

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 8 SEPTEMBER, 2009 COMMENCING AT 6.35PM.

T76. OPENING OF MEETING

T76.1 Present

Cr Stefanie Dobro	Presiding Member
Mayor Alan Ferris	
Cr Barry de Jong	
Cr Dean Nardi	
Cr Richard Olson	from 8.02pm
Cr Maria Rico	
Mr Chris Warrener	Town Planner
Mrs Peta Cooper	Minute Secretary

T77. WELCOME TO GALLERY

There were 15 members of the public in the gallery at the commencement of the meeting.

T78. APOLOGIES

An apology was submitted on behalf of Cr Alex Wilson and Cr Olson advised he would be arriving late for the meeting.

T79. CONFIRMATION OF MINUTES

T79.1 Town Planning & Building Committee (Private Domain) – 11 August 2009

Cr de Jong – Mayor Ferris

That the Town Planning & Building Committee (Private Domain) minutes dated 11 August 2009 as adopted at the Council meeting held on 18 August 2009 be confirmed. CARRIED

T80. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

T81. REPORTS OF COMMITTEES

T81.1 Town Planning Advisory Panel – 25 August 2009

Cr Nardi – Mayor Ferris

That the minutes of the Town Planning Advisory Panel meeting held on 25 August 2009 be received and each item considered when the relevant development application is being discussed. CARRIED

T82. REPORTS OF OFFICERS

T82.1 Receipt of Reports

Mayor Ferris - Cr de Jong

That the Reports of Officers be received. CARRIED

T82.2 Order of Business

Mayor Ferris - Cr de Jong

The order of business be altered to allow members of the public to speak to relevant agenda items. CARRIED

8 September 2009

MINUTES

Mayor Ferris made the following impartiality declaration in the matter of 48 Fraser Street: "As a consequence of the applicant being known to me due to my coaching the soccer team in which his daughter is a member, 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 48 Fraser Street: "As a consequence of the applicant being known to me due to my daughter playing in the same soccer team as his daughter, 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".

T82.3 Fraser Street No. 48 (Lot 7)
Applicant: M Burt T/a Landscraft
Owner: BD & JM Joyce
Application No. P101/2009
By Chris Warrener, Town Planner on 21 August 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a boundary fence with two sections along the north and west sides varying up to 3m above natural ground level.

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. 143 : Fencing (LPP 143)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact

Documentation

Plans and relevant forms date stamp received on 27 July 2009

Date Application Received

27 July 2009

Additional information

The application as submitted included a gazebo and a shed. In seeking clarification regarding the application the applicant advised the town planner that the application is for the two over-height walls only, and that the gazebo and shed are possible future development that will be the subject of a separate application.

Advertising

Adjoining land owners only

Date Advertised

28 July 2009

Close of Comment Period

12 August 2009

No. of Days Elapsed between Lodgement & Meeting Date

42 days

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

23 June 1983 Building Permit 166/670 approved for 3 bedroom extensions;
18 August 1986 Council decides to advise the State Planning Commission that it supports the subdivision of 48 Fraser Street into 2 lots (1 x 830m², 1 x 450m²);
2 September 1986 State Planning Commission conditionally approves the subdivision;
22 May 2001 Council grants approval for a Home Occupation – office for landscaping and horticultural service.

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Public Submissions

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

REPORT

Issues

Fence Design

This application is for a limestone boundary fence.

A 10m long section of the fence along the south side boundary is 3m high, and a 16.5m long section along the west side boundary varies between 1.8m to 3m high.

LPP 143 states:

*“3.1 Maximum Height
The maximum height of any part of the fence is to be 1.8m.”*

The plans accompanying the application notate the section of fence in the front setback with *“selected timber infills”*.

LPP 143 states:

*“Part 3 – Fence Design
Council requires front fences and walls above 1.2m to be visually permeable defined as:*

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

Discussion

The sections of fence which are higher than 1.8m are intended to provide privacy and separation for a proposed shed and gazebo, which are proposed as future stages of development, and are not included in this application.

The applicant advised that the primary purpose of the current application is to obtain approval for the fence so that the owners can provide some security and privacy for their young family.

In regard to the timber infill panels it is intended that these comply with LPP 143 in being 60% visually permeable.

The fence height variations are not considered to detrimentally affect the amenity of the potentially affected adjoining properties, and the potentially affected adjoining property

owners have not objected to the application.

The variations to the fence will not have any detrimental impact on the local streetscape because the height variations comprise sections of the fence which are not exposed to the public domain.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation Local Planning Policy 143 – Fencing to permit sections of a limestone boundary fence along the north and west sides to vary up to 3m high at No. 48 (Lot 7) Fraser Street, East Fremantle in accordance with the plans date stamp received on 27 July 2009 subject to the following conditions:

1. this approval is not for a proposed shed and proposed gazebo as shown on the submitted plans;
2. the section of boundary fence in the front setback is to comply with Local Planning Policy 143 – Fencing in regard to the infill panels being 60% visually permeable;
3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. 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.
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) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Marcus Burt (applicant) advised that he was satisfied with the officer's recommendation.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

That Council exercise its discretion in granting approval for a variation Local Planning Policy 143 – Fencing to permit sections of a limestone boundary fence along the north and west sides to vary up to 3m high at No. 48 (Lot 7) Fraser



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Street, East Fremantle in accordance with the plans date stamp received on 27 July 2009 subject to the following conditions:

1. this approval is not for a proposed shed and proposed gazebo as shown on the submitted plans;
2. the section of boundary fence in the front setback is to comply with Local Planning Policy 143 – Fencing in regard to the infill panels being 60% visually permeable;
3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. 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.
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) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T82.4

Sewell Street No. 13 (Lot 224)

Applicant & Owner: Timothy Hall

Application No. P100/2009

By Chris Warrener, Town Planner on 1 September 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for renovations and extensions to connect a studio/outbuilding to the single storey house at 13 Sewell Street comprising:

- a kitchen, dining/living room and alfresco linking an existing 2-storey studio at the rear;
- extend the verandah at the front to create a carport on the north side;
- extend the roof out over the shower on the north side behind a parapet wall.

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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)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : Existing bitumen crossover to remain
Footpath : No impact

Documentation

Plans and relevant forms date stamp received on 27 July 2009

Date Application Received

27 July 2009

Additional information

Amended plans date stamp received on 19 August 2009 specifying a parapet wall on the north side for the carport.

Advertising

Adjoining land owners only

Date Advertised

3 August 2009

Close of Comment Period

18 August 2009

No. of Days Elapsed between Lodgement & Meeting Date

35 days

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

20 December 1993	Council resolves to refuse its special approval for the erection of a 2-storey studio at the rear;
17 February 1998	Council grants conditional approval for setback variations to allow the erection of a 2-storey studio (condition 2 states: "structure not be rented out for habitation");
26 March 1998	Building Licence 006/2664 issued for the erection of a 2-storey studio and garage outbuilding containing a ground floor workshop, store, bath, shower and wash up area; and a studio on the upper floor;
20 May 2008	Council refuses an application to utilise the studio at the rear for short stay accommodation.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel (TPAP) at its meeting held on 25 August 2009 and the following comments were made:

- carport can be attached to the house but separate from the veranda roof structure;
- carport roof could be skillion pitching back to the west;
- iron roof would be appropriate replacement;
- linkage between buildings is good;
- restoration of the façade of the house is fully supported;

- this is an interesting addition, which I suspect may not comply with open space requirements. The proposal to use materials and forms sympathetic to the original dwelling should be commended.

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Public Submissions

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

- A Niedda*
15 Sewell Street
- no negative criticisms;
 - concern regarding work at the front which might impact on access.

STATISTICS	Required	Proposed
Land Area		506 Existing
Open Space	50	49% Discretion Required
Zoning		R20
Heritage Listing		Municipal Inventory
Setbacks:		
Front (east)		
<i>Ground Carport</i>	6.0	5.0 Discretion Required
Rear (west)		
<i>Ground Alfresco</i>	1.0	12.3 Acceptable
Side (north)		
<i>Ground Carport</i>	1.0	Nil Discretion Required
<i>Ensuite</i>	1.0	2.4 Acceptable
<i>Living</i>	1.5	1.5 Acceptable
<i>Alfresco</i>	1.0	1.5 Acceptable
Side (south)		
<i>Ground Pantry</i>	1.0	0.5 Discretion Required
<i>Kitchen</i>	1.5	1.2 Acceptable
<i>Dining</i>	1.5	1.8 Acceptable
Height:		
Wall	6.0	4.4 Acceptable
Building	9.0	4.6 Acceptable



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REPORT

Issues

Boundary Setbacks

*Side (South) Boundary
Common with 15 Sewell
Street*

The application proposes extensions at the rear which involve the construction of a pantry and bookshelf room/space set back 0.5m from the south side boundary.

The RDC specify a 1m setback.

The extensions at the rear also involve construction of a kitchen set back 1.2m from the south side boundary.

The RDC specify a 1.5m setback.

*Side (North) Boundary
Common with 11 Sewell
Street*

The application proposes the extension of the front verandah to form a carport with a parapet wall along the north side boundary.

Under normal circumstances this would be "compliant" development but because the property contains existing development which incorporates other boundary walls the additional boundary wall for the carport requires the exercise of Council discretion to allow it.

Front (East) Boundary

The application proposes to extend the front verandah to form a carport on the north side.

The verandah is set back 5m from the front boundary as will the proposed carport.

The RDC specify a 6m setback.

The adjoining property owner does not object to the application however is concerned that any retaining work required to be undertaken at the front does not result in their access to 15 Sewell Street being affected, and further that the Council guarantee that the owners would be compensated for any temporary loss of access.

Submission

TPAP Comments

The panel considered that the carport should be a separate structure with a skillion roof, and the house should be re-roofed in iron.

In general the comments are supportive especially as the application proposes to restore the façade of the house.

Discussion

Boundary Setbacks

The proposed setback variations for the extensions at the rear are considered minor and do not affect the amenity of the potentially affected adjoining property at 15 Sewell Street, and the submission from the potentially affected property owner does not object to this aspect of the application. These setback variations are supported.

In regard to the additional boundary wall for the proposed carport this does not affect the amenity of the adjoining



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property at 11 Sewell Street, the potentially affected property owner has not objected to the application, this setback variation is supported.

In regard to the front setback variation for the carport this is as a result of extending the front verandah of the house, which itself is at a reduced front setback, and this variation is supported because it results in a more symmetrical appearance to the development

Submission

Any works which may affect an adjoining private property are the responsibility of the applicant/owner and are not Council's responsibility.

Council does not have the authority to provide the guarantee sought by the author of the submission.

In any event the application does not involve any works at the front which would affect the retaining wall along the south side boundary or affect access into 15 Sewell Street.

