assessments otherwise required as corollary to any development application. Strong encouragement to the owner under the Town of East Fremantle Planning Scheme to conserve the significance of the place. Incentives to promote heritage conservation should be considered where necessary to achieve desirable conservation outcomes in context of permissible development."*

**Discussion**

Boundary Wall Height

While the proposal is for boundary walls up to 4.4m and 5.4m above NGL this is not considered extraordinary given the type of development either side of the subject property. If the wall height of this house was in isolation/quite different from adjoining properties then it might be considered an issue, but because of the built circumstances next to and nearby the subject property the increased wall heights are considered acceptable.



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In its response to the submissions and TPAP the applicant has included plan elevations (west and east) to illustrate the proposed development next to outlines of the neighbouring properties. These plans clearly illustrate the point referred in the above paragraph.

The wall heights proposed are lower than the maximum allowed under the RDC – 6m.

Heritage

The additions proposed to the rear of the 2-storey terrace house will not be visible from Glyde Street therefore they will have not alter the appearance of the property, their impact on the heritage value of the property is considered negligible, and can be supported.

TPAP Comments & Submissions

The Applicant has provided a response to the concerns raised in the submissions and TPAP. The Owner has also submitted a response to the submissions.

Specifically in response to the comment of the panel regarding the roof of the addition the Applicant has illustrated the impact of this on additionally submitted drawing elevations. These show an addition that will have wall heights much higher than proposed, and above the wall height limit recommended in the RDC (6m) with the resultant negative impacts on neighbouring properties.

It is considered that the additions as proposed are appropriate and are supported.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to Local Planning Policy 142 for two boundary walls higher than 3m for the construction of second storey additions at the rear of the terrace house at 6B (Lot 2) Glyde Street, East Fremantle comprising a master bedroom, en-suite, and study in accordance with the plans date stamp received on 30 November 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a 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 addition is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all 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 to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. this planning approval to remain valid for a period of 24 months from date of this approval.



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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.

Mr Paul Larkin of 4 Glyde Street and Mr John Chisholm of 11 Hubble Street addressed the meeting reiterating their concerns expressed in their submissions to Council.

Mrs Louise Ward (applicant) and Ms Sally Pearse & Mr Hugh Whettters of Kensington Design addressed the meeting in support of the proposal.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Wilson**

**That the application for alterations/additions to the residence at No. 6B (Lot 2) Glyde Street, East Fremantle be deferred to the February meeting of Council pending a site inspection of the subject property as well as neighbouring properties impacted by the proposed development.** CARRIED

**T7.9**

**Canning Highway No. 83 (Lot 123)**

**Applicant: MacCormac Architects**

**Owner: Canning 83 Pty Ltd**

**Application No. P98/2007**

By Chris Warrener Town Planner on 7 February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 4-storey Mixed Use development comprising an existing ground floor commercial building divided into 3 shops, with new development comprising 4 offices, and two 2-bedroom residential apartments on 3 upper levels.

The two apartments are on the top/fourth level.

16 on site car parking spaces are proposed.

**Statutory Considerations**

Town Planning Scheme No. 3 (TPS 3) – Canning Highway Mixed Use zone

Metropolitan Region Scheme Reserve for Primary Regional Roads for Canning Highway

Western Australian Planning Commission Act 1985 Delegation

State Administrative Tribunal Act 2004

Local Planning Strategy - Plympton Precinct (LPS)

Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy No. 140 – Port Buffer Development (LPP 140)

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**Documentation**

Plans and relevant forms date stamp received on 4 May 2007

**Date Application Received**

4 May 2007

**Additional Information Received**

16 May 2007 Amended plans and cover letter received;  
25 May 2007 Heritage Report (Ronald Bodycoat) received;  
2 July 2007 Photo image of proposed development in existing built context;  
4 July 2007 Additional heritage advice in response to Town Planning Advisory Panel comments.

**Advertising**

Adjoining land owners & sign on site

**Date Advertised**

Original application 1 June 2007  
Post SAT mediation 10 January 2008

**Close of Comment Period**

Original application 19 June 2007  
Post SAT mediation 25 January 2008

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

17 August 2004 Council decides to defer consideration of an application for a Mixed Use development comprising commercial use on the ground floor with 4 residential units on 3 upper levels pending:

- “1. receipt of:
  - (a) additional visual details that would assist councillors to address issues such as appearance, bulk and scale, setbacks and impact of proposal; and
  - (b) additional information on the car parking to be provided in particular the issue of entry and egress.
2. the Chief Executive Officer in consultation with relevant officers clarifying issues relating to the relaxation of plot ratio in respect of Town Planning Scheme No 2 and No 3 for Mixed Use/Residential and any other relevant matters.
3. receipt of a satisfactory Conservation Plan and accompanying Heritage Impact Statement regarding the proposed development, with such plan and impact statement to be prepared at the applicant's expense by an experienced consultant listed in the current Heritage Council of WA Directory of Consultants.

Footnote

*The applicant be encouraged to address some of the issues of non compliance in the new development eg building height, bulk and scale, parking and building design.”*

Following this decision there was no further communication with the applicant.

Ownership of the property subsequently changed.

21 August 2007 Council decides to refuse an application for a 4-level mixed use development;  
18 September 2007 State Administrative Tribunal (SAT) receives an application for a review of the Council decision;  
28 September 2007 SAT Directions Hearing;  
19 October 2007 SAT Directions Hearing;  
9 November 2007 SAT Mediation;

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- 3 December 2007 SAT Mediation;  
18 December 2007 Council decides:  
*"Mayor Ferris – Cr de Jong  
That the application be held over pending public advertising in  
accordance with Section 9.4.3(b) of the Town Planning Scheme No.3.  
CARRIED"*

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel (TPAP) at its meeting held on 26 June 2007 and the following comments were made:

- *existing shops should not be dominated by the proposed building*
- *need to investigate original roof design if different to existing*
- *too dominant in the corner and nothing of that scale in close proximity*
- *should be maximum of 3 storeys and no higher than adjoining Tradewinds*
- *design appropriate, not inconsistent with Tradewinds, but overwhelming on corner*
- *applicant to be commended for retaining and conserving shops*
- *important that details of the conservation works (colours, finishes, materials, detailing) be submitted to Council for planning approval*

**Referral to Other Authorities**

Department for Planning & Infrastructure (DPI) & Main Roads WA (MRWA)

**Public Submissions**

At the close of the comment period in January 2008 5 submissions were received.

*Fremantle Port  
Authority*

No objections subject to requirements of the "Fremantle Port Buffer Area Guidelines". The property is in Area 2 of the Fremantle Buffer Area.

*Tradewinds Hotel*

Not against development, concerned with the impact the modern building will have on the Tradewinds Hotel eg height, visual impact, signage, design, parking, traffic and residential building adjoining a commercial property.

*L & P New  
7 Hubble Street*

- will severely increase parking;
- overall size & scale appears to be excessive;
- exceeds plot ratio limit;
- pressure to approve more oversized developments.

*S Martin & G Foster  
16 Sewell Street*

- objection;
- over-height, out of keeping with neighbouring commercial properties;
- no setback on Sewell Street;
- parking shortfall.

*M Williams  
27 Sewell Street*

Prefer development be strictly kept at a maximum of two levels.

**REPORT**

**Background**

In 2004 Council considered a similar application for development, which was deferred pending the submission of additional information. This information was never provided and that application lapsed.

The 2004 application proposed a bigger development in terms of built area than the current application, with fewer on-site parking spaces. Plan elevations for the previous application are attached.



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The current application is for a 'smaller' development, and it has been submitted with additional information regarding the matters raised in the decision that Council made in response to the 2004 application.

At its meeting on 21 August 2007 Council decided to refuse the current application based on advice it received from MRWA and DPI that a portion of the property (corner truncation) is reserved for Primary Regional Roads under the Metropolitan Region Scheme (MRS)

Council decided:

*"Mayor O'Neill – Cr Dobro*

*That:*

- 1. Council refuses to grant approval for the construction of a 4-storey Mixed Use development comprising an existing ground floor commercial building divided into 3 shops, with new development comprising 4 offices, and two 2-bedroom residential apartments on 3 upper levels on Lot 123 (No. 83) Canning Highway, East Fremantle in accordance with the plans date stamp received on 17 May 2007 on the grounds that the proposal does not accord with the purpose for which the land is reserved.*
- 2. Given the property's B^ rating in the Draft Town of East Fremantle Municipal Inventory the Chief Executive Officer in consultation with relevant officers, enter into negotiations with Main Roads WA and the Department for Planning & Infrastructure.*

Footnote:

*Council does want this building restored and retained and would support some redevelopment of the site with retention and restoration of the existing building as an integral factor.*

*CARRIED*

The applicant applied to SAT for a review of this decision.

Following two Directions Hearings and a Mediation held on 9 November 2007 DPI advised that it would now be prepared to support the development as submitted subject to a condition that:

*"The landowner entering into a Deed of Agreement with the Western Australian Planning Commission (WAPC) and Main Roads Western Australia that upon the construction/upgrading of Canning Highway the applicant shall not seek compensation fro that portion of the building subject to the Primary Regional Road (PRR) reservation in the Metropolitan Region Scheme (MRS).*

Advice Notes:

- 1. Upon acquisition of the land for any future Canning Highway construction works, the construction authority shall be responsible for modification of the building to provide for Canning Highway/Sewell Street corner truncation at the construction authority's cost. The landowner shall be paid compensation for the land only.*
- 2. DPI needs to review the PRR reservation for Canning Highway recognising its status as part of the Auslink network, and this will include truncation requirements, intersection design and carriageway plans. At this stage it would be premature to speculate on any potential changes to the current PRR reservation."*

At SAT Mediation held on 3 December 2007 it was agreed that the wording of this condition should be improved to refer to the current MRS reserve, and the reworded advice should be provided by the WAPC, (which is the authority responsible for the administration and implementation of the MRS) to Council.

