



14 July 2009

MINUTES

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

T53. OPENING OF MEETING

The Town Planner, Chris Warrener, opened the meeting and advised that as Cr Dobro was an apology for this evening's meeting, nominations would be called for the position of Presiding Member.

T53.1 Present

Mayor Alan Ferris
Cr Barry de Jong
Cr Richard Olson
Cr Maria Rico
Mr Chris Warrener Town Planner
Mrs Peta Cooper Minute Secretary

T54. ELECTION OF PRESIDING MEMBER

The Town Planner called for nominations for the position of Presiding Member in the absence of Cr Dobro.

Cr de Jong nominated Mayor Ferris who accepted the nomination. The nomination was seconded by Cr Olson.

Mayor Ferris assumed the chair.

T55. WELCOME TO GALLERY

There were 14 members of the public in the gallery at the commencement of the meeting.

T56. APOLOGIES

Cr Stefanie Dobro
Cr Dean Nardi
Cr Alex Wilson

T57. CONFIRMATION OF MINUTES

T57.1 Town Planning & Building Committee (Private Domain) – 9 June 2009

Cr Olson - Cr de Jong
That the Town Planning & Building Committee (Private Domain) minutes dated 9 June 2009 as adopted at the Council meeting held on 16 June 2009 be confirmed.

CARRIED

T58. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

T59. REPORTS OF COMMITTEES

T59.1 Town Planning Advisory Panel – 23 June 2009

Cr Rico - Cr de Jong
That the minutes of the Town Planning Advisory Panel meeting held on 23 June 2009 be received and each item considered when the relevant development application is being discussed.

CARRIED

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T60. REPORTS OF OFFICERS

T60.1 Receipt of Reports

Cr de Jong – Cr Rico

That the Reports of Officers be received.

CARRIED

T60.2 Order of Business

Cr de Jong – Cr Rico

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

CARRIED

T60.3 Hubble Street No. 104 (Lot 290)

Applicant: Mario Schmack

Owner: Yvonne Haigh

Application No. P81/2009

By Chris Warrener, Town Planner on 8 July 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a two storey artists studio at the rear of 104 Hubble Street.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Local Planning Strategy - Plympton Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : Bitumen footpaths along front property boundary onto Hubble Street as well as onto Marmion Street in good condition.

Documentation

Plans and relevant forms date stamp received on 2 June 2009.

Date Application Received

2 June 2009

Advertising

Adjoining land owners only

Date Advertised

5 June 2009

Close of Comment Period

23 June 2009

No. of Days Elapsed between Lodgement & Meeting Date

41 days

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

- 24 June 1998 Council resolved that approval be granted for the laundry conversion to a bathroom incorporating an existing weatherboard boundary wall;
- 22 December 2008 Building Licence B08/256 issued for front fence.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 23 June 2009 and the following comments were made:

- acceptable.
- there is a need to confirm materials are limestone and weatherboard, elevations orientation and an elevation that shows the appearance of the studio in the context of the house.
- would be helpful to see the studio plans in relation to the house – e.g. the profile of the dwellings along Marmion Street.
- plans do not clearly indicate which elevation is which – It is assumed that Elevation 4 is the Marmion streetscape.
- confirmation of the entrance to the building being from the east side is required.

Principal Building Surveyor's Comment

Building as shown must not be approved as a habitable structure due to window openings on 1st floor level adjacent to lot boundary.

Public Submissions

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

Site Inspection

By Consultant Town Planner on 12 June 2009

STATISTICS	Required	Proposed
Land Area		506 ² Existing
Zoning		R20
Heritage Listing		Draft Municipal Inventory
Setbacks:		
Rear (east) (24 Marmion St) <i>Upper Studio</i>	1.2	8.127 Acceptable
Side (north) (100 Hubble St) <i>Ground Studio</i>	6.0	6.968 Acceptable
<i>Upper Studio</i>	6.0	6.968 Acceptable
Side (south) (facing Marmion St) <i>Ground Studio</i>	1.0	Nil
<i>Upper Studio</i>	1.2	Discretion Required Nil Acceptable
	<i>Policy 142</i>	
Height:		
Wall	6.0	5.55 Acceptable
Building	9.0	6.02 Acceptable



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REPORT

Issues

Boundary Setbacks

The application proposes a two storey studio which will have a nil setback from the south side boundary common with Marmion Street. The RDC specify a 1.2m setback.

