

14 April 2009

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 14 APRIL, 2009 COMMENCING AT 6.30PM.

T21. OPENING OF MEETING

T21.1 Present

Cr Stefanie Dobro	Presiding Member
Mayor Alan Ferris	
Cr Richard Olson	
Cr Dean Nardi	
Cr Alex Wilson	
Mr Chris Warrener	Town Planner
Mrs Peta Cooper	Minute Secretary

T22. WELCOME TO GALLERY

There were 3 members of the public in the gallery at the commencement of the meeting.

T23. APOLOGIES

Cr Barry de Jong
Cr Maria Rico

T24. CONFIRMATION OF MINUTES

T24.1 Town Planning & Building Committee (Private Domain) – 10 March 2009

Mayor Ferris – Cr Nardi

That the Town Planning & Building Committee (Private Domain) minutes dated 10 March 2009 as adopted at the Council meeting held on 17 March 2009 be confirmed. CARRIED

T25. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

T26. REPORTS OF COMMITTEES

T26.1 Town Planning Advisory Panel

Cr Dobro – Cr Wilson

That the comments of the Town Planning Advisory Panel be received and considered when the relevant development application is being discussed. CARRIED

T27. REPORTS OF OFFICERS

T27.1 Receipt of Reports

Cr Nardi – Cr Olson

That the Reports of Officers be received. CARRIED

T27.2 Order of Business

Cr Nardi – Cr Olson

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

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T27.3 **Pier Street No. 15 (Lot 192)**
Applicant: Dan McLeod (with power of attorney for the owner)
Owner: Mary Richardson
Application No. P37/2009
By Chris Warrener, Town Planner on 30 March 2009

BACKGROUND

Description of Proposal

A request to amend Town Planning Scheme No 3 to recode 15 Pier Street from Residential R12.5 to Residential R25.

Statutory Considerations

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

Documentation

Letter request date stamp received on 3 March 2009

Date Application Received

3 March 2009

No. of Days Elapsed between Lodgement & Meeting Date

41 days

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

17 December 2002 Council decides to advise the WAPC that it does not support the
 subdivision of 15 Pier Street into 2 lots (2 x 465m²);
2 January 2003 WAPC conditionally approves the subdivision application.

CONSULTATION

Site Inspection

By Town Planner on 30 October 2009

REPORT

Issues

Density Code

The subject land is zoned Residential with a density of R12.5 under TPS 3.

The owner wishes to subdivide the property however this is currently not possible because the resultant lot sizes would be below the area required for R12.5 coded properties (average lot size of 800m²).

The property comprises 930m²; for it to be able to be subdivided under the current density code it would have to comprise approximately 1,600m².

The only way for the property to be subdivided is for its density code to be changed.

A density code of R25 would allow its subdivision into two lots.

Discussion

In January 2003 the WAPC granted approval for the property to be subdivided however the owner did not proceed with the implementation of that approval, which lapsed on 2 January 2006.

The Town Planning and Building Committee supported that application based in its compliance with TPS 2, and the prevalence of other subdivided properties next to the subject property. However Council did not support the application because *“it is contrary to the requirements of draft Town Planning Scheme No. 3”*.

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In making its decision not to support the subdivision Council further advised the WAPC of the subdivision conditions that Council would want imposed should it decide to approve the application.

15 Pier Street is surrounded by subdivided properties (either side and behind), and it would not be unreasonable to support its subdivision simply to encourage a consistent local streetscape.

The single storey house on the property is not on the Heritage List, nor is it on the Municipal Heritage Inventory; it is not considered to have any particular heritage value, and its demolition as a consequence of the property being subdivided would not result in a loss of local heritage.

Increasing the density of this property to permit its subsequent subdivision is seen to be an efficient use of land, and a way to encourage redevelopment in line with the State Government's stated planning aims to increase densities in the Perth region.

It is likely that new development on the resultant properties, that would be created as a result of a subdivision of the 'parent' lot, would be a significant aesthetic and practical improvement on the current development, and likely as not present as a more cohesive local streetscape.

RECOMMENDATION

That Council advises Dan McLeod that it is prepared to initiate an amendment to the Town of East Fremantle Town Planning Scheme No 3 to rezone Lot 192 (No. 15) Pier Street, East Fremantle from Residential R12.5 to Residential R25 subject to the submission of the appropriate amendment documentation.

Mr Dan McLeod, representing his aunt, Ms Mary Richardson, addressed the meeting in support of an application to rezone 15 Pier Street in light of the subdivision of surrounding properties and their impact upon the subject lot.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

That Council advise the applicant that it is prepared to initiate an amendment to the Town of East Fremantle Town Planning Scheme No 3 to rezone Lot 192 (No. 15) Pier Street, East Fremantle from Residential R12.5 to Residential R25 subject to the submission of the appropriate amendment documentation. CARRIED

T27.4 Preston Point Road No 43 (Unit 22)

Applicant & Owner: Ann Patrick

Application No. P33/2009

By Chris Warrener, Town Planner on 30 March 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval to use Unit 22, 43 Preston Point Road for short stay accommodation purposes.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R30
Local Planning Strategy - Riverside Precinct (LPS)
Residential Design Codes (RDC)

Documentation

Relevant form date stamp received on 4 March 2009

Date Application Received

4 March 2009

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Advertising

Adjoining land owners only

Date Advertised

9 March 2009

Close of Comment Period

24 March 2009

No. of Days Elapsed between Lodgement & Meeting Date

40 days

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

18 June 1979	Council approves two street trees planted on the verge;
16 December 1986	Building Permit 73/1223 approved for a double carport;
18 July 1988	Council grants special approval for the endorsement of strata titles for the 24 units at 43 Preston Point Road;
21 June 1990	Town Clerk certifies Strata Plan 20000;
26 June 1990	State Planning Commission certifies Strata Plan 20000;
21 November 1990	Strata Plan 20000 registered at Land Titles Office;
18 September 1995	Council decides to instruct the Body Corporate to remove clothes hoist, parts of a chain-wire fence and all other elements located within the right-of-way connecting Preston Point Road and the Regional Open Space escarpment.