TPAP Comments

The applicant provided the following comments in response to the matters raised by the panel, and to the submission from the neighbour:

- 1. The owners undertake to remove the imitation aluminium tiles and re-clad the roof of the front of the house with CGI roofing either as zincalume or colorbond.*
- 2. Confirm that the carport is proposed to 'wrap around' the building in order to provide good integration of the carport with the verandah roof structure. The owners believe that to build the carport as a skillion would look 'awkward and would provide a distinct style clash at the street frontage.*
- 3. The brick parapet wall for the carport will have the roof edge/gutter flush with the top of the roof to minimise the height of the parapet and to have its appearance more in keeping with the current verandah.*
- 4. Renovating of the original frontage weatherboards and re-painting are proposed to be undertaken as the construction happens. Colours will be sympathetic to heritage colours with consideration to similar colour pallettes on similar buildings in the street.*

The owner provided the following additional comments:
In addition to John Monaghan's comments, we have discussed the queries with Justin Everitt and we have the following additional comments:

- 1. Justin supports the creation of the carport using the existing verandah so as to better tie in with existing house design. As outlined by John, the materials of the roof, verandah and carport would all be constructed in matching tin so as to create a continual look. This is our preferred design also.*
- 2. We do not believe that compensation for access*

difficulties (15 Sewell Street) is relevant as there is no plan to change the existing retaining wall on the south boundary at the front of the house. All other work to the front of the house can all be done from 13 Sewell street and therefore will not impede access at all.

Conclusion

Overall the proposed additions are considered a big improvement to the property at 13 Sewell Street as they will result in the isolated studio being linked with the main house,

The works at the front are considered to greatly improve the appearance of the property which will improve the amenity of the local streetscape.

RECOMMENDATION

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

- (a) variation to the south side boundary setback pursuant to the Residential Design Codes for a pantry and a kitchen from 1m to 0.5m and from 1.5m to 1.2m respectively;
- (b) variation to the east side (front) boundary setback for a carport pursuant to the Residential Design Codes from 6m to 5m;
- (c) variation to Local Planning Policy 142 to permit an additional boundary wall for the carport;

for the construction of renovations and extensions to the single storey house at No. 13 (Lot 224) Sewell Street, East Fremantle comprising:

- a kitchen, dining/living room and alfresco linking an existing 2-storey studio at the rear;
- extend the verandah at the front to create a carport on the north side;
- extend the roof out over the shower on the north side behind a parapet wall;

in accordance with the plans date stamp received on 19 August 2009 subject to the following conditions:

1. the building previously approved by Council for use as a studio in the south west corner of the property and now proposed to be an integral part of the house is not to be rented for habitation purposes.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. 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.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. 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.
8. development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer.



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

Footnote:

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

- (a) this decision 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).*

Mr John Monaghan (owner) addressed the meeting in support of the development proposal.

Discussion ensued on the carport addition given the topography of the site with the applicant advising that he did not want that element to delay approval for the remainder of the project.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Nardi

That Council exercise its discretion in granting approval for a variation to the south side boundary setback pursuant to the Residential Design Codes for a pantry and a kitchen from 1m to 0.5m and from 1.5m to 1.2m respectively for the construction of renovations and extensions to the single storey house at No. 13 (Lot 224) Sewell Street, East Fremantle comprising:

- a kitchen, dining/living room and alfresco linking an existing 2-storey studio at the rear;
 - extend the roof out over the shower on the north side behind a parapet wall;
- in accordance with the plans date stamp received on 19 August 2009 subject to the following conditions:**

- 1. this approval does not include approval for the extension of the verandah at the front to create a carport on the north side.**
- 2. the building previously approved by Council for use as a studio in the south west corner of the property and now proposed to be an integral part of the house is not to be rented for habitation purposes.**
- 3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 5. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 6. the proposed 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.**

7. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision 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).*

CARRIED

T82.5

View Terrace No. 5 (Lot 241)

Applicant: Riverstone Construction Co.

Owner: Stephen & Katherine Gooderson

Application No. P105/2009

By Chris Warrener, Town Planner on 1 September 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a rendered brick & colorbond roofed 2-storey house at 5 View Terrace comprising:

Ground floor: Double garage & store, entry, 4 bedrooms, 2 bathrooms, laundry, family room & patio;

First floor: Main bedroom with en-suite, kitchen, dining, living room, study and balcony with alfresco area.

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)

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Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : Existing bitumen crossover proposed to be replaced with a 6m wide crossover
- Footpath : Cast-in-situ concrete path in verge in good condition

Documentation

Plans and relevant forms date stamp received on 27 July 2009

Date Application Received

27 July 2009

Advertising

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

Date Advertised

29 July 2009

Close of Comment Period

14 August 2009

No. of Days Elapsed between Lodgement & Meeting Date

35 days

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

- 19 February 2008 Council defers consideration of an application for a 2-storey house pending submission of revised drawings which show full compliance with the R-Codes in relation to the proposed alfresco area;
- 4 March 2008 Council grants approval for a 2-storey house based on amended plans for "Revision D";
- 17 March 2008 Demolition Licence B08/57 issued for single storey brick & tile house;
- 6 May 2008 Following SAT Mediation Council approves amended plans in accordance with "Revision E".

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 25 August 2009 and the following comments were made:

- the garage should be located behind the veranda;
- garage is domineering;
- site is sufficiently large to accommodate the garage being situated further towards the rear;
- front door and veranda are diminished by the impact of the garage;
- the detailing of the garage detracts from the house;
- consideration should be given to extending balcony on upper storey to the west to help provide better amenity to the street;
- materials and finishes need to be specified;
- this version appears to have located the garage forward of the house and disguised this with an over-sailing balcony positioned over the front setback alignment. I believe the proposal should be reconsidered to make the garage a less imposing component in the composition of the north elevation. Whilst the 3d views are useful, they do not replace elevations for describing the proposal, as the lens used appears wider than the eye would see. The roof in these views appears to be acceptable at the lower pitch and this may serve to reduce the bulk of the dwelling.

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Public Submissions

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

- | | |
|---------------------------|--|
| <i>C & J Johnston</i> | - Impact on views; |
| <i>7 View Terrace</i> | - Do not support balcony incursion into the front setback. |

STATISTICS	Required	Proposed
Land Area		889.908m ² Existing
Open Space	55%	67.77% Acceptable
Zoning		R12.5
Setbacks:		
Front (north)		
<i>Ground</i> <i>Garage</i>	7.5	8.15 Acceptable
<i>Entry</i>	7.5	11.7 Acceptable
<i>Guest Bed & Bed 2</i>	7.5	11.055 Acceptable
<i>Upper</i> <i>Alfresco, Balcony</i>	7.5	6.9 to 8.7 Acceptable
<i>Study – (wall height)</i>	5.6 to 5.9	5.6 Discretion Required
Rear (south)		
<i>Ground</i> <i>Bed 4</i>	6.0	13.07 Acceptable
<i>Patio</i>	6.0	18.5 Acceptable
<i>Cellar, Garage</i>	6.0	24.8 Acceptable
<i>Upper</i> <i>WIR</i>	6.0	21.625 Acceptable
<i>Master</i>	6.0	22.19 Acceptable
<i>Kitchen</i>	6.0	24.81 Acceptable
Side (west)		
<i>Ground</i> <i>Bed 2</i>	1.0	1.7 Acceptable
<i>WIR</i>	1.0	1.24 Acceptable
<i>Laundry</i>	1.0	1.8 Acceptable
<i>Bed 3</i>	1.5	1.8 Acceptable
<i>Toilet</i>	1.0	1.24 Acceptable
<i>Spa</i>	1.0	1.8 Acceptable

STATISTICS		<i>Required</i>	<i>Proposed</i>
<i>Upper</i>	<i>Balcony</i>	7.5	5.45 Discretion Required
	<i>Study (wall height)</i>	6.0	5.6 Discretion Required
	<i>Powder (wall height)</i>	6.0	5.6 Discretion Required
	<i>Ensuite (wall height)</i>	6.0	5.6 Discretion Required
<i>Side (east)</i>			
<i>Ground</i>	<i>Bed 4</i>	1.5	11.6 Acceptable
	<i>Patio</i>	1.0	7.6 Acceptable
	<i>Family</i>	1.5	6.7 Acceptable
	<i>Garage</i>	1.0	1.5 Acceptable
<i>Upper</i>	<i>Main Bed</i>	2.0	9.2 Acceptable
	<i>Kitchen</i>	1.1	1.5 Acceptable
	<i>Alfresco</i>	7.5	1.5 Discretion Required
Height:			
	Wall	5.6	6.0 Discretion Required
	Building	8.1	8.1 Acceptable
Overshadowing:		N/a	
Privacy/Overlooking:		N/a	

**REPORT
Issues**

Building Height

The application proposes a 2-storey house which involves some minor wall height variations along the west side towards the front.

Wall height along the west side varies up to 6m above natural ground level for a study, powder room and ensuite.

LPP 142 specifies a 5.6m wall height limit.

The application proposes an overall building height of 8.1m, which complies with LPP 142.

Roof Pitch

The application proposes a metal roof pitched at 25°38'28".

LPP 066 states:

"dominant elements to be greater than 28°."

Boundary Setbacks

The application proposes an upper floor balcony incorporating an alfresco area.

The alfresco is set back 1.5m from the east side boundary common with 7 View Terrace, and the balcony is set back 4.6m from the west side boundary common with 3 View Terrace. The alfresco and balcony are not proposed to include screening.

The RDC specify a 7.5m setback.

On the east side the cone of vision for an upper floor dining room extends 2m (set back 4m) into 7 View Terrace. The area overlooked comprises 3.344m².

On the west side the cone of vision for an upper floor study extends 1.8m (set back 4.2m) into 3 View Terrace. The area overlooked comprises 5.589m².

The RDC specify a 6m setback.

Crossover Width

The plans submitted with this application specify a 6m wide crossover.

LPP 123 states:

"3.1 Standard crossover width will be 3 metres."

Submission

The submission from the owners of 7 View Terrace objects to the application because the alfresco/balcony incursion will "obscure our views of the ocean".

In addition the submission states that none of the existing residences on the southern side of View Terrace in the vicinity of the proposed development extend forward of the 7.5m set back, and contends that the RDC stipulate that new development should closely conform to the established pattern of street setbacks

TPAP Comments

The panel considered that the proposal should incorporate some design changes specifically relocating the double garage.

Discussion

Building Height

The wall height variations on the west side are proposed to maintain level floor and ceiling heights through the proposed house. The variations are considered relatively minor, they do not impact on any adjoining or nearby property views, and are supported.

Roof Pitch

Roof pitch in the Richmond Hill precinct is quite variable, the property next door is a single storey house with a skillion roof pitched at 5°, and there are many examples in View Terrace of houses which have roofs pitched at less than 28°, and under the circumstances this variation is supported.



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Boundary Setbacks

The major part of the alfresco and balcony is situated so that it overlooks the front setback area and the public domain, and does not overlook any private indoor or outdoor living areas.

The structure has been purposely designed with open sides to ensure that upper floor views from adjoining and nearby properties are maintained.