Pursuant to the SAT Mediation on 3 December 2007 the following Order was made:

- 1. The applicant is to provide the respondent and the Western Australian Planning Commission with a revised condition in respect of the use of the reserved land at 79-83 Canning Highway, by 7 December 2007.*
- 2. The respondent is to endeavour to deal with this matter at its next meeting.*

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3. *The matter is adjourned to further mediation at 2pm Wednesday 19 December 2007.*

The applicant subsequently forwarded the following revised condition:

*"The Department will support the development of 79-83 Canning Highway, East Fremantle ("the Land"), shown in the development plans dated May 2007, subject to the land owner ("the Owner") entering into a Deed of Agreement with the Western Australian Planning Commission ("WAPC") which provides that if part of the Land, the subject of the primary regional road reserve ("Relevant Land"), shown in the Metropolitan Region Scheme as at 3 December 2007 and in the attached plan, is required to be taken by a statutory or public authority, then the Owner shall be entitled to exercise its rights and remedies at law, in equity or under statute to seek and obtain compensation (save and except that any increase in the value of that part of the existing buildings on the Relevant Land as at 3 December 2007, resulting from Canning 83 Pty Ltd carrying out the proposed development, will not be taken into account in determining the amount of compensation payable to the Owner) and which contains such other terms and conditions agreed to by the parties."*

The wording of this condition has been approved by DPI/WAPC.

In light of this further development Council was invited by SAT to *"endeavour to deal with this matter at its next meeting"* (Order No 2 of SAT mediation held on 3 December 2007).

At its meeting held in December 2007 Council decided that the application should be re-advertised by way of a direct mail-out to residents in the immediate locality, a sign on site, and an advertisement published in the local press.

A plan defining the extent of the mail-out is attached.

At the end of this advertising period 5 submissions were received.

### Issues

#### Building Height

Wall height of the proposed development is up to 14m above natural ground level (NGL), and roof height is up to 15.8m above NGL.

TPS 3 sub-clause 5.8.2 states:

#### *"5.8.2 Building Height*

*Except as otherwise permitted by the local government, the maximum height of buildings in the Commercial Zones are to be as follows:*

<i>(a) Town Centre:</i>	<i>Walls: 8.0 metres</i>	<i>Overall: 10.5 metres</i>
<i>(b) Special Business:</i>	<i>Walls: 8.0 metres</i>	<i>Overall: 10.5 metres</i>
<i>(c) Mixed Use:</i>	<i>Walls: 5.5 metres</i>	<i>Overall: 8.0 metres"</i>

The subject land is in the Canning Highway Mixed Use zone therefore the proposed development exceeds the recommended wall height limit by 8.5m and overall by 7.8m.

#### Plot Ratio

The plot ratio of the proposed development (excluding wet areas) is 1.39:1.

TPS 3 sub-clause 5.8.3 states:

#### *"5.8.3 Plot Ratio*

*Except as otherwise permitted by the local government, the maximum plot ratio in the Commercial Zones are to be as follows:*

<i>(a) Town Centre:</i>	<i>0.5:1</i>
<i>(b) Special Business</i>	<i>0.5:1</i>

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(c) *Mixed Use:* 0.5:1"

The subject land is in the Canning Highway Mixed Use zone therefore the proposed development exceeds the plot ratio limit by 0.89.

Car Parking

The application proposes 16 on-site car parking spaces.

The application is for a mixed use development comprising 3 retail shops, 4 offices, and 2 residential apartments/dwelling units.

TPS 3 Schedule 11: Car Parking Standards specifies for a Shop, and Office use:

*Shop* 1 space for every 20m<sup>2</sup> net lettable area (5 spaces per 100m<sup>2</sup> NLA) - Minimum 4 spaces.

There are 3 shops with a total net lettable area of 156m<sup>2</sup> therefore 12 spaces are required.

*Office (excluding Bank, Building Society, Post Office or other such uses)* 1 space for every 30m<sup>2</sup> net lettable area; Minimum 3 spaces per tenancy or office unit. (N.B. Offices with intensively used public areas require additional parking. Refer Banks, etc.)

There are 4 offices therefore 12 spaces are required.

Pursuant to the RDC for a mixed use development of the type proposed 2 spaces are required for the 2 top floor apartments.

A total of 26 spaces are required for the proposed development, the application proposes 16 on-site spaces therefore there is a shortfall of 10 spaces.

Heritage

The premises are currently used as the "Port Liquor Store", and "Mon Computers".

The building is not heritage listed under TPS 3 however it is listed in the Draft MI with a B+ Management Category.

It is described as being from the "Federation" period in a "Free Classical" style.

The Draft MI states the following for a B rated property:

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

The applicant has submitted a Heritage Report, and proposes to restore and conserve the existing building.

Submissions

4 of the 5 submissions object to the application mainly because of its height, and its impact on parking and traffic.

**Discussion**

In regard to the variations proposed by this application TPS 3 allows variations to site and development standards and requirements subject to certain conditions.

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The following provisions apply:

*"5.6 Variations to site and development standards and requirements*

*5.6.1. Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.*

*5.6.2. In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —*

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and*
- (b) have regard to any expressed views prior to making its determination to grant the variation.*

*5.6.3. The power conferred by this clause may only be exercised if the local government is satisfied that —*

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and*
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality."*

Pursuant to 5.6.2 (a) this application was advertised by way of a sign on site, surrounding landowners were invited to lodge submissions, and an advertisement was published in the local press.

Pursuant to 5.6.3 (a) the following criteria listed in clause 10.2 are relevant:

- (a) the aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);*

Being a mixture of residential and commercial uses the development is considered to satisfy the objective for development in the Mixed Use zone.

- (b) the provisions of the Local Planning Strategy, including the aims and objectives, the strategy for the relevant sector and any planning proposals for the particular precinct;*

The Local Planning Strategy (LPS) states for land use in the mixed use zone along Canning Highway:

*"The Mixed Use area situated on Canning Highway currently includes the Trade Winds Hotel (which incorporates the historic Plympton Hotel) and land to its east could sustain development of a similar intensity preferably with a large residential component. Properties west of the Trade Winds should remain occupied by low scale activities and buildings and retention of the existing buildings would generally be encouraged." (LPS page 27)*

The application site is east of the Trade Winds, it proposes to retain the existing heritage value building, and proposes residential use as well as commercial use therefore the application is considered to comply with the spirit and intent of the LPS.

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In relation to building design the LPS states:

*“The Mixed Use zone on Canning Highway requires development standards to reflect existing building design patterns. A description of the desired building style may be appropriate, and this matter will also be addressed through the application of design guidelines.”*

While there are no design guidelines for development in the Canning Highway Mixed Use zone, the proposal is considered to be a pleasing aesthetic design complementary to the Trade Winds development, and presents a more attractive façade to the secondary street than current.

(j) *the compatibility of a use or development with its setting;*

The application is for a mixed use development in keeping with the objectives for development in the Mixed Use zone under TPS 3, which state:

- *To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which will not prejudice the amenities of the neighbourhood;*
- *To ensure future development within each of the Mixed Use Zones is sympathetic with the desired future character of each area, and that a significant residential component is retained as part of any new development;*
- *To promote the coordination of development within each of the Mixed Use zones and to facilitate the safe and convenient movement of pedestrians to and within the area;*
- *To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the streetscape.*

(k) *any social issues that have an effect on the amenity of the locality;*

The application proposes to redevelop a property which is next to a hotel and short stay residential development. The mix of uses proposed in the application and the modern contemporary building design are considered to make a positive contribution to the immediate locality and the community in general.

(p) *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*

The application is for a new building well set back from Canning Highway, with a more attractive façade to Sewell Street than current.

The appearance of the development is considered to provide a more attractive built element and streetscape presentation, which is largely due to the increased setback of the proposed development, and the simple, contemporary upper floor apartment design.

The development is considered to be an attractive addition to the corner of Sewell Street and Canning Highway complementing the Tradewinds.

Building Height

4 of the 5 submissions object to the application because it proposes development that is “over-height”, not because of its impact on views but more because of its perceived impact on the local streetscape.

However if the development is built along the same lines and at the same height as Tradewinds it is considered that this would result in a less attractive streetscape than if heights are varied as proposed to provide interest and articulation.

The effect of building to the same height as Tradewinds is considered to increase the bulky appearance of property between Hubble Street and Sewell Street, and along Sewell Street, and would result in an uninteresting/“boring” streetscape.

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The applicant states that while the development will be one floor higher than the Tradewinds, it *“will provide a book end to the block and create an appropriate point of emphasis to the western corner of the Canning Highway and Sewell Street.”*

The proposed “new” building will be well set back between 9m and 12m from Canning Highway, behind the Tradewinds development, and well behind the existing heritage value building on site, and is considered to present a more “friendly” appearance to Sewell Street than the subject property does currently.

Setting the new building back will contribute to the ongoing heritage value of the existing liquor store building.

Combined these elements of the proposal are considered to have a positive impact on the amenity of the area and the local streetscape.

Parking

Further to 5.6.3 (a) the following comments in response to criteria 10.2(q) are relevant:

*“(q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;”*

The application proposes 16 on-site parking spaces. There is a shortfall of 10 spaces.

TPS 3, Clause 5.6 allows for relaxation of the applicable Parking Standard.

The power conferred in this clause can only be exercised if:

- (i) Council is satisfied the non compliance will not have an adverse effect upon the occupiers and users of the development, the inhabitants of the locality or the likely future development of the locality.
- (ii) Council is satisfied the relaxation would be appropriate having regard to the criteria set out in clause 10.2

and

- (iii) If, in the opinion of Council, the relaxation is likely to affect any owners or occupiers in the general locality or adjoining the site, the Council is to consult the affected parties, as per the provisions of clause 9.4 and have regard to any expressed views prior to making its determination to grant the relaxation.

With regard to the above provisions, car parking issues related to the Tradewinds are already causing problems in the area.

It is also envisaged that redevelopment of other mixed use sites nearby, notably 59, 91, and 93 Canning Highway will give rise to further pressures on parking in the future.

TPS 3 provides 4 means for providing car parking when there is a shortfall:

- (i) on-site (TPS 3, sub-clause 5.8.6 refers)
- (ii) immediately adjacent on-street car parking pursuant to TPS 3, sub-clause 5.8.7 which states:

*5.8.7 On-Street Parking: The local government may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development, provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.*

- (iii) off-site pursuant to TPS 3, sub-clause 5.8.6 which states, in part:



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5.8.6 *Location of Car Parking ... subject to the local government's approval, off-site in the immediate vicinity of the development site. In considering a proposal for off-site parking, applicants will need to demonstrate to the satisfaction of the local government that any off-site parking areas will continue to be available for use in conjunction with the development at such times as it might reasonably be required.*

(iv) cash-in-lieu pursuant to TPS 3, sub-clause 5.8.8 which states:

5.8.8 *Cash-in-lieu of Parking: The local government may accept or require cash-in-lieu of all or a proportion of required car parking, based on the estimated cost of providing the requisite parking, including any associated access and manoeuvre facilities. Cash-in-lieu of parking shall be paid into a trust fund and used to provide public parking in the vicinity of the development site(s) in relation to which any cash-in-lieu contributions have been received.*

In respect to the above the following comments are made:

- *In relation to (i), the application proposes on-site parking for 16 vehicles. This leaves a shortfall of 10 spaces.*
- *In relation to (ii), 3 immediately adjacent on-street car parking spaces are available. It is considered reasonable to apply these on street spaces to the shortfall.*
- *In relation to (iii), no off site parking is being proposed by the applicants.*
- *In relation to (iv), it is considered appropriate to require a cash-in-lieu contribution which could then be used to develop additional public parking facilities nearby. It is open to elected members to determine a cash-in-lieu payment in respect of all or part of the identified 7 space shortfall (7 spaces assuming elected members support the "in lieu of" application of the 3 adjacent on-street car parking spaces referred to above).*

Heritage

The application proposes to restore and conserve the "old" liquor store building at the corner of Sewell Street and Canning Highway. It is understood that this building has operated as a liquor store since 1925. Its continued use is seen to contribute quite significantly to the cultural heritage of the place.