CONSULTATION

Public Submissions

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

Site Inspection

By Town Planner on 6 March 2009

REPORT

Issues

Land Use

This application seeks approval for the use "short stay accommodation" at Unit 22, 43 Preston Point Road.

There are 3 buildings at 43 Preston Point Road containing 24 multiple dwelling units.

Units 1 to 12 comprise a 2-storey group of twelve multiple dwellings, Units 13 to 18 comprise a 3-storey group of six multiple dwellings, and Units 19 to 24 comprise a 2-storey group of six multiple dwellings at the front of the property.

Unit 22 is the multiple dwelling at the rear of the 2-storey building at the front.

Short stay accommodation is not a use that is listed in the Zoning Table under TPS 3, nor is it considered to be a use that could reasonably be determined as falling within any use class in the Table.

TPS 3 states:

"4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within any use class in the Table, the local government may:

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
- (b) determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.5 in considering an application for planning approval; or*

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- (c) *determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.*"

Discussion

This application is from the owner of a multiple dwelling at Unit 11, 37 Preston Point Road for which Council granted conditional approval for short stay accommodation use at its meeting in February 2009.

The subject multiple dwelling unit is situated on the property next to and north of 37 at 43 Preston Point Road.

43 Preston Point Road contains 24 multiple dwelling units in a medium density area that is typified by a mix of grouped and multiple dwellings, most of which were developed during the 1950's, 1960's and 1970's.

Like 37 Preston Point Road, 43 Preston Point Road is next to a Parks and Recreation reserve that contains the "Niergarup Track" a man-made trail that provides users with panoramic river views and direct access via spur tracks containing stairs down to the river.

There is a general argument that such a use in a residential area does not meet the objectives and purposes of the Residential Zone and could set an undesirable precedent if it were allowed, in terms of residential amenity being protected, particularly as the Town of East Fremantle has no specific Scheme provisions or policies for dealing with such applications.

In contrast the City of Fremantle, where unauthorised and authorised short stay accommodation has been a problematic issue, implemented a local law ("Short Stay Accommodation Local Law 2008") and Local Planning Scheme Amendment (Local Planning Scheme No. 4 Amendment No. 4) to assist in dealing with applications.

It is apparent that short stay accommodation is being operated in the Town without planning permission, and it seems far better for Council to attempt to have a degree of control of such activities in particular by seeking to minimise potential impacts associated with short stay accommodation through attempting to support applications, where deemed appropriate, by applicants who are seeking "to do the right thing" by seeking Council's approval (albeit in this case after the event).

Similar to the way it was recommended and subsequently adopted by Council in its determination of the application for Unit 11 at 37 Preston Point Road, it is also recommended that if elected members support this application, the matter could be reviewed at the end of a trial period and consideration meanwhile given to implementing appropriate regulatory mechanisms with respect to such applications.

RECOMMENDATION

That Council exercise its discretion in granting approval for the use of Unit 22, No. 43 Preston Point Road, East Fremantle for short stay accommodation subject to the following conditions:

- (i) Approval is for 12 months only.
- (ii) Any continuation of the short stay accommodation use will require a new Council approval.
- (iii) The written consent of the Strata Company to the use of the dwelling for short stay accommodation purposes must be provided.
- (iv) Maximum accommodation is 6 persons (based on two bedrooms being provided)
- (v) Each short stay accommodation booking must be for a minimum stay of 4 consecutive nights.
- (vi) A minimum of one on site parking bay for the exclusive use of one or more of the occupants must be provided.

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- (vii) A complaints management procedure, which is to be to the satisfaction of the Chief Executive Officer and which covers or includes the control of noise, antisocial behaviour, security, parking, residents' code of conduct is to be provided.
- (viii) The owner or manager of the short stay dwelling must be contactable, using contact details provided to the Town, at any time of the day or night and the manager must respond, within 12 hours, to any contact relating to the short stay dwelling.
- (ix) The approval may be revoked by Council, prior to the expiration of the 12 months period referred to in (i) above, if any adverse impacts involving noise, antisocial behaviour or parking are unable to be controlled by the applicant or their representative in a timely and effective manner which is to Council's satisfaction.
- (x) No on site signage is permitted with respect to the application.

Ms Ann Patrick (owner) addressed the meeting in support of her application for short stay accommodation.

RECOMMENDATION TO COUNCIL

Cr Olson – Cr Wilson

That Council exercise its discretion in granting approval for the use of Unit 22, No. 43 Preston Point Road, East Fremantle for short stay accommodation subject to the following conditions:

- (i) Approval is for 12 months only.**
- (ii) Any continuation of the short stay accommodation use will require a new Council approval.**
- (iii) The written consent of the Strata Company to the use of the dwelling for short stay accommodation purposes must be provided.**
- (iv) Maximum accommodation is 6 persons (based on two bedrooms being provided)**
- (v) Each short stay accommodation booking must be for a minimum stay of 3 consecutive nights.**
- (vi) A minimum of one on site parking bay for the exclusive use of one or more of the occupants must be provided.**
- (vii) A complaints management procedure, which is to be to the satisfaction of the Chief Executive Officer and which covers or includes the control of noise, antisocial behaviour, security, parking, residents' code of conduct is to be provided.**
- (viii) The owner or manager of the short stay dwelling must be contactable, using contact details provided to the Town, at any time of the day or night and the manager must respond, within 12 hours, to any contact relating to the short stay dwelling.**
- (ix) The approval may be revoked by Council, prior to the expiration of the 12 months period referred to in (i) above, if any adverse impacts involving noise, antisocial behaviour or parking are unable to be controlled by the applicant or their representative in a timely and effective manner which is to Council's satisfaction.**
- (x) No on site signage is permitted with respect to the application. CARRIED**

Cr Nardi made the following impartiality declaration in the matter of 82A Dalgety Street: "As a consequence of my friendship with the applicant, Ms Brooke McAuliffe, 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.

T27.5 Dalgety Street No. 82A (Lot 1)

Applicant: Lomma Homes

Owner: Brad & Brooke McAuliffe

Application No. P27/2009

By Chris Warrener, Town Planner on 30 March 2009

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BACKGROUND

Description of Proposal

An Application for Planning Approval for a two storey house at 82A Dalgety Street comprising:

Ground Floor: portico, entry, garage, playroom, study, storeroom, bathroom, laundry, kitchen & walk-in pantry, dining area, family room & alfresco;

Upper Floor: balcony, sitting room, 3 bedrooms, walk-in-robe, & 2 bathrooms.