The property already has a boundary wall along the south side boundary. This comprises a weatherboard wall with two shuttered windows for the house on the property.

LPP 142 states:

"Part 3 – Side and Rear Boundary Setback Variations

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."*

Discussion

In regard to the materials proposed to be used for construction of the studio, the applicant has confirmed that it is intended to build the ground floor with limestone walls and the upper floor with weatherboard walls to match the house at the front.

In regard to the proposed boundary wall along the south side, there are no other properties affected by this wall next to Marmion Street.

The two storey studio boundary wall is not considered to detrimentally impact on the local streetscape as there are other properties along Marion Street near the subject property (No's 95 & 99) which have boundary walls next to Marion Street.

The subject property already has a wall along the south side.

The studio boundary wall is considered to be consistent with the character of development in the immediate locality and would not adversely affect the amenity of adjoining properties; the setback variation is considered relatively minor, and the application is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the south side boundary setback pursuant to the Residential Design Codes from 1.2m to 0m for the construction of a two storey studio at the rear of the attached dwelling at No. 104 (Lot 290) Hubble Street, East Fremantle in accordance with the plans date stamp received on 2 June 2009 subject to the following conditions:

1. prior to the issue of a building licence plans are to be submitted which specify the use of limestone walls on the ground floor and the use of weatherboard walls on the upper floor.
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.



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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 two storey studio 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.
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. the proposed studio is not to be occupied for residential purposes.
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).*

Mr Mario Schmack (owner) addressed the meeting advising that he was satisfied with the officer's recommendation.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Olson

That Council exercise its discretion in granting approval for a variation to the south side boundary setback pursuant to the Residential Design Codes from 1.2m to 0m for the construction of a two storey studio at the rear of the attached dwelling at No. 104 (Lot 290) Hubble Street, East Fremantle in accordance with the plans date stamp received on 2 June 2009 subject to the following conditions:

- 1. prior to the issue of a building licence plans are to be submitted which specify the use of limestone walls on the ground floor and the use of weatherboard walls on the upper floor.**
- 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 two storey studio 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.**

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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. the proposed studio is not to be occupied for residential purposes.
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).*

CARRIED

T60.4 **Preston Point Road No. 168 (Lot 7)**
Applicant: Imperial Homes Pty Ltd
Owner: Mr & Mrs R & F Cronan
Application No. P70/2009
By Chris Warrener, Town Planner on 7 July 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for unauthorised existing development comprising 9 roof mounted air conditioning units on the two grouped dwellings at 168 Preston Point Road.

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy 135 : Domestic Satellite Dishes, Microwave Antennae, Air-conditioners & Tower Masts

Documentation

Plans and relevant forms date stamp received on 8 May 2008

Date Application Received

8 May 2008

Advertising

Adjoining and nearby land owners only

Date Advertised

15 May 2009

14 July 2009

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Close of Comment Period

1 June 2009

No. of Days Elapsed between Lodgement & Meeting Date

66 days

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

6 September 2002	Building Licence issued for a below ground swimming pool;
17 August 2004	Council decides to advise the WAPC that it does not support an application to subdivide 168 Preston Pont Road into 2 strata title lots;
25 October 2004	WAPC conditionally approves a strata subdivision to create a 501m ² lot, and a 503m ² lot;
22 December 2004	Council advises the WAPC that it does not support an application to subdivide 168 Preston Pont Road into 2 green title lots;
15 January 2005	WAPC refuses an application to subdivide 168 Preston Pont Road into 2 green title lots;
20 June 2006	Council approves two 2-storey grouped dwellings.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 23 June 2009 and the following comments were made:

- the justification for the placement and type of units is technically deficient.
- these houses ought to have been designed with a much more sustainable solution at the outset.
- units on the roof top in such a prominent location is not supported.

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 2 submissions were received. A further submission was received afterwards.