While the subject property is not on the Heritage List under TPS 3 it is in the Draft MI with a high Management Category rating.

It is therefore considered appropriate for Council to apply the following further TPS 3 provision in considering the variations proposed:

"7.5. *Variations to Scheme provisions for a heritage place or heritage area Where desirable to —*

- (a) *facilitate the conservation of a heritage place entered in the Register of Places under the Heritage of Western Australia Act 1990 or listed in the Heritage List under clause 7.1.1; or*
- (b) *enhance or preserve heritage values in a heritage area designated under clause 7.2.1,*

*the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.6.2."*

The principle of retaining the existing historic building, and redevelopment at the rear of 83 Canning Highway is similar to a recent application Council supported at 22 May Street, which involved retention of an "old" weatherboard and iron house with grouped dwelling development at the rear.

The applicant/owner advised at Mediation on 3 December 2007 that he is prepared to agree to the "old" building being included on the Heritage List under TPS 3, and to

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arrange for a "Restrictive Covenant" to be registered against the title to protect the building in the future.

Building Height

In regard to the height of the proposed development the applicant submits as follows:

*"The site is surrounded by a tall brick wall built up to the western and southern boundaries. The wall is part of the Trade Winds Hotel development and is approximately 10.3 metres high. The development has been elevated so that the underside of the first floor sits in line with the top of the existing stone wall in Sewell Street in order that the views to the north are obtained over the existing heritage parapet of the retail space facing Canning Highway (which has a height of approx 5.3 metres).*

*The upper floor will be occupied by two generously sized apartments and with 2.7 metre floor to ceiling height. The floors of the offices set at 3.4 metre floor to floor height. The total building height will be approx 16.4 metres because of the need to set the building above the existing parapet facing Canning Highway and as a direct response to the Trade Winds development.*

*The maximum height envisaged by TPS3 in this location is 8.0 metres although 10.5 metres is envisaged for Special Business Zonings and the Trade Winds boundary walls are 10.3 metres high."*

While a portion of the proposed development is higher than the adjacent Tradewinds development the higher component is well set back from Canning Highway and is considered to provide an attractive "architectural foil" for the built environment between Sewell Street and Hubble Street next to Canning Highway.

Plot Ratio

Discretion is sought for the plot ratio to be increased from 0.5 to 1.39.

Plot ratio has generally been used as a method of gauging building bulk and scale.

In this case, the proposed development has an east-west orientation, abutting a larger development to the south and west (which also has its building bulk orientation east-west). The northern elevation has a mix of building heights.

These factors ameliorate the overall impact of the development.

Given the relative compatibility of orientation, bulk and scale with the adjoining property to the south and west, the proposed plot ratio will not have an undue adverse impact on the amenity of the Canning Highway Mixed Use zone, and can be supported.

Submissions

With respect to the submission received from the Fremantle Port Authority the following extract from LPP 140 is relevant:

*"Buffer Area 2:*

*Potential Risk and Amenity Considerations*

*Consideration is given to the following potential impacts:*

- (a) Ingress of toxic gases in the event of an incident within the Port,*
- (b) Shattering or flying glass as a consequence of explosion within the Port,*
- (c) Noise transmission emanating from the Port (attenuation in the order of 30dB(A) is required, and*
- (d) Odour.*

*Built Form Requirements*





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The following built form requirements shall apply to the following categories of development:

1. All residential development other than alterations and additions to existing dwellings.
2. All non-residential development other than refurbishment/renovations (not involving a nett increase in floor area) to existing buildings and non-residential change of use proposals.

Within Buffer Area 2, buildings shall be designed to incorporate all of the design and construction features outlined below:

*Windows and Openings*

- (a) Any glass used for windows or other openings shall be laminated safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.
- (b) All safety glass shall be manufactured and installed to an appropriate Australian Standard.

*Air conditioning Systems*

- (a) All air conditioning systems shall incorporate the following features:
  - i) multiple systems to have internally centrally located shut down point and associated procedures for emergency use,
  - ii) preference for split "refrigerative" systems.

*Construction*

- (a) Adopt the general principles of quiet house design for residential developments.
- (b) All developments shall incorporate roof insulation.

*Note:*

Council recognises that these requirements may not be possible to achieve in the case of the proposals involving some buildings of conservation and heritage significance.

Council may accept alternative built form treatments subject to the applicant satisfactorily demonstrating fulfilment of the potential risk and amenity considerations outlined above. Alternative treatments shall be justified to Council through submission of professionally prepared and certified reports.

*Notification and Memorials on Title*

- (a) All residential development approvals shall be conditioned in order to require a notification to be placed on title advising of the potential amenity impacts associated with living / working in proximity of the Port.
- (b) In the case of all residential subdivision, Council and Fremantle Ports shall request the Western Australian Planning Commission to support the placing of memorials on new titles advising of the potential amenity impacts associated with living in proximity of the Port.
- (c) Notification and memorial statements shall be as per the standard wording contained in Appendix B."

To satisfy the requirements of the Fremantle Port Authority and in recognition of the location of the property within "Area 2 the recommendation below includes a condition (Condition No 5) to ensure that the development complies with the FPA requirements.

The Owner has provided the attached response to the submissions.

**Conclusion(s)**

Based on the retention and restoration of the existing building on the site, the positive contribution to streetscape that the new building is considered to make, its compatibility with the adjoining Tradewinds development, and the general "tidying up" of what is

presently an unattractive street corner the application with variations is supported.

**RECOMMENDATION**

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

- (a) variation to wall height pursuant to Town Planning Scheme No 3, sub-clause 5.8.2 from 5.5m to 14m;
- (b) variation to roof height pursuant to Town Planning Scheme No 3, sub-clause 5.8.2 from 8m to 15.8m;
- (c) variation to plot ratio for development in the Mixed Use zone pursuant to Town Planning Scheme No 3 from 0.5:1 to 1.39:1;

for the construction of a 4-storey Mixed Use development comprising an existing ground floor commercial building divided into 3 shops, with new development comprising 4 offices, and two 2-bedroom residential apartments on 3 upper levels at No. 83 (Lot 123) Canning Highway, East Fremantle in accordance with the plans date stamp received on 4 May 2007 subject to the following conditions:

1. prior to the issue of a building licence the applicant is to pay for the valuation of, and pay the equivalent cash-in-lieu for a shortfall of 7 on-site car parking spaces;
2. to ensure the heritage values of the existing building (the "liquor store") at 83 Canning Highway are not adversely impacted upon at any time in the future; that the owners agree to the implementation of a Restrictive Covenant, the costs of which are to be met by the owners, and which will be between themselves, Council and the National Trust and which is to Council's satisfaction and designed to ensure that any proposed action which impacts on the heritage values of the property, including any development or demolition of all or part of the property, will require Council's express approval before that proposed action can be implemented.
3. the owner is to provide a written agreement for Council to include the existing building on the Heritage List under Town Planning Scheme No. 3;
4. the land owner ("the Owner") entering into a Deed of Agreement with the Western Australian Planning Commission ("WAPC") which provides that if part of the Land, the subject of the primary regional road reserve ("Relevant Land"), shown in the Metropolitan Region Scheme as at 3 December 2007 and in the attached plan, is required to be taken by a statutory or public authority, then the Owner shall be entitled to exercise its rights and remedies at law, in equity or under statute to seek and obtain compensation (save and except that any increase in the value of that part of the existing buildings on the Relevant Land as at 3 December 2007, resulting from Canning 83 Pty Ltd carrying out the proposed development, will not be taken into account in determining the amount of compensation payable to the Owner) and which contains such other terms and conditions agreed to by the parties."
5. development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer;
6. 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.
7. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
8. 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.
9. 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.
10. 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.
11. 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

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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.

12. 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.
13. 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.
14. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Greg Foster & Ms Sian Martin of 16 Sewell Street and Ms Deidre Johnson, General Manager of Tradewinds Hotel, addressed the meeting reiterating their concerns expressed in their submissions to Council.

Mr Alfred Naude, Director of Canning 83 Pty Ltd, responded to the concerns raised and issues relating to this development proposal and undertook to look at the Sewell Street elevation including extending the verandah and the sliding door elements fronting Canning Highway.

*Cr de Jong – Mayor Ferris*

*That the officer's recommendation be adopted.*

LOST

**RECOMMENDATION TO COUNCIL**

**Cr Dobro – Cr Wilson**

**That the application for a mixed use development at No. 83 (Lot 123) Canning Highway, East Fremantle be deferred to the February meeting of Council pending the submission of revised drawings/projections that address the Sewell Street streetscape as well as the bulk and scale of the building's eastern elevation.**

CARRIED

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**T7.10**      **Locke Crescent No. 18 (Lot 4990)**  
**Applicant: Oswald Homes Pty Ltd**  
**Owner: Scott Gagen & Erica Lorimer**  
**Application No. P223/2007**  
By Chris Warrener, Consultant Town Planner on 7February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 2-storey house at 18 Locke Crescent comprising:

Ground floor: double garage & store, porch, entry, sitting room, 3 bedrooms, 2 bathrooms, & laundry;

First floor: master suite & en-suite, dressing room, activity/study room, kitchen, living & meals area, and a balcony.

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Documentation**

Plans and relevant forms date stamp received on 20 November 2007

**Date Application Received**

20 November 2007

**Additional information**

Amended plans date stamp received on 25 January 2008

**Advertising**

Adjoining landowners and sign on site

**Date Advertised**

15 January 2008

**Close of Comment Period**

29 January 2008

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

85 days

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

1 August 1977      Building Permit 252 issued for a reinforced concrete swimming pool;

18 August 1980      Council grants a relaxation to plot ratio from 211m<sup>2</sup> to 283m<sup>2</sup> for alterations and additions to the 2-storey house at 18 Locke Crescent.