Open space amounts to 57%.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Woodside Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : Requires reconstruction to suit proposed house

Footpath : Bitumen path has pavement deformation at crossover junction

Documentation

Plans and relevant forms date stamp received on 25 February 2009

Date Application Received

25 February 2009

Additional information

17 March 2009: Open space calculation emailed by applicant.

Advertising

Adjoining land owners only

Date Advertised

26 February 2009

Close of Comment Period

12 March 2009

No. of Days Elapsed between Lodgement & Meeting Date

48 days

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

17 March 2008 Demolition licence issued for single storey duplex half;

21 October 2008 Council exercised its discretion in granting approval for a two storey residence subject to conditions.

CONSULTATION

Town Planning Advisory Panel Comments

This application was circulated to members of the Town Planning Advisory Panel. Two Panel members commented on the application. Their comments are summarised below:

- garage dominates badly and disrupts the existing streetscape.
- this is yet another example of narrow lot housing where the garage is the dominant form generating the front elevation. The proponent should amend the design to minimise the impact of the garage on the streetscape. The garage should be pushed to the rear of the composition.

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- again in similarity with other proposals seen by the panel this dwelling has a cascade of roofs that could easily be simplified with redesign to create a far more appealing proposal more contextually appropriate. The only person to benefit from the proposed design is the roof carpenter.
- the finial elements should be removed from the gables.
- the proposal still significantly over-shadows the adjoining neighbour to the south

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.

STATISTICS		<i>Required</i>	<i>Proposed</i>
Land Area			501m ² Existing
Open Space		55%	57% Acceptable
Zoning			R12.5
Heritage Listing			Not listed
<u>Setbacks:</u>			
Front			
<i>Ground</i>	<i>Entry</i>	7.5	7.5 Acceptable
	<i>Garage</i>	7.5	7.5 Acceptable
<i>Upper</i>	<i>WIR wall height</i>	6.0	6.2 Discretion Required
	<i>Balcony setback</i>	7.5	7.15 Discretion Required
Rear			
<i>Ground</i>	<i>Alfresco</i>	6.0	12.205 Acceptable
<i>Upper</i>	<i>Bed 4</i>	6.0	20.4 Acceptable
	<i>Bath</i>	6.0	22.2 Acceptable
(North)			
<i>Ground</i>	<i>Alfresco</i>	1.0	1.2 Acceptable
	<i>Family & Dining</i>	1.0	1.0 Acceptable
	<i>Hall</i>	1.0	1.2 Acceptable
	<i>Store</i>	1.0	1.22 Acceptable
	<i>Study</i>	1.0	1.0 Acceptable
	<i>Entry</i>	1.0	1.292 Acceptable
<i>Upper</i>	<i>Bath & Sitting</i>	1.2	1.262 Acceptable

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STATISTICS		Required	Proposed
	WIR	1.2	1.945
(South)			
Ground	Garage	Nil LPP142	Nil Acceptable
	Play Room	1.5	1.5 Acceptable
	Laundry, Kitchen	1.0	1.0 Acceptable
	Dining	1.5	1.65 Acceptable
	Family Alfresco	1.0	1.0 Acceptable
Upper	Balcony, Master	1.2	1.2 Acceptable
	Bath	1.1	1.5 Acceptable
	Bed 3	1.2	2.0 Acceptable
	Bed 4	1.2	1.5 Acceptable
Height:			
Wall		6.0	6.2 Discretion Required
Building		9.0	8.5 Acceptable

Overshadowing: 23.442% of adjoining property

Note: The garage door and supporting structures occupy 55.7% of the width of the property frontage 6.5m. RDC specify 50% and up to 60% if a balcony is full width, which in this case it is not.

REPORT

Issues

Building Height

At the front (west side) the upper floor wall for a built in robe varies up to 6.2m above natural ground level (NGL).

The RDC specify a 6m wall height limit.

Streetscape

Balcony

An upper floor balcony at the front (west side) is set back 7.15m from the front boundary.

The RDC specify a 7.5m setback.

Notwithstanding the specified setback the RDC acceptable development provision states in regard to minor incursions into the street setback area:

"A2i 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." (RDC, 6.2 Streetscape Requirements, Page 7)



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The proposed balcony occupies 50.9% of the width of the property frontage therefore Council is required to exercise its discretion to permit the balcony intrusion.

In addition LPP 143 states:

"Part 2 – Streetscape

- (i) Buildings are to be set back such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality.*
- (iii) The following street setbacks apply also to any upper storey:*
 - (a) Primary Street – minimum setback as prescribed by the Residential Design Codes – Table 1 – General Site Requirements, Column 8; and*
 - (b) Secondary Street – minimum setback 50% of Primary Street."*

Garage

The width of the garage door and its supporting structures occupy 55.7% of the width of the property frontage.

The relevant RDC acceptable development provision states:

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

The application proposes an upper floor balcony above the garage however this balcony does not extend for the full width of the garage.

Discussion

This property was the subject of a prior application for a 2-storey house by the same owners. In October 2008 Council conditionally approved that application.

The previously approved plans are attached for comparison.

The current application is basically a redesign of the house with a substantial reduction in the upper floor area. The garage element remains unchanged. The effect of the plan change is to reduce the extent of overshadow of the adjoining property at 82B Dalgety Street to the extent that overshadow now proposed is less than the 25% maximum (23.442%) specified under the RDC.

The appearance of the house at the front incorporates some minor cosmetic modifications to the windows and entry door.

Balcony

Under the RDC the relevant performance criteria states:

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

The incursion into the front setback by the proposed balcony is considered relatively minor at 0.35m and does



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not negatively impact on the local streetscape, and is supported.

Garage

Under the RDC the relevant performance criteria states:

"P8 The extent of frontage and building façade occupied by garages assessed against the need to maintain a desired streetscape not dominated by garage doors."