In regard to the cone of vision privacy setbacks the areas affected correspond with the side boundary setback areas of the potentially affected adjoining properties, and do not overlook any private outdoor living spaces, these variations are considered very minor and are supported.

Crossover Width

The applicant has provided written justification for the double crossover in the attachment received on 1 September 2009, which includes a response to the comments that were made by TPAP.

The justification for the wider crossover points to other examples of properties along View Terrace which have wider crossovers, and problems associated with a proposed gated entry to the property with a 3m crossover.

The CEO has delegated authority to approve a wider crossover and it is considered appropriate for this aspect of the application to be dealt with prior to the issue of the building licence.

Submission

In relation to the balcony incursion into the front setback, the relevant acceptable development provision in the RDC states:

"In accordance with figure 1b, a porch, balcony, verandah, chimney, or the equivalent may (subject to the Building Code of Australia) project not more than 1m into the street setback area, provided that the total of such projections does not exceed 20 per cent of the frontage at any level."

The incursion comprises a 4m long X up to 0.6m wide portion of the balcony, which represents 19.8% of the frontage, and therefore complies with the RDC.

In regard to the street setbacks the applicant surveyed both sides of View Terrace in the vicinity of the subject property to determine the development setbacks prevailing in this section of the street.

There is not a consistent street setback along this section of View Terrace, and the proposed development setbacks are considered acceptable.

In regard to view impacts the upper floor balcony is proposed to be open sided on the east side which it is understood has been purposely designed to retain views from the property on the east side.



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In any event the plans that were approved by Council in May 2008 were for a house that would have been on a set back that is less than the setback now proposed.

The current plans are considered to be a significant improvement in terms of the potential impacts on the adjoining property than would be the case than if the owners decided to build in accordance with their approved plans.

TPAP Comments

The applicant has provided a written response to the panel comments (see attachment).

"The location and size of the garage have not changed from the previously approved plans from May 2008. The garage on the previous design was located 740mm forward of the verandah piers. The garage on the revised application design is the same 740mm forward of the verandah pier.

Therefore, the visual impact of the garage is no more than that of the previously approved plans and we see no reason for it to change.

The owners are extremely happy with the outcome of the reduction in size and the final look of the home and are keen to keep the design as is. They also feel that extending the balcony to the western side would make the front elevation too horizontal and therefore "boring ". It would also be virtually useless as the depth at that western end is diminished and, once a residence is constructed at No.3 View Terrace, would have little or no views to the west."

Conclusion

The proposal is considered to result in a better outcome than the plans which were approved by Council in May 2008 following SAT mediation.

The garage being forward of the main building line is considered acceptable development in this particular part of East Fremantle given the existence of many other similar properties in Richmond Hill; its dominance is to a great extent reduced by an overhanging alfresco and balcony.

RECOMMENDATION

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

- (a) variation to wall height along the west side pursuant to Local Planning Policy 142 from 5.6m to 6m;
- (b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25°38'28";
- (c) variation to the cone of vision setback for an upper floor kitchen on the east side pursuant to the Residential Design Codes from 6m to 4m;
- (d) variation to the cone of vision setback for an upper floor study on the west side pursuant to the Residential Design Codes from 6m to 4.2m;
- (e) variation to the setback for an unscreened upper floor alfresco on the east side pursuant to the Residential Design Codes from 7.5m to 1.5m;
- (f) variation to the setback for an unscreened balcony on the west side pursuant to the Residential Design Codes from 7.5m to 4.6m;

for the construction of a rendered brick & colorbond roofed 2-storey house at No. 5 (Lot 241) View Terrace, East Fremantle comprising:

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Ground floor: Double garage & store, entry, 4 bedrooms, 2 bathrooms, laundry, family room & patio;

First floor: Main bedroom with en-suite, kitchen, dining, living room, study and balcony with alfresco area.

in accordance with the plans date stamp received on 27 July 2009 subject to the following conditions:

1. this approval does not include approval for the double crossover (Condition (10) and Footnote (a) refer).
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. 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.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. 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.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *in regard to the width of the crossover the applicant is advised to liaise with the Chief Executive Officer;*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *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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- (d) *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.*
- (e) *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).*
- (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.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Colin Johnston (adjoining neighbour) addressed the meeting on issues pertaining to the proposed intrusion into the front setback and subsequent loss of amenity in terms of views to the west.

Mr David Michelon (Designer – Riverstone) and Ms Diane Wainwright (Design Consultant – Riverstone) addressed the meeting in support of the proposed development.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

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

- (a) variation to wall height along the west side pursuant to Local Planning Policy 142 from 5.6m to 6m;**
- (b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25°38'28";**
- (c) variation to the cone of vision setback for an upper floor kitchen on the east side pursuant to the Residential Design Codes from 6m to 4m;**
- (d) variation to the cone of vision setback for an upper floor study on the west side pursuant to the Residential Design Codes from 6m to 4.2m;**
- (e) variation to the setback for an unscreened upper floor alfresco on the east side pursuant to the Residential Design Codes from 7.5m to 1.5m;**
- (f) variation to the setback for an unscreened balcony on the west side pursuant to the Residential Design Codes from 7.5m to 4.6m;**

for the construction of a rendered brick & colorbond roofed 2-storey house at No. 5 (Lot 241) View Terrace, East Fremantle comprising:

Ground floor: Double garage & store, entry, 4 bedrooms, 2 bathrooms, laundry, family room & patio;

First floor: Main bedroom with en-suite, kitchen, dining, living room, study and balcony with alfresco area.

in accordance with the plans date stamp received on 27 July 2009 subject to the following conditions:

- 1. this approval does not include approval for the double crossover (Condition (10) and Footnote (a) refer).**
- 2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**

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5. 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.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. 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.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *in regard to the width of the crossover the applicant is advised to liaise with the Chief Executive Officer;*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *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.*
- (d) *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.*
- (e) *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).*
- (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.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

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Cr Rico made the following impartiality declaration in the matter of 4 Preston Point Road: "As a consequence of the applicant, Father Paul Baczynski, being known to me, 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".

T82.6 Preston Point Road No. 4 (Lot 213)

Applicant: Fr Paul Baczynski

Application No. P103/2009

By Chris Warrener, Town Planner on 3 September 2009

"With regard to the following report I disclose that I have an association with the applicant, with the nature of the association being that it has been arranged that the applicant, Father Paul Baczynski, will baptise my son Mark at a date to be arranged.

As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I have considered this matter on its merits and made my report and recommendations accordingly."

BACKGROUND

Description of Proposal

An Application for Planning Approval to change the non-conforming use of 4 Preston Point Road from individual and group counselling, workshops and retreats, yoga, meditation, painting, sculpture and ceramics, movement therapy, and excluding any use or activity in the category of "amusement" or entertainment to include associated overnight accommodation.

Statutory Considerations

Town Planning Scheme No. 3 : Residential, Clause 4.9 Extensions and changes to a non-conforming use.
Local Planning Strategy : Richmond Precinct (LPS)

Documentation

Application date stamp received on 24 July 2009

Date Application Received

24 July 2009

Advertising

Adjoining landowners and sign on site

It was recently discovered that letters inviting comment had not been sent to the owners of 2 adjoining properties – No's 156 and 158 Canning Highway. 158 Canning Highway is further subdivided into 3 survey strata lots – 158 Canning Highway is a photographic studio and the 2 strata lots at the rear (158A & 158B Canning Highway) contain private residences.

Consequently, letters inviting comment from these additional property owners were hand delivered on Friday 28 August 2009.

Consideration was given to deferring consideration of the application in order to fulfil the 14-day comment period provision however in discussion with the CEO it has been resolved to proceed with the matter, although subject to consideration of any comments received up to and including during the 15 September Council meeting.

Date Advertised

Initial comment period: 29 July 2009

Subsequent comment period: 28 August 2009



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Close of Comment Period

Initial comment period: 14 August 2009
Subsequent comment period: 11 September 2009

No. of Days Elapsed between Lodgement & Meeting Date

45 days

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

19 September 2000 Subject to a Ministerial appeal being upheld Council grants approval with conditions for a patio;
20 February 2001 Council defers consideration of an application for a verandah on the north side;
21 December 2004 Council conditionally approves the use of 4 Preston Point Road for counselling and wellness programs;
20 December 2005 Council approves a garage & a meditation room;
19 December 2006 Council grants approval for the ongoing use of the premises at 4 Preston Point Road for the purposes of counselling and wellness programs, workshops and retreats, yoga, meditation, painting, sculpture and ceramics, movement therapy, and excluding any use or activity in the category of "amusement" or entertainment and does not include the provision of residential or overnight accommodation for clients;
17 April 2007 Council approves the conversion of the garage for use as a meeting room;
19 May 2009 Council grants approval for a retaining wall and shed at the rear.

CONSULTATION

Public Submissions

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

At the time of finalising this report no other submissions have been received, specifically from the property owners who received hand delivered letters inviting comment on 28 August 2009.

REPORT

Background

In January 1994 TPS 2 was amended to include 4 Preston Point Road (owned by the "Archbishop of Perth", and zoned "Residential") in the "Schedule of Additional Uses" with the following additional uses applying to the property:

"individual and group counselling, workshops and retreats, including associated overnight accommodation; yoga; meditation; painting; sculpture and ceramics; movement therapy; but excluding any use or activity in the category of "amusement" or entertainment"

The building at the property was subsequently named and used as the "Dadiri Centre" up until the end of 2004 when the then operators discontinued their use of the property.

In November 1999 Council approved the construction of an office building at 6 Council Place. This property was also owned by the "Archbishop of Perth", and the offices were used for the purpose of one to one counselling and personal growth groups. It was called the "Cross Roads Community Inc."

In November 2002 Council approved the addition of caretaker's accommodation comprising a bedroom and study at the rear of the building at 6 Council Place for the coordinator of Crossroads Community Inc.

At the end of 2004 the Archbishop decided to change the commercial tenancy arrangements at 6 Council Place by increasing rents in line with commercial

leasing/tenancy arrangements, making use of the premises unviable for its use by Cross Roads Community Inc.

With the departure of the "Dadiri Centre" at around the same time, the "Cross Roads Community Inc." sought to relocate from 6 Council Place to 4 Preston Point Road.

Under TPS 2 a list of conditions applied to the additional use rights applicable to the property at 4 Preston Point Road. These were:

- "(a) No change of use, ownership, alteration or extension without the Council's approval.*
- (b) Maximum number of people on site at any time to be 30.*
- (c) No activities generating noise which is not compatible with residential use to be permitted.*
- (d) All documentation regarding lease of properties required to provide access to the function shall be endorsed onto the relevant titles and registered at the Titles Office.*
- (e) Further conditions of approval relating to use and development will be prepared before any endorsement by Council as part of any approval that may be granted."*

Cross Roads Community Inc. submitted an application for Planning Approval for its proposed use of 4 Preston Point Road.