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**STATISTICS**

Land Area

**Required**

55%

**Proposed**

706m<sup>2</sup>  
Existing

Open Space

62.6%  
Acceptable

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Zoning			R12.5
<b>Setbacks:</b>			
Front (southwest)			
<i>Ground</i>	<i>Porch</i>	7.50	7.80
			Acceptable
	<i>Garage</i>	7.50	10.50
			Acceptable
	<i>Guest Bedroom</i>	7.50	10.00
			Acceptable
<i>Upper</i>	<i>Porch</i>	7.50	7.80
			Acceptable
	<i>Master Bedroom</i>	7.50	10.50
			Acceptable
	<i>Ensuite</i>	7.50	10.00
			Acceptable
Rear (northeast)			
<i>Ground</i>	<i>Storeroom</i>	6.00	8.00
			Acceptable
	<i>Bedroom 2 &amp; 3</i>	6.00	12.30
			Acceptable
	<i>Sittingroom</i>	6.00	12.90
			Acceptable
<i>Upper</i>	<i>Balcony</i>	7.50	9.20
			Acceptable
	<i>Livingroom</i>	6.00	12.90
			Acceptable
Side (southeast)			
<i>Ground</i>	<i>Guest Bedroom</i>	1.00	4.60
			Acceptable
	<i>Ensuite, Laundry, Bathroom &amp; Store</i>	1.50	1.70
			Acceptable
<i>Upper</i>	<i>Ensuite</i>	1.20	4.00
			Acceptable
	<i>Activity Room</i>	1.20	3.00
			Acceptable
	<i>Kitchen &amp; Balcony</i>	2.80	4.00
			Acceptable
Side (northwest)			
<i>Ground</i>	<i>Sittingroom</i>	1.50	2.70
			Acceptable
	<i>Entry</i>	1.00	1.50
			Acceptable
	<i>Porch</i>	1.00	1.50
			Acceptable
<i>Upper</i>	<i>Livingroom</i>	1.20	3.00
			Acceptable
	<i>Stairs</i>	1.50	1.50
			Acceptable
	<i>Porch</i>	1.20	1.50
			Acceptable
<b>Height:</b>			
	Wall	6.50	6.50
			Acceptable

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**Overshadowing:** 4.89%

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**CONSULTATION**

**Town Planning Advisory Panel Comments**

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

- elegant contemporary design
- proposal echoes 50's/60's elements of house it is replacing (ie vertical and horizontal window elements) – very favourable
- tree to front as shown on plans to remain
- garage integrated into form of house

**Public Submissions**

At the close of the comment period 3 submissions were received. After the close of the comment period one more submission was received.

*L Lerner*  
*4 Habgood Street*

- any relaxation of parapet wall height will have a severe adverse impact on views from 4 Habgood Street;
- no objection as long as it conforms with the plans.

*D & M Van Ooran*  
*9 Locke Crescent*

- any relaxation of parapet wall height will have a severe adverse impact on views from 9 Locke Crescent;
- no objection as long as it conforms with the plans.

*A Savaris*  
*11 Locke Crescent*

Ensure that measurements on the plan are adhered to.

*D & J Harrison*  
*146 Preston Pt Road*

- object;
- balcony overlooks our main eating and entertaining area;
- relocate balcony to west side to reduce overlooking;
- concerned regarding removal of asbestos roof, and structural damage to swimming pool and retaining walls during demolition and construction.

**Site Inspection**

By Consultant Town Planner on 24 January 2008

**REPORT**

**Discussion**

This application is for a concealed/flat roofed 2-storey house, and apart from the flat/concealed roof, does not propose any variations for which Council's discretion is required to approve.

In regard to the concerns raised by the submission from 146 Preston Point Road regarding asbestos removal and structural damage these matters are addressed by the relevant health and building regulations and footnote (c) to the recommendation to Council.

The applicant in its submission response addresses the concerns raised in this submission.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 0° for the construction of a 2-storey house at No. 18 (Lot 4990) Locke Crescent, East Fremantle comprising:

Ground floor: double garage & store, porch, entry, sitting room, 3 bedrooms, 2 bathrooms, & laundry;

First floor: master suite & en-suite, dressing room, activity/study room, kitchen,

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living & meals area, and a balcony.

in accordance with the plans date stamp received on 25 January 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 dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all 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. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



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Mr Andrew Savaris of 11 Locke Crescent addressed the meeting in support of the proposal and Mr & Mrs David & Jennifer Harrison of 146 Preston Point Road expressed concern regarding the issue of overlooking.

Ms Erica Lorimer (applicant) and Mr Neil Madden (Oswald Homes) addressed the meeting in support of the proposal.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

**That Council exercise its discretion in granting approval for a variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 0° for the construction of a 2-storey house at No. 18 (Lot 4990) Locke Crescent, East Fremantle comprising:**

**Ground floor: double garage & store, porch, entry, sitting room, 3 bedrooms, 2 bathrooms, & laundry;**

**First floor: master suite & en-suite, dressing room, activity/study room, kitchen, living & meals area, and a balcony.**

**in accordance with the plans date stamp received on 25 January 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 dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 5. all 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. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.**
- 7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.**
- 8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.**
- 9. this planning approval to remain valid for a period of 24 months from date of this approval.**





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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) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.***

CARRIED

T7.11

**View Terrace No. 12 (Lot 279)**

**Applicant: Alexander Planning Consultants**

**Owner: John Tasman Pope**

**Application No. P9/2008**

By Chris Warrener, Consultant Town Planner on 7 February 2008.

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a "porte-cochère" at the front, and additions to the rear of the house at 12 View Terrace comprising:

Basement: Games room;

Ground Floor: Family room, kitchen extension, and terrace;

First Floor: Bedroom, en-suite, lounge, and balcony

**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 123 – Footpaths and Crossovers (LPP 123)

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

**Documentation**

Plans and relevant forms date stamp received on 3 January 2008

**Date Application Received**

3 January 2008

**Additional information**

Revised front elevation and photographic submission depicting objecting properties, and their views received from Applicant on 7 February 2008

**Advertising**

Adjoining landowners and sign on site

**Date Advertised**

16 January 2008

12 February 2008

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**Close of Comment Period**

29 January 2008

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

40 days

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

15 March 1993 Council decides to refuse an application for additions to the residence at 12 View Terrace;  
 20 September 1993 Council approves a fibreglass swimming pool at the rear of 12 View Terrace;  
 29 September 1993 Building Permit 091/2076 issued for a swimming pool;  
 19 February 2002 Council grants conditional special approval for extensions to the rear of the residence, an extension of the garage forward to align with the existing porch and a porte-cochère in the front setback;  
 17 September 2002 Council defers an application for additions pending a redesign;  
 19 November 2002 Council approves a third storey extension;

**STATISTICS**

	<i>Required</i>	<i>Proposed</i>
Land Area		769m <sup>2</sup> Existing
Open Space	55%	71% Acceptable
Zoning		R12.5

**Setbacks:**

Front (south)			<b>Discretion Required</b>
<i>Ground</i>	<i>Porte-Cochère</i>	7.50	Acceptable
Rear (north)			
<i>Undercroft</i>	<i>Gamesroom</i>	6.00	13.20 Acceptable
<i>Ground</i>	<i>Terrace</i>	7.50	12.60 Acceptable
	<i>Familyroom</i>	6.00	12.60 Acceptable
<i>Upper</i>	<i>Balcony</i>	7.50	14.60 Acceptable
	<i>Loungeroom</i>	6.00	15.850 Acceptable
Side (east)			
<i>Undercroft</i>	<i>Gamesroom</i>	1.00	8.90 Acceptable
<i>Ground</i>	<i>Porte-Cochère</i>	1.00	8.50 Acceptable
	<i>Terrace</i>	1.50	4.80 Acceptable
<i>Upper</i>	<i>Bedroom</i>	4.50	7.62 Acceptable
	<i>Balcony</i>	7.50	7.62 Acceptable

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Side (west)			
Undercroft	Gamesroom	1.50	1.50
			Acceptable
Ground	Porte-Cochère	1.00	6.10
			Acceptable
	Familyroom	1.50	1.50
			Acceptable
Upper	Loungeroom	3.80	4.40
			Acceptable
	Balcony	7.50	6.30
			<b>Discretion Required</b>
<b>Height:</b>			
Wall		5.60	6.80 to 8.00
			<b>Discretion Required</b>
Building		8.10	9.00
			<b>Discretion Required</b>

**CONSULTATION**

**Town Planning Advisory Panel Comments**

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

- appears inaccurately drawn – proportional problems with drawing
- not appropriate
- prefer retention of the front façade as is
- better if porte-cochère took on the detailed elements of existing porch
- brick base of porte-cochère is a problem
- porte-cochère too high
- parapet wall is a concern
- flat roofed garage inappropriate – existing to remain
- would require a significant redesign to have any appeal
- compliance with Council's policy on setbacks (removal of porte-cochère)
- compliance with Council's policy on crossovers/driveways
- additions at rear are supported but not the porte-cochère or parapets to existing garage

**Public Submissions**

At the close of the comment period 7 submissions were received. After the close of the comment period a further submission was received from SJB Town Planning & Urban Design acting for the owners of 17, 19, 21A, 21B, 23, 23A and 25 View Terrace.