<i>J & L Chilli</i> <i>10 Philip Street</i>	- objection; - visual amenity impaired; - potential noise impacts.
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<i>M & B Jenkins</i> <i>8A Philip Street</i>	- objection; - industrial proposal in a residential area; - noise and visual pollution and view obstruction.
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<i>D & P Barfield</i> <i>4 Philip Street</i>	- objection; - lack of privacy; - bulk and complete lack of aesthetic appeal.
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Site Inspection

By Town Planner on 20 May 2009.

**REPORT
Issues**

<i>Unauthorised Existing Development</i>	In July and December 2008 the town planner received complaints from the owners of 6, 8A and 10 Philip Street regarding some air conditioning units that had been installed atop two metal deck roofs on two grouped dwellings at 168 Preston Point Road.
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LPP 135 states:

"Air Conditioners

Planning approval is generally not required for air conditioners provided they are located in such a way as to reduce the potential for adverse visual impact on the integrity of the dwelling, amenity and streetscape of adjoining properties, are not located in the street setback area, and noise levels are in accordance with the Environmental Protection Act and associated noise regulations."

In this case the air-conditioners are considered by residents at the rear to have an adverse visual impact on the amenity of their adjoining properties.

The air-conditioners were not shown on the plans for which Council granted planning approval for the grouped dwellings nor were they shown on the plans for which the building licence was issued, and under the circumstances should have been included as an integral component of the planning and building licence applications.

The air-conditioners are therefore deemed to comprise unauthorised existing development for which the following provision under TPS 3 applies:

"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."*

More recently two ladders have been fixed to the rear of the two grouped dwellings.

These ladders also have an impact on property views from the rear and again were not specified on the planning approval plans nor were they on the building licence plans.

Submissions

The submissions from the property owners at the rear of 168 Preston Point Road object to the air-conditioning units because of their visual impacts and potential noise issues



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Discussion

*Unauthorised Existing
Development*

The primary objective stated under LPP 135 is:

- "1. To protect the quality of the streetscape and the amenity of nearby residents by minimising the visual impact of satellite dishes, microwave antennae, air conditioners and tower masts."*

While the air-conditioners are situated such that they do not rise above the building height limits specified in LPP 142, nor can they be seen from Preston Point Road, they are considered to have an adverse visual impact on property views from the rear and should be removed and/or relocated.

Regarding the ladders the builder has advised that these are temporary and will be removed prior to completion of the development.

*Applicant's Response to
Submissions*

The applicant advises that the complaints raised about the visual impacts and potential noise are not sufficient as there is no evidence or facts provided to support these issues.

In support of the application in regard to the two issues of visual impacts and noise the applicant states:

"In accordance with the long established practice of the Council approving air-conditioning units sited on roofs we have sited these particular units on the roof however they have been carefully and deliberately placed to reduce the impact on the visual amenity of neighbours. No reasonable person living in an urban environment could take objection to the way the units are sited as the impact on the neighbours visual amenity is minimal as the units are sited below the raking of the winged roof structure.

The reason these units were located on the roof was to avoid the use of larger noise units which would have been acquired if the units had been located on the ground.

As to the issue of noise I propose producing evidence from my air-conditioning engineer to the effect that the units are almost noiseless and this complaint should not be an issue particularly given that noisy water cooled units have been approved for neighbouring properties."

CONCLUSION

Even though the applicant is of the belief that these units are best situated on the roof as constructed and the concern about noise may be misplaced, the units cannot be supported due to their adverse impact on property views from the rear.

RECOMMENDATION

That Council:

1. Refuses to grant planning approval for the unauthorised existing development comprising 9 roof mounted air-conditioning units on the two grouped dwellings at No. 168 (Lot 7) Preston Point Road, East Fremantle because they have a detrimental impact on the visual amenity of nearby residents in conflict with the objective of Local Planning Policy 135. Clauses 10.2 (g), 10.2 (j), 10.2 (o), 10.2 (p) and 10.2 (z) of TPS No. 3 refer.

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2. Directs the applicant/owner, pursuant to s.214 of the Planning and Development Act 2005, to remove the offending air-conditioning units within 60 days of the service of the direction.