In December 2004 Council considered the application by the Cross Roads Community Inc. to use 4 Preston Point Road for the same uses allowable under the list of additional uses applicable under TPS 2, and previously known as the "Dadiri Centre."

TPS 3 came into force on 3 December 2004.

4 Preston Point Road continued to be zoned "Residential", but had no "additional use site rights", and was therefore considered to have "non-conforming use" rights, which allowed it to be used for the additional uses permitted under TPS 2.

The application by Cross Roads Inc. was advertised and in response to submissions received on 21 December 2004 the Council granted approval for the use of 4 Preston Point Road for the uses allowed under TPS 2 with the exception that "associated overnight accommodation" was not permitted.

This current application seeks approval for the use overnight accommodation for women.

Issues

Land Use

4 Preston Point Road is zoned Residential R12.5 under TPS 3. The property contains a bitumen sealed car-park and a single storey brick and iron building which was approved under TPS 2 for the additional uses individual and group counselling; workshops and retreats, including overnight accommodation; yoga; meditation; painting; sculpture and ceramics; movement therapy; but excluding any use or activity in the category of "amusement" or "entertainment".

The property has "non-conforming use rights" pursuant to TPS 3 to continue to be allowed to be used as it was pursuant to TPS 2 except that overnight accommodation is not a permitted use, which is the use now being applied for.

Advertising the Application

As noted above further consultation has been undertaken inviting comment from property owners abutting the south side boundary of 4 Preston Point Road at 156, 158, 158A & 158B Canning Highway.

There were no submissions received in response to the sign on site or the letters inviting comment during the initial advertising period.



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To avoid unnecessary delay in the processing of this application it was considered appropriate to present the application to the Town Planning & Building Committee in the first instance.

The recommendation below includes a condition which ensures that Council takes into consideration any submissions it may receive prior to the next Ordinary Meeting on 15 September 2009.

Discussion

The current application by Cross Roads Inc. was advertised with adjoining property owners being notified and a sign erected at the property inviting comment on the application.

No submissions have been received in response to the current application.

The proposed additional use is considered to provide a community benefit, and if managed appropriately as is proposed by the applicant, is supported.

It is suggested that this approval be for a 12-month trial period after which Council should reconsider its ongoing use subject to any submissions it may receive in the interim.

RECOMMENDATION

Subject to consideration of any comments received from members of the public prior to and during the Committee and Council meetings that Council exercise its discretion in granting approval for a change to the non-conforming use of No. 4 (Lot 213) Preston Point Road, East Fremantle from individual and group counselling, workshops and retreats, yoga, meditation, painting, sculpture and ceramics, movement therapy, and excluding any use or activity in the category of "amusement" or entertainment to include associated overnight accommodation subject to the following condition:

1. This approval is valid for 12-months after-which Council's further approval is required for the ongoing use of the property for "associated overnight accommodation," with consideration to be given at that time, to any comments received from members of the public.

Ms Bettye Christian (156 Canning Highway) and Mr Gordon Cook (158(c) Canning Highway) addressed the meeting and sought a response to the following concerns:

- how many tenants at any one time
- duration of stay ie overnight or longer term
- policy on visitors
- are tenants tested for drugs in their system
- are tenants free to come and go on weekends
- is there a similar programme planned for men
- what conditions will Council place on any approval

Father Paul Baczynski, Ms Keryth Cattallini & Ms Karen Palermo addressed the meeting in response to the concerns raised by Ms Christian and Mr Cook as follows:

- application was for 4 women staying overnight
- 3-12 month stays envisaged
- visitors restricted to weekends and early evenings
- a crisis care centre is not proposed nor a drop in centre
- prospective tenants will be vetted by psychologists
- tenants would need to be clean for a period of at least 3 months prior to entering the home
- the mean age of tenants would be 30 years with no children

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

That subject to consideration of any comments received from members of the public prior to and during the Committee and Council meetings that Council

exercise its discretion in granting approval for a change to the non-conforming use of No. 4 (Lot 213) Preston Point Road, East Fremantle from individual and group counselling, workshops and retreats, yoga, meditation, painting, sculpture and ceramics, movement therapy, and excluding any use or activity in the category of "amusement" or entertainment to include associated overnight accommodation subject to the following conditions:

1. this approval is valid for a period of 12-months subject to the Chief Executive Officer in consultation with relevant officers undertaking a review of the current operations within six months from date of approval taking into account comments from members of the public.
2. following expiry of the 12-month approval period Council's further approval is required for the ongoing use of the property for "associated overnight accommodation" subject to no adverse comment being received.
3. application for ongoing use of the property for "associated overnight accommodation" to be made prior to the expiry date of this approval. CARRIED

Cr Richard Olson entered the meeting at 8.02pm.

Cr Nardi made the following impartiality declaration in the matter of 21 Locke Crescent: "As a consequence of the applicant, Mr Brent de Pledge, being known to me, 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".

T82.7 (a) Locke Crescent No. 21 (Survey Strata Lot 1)

Applicant: De Pledge Design

Owner: Pietro & Rosanna Pietroniro

Application No. P60/2009

By Chris Warrener, Town Planner on 3 September 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house with brick screen walls and wrought iron infill at 21 Locke Crescent (proposed Survey-strata Lot 1, cnr Habgood Street) comprising:

Ground floor: 4-car garage & store, portico, 3 bedrooms, bathroom, laundry, activity room, powder room, computer nook, foyer and alfresco;

First floor: master suite with balcony & en-suite, built-in-robe, powder room, living dining room, kitchen, pantry, study and cellar.

The house is proposed with cement rendered brick-work, and a mix of concealed and pitched roof forms; the pitched roof is proposed to be tiled and pitched at 28°.

It is proposed to construct a brick screen wall/front fence with wrought iron infill, a section of this wall along Locke Crescent is solid varying up to 1.8m above natural ground level.

The following report should be considered in conjunction with the report on "House No 2" on proposed Survey-strata Lot 2.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5, sub-Clause 5.3.1 Density bonus for corner lots

Local Planning Strategy - Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)

Local Planning Policy 142 : Residential Development (LPP 142)

Local Planning Policy 143 : Fencing (LPP 143)

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Impact on Public Domain

Tree in verge : No impact;
Light pole : No impact;
Crossover : Existing 12m wide and 6m wide bitumen crossovers in need of repair;
Footpath : Concrete slab path abutting kerb in reasonable condition.

Documentation

Re-submitted plans date stamp received on 24 July 2009

Date Application Received

22 April 2009

Advertising

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

Date Advertised

Original application: 23 April 2009;
Re-submitted plans: 24 July 2009

Close of Comment Period

Original application: 8 May 2009
Re-submitted plans: 14 August 2009

No. of Days Elapsed between Lodgement & Meeting Date

45 days

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

15 January 1974 Additions comprising a bedroom, family room, and garage approved;
2 September 1974 Approval for a patio;
5 December 2008 CEO acting under delegated authority advises the WAPC that subdivision of 21 Locke Crescent into 2-lots is supported subject to 3 conditions;
14 January 2008 WAPC grants conditional approval for the subdivision of 21 Locke Crescent into 2 survey-strata lots (1 x 440m², 1 x 511m²);
16 June 2009 Council decides to defer an application for two 2-storey houses at 21 Locke Crescent to allow the applicant to consider a redesign.

CONSULTATION

Town Planning Advisory Panel Comments

The re-submitted plans were considered by the Town Planning Advisory Panel at its meeting on 25 August 2009 and the following comments were made:

- large garage on smaller house is too prominent and should be minimised;
- need to increase the prominence of the front door;
- large house is a mixture of design styles;
- style should be simplified to make it more appropriate to the amenity of the locale;
- ultimately the developments will not be an improvement to the overall amenity of the street in accordance with the provisions in the scheme;
- the proponent's planner correctly asserts that the precinct is changing with larger dwellings replacing the existing stock. However, this does not excuse a poor outcome. The dwelling on Strata Lot 1 is significantly larger than the dwelling on Strata Lot 2, which in itself is not a problem, however, it is emphasised by being constructed boundary to boundary. The effect on the streetscape will be that the smaller dwelling appears to be cramped and of a lesser scale. The opportunity to alter this is now. The dwelling on Lot 1 could be moved away from the shared boundary to give space to Lot 2.
- Panel members' comments from 26 May 2009 (refer below) were reiterated:
.. *the dwelling proposed for Lot 1 appears as a grand house with an aesthetic that is relatively contrary to the surrounding building stock. By contrast the dwelling*

- proposed for Lot 2 is of a much lower quality. I believe the two dwellings should at least carry similar styling references and these should be contextually appropriate. I find the physical expression of both dwellings inappropriate to the context;*
- .. the design of the dwelling for Lot 1 does maximise the potential for good solar access to many rooms. Similarly the other dwelling addresses solar access to the living spaces;*
 - .. the open space requirements of the lots should not be permitted to exceed the mandated 50%;*
 - .. the windows to Bed 4 of the dwelling on Lot 2 are very small. Will this comply? Even if the design does comply Beds 3 and 4 will not be pleasant spaces;*
 - .. overall, I don't believe either dwelling adds anything worthwhile to the streetscape and in fact will create more examples of unfortunate design.*

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Public Submissions

At the close of the comment period on the re-submitted plans no submissions were received.

STATISTICS	Required	Proposed
Land Area		511m ² Existing
Open Space	50%	48.65% Discretion Required
Zoning		R12.5
Heritage Listing		Not listed
Setbacks:		
Front (North)		
Ground	Garage	6.0 6.5 Acceptable
	Portico (setback)	6.0 5.007 Discretion Required (Minor intrusion)
	Bed 2, Activity, Alfresco	6.0 6.0 Acceptable
Upper	Master	6.0 6.5 Acceptable
	Balcony (setback)	6.0 5.01 Discretion Required
	Living, Alfresco	6.0 6.0 Acceptable
Rear S/East)		
Ground	Garage, Store (setback)	1.5 1.5 Discretion Required
	Ensuite, Cellar, Study (setback)	1.8 1.8 Discretion Required
Side (East)		
Ground	Garage	Nil Nil Acceptable
Upper	Master Suite, Ensuite	1.2 1.2020 Discretion Required

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STATISTICS	Required	Proposed
Side (S/West)		
Ground Alfresco	1.5	2.5 Acceptable
Laundry, Bed 3, Bath, Bed 4	1.5	1.5 Acceptable
Upper Alfresco, Dining, Kitchen (setback)	2.8	3.0 Acceptable
Study	2.3	3.35 Acceptable
Height:		
Wall	5.6 & 6.5	5.6 & 6.5 Acceptable
Building	8.1	8.0 Acceptable
Overshadowing:	N/a	
Privacy/Overlooking:	N/a	

REPORT

Background

In June 2009 Council considered an application for two 2-storey houses on 2 strata lots at 21 Locke Crescent.

The Town Planning and Building Committee recommended approval of house number 1 subject to the following condition:

- "1. prior to the issue of a building licence revised drawings be submitted showing:
- (a) simplification of the design including removal of the turrets; and
 - (b) compliance with the open space requirements pursuant to the Residential Design Codes;
- to the satisfaction of the Chief Executive Officer in consultation with relevant officers."