While the garage width is more than recommended under the RDC it is situated behind the main building line, and given the presence of an overhanging balcony is considered not to dominate the appearance of the proposed house, and is supported.

RECOMMENDATION

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

- (a) variation to the west side (front) boundary setback for an upper floor balcony pursuant to the Residential Design Codes from 7.5m to 7.15m;
- (b) variation to the width of a garage door and its supporting structures as a percentage of the property frontage pursuant to the Residential Design Codes from 50% to 55.7%;
- (c) variation to wall height for a built-in-robe at the front pursuant to the Residential Design Codes from 6m to 6.2m;

for the construction of a two storey house at No. 82A (Lot 1) Dalgety Street, East Fremantle comprising:

Ground Floor: portico, entry, double garage, playroom, study, storeroom, bathroom, laundry, kitchen & walk-in pantry, dining area, family room & alfresco;

Upper Floor: balcony, sitting room, 3 bedrooms, 2 bathrooms & a walk-in-robe;

in accordance with the plans date stamp received on 25 February 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 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.



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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 alfresco 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 Paul Lomma of Lomma Homes addressed the meeting in support of the application for a two storey residence advising of their endeavours to incorporate elements of Dalgety House and in taking the essence and elements of other older designs within the Town. A layered façade was used to mitigate the dominant garage in order to balance its visual dominance.

RECOMMENDATION TO COUNCIL

Cr Wilson – Mayor Ferris

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

- (a) **variation to the west side (front) boundary setback for an upper floor balcony pursuant to the Residential Design Codes from 7.5m to 7.15m;**
- (b) **variation to the width of a garage door and its supporting structures as a percentage of the property frontage pursuant to the Residential Design Codes from 50% to 55.7%;**
- (c) **variation to wall height for a built-in-robe at the front pursuant to the Residential Design Codes from 6m to 6.2m;**

for the construction of a two storey house at No. 82A (Lot 1) Dalgety Street, East Fremantle comprising:

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Ground Floor: portico, entry, double garage, playroom, study, storeroom, bathroom, laundry, kitchen & walk-in pantry, dining area, family room & alfresco;

Upper Floor: balcony, sitting room, 3 bedrooms, 2 bathrooms & a walk-in-robe; in accordance with the plans date stamp received on 25 February 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 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.*

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) 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 alfresco 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

T28. EN BLOC RECOMMENDATION TO COUNCIL

Cr Dobro – Mayor Ferris

That Council adopts en bloc the following recommendations of the Town Planning & Building Committee Meeting of 14 April 2009 in respect to Items MB Ref: T28.1 to T28.5. CARRIED

T28.1 *Preston Point Road No. 12 (Lot 210)*
Applicant/Owner: Mark & Tamara Zammit
Application No. P57/2007

By Chris Warrener, Town Planner on 30 March 2009

BACKGROUND

Description of Proposal

A request for an extension to the term of the planning approval for a rendered brick with colour-bond roof, 2-storey house at 12 Preston Point Road comprising 3 bedrooms, 2 bathrooms, games room, office, and double garage.

Statutory Considerations

Town Planning Scheme No. 3 – Sub-clause 10.5.2.
Local Planning Strategy - Richmond Precinct (LPS)

Documentation

Correspondence date stamp received on 23 February 2009

Date Application Received

23 February 2009

No. of Days Elapsed between Lodgement & Meeting Date

49 days

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

15 May 2007 Council grants approval for a 2-storey house.

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REPORT

Issues

Extension of Planning Approval

TPS 3 Clause 10.5 states:

"10.5. Term of Planning Approval

- 10.5.1 *Where the local government grants planning approval for the development of land —*
- (a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and*
 - (b) the approval lapses if the development has not substantially commenced before the expiration of that period.*
- 10.5.2 *A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1."*

Discussion

The owner advised the Town Planner that the reason for seeking an extension is because a building licence has not as yet been applied for and therefore 2-year extension is sought to allow for more time to complete the project.

There are no objections to this request however Council is required to conduct a review of TPS 3 as of December 2009. It might decide to amend TPS 3, introduce a new town planning scheme, or local planning policy that impacts on the approved development.

For this reason a 12-month extension is considered to be more appropriate.

RECOMMENDATION

That Council exercise its discretion in granting an extension to the term of the planning approval for the following:

- (a) variation to the west side (front) boundary setback pursuant to the Residential Design Codes for a games room from 6m to 2.7m, for a double garage from 6m to 5.4m, for an upper floor porch from 6m to 3.4m, and an upper floor family room from 6m to 2.9m;
 - (b) variation to the east side (rear) boundary setback for an upper floor kitchen and master bedroom pursuant to the Residential Design Codes from 1.9m to 1.5m;
 - (c) variation to the south side boundary setback for an upper floor master bedroom pursuant to the Residential Design Codes from 1.1m to 1m;
 - (d) variation to the north side boundary setback for an upper floor alfresco area pursuant to the Residential Design Codes from 7.5m to 3.1m;
- for a rendered brick with colour-bond roof, 2-storey house at No. 12 (Lot 210) Preston Point Road, East Fremantle comprising 3 bedrooms, 2 bathrooms, games room, office, and double garage for a period of 12 months subject to the following conditions:
1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 3. 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 an extension to the term of the 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 to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.

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6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.

Footnote:

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

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

T28.2

Pier Street No. 51A (Lot 1)

Applicant: Urban Spinifex Pty Ltd

Owner: Danielle McGrath

Application No. P40/2009

By Chris Warrener, Town Planner on 30 March 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for two retaining walls along the south side (rear) and a portion of the west side boundary, which are more than 0.5m above natural ground level at 51A Pier Street.