Mr & Mrs Barry & Mary Jenkins of 8A Philip Street addressed the meeting and reiterated their concerns as stated in their written submission. They stated they were pleased with the Panel's comments and supported the officer's recommendation.

Mr Con Tripi (Imperial Homes) and Mr & Mrs Rod & Fran Cronan (owners) addressed the meeting. It was said that the air-conditioning units were within the height limits and to have them relocated to a wall area would have a more visual impact for all parties.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Rico

That the application for unauthorised existing development comprising 9 roof mounted air-conditioning units on the two grouped dwellings at No. 168 (Lot 7) Preston Point Road, East Fremantle be deferred pending the submission of revised plans specifying an alternative location for the subject air-conditioning units to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

CARRIED UNANIMOUSLY

T60.5

Clayton Street No. 6 (Lot 429)

Applicant: Minaret Holdings Pty Ltd

Owner: Richard & Nicola White

Application No. P67/2009

By Chris Warrener, Town Planner on 8 July 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for ground floor additions at the rear of the single storey house at 6 Clayton Street comprising a family room, laundry, 2 bedrooms, a bathroom and a pergola.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact on existing bitumen crossover, which is in need of repair.

Footpath : No impact on bitumen path next to property boundary.

Documentation

Plans and relevant forms date stamp received on 8 May 2009

Date Application Received

8 May 2009

Advertising

Adjoining land owners only

Date Advertised

12 May 2009

14 July 2009

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Close of Comment Period

28 May 2009

No. of Days Elapsed between Lodgement & Meeting Date

66 days

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

19 August 2003 Council grants special approval for alterations and additions including 2 separate garages with parapet walls to the south, a covered bbq/entertainment area to the rear and new fencing for north and south boundaries;
20 May 2004 Building Licence 72/3580 approved for additions.

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.

Site Inspection

By Town Planner on 20 May 2009.

STATISTICS

	<i>Required</i>	<i>Proposed</i>
Land Area		802m ²
Open Space	55%	Existing 69.3%
Zoning		Acceptable R12.5

Setbacks:

Front (west)			
<i>Ground</i>	<i>n/a – additions are at rear</i>		
Rear (east)			
<i>Ground</i>	<i>Bed 5</i>	6.0	3.5
	<i>Family Room</i>	6.0	Discretion Required 11.0
			Acceptable
Side (north)			
<i>Ground</i>	<i>Bed 5 & hall</i>	1.5	14.3
	<i>Family</i>	1.5	Acceptable 8.3
			Acceptable
Side (south)			
<i>Ground</i>	<i>Laundry, Bed 4, Bath, Bed 5</i>	1.5	1.97
			Acceptable

REPORT

Issues

Boundary Setbacks The application proposes ground floor additions, which will be set back 3.5m from the east side (rear) boundary common with 111 Petra Street.

The RDC specify a 6m rear setback for R12.5 coded



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property.

In addition LPP 142 states:

"Part 3 - Side and Rear Boundary Setback Variations

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."*

Discussion

Boundary Setbacks

The landowner potentially affected by the variation to the Bedroom 5 setback for the ground floor additions has not objected the application.

The wall for Bedroom 5, facing the east side (rear) boundary common with 111 Petra Street, is not considered to detrimentally impact on the character of the development in the immediate locality and not adversely affect the amenity of the affected adjoining property.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the east side (rear) boundary setback pursuant to the Residential Design Codes from 6m to 3.5m for the construction of ground floor additions at the rear of the single storey house at No. 6 (Lot 429) Clayton Street, East Fremantle comprising a family room, laundry, 2 bedrooms, a bathroom and a pergola in accordance with the plans date stamp received on 8 May 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 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.
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

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prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

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

Footnote:

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

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

Mr & Mrs Richard & Nicola White (owners) addressed the meeting advising that they were satisfied with the officer's report.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Olson

That Council exercise its discretion in granting approval for a variation to the east side (rear) boundary setback pursuant to the Residential Design Codes from 6m to 3.5m for the construction of ground floor additions at the rear of the single storey house at No. 6 (Lot 429) Clayton Street, East Fremantle comprising a family room, laundry, 2 bedrooms, a bathroom and a pergola in accordance with the plans date stamp received on 8 May 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 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.**
- 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**

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natural angle of repose and/or another method as approved by the Town of East Fremantle.