The applicant prepared and submitted plans amended to comply with the above-stated condition.

The Committee recommended approval of house number 2 subject to standard conditions.

The Council considered the application for the two houses and decided:

"That the application be deferred to allow the applicant to consider a redesign of the proposed development, particularly on proposed Lot 1, taking into account the expressed concerns."

In response to this decision the applicant has now resubmitted the original plans.

The following report is extracted from the officer's original report to Council on the originally submitted plans which are identical to the re-submitted plans.

Assessment

The property on which this 2-storey house is proposed is situated at the corner of Locke Crescent and Habgood Street; the property is proposed Survey-strata Lot 1, and is the

subject of a WAPC subdivision approval granted on 14 January 2008.

The WAPC subdivision approval included the following condition:

1. *Prior to the commencement of subdivision works to satisfy the conditions of this approval, Planning Approval shall be obtained from the Town of East Fremantle pursuant to the provisions of the Town of East Fremantle's Local Planning Scheme No. 3 (specifically sub clause 5.3.1) for the construction of a single house on each of the proposed lots. (Local Government)*

The subdivision was supported because it was proposed for a corner lot for which the following TPS 3 provision applies:

"5.3.1 *Density Bonus for Corner Lots:* In areas with a density coding of R12.5, the local government may approve development up to a density of R20 on corner lots where the dwellings are designed to face each of the two street frontages, and in the opinion of local government, there will be an improvement in the overall amenity of the streets as a result of the development."

The house proposed to be built on Survey-strata Lot 1 (the subject house) is designed to face Locke Crescent, and the house proposed to be built on Survey-strata Lot 2 is designed to face Habgood Street.

If Council decides that it is prepared to approve this application, then it needs to be of the opinion that the overall development (i.e. of both lots 1 & 2) will result in an improvement in the overall amenity of Locke Crescent and Habgood Street.

If Council is not of that opinion then in a very real sense that is effectively the end of the matter as this would mean the R12.5 density applied and the proposed development is simply not approvable under R12.5.

It is the view of the town planner that notwithstanding the comments of TPAP the application for the two 2-storey houses is considered to improve the visual amenity of Habgood Street and Locke Crescent, and is of the opinion that there will be an improvement in the overall amenity of the two streets.

The following assessment is for the house with its frontage to Locke Crescent (Survey-strata Lot 1), and is based on a density of R20 pursuant to TPS 3, sub-Cl. 5.3.1.

Issues

Boundary Setbacks

Front (North Side) Boundary

The application proposes a portico set back 5.007m and an upper floor balcony set back 5.01m from the front boundary.

The specified setback under the RDC is 6m.

In regard to the portico and balcony incursions into the front setback the relevant acceptable development provisions under the RDC state:

- "A2 i *In accordance with figure 1b, a porch, balcony, verandah, chimney, or the equivalent may (subject to the Building Code of Australia) project not more than 1m into the street setback area, provided that the total of such projections does not exceed 20 per cent of the frontage at any level.*
- ii *Any eaves not forming part of a porch, balcony or*



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verandah to project not more than 1m into the street setback area for the full width of the building.”
(RDC, 6.2 Streetscape requirements, 6.1.2 Minor incursions into street setback area.)

Both incursions project no more than 1m into the street setback, and their total width amounts to 7.8m. The frontage of proposed Survey-strata Lot 1 amounts to 27.3m therefore the total of the two projections amounts to 28.57% of the frontage.

Council's discretion is required to be exercised for a variation to the extent of the incursion into the front setback comprising 8.57%.

*Side (Southeast) Boundary
Common with Proposed
Lot 2*

A 4-car garage has a 14.7m long wall that varies up to 2.5m high along the southeast boundary.

LPP 142 allows a boundary wall along one side boundary no higher than 3m or longer than 9m.

Being more than 9m long Council's discretion is required to be exercised for the garage wall. Under the RDC the specified setback is 1.5m.

The upper floor wall for an en-suite, cellar and study, which is situated directly above the garage, and is similarly long along the southeast boundary, is 13.9m long.

The RDC specify a 1.8m setback.

*Side (East) Boundary
Common with Proposed
Lot 2*

The upper floor wall for a master suite and en-suite is set back 1.020 m from the east side boundary; the RDC specify a 1.2m setback.

Front Fence

The plans accompanying the application include a front fence which contains a solid section that varies up to 1.8m above NGL.

LPP 143 states:

“Part 3 - Fence Design
Council requires front fences and walls above 1.2m to be visually permeable defined as:

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

Open Space

This application if approved and implemented will result in the proposed property containing 48.65% open space. The RDC specify 50% therefore Council is required to exercise its discretion for a 1.35% open space variation.

TPAP Comments

The panel reiterated its previous comments on the application not to support the application as originally submitted along with some additional comments regarding the dominance of the garage and appearance of the proposed development not being in keeping with



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the character of the locality.

Discussion

Boundary Setbacks

*Front (North Side)
Boundary*

In regard to the front setback incursions the relevant performance criteria under the RDC states:

"P2 Minor incursions and projections not to detract from the character of the streetscape."

The proposed variation is not considered significant given the wide frontage of the proposed property. The incursions are less than 1m and are not considered to have a detrimental impact on the local streetscape and can be supported.

*Side (Southeast) Boundary
Common with Proposed
Lot 2*

In regard to the variation proposed for the boundary wall for the garage this is not considered to be an issue because this wall will provide an effective privacy screen between the two proposed properties.

*Side (East) Boundary
Common with Proposed
Lot 2*

The setback variation for the wall for the proposed master suite at 0.78m is not considered significant, and it will provide an effective solar and wind barrier from the hot summer sun and prevailing westerly winds.

Front Fence

The fence along Habgood Street is solid up to 1.2m high, and complies with LPP 143.

A 13m section of the fence along Locke Crescent is solid up to 1.5m high, and a 6m section next to the corner truncation is solid varying from 1.2m up to 1.8m high.

This fence is not considered to have a detrimental impact on the local streetscape given the design and appearance of fences to the east along Locke Crescent.

The proposed house is designed to take advantage of and make maximum use of solar access from the north therefore its primary indoor and outdoor living areas are situated on the north side.

Being a corner lot with an unusual triangular shape and sloping topography the property has no "back yard"; the proposed fence is designed to provide the property with some outdoor living area privacy at the front.

Open Space

At 1.35% the proposed open space variation is considered relatively minor and can be supported.

TPAP Comments

The owner and town planning consultant Peter Webb have provided a response to the comments made by the panel (see attachment).

Conclusion

The Town Planning & Building Committee, when it considered the originally submitted application, recommended deferral pending the submission of amended plans, which addressed the following:

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- (a) *simplification of the design including removal of the turrets; and*
- (b) *compliance with the open space requirements pursuant to the Residential Design Codes.*

These points apply to proposed House No. 1.

The applicant prepared and submitted amended plans which addressed the above-stated matters.

However Council did not support the amended plans.

While there are no residential design guidelines which specify development style and/or "what not to do" in the Richmond Hill precinct it is considered that the amended plans that were received on 11 June would result in a more attractive development than the plans which propose roof turrets on House No. 1.

If Council is of a view to reconsider the application, and its preference is for the 11 June amended plans, then an alternative recommendation is herein submitted.

In regard to the open space variation this is considered to be so minor (comprising a shortfall of 1.35%) as to be of no consequence, and the open space variation is herein supported in relation to the previously submitted amended plans.

RECOMMENDATION FOR APPROVAL (Roof Turret Plans)

With respect to Lot 1, that Council exercise its discretion in granting approval for the following:

- (a) variation to the north side boundary setback for a portico and upper floor balcony pursuant to the Residential Design Codes from 6m to 5.007m and 5.01m respectively;
- (b) variation to the southeast side boundary setback for a ground floor garage and an upper floor wall for an en-suite, cellar and study pursuant to the Residential Design Codes from 1.5m and 1.8m to 0m;
- (c) variation to the east side boundary setback for a master suite and en-suite pursuant to the Residential Design Codes from 1.2m to 1.020m;
- (d) variation to Local Planning Policy 143 to permit sections of a front fence to be solid up to 1.8m high;
- (e) variation to the amount of open space pursuant to the Residential Design Codes from 50% to 48.65%;

for the construction of a 2-storey house with brick screen walls and wrought iron infill at No. 21 (proposed Survey Strata Lot 1) Locke Crescent, East Fremantle comprising:

Ground floor: 4-car garage & store, portico, 3 bedrooms, bathroom, laundry, activity room, powder room, computer nook, foyer and alfresco;

First floor: master suite with balcony & en-suite, built-in-robe, powder room, living dining room, kitchen, pantry, study and cellar.

in accordance with the plans date stamp received on 24 July 2009 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.

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4. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (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 alfrescos and balcony may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*



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ALTERNATIVE RECOMMENDATION FOR APPROVAL (Amended Plans)

With respect to Lot 1, that Council exercise its discretion in granting approval for the following:

- (a) variation to the north side boundary setback for a portico and upper floor balcony pursuant to the Residential Design Codes from 6m to 5.007m and 5.01m respectively;
- (b) variation to the southeast side boundary setback for a ground floor garage and an upper floor wall for an en-suite, cellar and study pursuant to the Residential Design Codes from 1.5m and 1.8m to 0m;
- (c) variation to the east side boundary setback for a master suite and en-suite pursuant to the Residential Design Codes from 1.2m to 1.020m;
- (d) variation to Local Planning Policy 143 to permit sections of a front fence to be solid up to 1.8m high;
- (e) variation to the amount of open space pursuant to the Residential Design Codes from 50% to 48.65%

for the construction of a 2-storey house with brick screen walls and wrought iron infill at 21 Locke Crescent (Survey-strata Lot 1) comprising:

Ground floor: 4-car garage & store, portico, 3 bedrooms, bathroom, laundry, activity room, powder room, computer nook, foyer and alfresco;

First floor: master suite with balcony & en-suite, built-in-robe, powder room, living dining room, kitchen, pantry, study and cellar;

in accordance with the amended plans date stamp received on 11 June 2009 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the

- width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
 11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
 - (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
 - (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
 - (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 alfrescos and balcony may not be enclosed without the prior written consent of Council.*
 - (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (b) Locke Crescent No. 21 (Survey Strata Lot 2)**
Applicant: De Pledge Design
Owner: Pietro & Rosanna Pietroniro
Application No. P60/2009
By Chris Warrener, Town Planner on 1 September 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house with brick screen walls and wrought iron infill at 20 Habgood Street (Survey-strata Lot 2) comprising:

Ground Floor: double garage, portico, entry, lobby, study, activity room, 3 bedrooms, bathroom, powder room laundry, store and linen area, and alfresco;
First Floor: bedroom, en-suite, built-in-robe, powder room, study, kitchen, meals and living room, & alfresco.