Statutory Considerations

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

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 17 March 2009

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Date Application Received

17 March 2009

Advertising

Adjoining land owners only

Date Advertised

20 March 2009

Close of Comment Period

6 April 2009

No. of Days Elapsed between Lodgement & Meeting Date

27 days

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

- | | |
|------------------|--|
| 5 March 2003 | Western Australian Planning Commission (WAPC) conditionally approves the subdivision of 51 Pier Street into 2 survey strata lots comprising 51A and 51B Pier Street; |
| 21 December 2004 | Council decides to relax boundary setbacks, and conditionally approve the construction of a two-storey single house at 51B Pier Street (Owner – Mr B Mathews); |
| 20 March 2006 | Council conditionally approves reduced front, east & west side boundary setbacks, and increased wall height for a 2-storey house at 51A Pier Street (Owner - T & R Mascaro); |
| 4 May 2007 | Approval granted under delegated authority for a below ground concrete swimming pool at the rear; |
| 15 May 2007 | Council grants conditional Planning Approval for the construction of a 2-storey house with setback & wall height variations; |
| 2 August 2007 | Building Licence 07/108 issued for 2-storey residence approved in May 2007; |
| 5 September 2007 | CEO acting under delegated authority approves amended plans for the 2-storey house at 51A Pier Street. |

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 one submission was received.

<i>C Adams</i> <i>55 Fraser Street</i>	No objection to the proposal provided that no major limbs of the mature peppermint tree which borders the proposed wall are severed.
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REPORT

Issues

This application is for two retaining walls along the south side, and a portion of the west side boundaries.

The retaining wall along the south side boundary is proposed to vary from 0.596m in the southeast corner to 0.696m in the southwest corner above natural ground level (NGL), and the retaining wall proposed along a portion of the west side boundary is proposed to vary from 0.156m to 0.696 in the southwest corner above NGL.

The relevant acceptable development provisions under the RDC state:

"A1.1 *Excavation or filling between the street alignment and building, or within 3 m of the street alignment, whichever is the lesser, not exceeding 0.5 m, except where necessary*

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- to provide access for pedestrians or vehicles, or natural light for a dwelling.*
- A1.2 *Excavation or filling within the perimeter of the external walls of a building, limited only by compliance with building height limits.*
- A1.3 *Excavation within a site and behind a street setback line shall have no limit.*
- A1.4 *Subject to A1.2, filling behind a street setback line and within 1 m of a common boundary not more than 0.5 m above the natural level at the boundary except where otherwise stated in a local planning policy or equivalent.” (RDC, 6.6.1 Excavation or fill, page 19)*

Being higher than 0.5m above NGL the retaining wall along the entire length of the rear boundary requires the exercise of Council's discretion to allow, and the portion of the retaining wall along the west side boundary that is higher than 0.5m above NGL also requires planning approval.

Discussion

The notation on the submitted site plan is for a 1000 (1m) high retaining wall along the south side (rear) boundary and a 500 (0.5m) high retaining wall along a portion of the west side boundary.

To clarify the above-referred notation the Town Planner enquired about the spot heights marked on the submitted site plan in the southeast and southwest corners of the property. The applicant advised that the proposed wall heights (noted on the submitted plans) relate to the natural ground levels on the affected adjoining properties not the subject land.

The heights above NGL on the subject land are more concisely explained under “Issues” above, and are the heights for which Council's discretion is required to be exercised to allow.

The proposed site works will result in the property being level and will eliminate runoff into the adjoining properties particularly the property at the rear (55 Fraser Street), and the retaining works are supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the height of two retaining walls along the south side (rear) and portion of the west side boundary pursuant to the Residential Design Codes between 0.5m and 0.696m above natural ground level at No. 51A (Lot 1) Pier Street, East Fremantle in accordance with the plans date stamp received on 17 March 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 retaining wall is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

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Footnote:

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

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

T28.3

Windsor Road No. 47 (Lot 650)

Applicant & Owner: EM & VL Webb

Application No. P36/2009

By Chris Warrener, Town Planner on 30 March 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 1,545 litre rain water tank next to the north side boundary of the house at 47 Windsor Road.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Precinct (LPS)

Relevant Council Policies

Local Planning Policy No 144 Rainwater Tanks (LPP 144)

Documentation

Plans and relevant forms date stamp received on 10 March 2009

Date Application Received

10 March 2009

Advertising

Adjoining land owners only

Date Advertised

10 March 2009

Close of Comment Period

24 March 2009

No. of Days Elapsed between Lodgement & Meeting Date

34 days

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

- | | |
|------------------|--|
| 18 August 1986 | Council decides to advise the State Planning Commission (SPC) that it supports the subdivision of 48 Fraser Street into 2 lots (1 X 830m ² , 1 X 450m ²), |
| 2 September 1986 | The SPC conditionally approves the subdivision application which results in the creation of 47 Windsor Road; |
| 29 March 1988 | SPC endorses copy of survey creating 47 Windsor Road; |
| 23 May 1988 | Certificate of Title registered for 47 Windsor Road (Lot 650); |
| 10 June 1988 | Building Permit 220/1427 approved for a 2-storey house. |

CONSULTATION

Principal Building Surveyor's Comment

Building licence is required.

Public Submissions

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



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Site Inspection

By Town Planner on 23 March 2009

REPORT

Issues

The rain water tank is proposed to be set back 0.5m from the north side boundary common with the rear of 48 Fraser Street.

LPP 144 states:

“Providing that:

- (a) it does not exceed five thousand litres (5000 litre) capacity;*
- (b) it is not located within the front setback or within one metre (1 metre) from any boundary;*
- (c) any retaining wall supporting the tank has been approved;*
- (d) it is constructed to comply with relevant contemporaneous Australian Standards;*
- (e) the overflow from the rainwater tank is directed to a soak well within the property; and*
- (f) the maximum effective height does not exceed 2.4 metres from the floor level of the dwelling; does not need planning approval.”*

Council’s discretion is required to be exercised to approve this application because the proposed rainwater tank will be within 1m of the boundary.