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

Footnote:

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

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

CARRIED

T60.6

Oakover Street No. 40A (Lot 331)

Applicant: Broadhurst & Bott Architects

Owner: Pamela Ann Peelen

Application No. P81/2008

By Chris Warrener, Town Planner on 8 July 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house on the rear battleaxe lot at 40A Oakover Street comprising:

Ground Floor: double garage, store, porch, entry, family dining & kitchen, livingroom, bedroom, bathroom, linen press, and laundry;

First Floor: 2 bedrooms, study, bathroom, and balcony.

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 066 : Roofing (LPP 066)

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

Council Policy 138 : Development on Rear Battleaxe Lots

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : Existing bitumen crossover in good condition.

Footpath : Existing bitumen footpath next to front boundary of 40 Oakover Street in good condition.

Documentation

Plans and relevant forms date stamp received on 14 May 2009

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Date Application Received

14 April 2008

Additional information

Amended plans received on 14 May 2009

Advertising

Adjoining land owners only

Date Advertised

25 May 2009

Close of Comment Period

9 June 2009

No. of Days Elapsed between Lodgement & Meeting Date

60 days

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

31 May 1991 Building Licence 81/1829 approved for additions to house at 40 Oakover Street;

15 June 2004 Council decides to advise the WAPC that it does not support the battleaxe subdivision of 40 Oakover Street into 2 lots (1 X 366m², 1 X 501m², & 1 common property lot comprising 114m²);

25 June 2004 WAPC approves subdivision;

9 August 2006 Demolition Licence DL06/194 issued for a fibre-cement clad metal roofed garage;

11 December 2007 Survey-Strata Plan 51805 for 2 new lots registered.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 23 June 2009 and the following comments were made:

- urban infill which does not have an impact on the streetscape but does have an impact upon neighbours.
- concern regarding overlooking property from the north from the balcony.

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:

- P Tucker* - objection;
- 53A Petra Street* - concern with balcony overlooking backyard.

Site Inspection

By Town Planner on 3 June 2009

STATISTICS

Land Area

Required

Proposed

Open Space

55%

369m²
Existing
59.2%
Acceptable
R12.5

Zoning

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Setbacks:

Side (north)			
Ground	Family, Dine	1.5	5.21 Acceptable
	Porch	1.0	5.21 Acceptable
	Garage	1.0	7.0 Acceptable
Upper	Bed 3	1.2	4.5 Acceptable
	Balcony	7.5	4.0 Discretion Required
	Bed 2	1.2	4.5 Acceptable
Side (south)			
Ground	Garage	1.0	7.0 Acceptable
	Bed 1, Bath, Laundry	1.0	1.2 Acceptable
Upper	Stairs, Study	1.2	7.12 Acceptable
	Bath	1.2	8.3 Acceptable
Side (east)			
Ground	Laundry, Living, Kitchen, Family/Dine	1.5	3.1 Acceptable
Upper	Study	2.5	5.7 Acceptable
	Bath, Bed 3	1.2	3.1 Acceptable
	Balcony	7.5	4.0 Discretion Required
Side (west)			
Ground	Porch	1.0	6.0 Acceptable
	Garage	Nil/1.0	Nil Acceptable
Upper	Balcony	7.5	7.5 Acceptable
	Bed 2, Study, Stairs	1.2	6.0 Acceptable
<u>Height:</u>			
	Wall	6.0	5.4 Acceptable
	Building	9.0	7.2 Acceptable

Overshadowing:

Upper floor overshadow is of the roof over the ground floor.

Privacy/Overlooking:

N/a



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REPORT

Issues

*Privacy & Boundary
Setbacks*

The application proposes an upper floor balcony that will be set back 4m from the north side boundary common with 38 Oakover Street, and set back 4m from the east side boundary common with 53A Petra Street. The balcony is not proposed to incorporate screening.

The RDC specify a 7.5m setback for an unscreened balcony.