The house is proposed with cement rendered brick-work and a conventional colorbond roof with its dominant element facing Habgood Street pitched at 28°.

The following report should be considered in conjunction with the report on 'House No. 1' on proposed Survey Strata Lot 1.

Statutory Considerations

Town Planning Scheme No. 3 - Residential R12.5, sub-Clause 5.3.1 Density bonus for corner lots

Local Planning Strategy - Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

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Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No existing crossover
Footpath : Cast-in-situ concrete path adjacent to kerb in new condition

Documentation

Re-submitted plans date stamp received on 24 July 2009

Date Application Received

22 April 2009

Advertising

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

Date Advertised

Original application: 23 April 2009;
Re-submitted plans: 24 July 2009

Close of Comment Period

Original application: 8 May 2009
Re-submitted plans: 14 August 2009

No. of Days Elapsed between Lodgement & Meeting Date

45 days

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

15 January 1974 Additions comprising a bedroom, family room, and garage approved;
2 September 1974 Approval for a patio;
5 December 2008 CEO acting under delegated authority advises the WAPC that subdivision of 21 Locke Crescent into 2-lots is supported subject to 3 conditions;
14 January 2008 WAPC grants conditional approval for the subdivision of 21 Locke Crescent into 2 survey-strata lots (1 x 440m², 1 x 511m²);
16 June 2009 Council decides to defer an application for two 2-storey houses at 21 Locke Crescent to allow the applicant to consider a redesign.

CONSULTATION

Town Planning Advisory Panel Comments

The re-submitted plans were considered by the Town Planning Advisory Panel at its meeting on 25 August 2009 and the following comments were made:

- large garage on smaller house is too prominent and should be minimised;
- need to increase the prominence of the front door;
- large house is a mixture of design styles;
- style should be simplified to make it more appropriate to the amenity of the locale;
- ultimately the developments will not be an improvement to the overall amenity of the street in accordance with the provisions in the scheme;
- the proponent's planner correctly asserts that the precinct is changing with larger dwellings replacing the existing stock. However, this does not excuse a poor outcome. The dwelling on Strata Lot 1 is significantly larger than the dwelling on Strata Lot 2, which in itself is not a problem, however, it is emphasised by being constructed boundary to boundary. The effect on the streetscape will be that the smaller dwelling appears to be cramped and of a lesser scale. The opportunity to alter

this is now. The dwelling on Lot 1 could be moved away from the shared boundary to give space to Lot 2.

- Panel members' comments from 26 May 2009 (refer below) were reiterated:
 - .. *the dwelling proposed for Lot 1 appears as a grand house with an aesthetic that is relatively contrary to the surrounding building stock. By contrast the dwelling proposed for Lot 2 is of a much lower quality. I believe the two dwellings should at least carry similar styling references and these should be contextually appropriate. I find the physical expression of both dwellings inappropriate to the context;*
 - .. *the design of the dwelling for Lot 1 does maximise the potential for good solar access to many rooms. Similarly the other dwelling addresses solar access to the living spaces;*
 - .. *the open space requirements of the lots should not be permitted to exceed the mandated 50%;*
 - .. *the windows to Bed 4 of the dwelling on Lot 2 are very small. Will this comply? Even if the design does comply Beds 3 and 4 will not be pleasant spaces;*
 - .. *overall, I don't believe either dwelling adds anything worthwhile to the streetscape and in fact will create more examples of unfortunate design.*

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Public Submissions

At the close of the comment period on the re-submitted plans no submissions were received.

STATISTICS	Required	Proposed
Land Area		440m ² Existing
Open Space	50%	64.75
Zoning		R12.5
Heritage Listing		N/a

Setbacks:

Front (S/West)		
Undercroft	Drying, laundry, & store	6.0
		12.2
		Acceptable
Ground (mid-floor)	Garage	6.0
		6.2
		Acceptable
	Portico	6.0
		6.8
		Acceptable
Upper	Bed 1	6.0
		6.0
		Acceptable
	WIR	6.0
		9.1
		Acceptable
Rear (North)		
Undercroft	Alfresco, Bed 2	1.5
		5.3
		Acceptable
Ground (mid-floor)	Alfresco	2.5
		5.3
		Acceptable
Upper	N/a	
Side (S/East)		
Undercroft & Ground	Linen	1.0
		1.2
		Acceptable

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STATISTICS	Required	Proposed
Bath, Pwdr, Bar	1.0	1.0
Activity	1.0	Acceptable 1.5
Alfresco	1.5	Acceptable 2.1
Upper Portico	1.0	Acceptable 1.2
Entry	1.0	Acceptable 1.2
Kitchen	1.1	Acceptable 1.5
Living	1.2	Acceptable 2.1
Side (N/West)		
Undercroft Bed 4	1.0	Acceptable 1.0
Laundry	1.0	Acceptable 2.0
Ground Meals, Study	1.0	Acceptable 1.0
Garage(setback)	1.0	Acceptable Nil
Upper Ensuite, Bed 1 (wall height) (Between houses no impact on views)	5.6 & 6.5	Discretion Required 5.3 to 5.8 Discretion Required
Side (West)		
Ground Bed 2 & 3	1.5	Acceptable 1.5
Upper Alfresco	1.5	Acceptable 1.5
Living	1.5	Acceptable 1.5
Height:		
Wall	5.6 & 6.5	5.8 Acceptable
Building	8.1	8.0 Acceptable
Overshadowing:	N/a	
Privacy/Overlooking:	N/a	

REPORT

Background

In June 2009 Council considered an application for two 2-storey houses on 2 strata lots at 21 Locke Crescent.

The Town Planning and Building Committee recommended approval of house number 1 subject to the following condition:

- "1. prior to the issue of a building licence revised drawings be submitted showing:
(a) simplification of the design including removal of the turrets; and



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*(b) compliance with the open space requirements pursuant to the Residential Design Codes;
to the satisfaction of the Chief Executive Officer in consultation with relevant officers."*

The applicant prepared and submitted plans amended to comply with the above-stated condition.

The Committee recommended approval of house number 2 subject to standard conditions.

The Council considered the application for the two houses and decided:

"That the application be deferred to allow the applicant to consider a redesign of the proposed development, particularly on proposed Lot 1, taking into account the expressed concerns."

In response to this decision the applicant has now resubmitted the original plans.

The following report is extracted from the officer's original report to Council on the originally submitted plans which are identical to the re-submitted plans.

Assessment

The property at which this 2-storey house is proposed has two street frontages, its primary street frontage is to Habgood Street; the property is proposed as Survey-strata Lot 2, and is the subject of a WAPC subdivision approval dated 14 January 2008.

The WAPC subdivision approval included the following condition:

1. *Prior to the commencement of subdivision works to satisfy the conditions of this approval, Planning Approval shall be obtained from the Town of East Fremantle pursuant to the provisions of the Town of East Fremantle's Local Planning Scheme No. 3 (specifically sub clause 5.3.1) for the construction of a single house on each of the proposed lots. (Local Government)*

The subdivision was supported because it was proposed for a corner lot for which the following TPS 3 provision applies:

"5.3.1 Density Bonus for Corner Lots

In areas with a density coding of R12.5, the local government may approve development up to a density of R20 on corner lots where the dwellings are designed to face each of the two street frontages, and in the opinion of local government, there will be an improvement in the overall amenity of the streets as a result of the development."

The house proposed to be built on survey-strata Lot 1 is designed to face Locke Crescent, and the house proposed to be built on survey-strata Lot 2 (the subject house) is designed to face Habgood Street.

If Council decides that it is prepared to approve this application, then it needs to be of the opinion that the overall development (i.e. of both lots 1 & 2) will result in an improvement in the overall amenity of Locke Crescent and Habgood Street.

It is the view of the town planner that notwithstanding the comments of TPAP the application for the two 2-storey houses is considered to improve the visual amenity of Habgood Street and Locke Crescent, and is of the opinion that there will be an improvement in the overall amenity of the two streets.

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The following assessment is for the house with its frontage to Locke Crescent (Survey-strata Lot 1), and is based on a density of R20 pursuant to TPS 3, sub-CI. 5.3.1.

Issues

Building Height An upper floor wall on the northwest side for bedroom 1 and an en-suite varies up to 5.8m above natural ground level.

LPP 142 specifies a 5.6m wall height limit.

Side (Northwest) Boundary Common with Proposed Lot 1 The application proposes a double garage with a 6.3m long x up to 3.9m high wall that is set back 0m from the northwest side boundary.

LPP 142 allows a wall along one side boundary that is no higher than 3m or longer than 9m therefore Council's discretion is required to be exercised for the height of this wall.

The RDC specify a 1m setback.

TPAP Comments The panel reiterated its previous comments on the application not to support the application as originally submitted along with some additional comments regarding the dominance of the garage and appearance of the proposed development not being in keeping with the character of the locality.

Discussion

Building Height The proposed wall height variation is considered minor and as it abuts a wall for the proposed adjoining house, which complies with LPP 142, can be supported.

Boundary Setbacks The proposed double garage wall abuts the wall for the proposed adjoining house and can be supported.

TPAP Comments The owner and town planning consultant Peter Webb have provided a response to the comments made by the panel (see attachment).

Conclusion

The Town Planning & Building Committee, when it considered the originally submitted application, recommended deferral pending the submission of amended plans, which addressed the following:

- (a) *simplification of the design including removal of the turrets; and*
- (b) *compliance with the open space requirements pursuant to the Residential Design Codes.*

These points apply to proposed House No. 1. The Committee did not consider that there was any need to modify the plans for House No 2.

The applicant prepared and submitted amended plans which addressed the above-stated matters.

However Full Council did not support the amended plans.

While there are no residential design guidelines which specify development style and/or "what not to do" in the Richmond Hill precinct it is considered that the amended plans

that were received on 11 June would result in a more attractive development than the plans which propose roof turrets on House No. 1.

If Council is of a view to reconsider the application, and its preference is for the 11 June amended plans, then an alternative recommendation is herein submitted.

RECOMMENDATION

With respect to Lot 2, that Council exercise its discretion in granting approval for the following:

- (a) variation to building height for a wall for a bedroom and en-suite on the northwest side pursuant to Local Planning Policy 142 from 5.6m to 5.8m;
- (b) variation to the height of a boundary wall for a double garage pursuant to Local Planning Policy 142 from 3m to 3.9m;

for the construction of a 2-storey house with brick screen walls and wrought iron infill at No. 20 (proposed Survey Strata Lot 2) Habgood Street, East Fremantle comprising:

Ground floor: double garage, portico, entry, lobby, study, activity room, 3 bedrooms, bathroom, powder room laundry, store and linen area, and alfresco;

First floor: bedroom, en-suite, built-in-robe, powder room, study, kitchen, meals and living room, & alfresco;

in accordance with the plans date stamp received on 11 June 2009 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.