Discussion

Positioning the rain water tank in the location proposed next to the north side boundary will not have any impact on the amenity of the adjoining property at 48 Fraser Street. The potentially affected adjoining property owner has not objected to the application, which is herein supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to Local Planning Policy 144 Rainwater Tanks from 1m to 0.5m for the installation of a 1,545 litre rain water tank next to the north side boundary of the house at No 47 (Lot 650) Windsor Road, East Fremantle in accordance with the plans date stamp received on 10 March 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 rain water tank is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) 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).*

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T28.4 **Silas Street No. 60 (Lot 257)**
Applicant & Owner: Elise Mann
Application No. P168/2009
By Chris Warrener, Town Planner on 30 March 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for unauthorised existing development comprising a roller door installation on a carport at 60 Silas Street

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Local Planning Strategy - Raceway 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 : No impact
Footpath : No impact

Documentation

Relevant form date stamp received on 10 March 2009

Date Application Received

10 March 2009

No. of Days Elapsed between Lodgement & Meeting Date

34 days

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

25 November 1994 Council grants approval for a 2-storey house with a relaxation of standards for reduced setbacks to the north from 4.000 to 1.000 and from 1.500 to 1.000 to allow for one car bay being provided in front of the proposed garage;
20 April 1995 Council grants approval for a 2-storey house;
8 July 1995 Building Permit 112/2307 approved for 2-storey house.

CONSULTATION

Town Planning Advisory Panel Comments

This application was circulated to members of the Town Planning Advisory Panel. Two Panel members commented on the application. Their comments are summarised below.

- difficult to comment without context of application. Probably would have been supported if set back from front of house – could still be as a courtesy to the neighbour who has followed those guidelines.
- I query whether the carport is wide enough to function properly in the first instance. The new garage door is a poor choice in both colour and type and does not enhance the property or the streetscape at all. It appears to be a cheapest is best solution. I believe the house looked better without the selected door.

Principal Building Surveyor's Comment

Brick pillar not built. No licence required for garage door.

Site Inspection

By Town Planner on 15 March 2007, 21 January 2009

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REPORT

Issues

Unauthorised Existing Development

Under TPS 3 planning approval is required for any building or work which materially affects the external appearance of a building.

Clause 8.2 states:

"8.2 Permitted Development

Except as otherwise provided in the Scheme, for the purposes of the Scheme the following development does not require the planning approval of local government —

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is —*
 - (i) located in a place that has been entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990;*
 - (ii) the subject of an order under Part 6 of the Heritage of Western Australia Act 1990; or*
 - (iii) included on the Heritage List under clause 7.1 of the Scheme;*
- (b) a home office;*
- (c) the demolition of any building or structure except where the building or structure is —*
 - (i) located in a place that has been entered in the Register of Places under the Heritage of Western Australia Act 1990;*
 - (ii) the subject of an order under Part 6 of the Heritage of Western Australia Act 1990;*
 - (iii) included on the Heritage List under clause 7.1 of the Scheme; or*
 - (iv) located within a heritage area designated under the Scheme;*
- (d) minor filling or excavation of land, provided there is no more than 500 mm change to the natural ground level;*
- (e) any works which are temporary and in existence for less than 48 hours or such longer time as the local government agrees; and*
- (f) any of the exempted classes of advertisements listed in Schedule 5 except in respect of a place included in the Heritage List or in a heritage area.*

Note: Development carried out in accordance with a subdivision approval granted by the Commission is exempt under section 20D of the Town Planning Act."

The installation of the garage door comprised development for which Council's planning approval should have been obtained because it is considered to have materially affected the external appearance of the 2-storey house at 60 Silas Street. It therefore constitutes unauthorised existing development.

TPS 3 also includes a provision which gives Council the power to approve a use or development already commenced or carried out.

Clause 8.4 states:

"8.4. Unauthorized Existing Developments

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

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

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

Discussion

While the roller door to the carport was not approved, it comprises development that

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would have been the subject of a delegated authority planning approval.

It is development that is considered not to detract from the appearance of the subject property or the local streetscape.

A building licence is not required for this structure.

RECOMMENDATION

That Council exercise its discretion in granting approval for unauthorised existing development comprising a roller door installation on a carport at No. 60 (Lot 257) Silas Street, East Fremantle in accordance with the application date stamp received on 10 March 2009.

T28.5

Fortescue Street No. 81 (Lot 140)

Applicant: Inhouse Building Design

Owner: Application No. P29/2009

By Chris Warrener, Town Planner on 30 March 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a detached rumpus room, bathroom, kitchenette, and bedroom addition (ancillary accommodation) incorporating an 11.24m long parapet wall along the north side boundary.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Woodside (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 : No impact

Footpath : No impact

Documentation

Plans and relevant forms date stamp received on 27 February 2009

Date Application Received

27 February 2009

Advertising

Adjoining land owner to north

Date Advertised

27 February 2009

Close of Comment Period

16 March 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

2 December 1989 Building Permit 222/1626 approved for an additional dwelling unit;

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22 May 2001	Council decides to refuse an application for a carport on a reduced front setback from 6m to 3.6m;
21 August 2001	Council approves a carport to the front of 81 Fortescue Street;
25 September 2001	Building Licence 46/3125 approved for an attached carport;
25 January 2002	Building Licence 11/3190 approved for additions;
8 March 2004	CEO grants approval for verge planting;
26 March 2004	Building Licence 56/3566 approved for additions;
2 December 2004	Building Licence 223/3669 approved for a laundry addition.
13 February 2009	Planning approval granted under delegated authority for the construction of a 4.64m long x 2.88m wide x 3.m high gable roofed shed in the rear northwest corner of Lot 140.
23 February 2009	Building Licence 2009-014 issued for construction of colorbond shed.

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.

STATISTICS	Required	Proposed
Land Area		1005.94m ² Existing
Open Space	55%	68.64% Acceptable
Zoning		R12.5
Heritage Listing		Not listed
Setbacks:		
Front (East)		
Ground Rumpus	7.5	26.8 Acceptable
Rear (West)		
Ground Bedroom, Bath	6.0	11.21 Acceptable
(North)		
Ground Rumpus, Bedroom	1.5	Nil Discretion Required
Height:		
Wall	6.0	2.785 Acceptable
Building	9.0	4.2 Acceptable

Note: Total floor area of 52.6m² : RDC allow up to 60 m².

REPORT

Issues

Boundary Setbacks

The application proposes an 11.24m long x 2.785m high parapet wall along the north side boundary common with 79 Fortescue Street.



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LPP 142 states:

"A wall may be situated closer to an adjoining residential boundary than the standards prescribed in Tables 1, 2a or 2b of the Residential Design Codes where the following are observed:

- (a) Walls are not higher than 3m and up to 9m in length up to one side boundary;*
- (b) Walls are behind the main dwelling;*
- (c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;*
- (d) In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and*
- (e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions."*

Being 11.24m the proposed wall exceeds the maximum length specified under LPP 142 and under the RDC the specified boundary setback is 1.5m for a wall longer than 9m without any major openings.