- |  |   |
|--|---|
| <i>T French</i><br><i>19 View Terrace</i>  | <ul style="list-style-type: none"> <li>- Objects strongly because it exceeds maximum allowable wall height of 5.6m and roof height of 6.5m (concealed roof) and 8.1m (ridged roof);</li> <li>- Decreases property value.</li> </ul> |
| <i>N Huck</i><br><i>11 Woodhouse Road</i>  | <ul style="list-style-type: none"> <li>- Overlooking concerns and issues of 3 story developments;</li> <li>- Check dimensions.</li> </ul>   |
| <i>R &amp; T Seminara</i><br><i>T Lowenhoff &amp;</i><br><i>M Seminara</i><br><i>23 &amp; 23A View Tce</i> | <ul style="list-style-type: none"> <li>- Height of additions will impact on river &amp; ocean views from 23 View Terrace;</li> <li>- Object strongly to application.</li> </ul>   |
| <i>M Porter</i><br><i>10 View Terrace</i>  | Concerns raised regarding the required boundary setbacks for any floors above the "basement".   |
| <i>E Tuba for A Tuba</i><br><i>21B View Terrace</i>  | <ul style="list-style-type: none"> <li>- Objection;</li> <li>- Adversely impacts on view amenity;</li> </ul>  |

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- Potentially changes streetscape by setting a precedent;
  - Unfair to other residents on both sides of the street;
  - Building rules & regulations especially height restrictions should be strictly applied.
- J Gorey*  
*21A View Terrace*
- Objection;
  - Impact on ocean view;
  - Addition will bring the structure to 9m in height, exceeds wall height maximum of 5.6m and roof height of 6.5m (flat roof) and 8.1m (pitched roof).
- Dr J Hornbuckle*  
*25 View Terrace*
- Objects to alterations as they exceed current height restrictions;
  - Will have a significant effect on the valuation of my property.
- SJB Town Planning & Urban Design on behalf of the owners of 17, 19, 21A, 21B, 23, 23A & 25 View Terrace*
- Wall and roof heights exceed Council's height limit policy;
  - Proposed development will obliterate a substantial portion of the narrow band of high interest of the total aspect of each view;
  - Contrary to clause 1.6(B) of TPS 3;
  - Contrary to the objectives of TPS 3;
  - Loss of enjoyment of views, and impact on property values;
  - Impact on amenity;
  - Precedent.

**Site Inspection**

By Consultant Town Planner on 16 January 2008

**REPORT**

**Issues**

Building Height

*Roof Height*

The peak of the proposed curved roof over the additions at the rear varies between 7.7m and 9m above natural ground level (NGL).

LPP 142 limits roof height to 8.1m in this area of East Fremantle.

*Wall Height*

On the north side (rear) wall height of the proposed upper floor balcony varies up to 7.1m above NGL, and the lounge room varies up to 8m above NGL.

On the east side wall height of a proposed bedroom on the upper floor varies up to 7m above NGL, and the balcony up to 6m above NGL.

On the west side wall height of the proposed upper floor balcony varies up to 7m above NGL, and the lounge room up to 8m above NGL.

LPP 142 limits wall height to 5.6m in this area of East Fremantle.

Boundary Setbacks

The proposed "Porte-Cochère" is set back 4m from the front boundary.

The RDC recommend a 7.5m setback.



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The proposed upper floor balcony is set back 6.3m from the west side boundary common with 10 View Terrace.

The RDC recommend a 7.5m setback for unscreened balconies.

Crossovers

The application proposes an additional crossover on the west side to View Terrace.

LPP 123 states:

*"3.5 There will be only 1 crossover per lot unless otherwise agreed by an absolute majority of Council."*

Submissions

Most of the submissions object to the application based mainly on the increased wall and roof heights proposed, the detrimental impact on their property views, and some claim a negative impact on the value of their properties.

**Discussion**

This application is almost identical to an application Council conditionally approved in 2002.

At that time building height was based on the height diagram extracted from TPS No. 2.

Based on this building height measurement diagram the proposed additions at the rear of 12 View Terrace were determined to be *"within the Scheme standards"*.

Put simply the ceiling of the basement was taken to be ground level in 2002 however under current rules the floor of the basement is NGL.

Therefore the application proposes wall and roof heights at the rear which do not comply with the current rules regarding the calculation of building height.

While it is forward of the recommended front setback the "porte-cochère" is simply a carport, and in 2002 the Town Planning Advisory Panel (TPAP) commented that in terms of architectural design it would enhance the visual appearance of the residence.

The officer's report to Council in 2002 noted that approval was granted in 1989 for a carport set back 3m from the front boundary at 8 View Terrace. Supposedly this comment was made to support the porte-cochère at 12 View Terrace.

At the recent TPAP meeting it was decided not to support the porte-cochère nor the modifications to the single garage involving the addition of parapet walls because of their negative impact on the appearance of the property.

Building Height

LPP 142 limits wall and roof heights in this area of East Fremantle because views are an important part of the amenity of the area. LPP 142 states with regard to views:

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

All of the submissions object to the application because it proposes development that involves wall and roof heights over the limit, and because this will affect views from their properties.

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Boundary Setbacks

The proposed porte-cochère in the front setback and “forward of the main building line” conflicts with LPP 142 in regard to the location of garages and carports.

The structure is considered to detract from the appearance of the existing house and is not supported.

Crossovers

The application does not provide any justification for the proposed additional crossover, there are no particular safety issues in regard to access to this property, LPP 123 limits crossovers to one per property; the additional crossover is not supported.

Submissions

LPP 142 states with respect to views:

*“Part 4 – Views*

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

There were no submissions received from adjoining properties regarding the impact of the proposed additions on views; all of the submissions which objected to the application on the basis of view impacts are from the owners of properties, which do not adjoin the subject land.

Notwithstanding that the view objectors are not adjoining property owners TPS 3 includes the following provision which requires it to consider an application having regard for the following:

*“10.2. Matters to be Considered by Local Government*

*The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application —*

- (p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;”*

This application has been carefully considered having regard to the above-stated matter.

Although it is well established that views are not owned, TPS 3, the LPS and LPP 142 contain a level of protection. It could be argued that a view is not owned when a neighbour’s property is developed in compliance with the development provisions of the Scheme but that the part of the view affected by concessions is owned.

In a decision handed down by the New South Wales Land and Environment Court in the case of Anthony –V- Manly Municipal Council (1985) 18 APA 273 the court held that nearby residents who objected to the erection of a second storey to a dwelling which commanded panoramic views had acquired no freehold or easement rights which entitled them to prohibit the reasonable development of other property because they wished to enjoy a view over and around that property.

This raises two questions – is the Council legally entitled to protect views in its TPS and, if it is, is the protection absolute? In other words, is there any discretion on the quality of the view and a balance against the applicants’ rights?

It must be remembered that the applicant has rights as well as the objecting neighbours. In its determination of Appeal No. P83/0991 dated 3 November 1983, the Victorian Planning Appeals Board said:



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*"...the right of the applicant to build a house of his own choosing outweighed the right of the objector to enjoy an uninterrupted view."*

Furthermore in regard to this case the following was said of the applicants' rights:

*"there are valid community expectations and town planning obligations that latter developments would necessarily be constrained...to give a measure of protection to the factors enjoyed by earlier buildings, especially light, sunlight, privacy and views. On the other hand, the later development also is entitled to a reasonable enjoyment of the same factors and should not be so constrained by the presence of earlier dwellings as to make its reasonable enjoyment of those factors virtually negligible if not impossible..."*

- and if the discretion is available to Council, the continuation of this quote is relevant –

*"...It is clear that what must be achieved is a balance in the reasonable desires of competing interests. In questions of amenity, the emphasis must be on reasonableness."*

There is a case to be made that TPS 3/LPS/LPP 142 restrict the applicants' rights but for this restriction to apply the protection of view must be absolute. In other words, any view, regardless of its accessibility and significance, must be protected.

However the intent and wording of LPP 142 provides adequate grounds for determining that it is not the intent of the Scheme to require absolute protection of views.,

It merely states that *"the Council will have regard for the impact a proposed building may have on views that owners of adjoining property(s) may enjoy."*

### Conclusion

It is contended that the view impacts of the additions to the rear of the house at 12 View Terrace are relatively minor, they do not significantly impact on the appearance of the existing house, and do not impact on the views of adjoining properties.

Provided that Council has due regard to the matters listed in TPS 3, Clause 10.2 in considering an application for planning approval (NB impacts of application on amenity, views, etc., etc), and makes a decision based on the "reasonableness" of the proposal, which is the case with the subject application, a decision to conditionally approve it is recommended.

The "art deco" appearance of the existing house will be retained; this is considered to make a positive contribution to the local streetscape, and the type of development currently proposed is supported because it is a more environmentally positive (sustainable) outcome than the option of demolition and redevelopment.

### RECOMMENDATION

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

- (a) variation to LPP 142 for a curved roof which varies up to 9m above natural ground level;
- (b) variation to wall height on the north, east and west sides pursuant to Local Planning Policy 142 from 5.6m to 7.1m, 7m and 8m respectively;

for the construction of additions to the rear of the house at No. 12 (Lot 279) View Terrace, East Fremantle comprising:

Basement: Games room;  
Ground Floor: Family room, kitchen extension, and terrace;  
First Floor: Bedroom, en-suite, lounge, and balcony;

in accordance with the plans date stamp received on 3 January 2008 subject to the following conditions:

1. prior to the issue of a Building Licence the applicant is to submit amended plans deleting the porte-cochère, the additional crossover, and the alterations to the existing garage

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2. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. the proposed additions at the rear 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.
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 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. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Travis French of 19 View Terrace and Mr Simon Bain of SJB Town Planning & Urban Design who represents the owners of 17, 19, 21A, 21B, 23, 23A & 25 View Terrace addressed the meeting drawing Council's attention to Scheme 3 and Policy 142 where they relate to amenity and views.

Ms Krystyna Alexander of Alexander Planning Consultants addressed the meeting in support of the proposed alterations/additions.

**RECOMMENDATION TO COUNCIL**

**Cr Dobro – Mayor Ferris**

**That the application for alterations/additions to the residence at No. 12 (Lot 279) View Terrace, East Fremantle be deferred to the February meeting of Council pending the submission of revised drawings showing the roof and wall height in compliance Council Policy No. 142.** CARRIED



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**T8. ADJOURNMENT**

Mayor Ferris – Cr Dobro  
That the meeting be adjourned at 9.30pm.

CARRIED

**T9. RESUMPTION**

Cr Dobro – Cr de Jong  
That the meeting be resumed at 9.40pm with all those present at the adjournment in attendance.

CARRIED

**T10. REPORT'S OF OFFICERS (Cont)**

**T10.1 St Peters Road & King Street (Lot 426 / Plan 1753)**

**Applicant: Town of East Fremantle**

**Owner: Her Majesty Queen Elizabeth 11 (The Crown)**

By Chris Warrener, Consultant Town Planner on 14 January 2008

**BACKGROUND**

**Description of Proposal**

Proposed closure of unmade road (Lot 426) corner of St Peters Road & King Street.

**Statutory Considerations**

Land Administration Act 1997, Part 5, Division 1, s.58

**Documentation**

Letter request and plans from Main Roads WA date stamp received on 8 February 2007

**Date Application Received**

8 February 2007

**Advertising**

Advertisement in local newspaper

**Date Advertised**

24 November 2007

**Close of Comment Period**

11 January 2008

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

5 June 2007: Council decides:

*"Mayor O'Neill – Cr Martin*

*That Council approves the formal implementation of road closure proceedings in accordance with Section 58 of the Land Administration Act 1997.*

CARRIED

**Public Submissions**

At the close of the comment period no submissions were received.