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10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (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/buildier is to contact Council's Works Supervisor.*
- (g) *the alfrescos may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Peter Webb (Town Planning Consultant) and Mr Brent de Pledge (Designer & Applicant) addressed the meeting in support of the proposed development.

Mr Webb stated that his clients would prefer to proceed with the original application but sought support from elected members for the modified proposal. Mr Webb also noted that no submissions had been received from adjoining landowners and the fact that the Town Planner, in his report, supported the minor discretions being sought.

It was Mr Webb's view that the two houses proposed were consistent with the Scheme and would result in an improvement in the surrounding streetscape.

Mayor Ferris – Cr Nardi

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

- (a) *variation to the north side boundary setback for a portico and upper floor balcony pursuant to the Residential Design Codes from 6m to 5.007m and 5.01m respectively;*
- (b) *variation to the southeast side boundary setback for a ground floor garage and an upper floor wall for an en-suite, cellar and study pursuant to the Residential Design Codes from 1.5m and 1.8m to 0m;*
- (c) *variation to the east side boundary setback for a master suite and en-suite pursuant to the Residential Design Codes from 1.2m to 1.020m;*
- (d) *variation to Local Planning Policy 143 to permit sections of a front fence to be solid up to 1.8m high;*
- (e) *variation to the amount of open space pursuant to the Residential Design Codes for the development of proposed Survey-strata Lot 1 from 50% to 48.65%;*
- (f) *variation to building height for a wall for a bedroom and en-suite on the northwest side pursuant to Local Planning Policy 142 from 5.6m to 5.8m;*
- (g) *variation to the height of a boundary wall for a double garage pursuant to Local Planning Policy 142 from 3m to 3.9m;*



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for the construction of two x 2-storey houses at No. 21 Locke Crescent, East Fremantle in accordance with the amended plans date stamp received on 11 June 2009 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- 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 alfrescos and balcony may not be enclosed without the prior written consent of Council.
 - (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

LOST ON THE CASTING VOTE OF THE PRESIDING MEMBER

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Rico

That the application for the construction of two x 2-storey houses at No. 21 Locke Crescent, East Fremantle be deferred to allow the applicant the opportunity to produce a 3D model as a final attempt to persuade elected members that the concerns in relation to bulk and scale have been addressed.

CARRIED ON THE CASTING VOTE OF THE PRESIDING MEMBER

T83. EN BLOC RECOMMENDATION TO COUNCIL

Mayor Ferris - Cr de Jong

That Council adopts en bloc the following recommendations of the Town Planning & Building Committee Meeting of 8 September 2009 in respect to Items MB Ref: T83.1 to T83.4. CARRIED

T83.1

George Street No. 69 (Lot 237)

Applicant & Owner: Ian Ricciardi

Application No. P88/2009

By Chris Warrener, Town Planner on 21 August 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for the unauthorised use of the premises at 69 George Street for the purposes of Office & Fish Wholesales.

Statutory Considerations

Town Planning Scheme No. 3 – Mixed Use
Local Planning Strategy - Plympton Precinct (LPS)
Residential Design Codes (RDC)

Documentation

Relevant form date stamp received on 29 June 2009

Date Application Received

29 June 2009

No. of Days Elapsed between Lodgement & Meeting Date

70 days

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.



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Site Inspection

By Principal Environmental Health Surveyor on 8 June 2009

REPORT

Background

69 George Street is an integral part of a building which comprises an ornate painted brick façade with a bull-nose verandah at the front, and a corrugated iron building behind. This building comprises what appear as 4 shop fronts.

71 and 73 contain the George Street Bistro, 75 contains a gourmet deli and vegetable shop, and 69 contains Northern Star Ocean Products.

On 17 August 1987 Council agreed to a change of non-conforming use of 37 Sewell Street (the subject property) from electrical/office to warehouse ladies hairdressing goods. This approval was subject to the condition that the property was substantially altered to improve its appearance and fall into the guidelines for George Street.

In September 1987 Council considered an application to split the existing warehouse into 4 separate shops with the major portion consisting of approximately half the existing floor area forming one shop and the remainder of the floor area divided into three small shops. In addition the building was extended to have its front wall brought outwards to become a boundary wall and featured a new elevation including an overhanging canopy over the footpath.

The officer's report to the September 1987 Council meeting stated:

"One aspect of the development which causes concern is the lack of parking space which totals five and which should number 13. However the practice has been within the Precinct to take into consideration the previous situation in relation to parking and perhaps a reasonable number, in view of the circumstances, would be eight i.e. two per shop. This still leaves the development three short and the applicant may be asked to either provide extra bays by deleting one shop or alternatively make cash in lieu payments for the missing bays."

On 27 June 1989 the Town of East Fremantle received \$12,000 for "Parking Bays cash in lieu 37 Sewell Street to cash in lieu for 4 parking bays at \$3,000 per bay".

Issues

Unauthorised Existing Use

The premises at 69 George Street had, up until late 2008, been occupied by "Creative Spaces" an interior design office.

In June 2009 Council's Principal Environmental Health Surveyor observed that the business "Northern Star Ocean Products" had commenced occupation of the premises.

Northern Star Ocean Products is a fish wholesaling business and the premises at 69 George Street is used as an "Office" and includes freezers from which the general public can purchase frozen seafood at 'wholesale prices'.

The previous use of 69 George Street was as an "Office" for an interior design business. Its present use is as an "Office" and "Shop" selling frozen seafood.

"Office" and "Shop" are uses listed in the Zoning Table in the George Street Mixed Use zone under TPS 3 as "D" and "A" uses respectively, therefore Council's discretion is required to be exercised to permit property in the George Street Mixed Use zone to be used for these purposes.

However the proprietor of "Northern Star Ocean Products" did not seek Council's approval to commence the shop use of the premises.



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TPS 3 includes the following provision, which Council may use to permit the unauthorised use of 69 George Street:

8.4. Unauthorised Existing Developments

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

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

Note:

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

Parking

The proposed /existing unauthorised use of 69 George Street is as an Office and Shop.

Under TPS 3, four on site parking spaces are required for this use of 69 George Street.

Its previous use as an Office generated the requirement for the provision of 3 on site spaces pursuant to TPS 3.

Discussion

The proposed use of 69 George Street for an Office and Shop selling frozen fish is considered an acceptable use that will contribute to the general commercial amenity of the George Street Mixed Use zone, and is supported.

In relation to the issue of car parking the above "Background" includes reference to an earlier approval for the re-development of the property as shops for which Council had required and received cash-in-lieu for a shortfall.

Given that the original approval for the use of the property was for Shops, and this current application is for a Shop, and the fact that parking has already been addressed and a cash-in-lieu payment made for a shortfall, it seems reasonable under the circumstances to support the proposal without a further parking contribution.

RECOMMENDATION

That Council exercise its discretion in granting approval for the unauthorised existing use of No. 69 (Lot 237) George Street, East Fremantle as an "Office" and "Shop" selling frozen seafood at wholesale prices pursuant to Clause 8.4 of Town Planning Scheme No 3 subject to the following conditions:

1. Premises to comply with the requirements of the Health (Food Hygiene) Regulations 1993 and Food Safety Standard 3.2.1. In the event of a discrepancy between the Regulation and the Standard, the regulations will apply.
2. Every window, doorway and other external opening in food handling premises to be protected in such a manner as will exclude as far as practicable, flies and other flying insects, i.e. by the provision of air curtains, fly-wire screens to openings, or other approved devices.
3. Hand-wash basin(s) to be provided in the premises. An adequate constant piped supply of hot and cold water to be connected to each basin, discharging via a common spout. Hand basin to be operated by means other than by hand (i.e. foot or elbow taps):
 - (a) Provide tiling over sinks and hand wash basins to height of 450mm.
 - (b) The splashback area of all sinks and hand wash basins to be tiled to a height of 450mm and for the full width of the fittings.

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- (c) Provide a liquid soap and disposable paper towel dispenser adjacent to each hand wash basin.
4. This approval is for the use Office and Shop for the purpose of selling only frozen seafood.

Footnote

Mandatory notification of food premises applies to all premises selling foods. Please complete attached form and return to Councils Principal Environmental Health Officer.

RECOMMENDATION TO COUNCIL

That Council exercise its discretion in granting approval for the unauthorised existing use of No. 69 (Lot 237) George Street, East Fremantle as an "Office" and "Shop" selling frozen seafood at wholesale prices pursuant to Clause 8.4 of Town Planning Scheme No 3 subject to the following conditions:

1. Premises to comply with the requirements of the Health (Food Hygiene) Regulations 1993 and Food Safety Standard 3.2.1. In the event of a discrepancy between the Regulation and the Standard, the regulations will apply.
2. Every window, doorway and other external opening in food handling premises to be protected in such a manner as will exclude as far as practicable, flies and other flying insects, i.e. by the provision of air curtains, fly-wire screens to openings, or other approved devices.
3. Hand-wash basin(s) to be provided in the premises. An adequate constant piped supply of hot and cold water to be connected to each basin, discharging via a common spout. Hand basin to be operated by means other than by hand (i.e. foot or elbow taps):
 - (a) Provide tiling over sinks and hand wash basins to height of 450mm.
 - (b) The splashback area of all sinks and hand wash basins to be tiled to a height of 450mm and for the full width of the fittings.
 - (c) Provide a liquid soap and disposable paper towel dispenser adjacent to each hand wash basin.
4. This approval is for the use Office and Shop for the purpose of selling only frozen seafood.

Footnote

Mandatory notification of food premises applies to all premises selling foods. Please complete attached form and return to Councils Principal Environmental Health Officer.

T83.2

Oakover Street No. 87 (Lot 500)

Applicant & Owner: Christine Hibben

Application No. P102/2009

By Chris Warrener, Town Planner on 21 August 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a Home Occupation at 87 Oakover Street, comprising a natural therapies treatment service.

Statutory Considerations

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

Documentation

Plans and relevant forms date stamp received on 27 July 2009

Date Application Received

27 July 2009

8 September 2009

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Advertising

Adjoining land owners only

Date Advertised

28 July 2009

Close of Comment Period

12 August 2009

No. of Days Elapsed between Lodgement & Meeting Date

42 days

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

- 20 February 1995 Council grants special approval for a garage incorporating a boundary wall to the north;
- 11 June 2002 CEO acting under delegated authority approves enclosure of existing verandahs;
- 9 September 2002 Building Licence 101/3288 approved for additions comprising the enclosure of existing verandahs, new kitchen, en-suite & laundry;

CONSULTATION

Public Submissions

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

REPORT

Issues

Land Use

This application from the owner of 87 Oakover Street seeks Council approval for a home occupation – natural therapies treatment service, which is proposed to be conducted from Bedroom 2 of the house.

Under TPS 3 a Home Occupation is listed as a “D” use in the Zoning Table, which “means that the use is not permitted unless the local government has exercised its discretion by granting planning approval”.

Given the potential for impact on neighbouring property amenity the application was advertised to nearby property owners.