Discussion

This application is for ancillary accommodation.

Under the RDC ancillary accommodation is defined as follows:

"Self-contained living accommodation on the same lot as a single house that may be attached or detached from the single house occupied by members of the same family as the occupiers of the main dwelling." (RDC, Appendix 1 – Definitions)

Under the RDC the following acceptable development provisions apply:

"A1 An additional dwelling or independent accommodation associated with a single house and on the same lot where:

- i the sole occupant or occupants are members of the family of the occupiers of the main dwelling;*
- ii the lot is not less than 450 sq m in area;*
- iii the open space requirements of table 1 are met;*
- iv there is a maximum floor area of 60 sq m; and*
- iv one additional car space is provided."*

(RDC, Part 7 – Special Provisions, 7.1 Special Purpose Dwellings Requirements, Page 3)

The subject land comprises 1005.94m², open space = 68.64% (the specified minimum is 55%), floor area is 52.6m², and there is sufficient on-site parking available for at least 3 cars therefore the application meets the above-referred RDC requirements.

With regard to the boundary wall, and the requirement pursuant to the RDC for a 1.5m setback, the potentially affected property owner has not objected to the application, which is considered to improve privacy between the neighbouring properties.

The boundary wall is not considered excessive being less than 3m high, and is not considered to detrimentally impact on the amenity of the potentially affected property (there is no overshadow); the application is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to Nil for the construction of a detached rumpus room, bathroom, kitchenette, and bedroom addition (ancillary accommodation) incorporating an 11.24m long parapet wall along the north side boundary at No. 81 (Lot 140) Fortescue Street, East Fremantle in accordance with the plans date stamp received on 27 February 2009 subject to the following conditions:

1. the proposed rear addition/ancillary accommodation may only be used/occupied by members of the same family as the occupiers of the main dwelling, and may not be leased/rented to any unrelated occupant.

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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/extensions is not/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. 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.
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) *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) *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.*

T29. REPORT'S OF OFFICERS (Cont)

T29.1

Wolsely Road No. 18 (Lot 2)

Applicant/Owner: Renata Stazzonelli

Application No. P30/2009

By Chris Warrener, Town Planner on 30 March 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a two storey house at 18 Wolsely Road comprising:

Ground floor: Entry, double garage & store, 3 bedrooms, 3 built-in-robcs, 2 bathrooms, games room;

First floor: Outdoor dining, balcony, kitchen & dining, stairwell, master bedroom, built-in-robe, en-suite, powder room & study.

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Overshadow of the adjoining property to the south (60 Staton Road) comprises 7.964%.

Open space comprises 55.2%.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5, sub-clause 5.3.1
Local Planning Strategy - Richmond Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : Existing bitumen crossover will need to be upgraded
Footpath : No footpath

Documentation

Plans and relevant forms date stamp received on 3 March 2009

Date Application Received

3 March 2009

Additional information

6 March 2009 At scale plans received.

Advertising

Adjoining landowners only

Date Advertised

3 March 2009

Close of Comment Period

17 March 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

15 June 2004 Council resolves to advise the WAPC that the subdivision of 62 Staton Road is supported subject to conditions;
19 July 2004 WAPC conditionally approves the subdivision of 62 Staton Road into 2 survey strata lots;
30 August 2007 WAPC endorses Survey-Strata Plan 53809;
3 April 2008 Survey-Strata Plan 53809 registered by the Registrar of Titles.

CONSULTATION

Town Planning Advisory Panel Comments

This application was circulated to members of the Town Planning Advisory Panel. Two Panel members commented on the application. Their comments are summarised below:

- interesting design and appropriate to location and vista. Some concerns re plot ratio and overlooking. Front set back incursion acceptable as garage is set further back.
- the proposed house in overall plan and form is neat and well contained within the block, although it appears the side setbacks do not fully comply.
- the proposal however in the third dimension is an unfortunate mixture of styles that bear little relationship to surrounding context. I believe the proponent should be asked to reconsider the design completely. The roof forms particularly, are at odds with each

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- other and out of context with adjoining properties. Unusual roof forms should be able to co-exist in a streetscape, but not when all are on one dwelling.
- the proportion and arrangement of windows to the south, east, and west elevations is poor and should be reconsidered to resolve the contradictory appearance.
 - the design appears to acknowledge orientation to maximise passive solar benefit.

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 13 March 2009

STATISTICS	Required	Proposed
Land Area		430m ² Existing
Open Space	55%	55.2% Acceptable
Zoning		R12.5
Heritage Listing		Not listed

Setbacks:

Front (North)			
<i>Ground</i>	<i>Store</i>	6.0	8.3 Acceptable
	<i>Garage</i>	6.0	6.8 Acceptable
	<i>Entry</i>	6.0	5.5 Discretion Required
	<i>Bed 2 & 1</i>	6.0	4.8 Discretion Required
<i>Upper</i>	<i>Void</i>	6.0	8.3 Acceptable
	<i>Balcony</i>	6.0	5.5 Discretion Required
	<i>Outdoor Living</i>	6.0	4.5 Discretion Required
Rear (South)			
<i>Ground</i>	<i>Games</i>	1.5	4.57 Acceptable
	<i>Hall</i>	1.0	3.37 Acceptable
	<i>Guest</i>	1.5	1.62 Acceptable
<i>Upper</i>	<i>Kitchen</i>	2.3	4.57 Acceptable
	<i>Shelving wall height</i>	5.6	6.2 Discretion Required
	<i>Study</i>	2.3	5.0 Acceptable

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STATISTICS		Required	Proposed
(East)			
Ground	Ensuite, Laundry	1.0	3.39 Acceptable
	Store	1.0	1.79 Acceptable
	Garage	1.0	3.39 Acceptable
Upper	Study	2.5	3.39 Acceptable
	Ensuite wall height	5.6	5.8 Discretion Required
	Master wall height	5.6	5.8 Discretion Required
	Master setback	4.5	3.39 Discretion Required
	Balcony	7.5	3.39 Discretion Required
(West)			
Upper	Bed 1 & WIR	1.0	1.3 Acceptable
	Bath	1.0	0.9 Discretion Required
	Games	1.5	1.3 Discretion Required
Upper	Dining	2.0	1.3 Discretion Required
	Shelving wall height	5.6	5.9 Discretion Required
	Pantry	1.2	1.3 Acceptable
Height:			
Wall		5.6	6.2 Discretion Required
Building		8.1	8.1 Acceptable

REPORT

Issues

This application is for a 2-storey house on a property that is the result of a corner lot subdivision therefore assessment of the proposed development is based on the following provision under TPS 3:

“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 application has therefore been assessed based on the R20 density code.