**REPORT**

**Discussion**

In accordance with the procedures for closure of a public road, in this case a portion of a road, advertisement of the proposed closure was published in the West Australian; the advertising period closed on 11 January 2008.

**RECOMMENDATION**

That Council, pursuant to s.58(2) of the Land Administration Act 1997, requests that the Minister for Lands closes permanently portion of St Peters Road (Lot 426).

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

**That Council, pursuant to s.58(2) of the Land Administration Act 1997, requests that the Minister for Lands closes permanently portion of St Peters Road (Lot 426).**

**CARRIED**

**T10.2**

***George Street No.113 (Lot 502)***

***Applicant: Glasshouse Conservatories***

***Owner: Jean & Barrington Dance***

***Application No. P221/2007***

By Chris Warrener, Consultant Town Planner on 7 December 2007

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 5.15m long x 3m wide x 2.5m high glasshouse, and a 2.65m long x 1.75m wide x 2.1m high brick garden shed at the rear of the attached grouped dwelling ("terrace house") at 113 George Street.

**Statutory Considerations**

Town Planning Scheme No. 3 – George Street Mixed Use zone

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 15 November 2007

**Date Application Received**

15 November 2007

**Advertising**

Adjoining land owners only

**Date Advertised**

18 November 2007

**Close of Comment Period**

30 January 2008

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

89 days

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

23 May 1987

Building Licence 162/660 issued for a timber pergola;

15 February 2005

Council defers an application for single storey additions to the rear pending consent of the Body Corporate;

15 November 2005

Council approves the construction of replacement side & rear fences, a security gate, and replacement of a door and window (Unit 7) at 107-121 George Street.

**CONSULTATION**

**Public Submissions**

At the close of the comment period no submissions were received.

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**REPORT**

**Issues**

While the property is in the George Street Mixed Use zone it is a residential use property and is therefore subject to the standards and provisions that apply to residential development (RDC and LPP 142).

Boundary Walls

The application is for a glasshouse and a brick garden shed.

The glasshouse is proposed to be constructed between two parapet walls on the east and west side boundaries, and the garden shed is proposed to be fixed to walls on the east and south side boundaries.

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

The shed is proposed to be fixed so that two of its internal walls constitute portions of the masonry boundary fence along the east and south side boundaries. This is unacceptable because the boundary fence is part owned by adjoining property owners.

**Discussion**

The subject property is one of 8 attached terrace houses (107-121 George Street), which were built around 1914.

These houses are all single storey with ornate facades incorporating statues fixed to their front upper gable walls.

Each house occupies the full width of its respective strata lot side boundaries.

The proposed glasshouse will be fixed to two parapet walls and is acceptable development however the shed which utilises boundary fencing is not, and an appropriate condition is included in the following recommendation.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to Local Planning Policy 142 for walls on the east, west and south side boundaries for the construction of a 5.15m long x 3m wide x 2.5m high glasshouse, and a 2.65m long x 1.75m wide x 2.1m high brick garden shed at the rear of the attached grouped dwelling ("terrace house") at No. 113 (Lot 502) George Street, East Fremantle in accordance with the plans date stamp received on 15 November 2007 subject to the following conditions:

1. no proposed structure is permitted to take structural support from or be attached to any dividing fence. The proposed shed shall be freestanding and self supporting.
2. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. the proposed glasshouse and shed are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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 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

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- another method as approved by the Town of East Fremantle.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

**That the application for a glasshouse at No. 113 (Lot 502) George Street, East Fremantle be deferred to the February meeting of Council pending the submission of a drawing showing the south side elevation.**

CARRIED

**T10.3**

***Oakover Street No. 57 (Lot 292)***

***Applicant: Patio Living***

***Owner: Lisa Durston***

***Application No. P235/2007***

By Chris Warrener, Consultant Town Planner on 7 February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 7.6m long x 3.01m wide x 3.2m high skillion roofed patio fixed to the south side of the single storey house at 57 Oakover Street

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Documentation**

Plans and relevant forms date stamp received on 10 December 2007

**Date Application Received**

10 December 2007

**Advertising**

Adjoining landowner at 59 Oakover Street has advised 'no' objection to the proposal.

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

64 days

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

17 February 2004	Council decides to advise the WAPC that it does not support the subdivision of 57 Oakover Street into 2 survey strata lots;
9 March 2004	WAPC conditionally approves the subdivision;
21 July 2004	Survey Strata Plan 46404 approved.



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**CONSULTATION  
REPORT**

**Issues**

Boundary Setbacks

The proposed patio is set back 0.5m from the south side boundary common with 59 Oakover Street.

The RDC recommend a 1.5m setback.

**Discussion**

The property owners potentially affected by the reduced setback have endorsed their support on the standard RDC form for an adjoining property owner to comment on a proposed variation.

The variation is considered relatively minor and is supported.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to the south side boundary setback pursuant to the Residential Design Codes from 1.5m to 0.5m for the construction of a 7.6m long x 3.01m wide x 3.2m high skillion roofed patio fixed to the south side of the single storey house at No. 57 (Lot 292) Oakover Street, East Fremantle in accordance with the plans date stamp received on 10 December 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio 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 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).*

**RECOMMENDATION TO COUNCIL**

Cr de Jong – Cr Wilson

That Council exercise its discretion in granting approval for a variation to the south side boundary setback pursuant to the Residential Design Codes from 1.5m to 0.5m for the construction of a 7.6m long x 3.01m wide x 3.2m high skillion roofed patio fixed to the south side of the single storey house at No. 57 (Lot 292) Oakover Street, East Fremantle in accordance with the plans date stamp received on 10 December 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio 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 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).*

CARRIED

**T10.4**

**Irwin Street No. 42 (Lot 245)**

**Applicant: Great Aussie Patios**

**Owner: Scott Windram**

**Application No. P14/2008**

By Chris Warrener, Consultant Town Planner on 22 January 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for an 11.44m long x 2.95m wide x 3.1m high flat roofed patio fixed to the north side of the single storey house at 42 Irwin Street.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Woodside Precinct (LPS)

Residential Design Codes (RDC)

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**Relevant Council Policies**

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

**Documentation**

Plans and relevant forms date stamp received on 10 January 2008

**Date Application Received**

10 January 2008

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

33 days

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

18 December 1990	Council grants special approval for additions and a garage;
27 December 1990	Building Permit 168/1766 issued for additions to the rear and a garage between the residence and the north side boundary;
23 October 2002	Building Licence 210/3313 issued for a steel garden shed;
18 February 2003	Council grants approval for single storey alterations and additions to the rear of the existing dwelling at 42 Irwin Street;
12 March 2003	Building Permit 12/3377 issued for additions;
21 March 2006	Council grants approval for a reduced side setback from 1m to 0.5m for a 6m long x 2m wide x 2.4m high patio;
21 April 2006	Building Licence 06/322 approved for patio.

**REPORT**

**Issues**

Boundary Setbacks

The proposed patio is set back 0.5m from the north side boundary common with 40 Irwin Street.

The RDC recommend a 1.5m setback.

**Discussion**

This application is for an extension to enlarge the patio that was approved by Council in March 2006.

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

**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 1.5m to 0.5m for the construction of an 11.44m long x 2.95m wide x 3.1m high flat roofed patio fixed to the north side of the single storey house at 42 Irwin Street in accordance with the plans date stamp received on 10 January 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio 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 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.



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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) *the patio may not be enclosed without the prior written consent of Council.*

**RECOMMENDATION TO COUNCIL**

**Cr Wilson – Cr Dobro**

**That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to 0.5m for the construction of an 11.44m long x 2.95m wide x 3.1m high flat roofed patio fixed to the north side of the single storey house at 42 Irwin Street in accordance with the plans date stamp received on 10 January 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **the proposed patio 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 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.*





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- (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) the patio may not be enclosed without the prior written consent of Council.

CARRIED

T10.5

**Angwin Street No. 13 (Lot 4)**

**Applicant: Allerding & Associates**

**Owner: Ms S Booth**

**Application No. P129/2007**

By Chris Warrener, Consultant Town Planner on 6 February 2008

**BACKGROUND**

**Description of Proposal**

Pursuant to SAT Order No 3 dated 9 January 2008 Council is required to consider the applicant's additional arguments relating to the modifications to the front fence.

The matter is listed for a further mediation on Monday 25 February 2008.

**Statutory Considerations**

Town Planning Scheme No 3, Clause 10.3

State Administrative Tribunal Act 2004

**Documentation**

Copy of SAT Order dated 9 January 2008

**Date Application Received**

Application for a review received by SAT on 18 October 2007

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

- 16 December 2003 Council decides that an application for additions be held over pending receipt of west elevation showing relationship of revised proposal (building height of 29.00m AHD, wall height of 26.16 AHD and a minimum roof pitch of 26 degrees) in relation to adjoining sites.
- 2 March 2004 Council grants conditional approval for setback and height variations for additions to the 2-storey house;
- 10 June 2005 Approval granted under delegated authority for amended plans;
- 2 August 2005 Demolition Licence 05/04 issued for existing house;
- 4 November 2005 Building Licence 05/49 issued for additions and alterations;
- 12 June 2007 Request from Owner for a variation to the Building Approval regarding the front fence to accommodate a recessed bin area;
- 25 June 2007 Email from owner of adjoining property (11 Angwin Street) regarding unauthorised building and overlooking;  
Site visit to investigate works at 13 Angwin Street;
- 18 September 2007 Council decides to refuse to amend the Planning Approval dated 2 March 2004 for the removal of rear balcony screens, and conditionally approves modifications to the front fence;
- 18 October 2007 SAT receives application for review;
- 31 October 2007 Directions Hearing;
- 7 November 2007 Mediation on-site;
- 19 November 2007 Mediation at SAT;
- 18 December 2007 Council decides: "That Council advises the State Administrative Tribunal that pursuant to Order No 2 made at Mediation on 19 November 2007 regarding Matter No DR 348 of 2007 it has



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*decided not to vary the reviewable decisions made at its meeting on 18 September 2007."*

20 December 2007 Mediation at SAT;  
8 January 2008 Mediation via teleconference;  
21 January 2008 Applicant's request for leave to discontinue from the part of the proceedings relating to the review of Application No P129/07 for the removal of the rear balcony screening.

**CONSULTATION**

**Other agency/authority**

State Administrative Tribunal (SAT)

**Site Inspections**

By Consultant Town Planner on 25 June, 23, 30 August, & 7 November 2007

**REPORT**

**Background**

This report has been prepared in response to a SAT Order, made pursuant to a teleconference mediation with Member Marie Connor, and the Applicant (Mr Steve Allerding and Mrs Sue Booth) on 9 January 2008.