Parking

The applicant states that it is proposed to provide comprehensive health advice to couples with young children, offering a naturopathic and holistic philosophy for their support and management. Appointments will be 1 to 1½ hours duration.

There is provision on-site for 2 vehicles to be parked undercover in the double garage with a double crossover access to Oakover Street.

The property is situated at the corner of Marmion Street and Oakover Street, and there is sufficient space between the corner and the property’s driveway crossover for at least one kerb-side parking space along Oakover Street.

Discussion

The proposed home occupation is considered acceptable in terms of its potential impact on the immediate neighbourhood.

Parking is not considered to be a particular issue given that there will be only one additional vehicle parked at the property when the home occupation is conducted, and there is room at the property for this parking.

The recommended approval period is 12 months, during which time Council officers will be in a position to assess the impact of the service, prior to considering an extension of the term of the approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for a Home Occupation at No. 87 (Lot 500) Oakover Street, East Fremantle comprising a natural therapies treatment service in accordance with the application date stamp received on 27 July 2009 subject to the following conditions:

1. the home occupation is not to employ any person not a member of the occupier's household.
2. the home occupation is not to display a sign exceeding 0.2 square metres.
3. the home occupation is not to involve the retail sale, display or hire of goods of any nature.
4. this approval is valid for 12 months after which Council will consider, subject to receipt of the required renewal fee, extending the term of the approval, and subject to any submissions it may receive in the interim.

RECOMMENDATION TO COUNCIL

That Council exercise its discretion in granting approval for a Home Occupation at No. 87 (Lot 500) Oakover Street, East Fremantle comprising a natural therapies treatment service in accordance with the application date stamp received on 27 July 2009 subject to the following conditions:

1. **the home occupation is not to employ any person not a member of the occupier's household.**
2. **the home occupation is not to display a sign exceeding 0.2 square metres.**
3. **the home occupation is not to involve the retail sale, display or hire of goods of any nature.**
4. **this approval is valid for 12 months after which Council will consider, subject to receipt of the required renewal fee, extending the term of the approval, and subject to any submissions it may receive in the interim.**

T83.3

Dalgety Street No. 33 (Lot 63)

Applicant & Owner: Leona Vivian

Application No. P97/2009

By Chris Warrener, Town Planner on 27 August 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for additions to the single storey house at 33 Dalgety Street comprising:

Ground floor: remove timber garage, pond & shed on the south side & build a double garage & store, new kitchen, pantry, entry, bathroom, laundry, toilet, dining room, and roofed outdoor alfresco;

First floor: 2 bedrooms, en-suite, sitting room, linen closet, and built-in-robos.

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)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : Existing bitumen crossover in good condition
Footpath : Red bitumen path adjacent to property boundary

Documentation

Plans and relevant forms date stamp received on 17 July 2009

Date Application Received

17 July 2009

Additional information

Amended plans date stamp received on 1 September 2009

Advertising

Adjoining land owners only

Date Advertised

28 July 2009

Close of Comment Period

12 August 2009

No. of Days Elapsed between Lodgement & Meeting Date

52 days

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

27 January 1976	Sewer connection approved;
7 February 1980	Building Permit 90/329 approved for additions comprising a bathroom, laundry and dining room;
19 March 1984	Council grants a reduced setback from 4m to 2.8m for additions;
16 October 1985	Building Licence 059/1039 approved for a below ground concrete swimming pool;
013 May 1997	Council grants special approval for a boundary wall to the south to allow the erection of a carport and garage;
16 May 1997	CEO acting under delegated authority approves a storage shed at the rear;
9 June 1997	Building License 071/2536 approved for steel shed with concrete floor;
20 April 2007	CEO acting under delegated authority approves an alfresco pool room at the rear.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 25 August 2009 and the following comments were made:

- concerns regarding the garage;
- garage should sit further back and be separate from the home;
- more detailed plans required as east elevation does not show the extensions;
- chimney on north and west elevations is not shown on the east elevation;
- form of the original house should remain separate from the proposed extensions;
- garage is not represented in west, north or south elevations;
- clarify original roof materials;
- colour of colorbond roofing should be specified;
- Marseille tiles should be retained if they are original;

- the addition to the rear of the existing dwelling is mostly concealed from the street. The east elevation however is misleading as the addition will be visible above the new garage. This application is short on critical detail, including legible setback dimensions, material information, roof pitch and pitching height, etc. The detail of the new fenestration appears incongruous with the existing simple style. What is the purpose of the multi-paned windows? Will these be timber or aluminium? This will have a significant effect on the final appearance of the dwelling.

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Public Submissions

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

Site Inspection

By Town Planner on 17 August 2009

STATISTICS		<i>Required</i>	<i>Proposed</i>
Land Area			1088m ² Existing
Open Space		55%	64% Acceptable
Zoning			R12.5
Heritage Listing			Municipal Inventory
<u>Setbacks:</u>			
Front (east)			
	<i>Ground</i>	<i>Garage</i>	7.5
			14.6 Acceptable
Rear (west)			
	<i>Ground</i>	<i>Verandah</i>	6.0
			18.3 Acceptable
	<i>Upper</i>	<i>Bed 2</i>	6.0
			21.4 Acceptable
		<i>Sitting, Master</i>	6.0
			20.8 Acceptable
Side (north)			
	<i>Ground</i>	<i>Living</i>	1.0
			2.1 Acceptable
		<i>Verandah</i>	1.0
			2.1 Acceptable
	<i>Upper</i>	<i>WIR</i>	1.2
			2.1 Acceptable
		<i>Bed 2</i>	1.2
			2.1 Acceptable
Side (south)			
	<i>Ground</i>	<i>Verandah</i>	1.0
			2.1 Acceptable
		<i>Kitchen, pantry</i>	1.0
			2.5 Acceptable
		<i>Garage</i>	Nil
			LPP142 Nil Acceptable
	<i>Upper</i>	<i>Master, Ensuite</i>	1.2
			2.5 Acceptable

STATISTICS	Required	Proposed
Height:		
Wall	6.0	6.0
		Acceptable
Building	9.0	8.5
		Acceptable

REPORT

Issues

This application proposes development comprising additions to the single storey house at 33 Dalgety Street which does not involve any variations to the Residential Design Codes or any Local Planning Policies for which Council's discretion would be required to be exercised to allow.

The roofed outdoor alfresco which was approved under delegated authority by the CEO on 20 April 2007 has not been built, and as this approval expired on 20 April 2009 the current application for additions including the garage also includes this structure.

The property is on the MI and has a "B" management category rating. The MI states for B-rated property:

"Category B

Places of Considerable Local Heritage Significance

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

The applicant was requested to provide a Heritage Impact Statement.

TPAP Comments

The panel noted that a number of the proposed design elements, specifically the position of the garage and its link with the house, the retention of the tiled roof, and the plans do not show the chimney on the east elevation. These matters need to be addressed.

Discussion

The applicant has submitted a Heritage Impact Statement by John Pidgeon Architect, which concludes that the proposed additions *"will not affect the significance of the place as the proposed garage will replace an existing and inferior structure and is designed in sympathy with the architecture of the house and as the two storey addition has been kept within the height of the house and is placed well back in the development"*.

In response to the comments of TPAP the applicant submitted amended plans which propose alterations to the position/appearance of the garage and retention of the existing tiled roof, which is proposed to be replicated over the proposed rear additions. The chimney is now shown on the east elevation.

Conclusion

The amended plans address the matters raised by TPAP, the additions are considered to be an attractive and practical improvement to the existing house; the application is supported.



8 September 2009

MINUTES

RECOMMENDATION

That Council grants approval for additions to the single storey house at No. 33 (Lot 63) Dalgety Street, East Fremantle comprising:

Ground floor: remove timber garage, pond & shed on the south side & build a double garage & store, new kitchen, pantry, entry, bathroom, laundry, toilet, dining room, and roofed outdoor alfresco;

First floor: 2 bedrooms, en-suite, sitting room, linen closet, and built-in-robos.

in accordance with the plans date stamp received on 1 September 2009 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
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.*
- (f) *the alfresco may not be enclosed without the prior written consent of Council.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*



8 September 2009

MINUTES

RECOMMENDATION TO COUNCIL

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Ground floor: remove timber garage, pond & shed on the south side & build a double garage & store, new kitchen, pantry, entry, bathroom, laundry, toilet, dining room, and roofed outdoor alfresco;

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- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour*

- to resolve a mutually agreed standard of finish.*
- (f) *the alfresco may not be enclosed without the prior written consent of Council.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

T83.4 Local Planning Policy No. 142 (LPP 142) - Amendment

By Chris Warrener, Town Planner on 7 September 2009

BACKGROUND

Description of Proposal

Proposed amendment to Local Planning Policy No. 142 – Residential Development.

Statutory Considerations

Town Planning Scheme No. 3 – Clause 2.4 Procedures for Making and Amending a Local Planning Policy

Advertising

Advertised in the Fremantle Herald for 2 consecutive weeks

Date Advertised

8 and 15 August 2009

Close of Comment Period

7 September 2009

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

- 21 September 2004 Council decides to advertise proposed Local Planning Policy Residential Development;
- 16 November 2004 Council decides to adopt Local Planning Policy No 142 Residential Development (LPP 142);
- 20 September 2005 Council decides to adopt amendments to LPP 142 relating to upper floor setbacks for development of battleaxe lots;
- 21 July 2009 Council decides to amend LPP 142 and advertise the proposed amended policy for 21 days.

Public Submissions

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

REPORT

Discussion

Council decided at its meeting on 21 July 2009 to amend the wording of LPP 142 to clarify its intent in relation to the setback for garages and carports, specifically Part 2 (ii), which currently states:

- (ii) *Notwithstanding (i) above, garages and carports located at or behind the main building line for primary and secondary streets and in accordance with Table 1 – Minimum Setbacks of the Residential Design Codes.*

The proposed wording states:

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

The proposed wording is intended to be more specific and overcomes any ambiguity that could occur with the current wording.

Pursuant to TPS 3, Clause 2.4 Procedures for Making and Amending a Local Planning Policy the proposed amended policy was advertised for 2 consecutive weeks.

There were no submissions received.

If Council resolves to adopt the amended policy then pursuant to TPS 3, Clause 2.4.3 this decision must be published once in a newspaper circulating in the Scheme area, and if Council is of the opinion that the amended policy affects the interests of the Western Australian Planning Commission (WAPC) then a copy of the amended policy has to be forwarded to it.

The amended policy is not considered to affect the interests of the WAPC.

RECOMMENDATION

That Council resolves to adopt Local Planning Policy 142 to include the following wording under Part 2 - Streetscape:

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

RECOMMENDATION TO COUNCIL

That Council resolves to adopt Local Planning Policy 142 to include the following wording under Part 2 - Streetscape:

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

T84. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T85. CLOSURE OF MEETING

There being no further business the meeting closed at 8.53pm.

*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 **8 September 2009**, Minute Book reference **T76. to T85.** were confirmed at the meeting of the Committee on*

.....

Presiding Member