Building Setbacks

*Front (North Side)
Boundary*

On the ground floor the entry is set back 5.5m, and bedrooms 1 and 2 are setback 4.8m from the front boundary.

On the upper floor a balcony is set back 5.5m and an



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outdoor dining area is set back 4.5m from the front boundary.

Under the RDC the specified setback is 6m.

*Side (East) Boundary –
Common with 20 Wolsely
Road*

On the upper floor a master bedroom and a balcony are set back 3.39m from the east side boundary.

Under the RDC the specified setbacks for a bedroom and a balcony are 4.5m, and 7.5m respectively.

*Side (West) Boundary –
Common with 62 Staton
Road*

On the ground floor a bathroom is set back 0.9m and a games room is set back 1.3m from the west side boundary.

The RDC specify 1m and 1.5m setbacks respectively.

On the upper floor an outdoor dining room is set back 1.3m from the west side.

The RDC specify a 2m setback.

Building Height

South Side

The wall for an upper floor shelving area on the south side varies up to 6.2m above natural ground level.

LPP 142 specifies a 5.6m wall height limit.

East Side

The walls for an upper floor en-suite and a master bedroom vary up to 5.8m above NGL

LPP 142 specifies a 5.6m wall height limit.

West Side

The wall for an upper floor shelving area on the west side varies up to 5.9m above NGL.

LPP 142 specifies a 5.6m wall height limit.

Discussion

This application is for a contemporary designed home in an area with a wide variation in building types and styles. Opposite the subject land is the Kaleeya Hospital, next to it on the west side is an older style single storey brick and iron home, and east of it are two vacant blocks.

Nearby, in Staton Road there is a variety of housing styles ranging from the older style homes similar to the one at 62 to quite modern two-storey grouped housing development at 63 Staton Road. In Alexandra Road housing style also varies from older style to more contemporary designs, and on the southeast corner of Wolsely Road and Alexandra Road is a 3-storey older style building of 12 multiple dwellings.

There is no distinctive development style or building era typical of the immediate locality, and as a consequence the design of the proposed house being an ultra-modern contemporary design is not considered to detrimentally impact on the local streetscape.

Building Setbacks

The proposed variation to the front boundary setback is not considered to impact on street rhythm. It is anticipated that development of the adjoining property at 20 Wolsely Road would also seek similar setback



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variations to reduce the impact of development particularly upper floor development on the property at the rear.

The front setback variation is supported.

The west side boundary setback variation will not negatively impact on the amenity of the property at 62 Staton Road. The potentially affected area is not an outdoor living area, and the setback variations are considered relatively minor. The owner of 62 Staton Road has not objected to the application.

With respect to the setback variations for the balcony and bedroom on the east side it is recommended that the respective openings be screened to prevent any overlooking or impact on the privacy of the potential development of that property (20 Wolsely Road)

Building Height

The proposed wall height variations are considered relatively minor and do not apply to any significant sections of the proposed house, nor do they impact on any nearby property views. Overall the development is within the 8.1m height limit specified in LPP 142.

RECOMMENDATION

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

- (a) variation to the north side (front) boundary setback for the entry and bedrooms 1 & 2, a balcony and upper floor dining area pursuant to the Residential Design Codes from 6m to 5.5m, 4.8m, 5.5m and 4.5m respectively;
- (b) variation to the west side boundary setback for a bathroom and games room pursuant to the Residential Design Codes from 1m and 1.5m to 0.9m and 1.3m respectively;
- (c) variation to the west side boundary setback for an upper floor dining area pursuant to the Residential Design Codes from 2m to 1.3m;
- (d) variation to building height for an upper floor wall for a shelving area on the south side pursuant to Local Planning Policy 142 from 5.6m to 6.2m;
- (e) variation to building height for an upper floor wall for an en-suite and a master bedroom on the east side pursuant to Local Planning Policy 142 from 5.6m to 5.8m;
- (f) variation to building height for an upper floor wall for a shelving area on the west side pursuant to Local Planning Policy 142 from 5.6m to 5.9m;

for the construction of a two storey house at No. 18 (Lot 2) Wolsely Road, East Fremantle comprising:

Ground floor: Entry, double garage & store, 3 bedrooms, 3 built-in-robos, 2 bathrooms, games room;

First floor: Outdoor dining, balcony, kitchen & dining, stairwell, master bedroom, built-in-robe, en-suite, powder room & study;

in accordance with the plans date stamp received on 6 March 2009 subject to the following conditions:

1. prior to the issue of a building licence amended plans are to be submitted specifying:
 - (a) screening for the east side of the upper floor balcony, and
 - (b) obscure glazing to the two upper floor master bedroom windows;to the satisfaction of the Chief Executive Officer in consultation with Council officers.
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.



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3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. 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) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

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RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Wilson

That the application for a two storey residence on Lot 2 (No. 18) Wolsely Road, East Fremantle be deferred to allow the applicant the opportunity to reconsider the design in particular the roof form and style as they bear little relationship to the surrounding properties. CARRIED

T30. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T30.1 Architectural & Building Design Awards

Cr Wilson – Cr Dobro

That Council give consideration to the introduction of Architectural & Building Design Awards and the item be included on the 2009/2010 budget estimates. CARRIED

T31. CLOSURE OF MEETING

There being no further business the meeting closed at 7.55pm.

*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 **14 April 2009**, Minute Book reference **T21. to T31.** were confirmed at the meeting of the Committee on*

.....

Presiding Member