The Order states:

*"On the application heard before Member Marie Connor on 8 January 2008, it is ordered that:*

- 1. The applicant is to file with the Tribunal and give the applicant correspondence stating its intention to withdraw from the part of the proceedings relating to the refusal of Application No P129/07 for the removal of the rear balcony screening.*
- 2. The applicant is to provide further additional supporting arguments relating to the modifications to the front fence to the respondent by Friday, 11 January 2008.*
- 3. The matter is to be considered by the Council at its meeting of 19 February 2008.*
- 4. The matter is listed for mediation at 3.00pm on Monday, 25 February 2008."*

In response to Order No 1 a letter dated 21 January 2008 was received via fax from Allerding & Associates.

In response to Order No 2 a letter from Mrs Booth regarding the modifications to the front fence was received.

This was forwarded to the owners of 11 Angwin Street Mr and Mrs McPhail for comment.

**History**

The following historical summary, relevant to the requirement for screening as a condition of the approval for the unauthorised works to the front fence, is extracted from the officer's report to the December 2007 Council meetings. The correspondence referred was provided in attachments to the report to the Town Planning & Building Committee in December 2007.

On 12 June 2007 the property owner Ms Sue Booth submitted a request for a variation to the Building Approval regarding the front fence.

On 25 June 2007 a part-owner of 11 Angwin Street Ms Kristen McPhail contacted the Town Planner to express concern about the works being undertaken at 13 Angwin Street, and followed this conversation up with an email regarding the matter.

On the same day the Town Planner undertook a site inspection, and discovered that the works applied for on 12 June 2007 had been substantially commenced.



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The Town Planner met Ms Booth at 13 Angwin Street and advised that she did not have approval for the front fence works.

Following this inspection the Town Planner met Ms McPhail to undertake a similar inspection, and consider the impact of the development at 13 Angwin Street on the property at 11 Angwin Street.

In a letter dated 26 June 2007 the owner of 13 Angwin Street was requested to stop work on the front fence, and lodge an Application for Planning Approval for the unauthorised works.

On 28 June 2007 Council received an Application for Planning Approval for the unauthorised works to the front fence, and a request to amend the original planning approval by removing Condition 11 requiring balcony screening.

This application was referred to the potentially affected landowners for comment. The following summarises the submission from the Michaels:

Submission from Kristen & Andrew McPhail

- object to location of garbage bin area because of overlooking
- object to balcony screening not having been installed as required

At its meeting in September 2007 Council decided to grant conditional approval for the modifications to the front fence, and refused to amend the Planning Approval, which required the rear balcony screening.

A condition of the Council approval for the front fence variations requires additional screening along the south side, and was imposed in response to the neighbours' objections regarding the impacts of the unauthorised works on their front yard privacy.

The condition states:

*"(b) the applicant/owner is to provide screening along the south side boundary in the front setback to the satisfaction of Council;"*

On 18 October 2007 SAT received an Application for Review of the Council's decision.

The Application for Review has been the subject of a Directions Hearing and 4 SAT mediations.

At the most recent mediation the applicant advised that it is prepared to withdraw its Application for Review in respect to the requirement for balcony screens at the rear however the Applicant intends to proceed with the matter regarding the above-stated front fence condition.

On 18 January 2008 Council's Town Planner contacted Allerdig & Associates to enquire when the balcony screens would be installed. On 22 January 2008 the owner advised by telephone that a tradesperson was visiting the property today (22 January 2008) to 'measure up' for the screens.

On 24 January 2008 a SAT Order confirms *"the applicant has leave to withdraw from the part of the proceedings relating to the refusal...for the removal of the rear balcony screening..."*.

The owners of the adjoining property Mr & Mrs McPhail have responded to the matters put forward in the letter from Mrs Booth reiterating their desire that the condition requiring screening in the front setback remain.



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**Issues**

The reviewable decision now comprises one matter - the condition requiring screening along the south side boundary in the front setback to the satisfaction of Council.

Front Fence

In regard to the screening in the front setback the Applicant and SAT Member, Ms Marie Connor, advised Council's Town Planner at the Directions Hearing on 31 October 2007, and at the Mediation on 19 November 2007 that they consider that because this condition does not directly relate to the modifications to the front fence it is not sustainable, and it is unlikely that the Tribunal would uphold it.

Following Mediation Member Connor provided two examples of SAT decisions regarding conditions, which SAT decided could not reasonably be imposed on the respective applications, and which, in the Member's and the Applicant's view, are relevant to the subject matter, and go to a conclusion that the condition imposed on the front fence by the Town of East Fremantle cannot be reasonably sustained.

While the two examples provided by the SAT Member are for two completely different matters to the subject matter it is considered reasonable to apply the principle that conditions of a planning approval should directly relate to the works, which are the subject of a particular application.

However, it should also be noted that in deciding to require screening as a condition of approval for unauthorised works to the front fence, Council should be mindful of the impact of the fence variations, which incorporate a purpose built bin and service area enclosure, on the privacy and amenity of the neighbouring property at 11 Angwin Street.

The following matters listed in TPS 3 Clause 10.2, which Council must consider when it determines an application for planning approval, are considered relevant:

*"(a) the aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);"*

With respect to the above, under TPS 3, Part 4: Zones, the following stated objectives are relevant:

- *To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of the existing built form.*
- *To encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation, water sensitive design and provision of 'greenspace'.*
- *To recognise the importance of design elements such as the 'front yard' and the 'back yard' to the character, amenity and historical development of the Town and to the community.*

The amenity and privacy of the front yard at 11 Angwin Street are considered to be negatively affected by the unauthorised works to the front fence, which include a bin enclosure overlooking an outdoor spa, and it is considered reasonable under the circumstances to impose a condition requiring screening to ameliorate the impacts of these works.

The front door porch entry area at 13 Angwin Street significantly overlooks the entry area of 11 Angwin Street, and given that this will be the only access route to the bin enclosure it is considered reasonable to require it to be screened.

*"(j) the compatibility of a use or development with its setting;"*

In regard to (j) based on the objections raised by the neighbours at 11 Angwin Street, and the impacts observed on site the bin enclosure area is considered to be an incompatible use immediately adjacent to the neighbours' outdoor spa.



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*“(p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;”*

In regard to (p) the unauthorised works in the front setback of 13 Angwin Street are considered to have a detrimental effect on the amenity of 11 Angwin Street therefore it is considered necessary to require screening to ameliorate this effect.

*(z) any relevant submissions received on the application;*

*(zb) any other planning consideration the local government considers relevant;”*

In regard to (z) and (zb) the owners of 11 Angwin Street objected to the proposed variations to the front fence at 13 Angwin Street. In response Council imposed a condition requiring the installation of screening to protect the privacy and amenity of the neighbours' property.

The condition requiring screening was reasonably imposed given that the variations to the front fence have a direct impact on the neighbour notably the location of the bin storage area, and in particular its detrimental effect on the amenity of the property at 11 Angwin Street.

Given the neighbours' stated objections to these unauthorised works, objections which have been assessed as valid in the circumstances, Council has an obligation pursuant to TPS 3 and the RDC to ensure that the detrimental effects on the neighbours and their property are minimised.

### Conclusion

The works to the front fence were unauthorised.

The works impact on the amenity of the adjoining property, and the adjoining property owners do not support the withdrawal of the condition imposed as a condition of their approval.

It was open to Council to prosecute pursuant to “non-compliance” under TPS 3 and the Planning and Development Act 2005.

However in a spirit of goodwill and cooperation between neighbours (albeit subject to a condition requiring screening), Council approved the unauthorised works.

Irrespective of any agreement, which might have, or might in future be negotiated between the adjoining property owners in regard to screening in the front setback, proper and orderly planning principles dictate that Council needs to base its decisions having regard to the privacy and amenity issues that affect *the property* and not just confine its decision based on the views of the current owners and neighbours.

### RECOMMENDATION

That Council advises the State Administrative Tribunal that, pursuant to Order No 3, made following the teleconference Mediation held on 8 January 2008, regarding Matter No DR 348 of 2007, it has decided not to vary the reviewable decision regarding the unauthorised works to the front fence made at its meeting on 18 September 2007.

### RECOMMENDATION TO COUNCIL

**Mayor Ferris – Cr Rico**

**That Council advises the State Administrative Tribunal that, pursuant to Order No 3, made following the teleconference Mediation held on 8 January 2008, regarding Matter No DR 348 of 2007, it has decided not to vary the reviewable decision regarding the unauthorised works to the front fence made at its meeting on 18 September 2007.**

CARRIED

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**T10.6 Bedford Street No. 18 (Lot 8)**  
**Applicant: Arkitektura Architects**  
**Owner: Adrian & Jane Baker**  
**Application No. P226/2007**

By Chris Warrener, Consultant Town Planner on 7 February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for 2-storey additions at the rear of the single storey house at 18 Bedford Street comprising:

Ground floor: dining room, kitchen, laundry, and alfresco;

Upper floor: 2 bedrooms, bathroom & activity room.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R20

Local Planning Strategy - Woodside 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 29 November 2007

**Date Application Received**

29 November 2007

**Additional information**

1 February 2008 Revised plan elevations received

**Advertising**

The potentially affected property owners on the north side have endorsed the submitted plans.

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

75 days

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

1 February 1986	Building Permit 118/1083 issued for a boundary wall;
16 August 1983	Council grants approval for an outbuilding at 19 Moss Street one wall of which forms part of the boundary fence common with 18 Bedford Street;
20 December 1993	Council grants approval for the erection of kitchen additions;
4 February 1994	Building Permit 214/2133 issued for kitchen additions;
18 December 1995	Council grants a relaxation of standards to allow the columns to have a zero setback to the south for the erection of a carport;
5 January 1996	Building Permit 212/2362 issued for carport & fence;
30 April 2001	Council grants special approval for a relaxation of the rear setback to 1.75m to extend an existing brick shed;
8 May 2001	Building Licence 3058 issued for brick shed extension.

**STATISTICS**

Land Area

**Required**

50%

**Proposed**

663m<sup>2</sup>  
Existing

Open Space

50%  
Acceptable

Zoning			R20
<b>Setbacks:</b>			
Front (west)	<i>Not Applicable – Additions to Rear</i>		
Rear (east)			
<i>Ground</i>	<i>Alfresco</i>	1.80	7.50 Acceptable
	<i>Laundry</i>	1.00	3.00 Acceptable
<i>Upper</i>	<i>Bedroom 5</i>	1.20	3.00 Acceptable
Side (north)			
<i>Ground</i>	<i>Familyroom</i>	1.00	1.00 Acceptable
	<i>Kitchen</i>	Nil	<i>Policy 142</i> Nil
<i>Upper</i>	<i>Bathroom &amp; Hall</i>	1.60	Acceptable 1.00 <b>Discretion Required</b>
Side (south)			
<i>Ground</i>	<i>Alfresco</i>	1.50	7.10 Acceptable
	<i>Familyroom &amp; Laundry</i>	1.50	11.70 Acceptable
<i>Upper</i>	<i>Bedroom 4 &amp; 5 &amp; Activity</i>	4.10	11.70 Acceptable
<b>Height:</b>			
Wall		6.00	to 6.90 <b>Discretion Required</b>
Ridge		9.00	7.30 Acceptable

## CONSULTATION

### Town Planning Advisory Panel Comments

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

- looks alright – neat little addition
- no concerns regarding setback
- concern regarding the weatherboard to rendered finish – how will this interact
- drawing inconsistencies re finishes, elevations and roof pitch
- chimney to rear needs to be retained and incorporated within plans – not shown on plans

### Site Inspection

By Consultant Town Planner on 11 January 2008

## REPORT

### Issues

*Wall Height*                      The wall height of the proposed 2-storey additions on the east side (rear) varies from 5.75m to 6.9m above natural ground level (NGL), and wall height on the south side is 6.9m above NGL.



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The RDC recommend a 6m wall height limit for 2-storey development.

*Boundary Setbacks*

On the north side next to the property at 16 Bedford Street the upper floor wall for a bathroom, stairwell, and hallway is set back 1m from the boundary.

The RDC recommend a 1.6m setback.

*TPAP Comments*

The TPAP had concerns with some drawing/plan inconsistencies, and the building finishes proposed for the additions.

**Discussion**

*Wall Height*

The wall height variation is for the side of the additions which face south, and is not considered to negatively impact on the property to the south 20 Bedford Street because of the generous 11.7m setback from the common boundary. The potentially affected property owner has not objected to the application.

The variation is sought to facilitate 2-storey additions with a skillion roof, and is supported.

*Boundary Setbacks*

The landowners potentially affected by the setback variation on the north side have endorsed "*we have no objections to the above proposal*" on the plans and applicant's cover letter.

*TPAP Comments*

The applicant has submitted revised drawings date stamp received on 1 February 2008, which address the inconsistencies raised by the panel together with an explanation regarding the building finishes proposed for the additions.

**RECOMMENDATION**

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

- (a) variation to wall height on the east and north sides pursuant to the Residential Design Codes from 6m to 6.9m;
- (b) variation to the north side boundary setback for upper floor additions pursuant to the Residential Design Codes from 1.6m to 1m;

for the construction of 2-storey additions at the rear of the single storey house at No. 18 (Lot 8) Bedford Street, East Fremantle comprising:

Ground floor: dining room, kitchen, laundry, and alfresco;

Upper floor: 2 bedrooms, bathroom & activity room;

in accordance with the plans date stamp received on 29 November 2007 and elevations date stamp received on 1 February 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed extensions 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.





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

Footnote:

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

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

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

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

- (a) **variation to wall height on the east and north sides pursuant to the Residential Design Codes from 6m to 6.9m;**
- (b) **variation to the north side boundary setback for upper floor additions pursuant to the Residential Design Codes from 1.6m to 1m;**

**for the construction of 2-storey additions at the rear of the single storey house at No. 18 (Lot 8) Bedford Street, East Fremantle comprising:**

**Ground floor: dining room, kitchen, laundry, and alfresco;**

**Upper floor: 2 bedrooms, bathroom & activity room;**

**in accordance with the plans date stamp received on 29 November 2007 and elevations date stamp received on 1 February 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **the proposed extensions 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.**

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

**Footnote:**

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

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

CARRIED

**T10.7**

**Reynolds Street No. 7 (Lot 35)**

**Applicant & Owner: Gary Archer**

**Application No. P131/2007**

By Chris Warrener, Consultant Town Planner on 7 February 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for amended plans for a 3-level house and 2-level garage & studio at 7 Reynolds Street

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Riverside 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)

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**Documentation**

Plans and relevant forms date stamp received on 12 December 2007

**Date Application Received**

12 December 2007

**Additional information**

Amended plans date stamp received on 1 February 2008

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

62 days

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

1990	Council conditionally approves an additional unit at the rear of 21 Preston Point Road (now 5 Reynolds Street) with increased building and ceiling heights;
23 February 1998	Council conditionally approves a 4-level house at the rear of 17 Preston Point Road (now 9 Reynolds Street) on reduced setbacks and increased building height;
30 March 1993	State Planning Commission certifies approval to subdivide 21 Preston Point Road into 2 strata lots (1 x 378m <sup>2</sup> - 5 Reynolds Street, 1 x 524 <sup>2</sup> - 21 Preston Point Road);
17 April 2001	Council grants special approval for a second storey deck and parapet wall additions to the house at 5 Reynolds Street;
22 March 2002	WAPC certifies approval to subdivide 17 Preston Point Road into 2 strata lots (1 x 217m <sup>2</sup> - 9 Reynolds Street, 1 x 304 <sup>2</sup> - 17 Preston Point Road);
30 May 2006	GEO under delegated authority conditionally approves an upper level deck addition to 5 Reynolds Street;
19 December 2006	Council defers an application for a 3-level house;
20 February 2007	Council defers application pending a site inspection;
6 March 2007	Council refuses the application;
10 April 2007	Applicant appeals Council decision;
9 May 2007	SAT orders applicant to prepare and submit preliminary elevations for an amended house plan for Council comment;
19 June 2007	Council decides to advise SAT that it is prepared to grant in-principle approval to amended plans and requests the applicant to submit a formal application for planning approval, consistent with the new plans, for Council's detailed consideration and the formulation of appropriate conditions of approval;
22 June 2007	SAT Directions Hearing to hear outcome of Council meeting, and decide on action to progress the matter;
22 June 2007	SAT orders Directions Hearing for 23 July 2007;
17 July 2007	Council conditionally approves 3-level house and 2-level garage & studio;

**CONSULTATION**

**Town Planning Advisory Panel Comments**

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

- roof edging deep and clumsy
- requires finesse to remove bulky nature of property
- building unattractive
- original butterfly roof is preferred – far more interesting (something about a box gutter)
- skillion roof should be really thin for it to work

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**REPORT**

Following an appeal process involving mediation Council conditionally approved amended plans for a 3-level house with access to Reynolds Street, and a garage and studio with access to Preston Point Road. The development proposed a "butterfly" roof on the main house, and a skillion roof raked up to the east (Preston Point Road).

In the process of working up the development for the purposes of obtaining a Building Licence the owner/applicant in consultation with the structural engineer determined that a number of elements of the development needed to be modified for aesthetic and practical reasons.

The modifications are largely cosmetic, and practical (structural support) and do not involve variations, which materially alter the previous planning approval.

Setbacks remain unchanged, and building height has been reduced on the south side of the main house to accommodate the proposed skillion roof.

Previously wall height on the south side varied up to 11.3m above natural ground level (NGL), the amended plans are for 10.4m. Roof height has been reduced from 11.7m to 10.7m above NGL. Building height on the north side remains unchanged.

Building Appearance

The appearance of the garage and studio next to Preston Point Road remains largely unchanged as it continues to have a skillion roof.

The additional window openings on the north side of the studio overlook the adjoining property driveway, its front setback, and the public domain. The setback of the wall for these openings does not entail a variation for which Council discretion is required to approve.

Similarly, the change in the orientation of the window openings on the south side of the main house, do not involve setback variations.

The skillion roof over the main house is considered to be an improvement on the previously approved butterfly roof and is supported.

**RECOMMENDATION**

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

- (a) variation to wall height on the south side pursuant to the Residential Design Codes from 6m to 10.4m;
- (b) variation to roof height on the south side pursuant to the Residential Design Codes from 9.0m to 10.7m;
- (c) variation to wall height on the north side pursuant to the Residential Design Codes from 6m to 11.3m;
- (d) variation to roof height on the north side pursuant to the Residential Design Codes from 9.0m to 11.7m;
- (e) variation to the east side (front) boundary setback for a garage and workshop pursuant to the Residential Design Codes from 7.5m to 6.7m and 2.765m respectively;
- (f) variation to the east side (front) boundary setback for an upper floor sewing room, kitchenette and balcony pursuant to the Residential Design Codes from 7.5m to 1.5m, 2.2m & 2.765m respectively;
- (g) variation to the west side (rear) boundary setback for an under-croft bedroom 3 and bathroom, a ground level balcony and entry, and an upper floor family/dining room pursuant to the Residential Design Codes from 6.0m to 3m, 0m, 3.1m, 4.1m, and 3.1m respectively;
- (h) variation to the north side boundary setback (next to 5 Reynolds Street) for an upper floor living room pursuant to the Residential Design Codes from 2.4m to 1.8m;



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- (i) variation to the south side boundary setback (next to 9 Reynolds Street) for an upper floor study pursuant to the Residential Design Codes from 4.3m to 2m;
- (j) variation to the percentage of overshadow onto 9 Reynolds Street and 17 Preston Point Road pursuant to the Residential Design Codes from 25% to 48% and 27.6% respectively;
- (k) variation to roof pitch pursuant to Council Policy 066 from 28° to 5°;  
for the construction of a 3 level house with front door to No. 7 Reynolds Street, and a 2-storey building comprising, a garage, and upper floor studio with frontage to No. 19 Preston Point Road in accordance with the amended plans date stamp received on 1 February 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 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 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.
  5. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
  6. 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.
  7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision 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.*



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**RECOMMENDATION TO COUNCIL**

Cr Dobro – Cr Wilson

That the application to amend a planning approval granted 17 July 2007 for a three level house at No. 7 (Lot 35) Reynolds Street, East Fremantle be deferred to the February meeting of Council pending the applicant's response to the comments of the Town Planning Advisory Panel, particularly in relation to the change in roof design.

CARRIED

**T11. REFERRED BUSINESS (NOT INCLUDED ELSEWHERE)**

Nil.

**T12. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

Nil.

**T13. CLOSURE OF MEETING**

There being no further business the meeting closed at 10.05pm.

*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 **12 February 2007**, Minute Book reference **T1. to T13.** were confirmed at the meeting of the Committee on*

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*Presiding Member*