Submission

The submission from the property owner at the rear boundary of 40A Oakover Street is primarily concerned at the potential invasion of privacy from the proposed upper floor balcony.

Roof Pitch

The application proposes a 2-storey house with a terracotta tiled roof pitched at 26°5'.

LPP 066 states:

"dominant elements to be greater than 28°."

Discussion

*Privacy & Boundary
Setbacks*

The RDC states that unenclosed outdoor active habitable spaces which have a floor level more than 0.5m above natural ground level and which overlook any part of any other residential property behind its street setback line is to be setback 7.5m.

As the upper floor balcony is above 0.5m above natural ground level, the RDC requires that direct overlooking of active habitable spaces and outdoor living areas of other dwellings is to be minimised. The upper floor balcony proposed at 40A Oakover Street, which does not incorporate screening, overlooks the properties at 38 Oakover Street and 53A and 55A Petra Street.

In regard to the properties at 38 Oakover Street and 55A Petra Street, the landowners of these properties have not objected to the application. In addition, the upper floor balcony proposed does not overlook active habitable spaces and outdoor living areas of these properties therefore, screening of the balcony on the north and west sides is not considered to be required.

However the upper floor balcony on the east side overlooks a swimming pool and outdoor living area at the rear of 53A Petra Street. The owners of 53A Petra Street have objected to the application.

As the upper floor balcony does not comply with the setback specified in RDC, and the fact the area overlooked is an outdoor living area it is considered reasonable to require that the east side of the balcony be screened.

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Roof Pitch

While the application proposes a roof pitch at variance with LPP 066 this is considered acceptable given the variety of roof forms and pitches nearby and in the general locality; it is considered a relatively minor variation and is supported

RECOMMENDATION

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

- (a) variation to the north and east (rear) side boundary setbacks for the upper floor balcony pursuant to the Residential Design Codes from 7.5m to 4m;
 - (b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 26°5';
- for the construction of a 2-storey house on the rear battleaxe lot at 40A Oakover Street comprising:

Ground Floor: double garage, store, porch, entry, family dining & kitchen, livingroom, bedroom, bathroom, linen press, and laundry;

First Floor: 2 bedrooms, study, bathroom, and balcony;

in accordance with the plans date stamp received on 14 May 2009 subject to the following conditions:

1. prior to the issue of a building licence amended plans are to be submitted which specify the screening for the upper floor balcony on the east side.
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. 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) *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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Ms Pamela Peelen (owner) addressed the meeting in support of the proposed new residence including issues relating to the upper east side balcony.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Rico

That the application for a two storey residence on a rear battleaxe lot at No. 40A (Lot 2) Oakover Street, East Fremantle be deferred to the July meeting of Council and in the meantime councillors are invited to inspect the site.

CARRIED

T60.7

Bolton Street No. 11 (Lot 110)

Applicant: Ventura Homes Pty Ltd

Owner: Jacqueline Hogan

Application No. P77/2009

By Chris Warrener, Town Planner on 7 July 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a single storey house at 11 Bolton Street comprising 3 bedrooms, entry, family, kitchen, meals, 2 bathrooms, laundry and outdoor alfresco.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Riverside Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : New crossover required
Footpath : No footpath

Documentation

Plans and relevant forms date stamp received on 26 May 2009

Date Application Received

26 May 2009

Advertising

Adjoining land owners only

Date Advertised

28 May 2009

Close of Comment Period

11 June 2009

14 July 2009

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No. of Days Elapsed between Lodgement & Meeting Date

48 days

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

19 August 1996 Council decides to advise the WAPC that it does not support the re-subdivision of 9 Bolton Street, into 2 lots (1 x 830.06m² - 9 Bolton Street & 1 x 666.71m² - 11 Bolton Street);
5 November 1996 WAPC approves the subdivision;
26 November 1996 Council approves the demolition of the existing brick and tile structure;
17 March 1998 Council defers consideration of an application for a 2-storey house at 9 Bolton Street;
21 April 1998 Council refuses 2-storey house at 9 Bolton Street;
15 September 1998 Council approves 2-storey house at 9 Bolton Street.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 23 June 2009 and the following comments were made:

- this site warrants a building that contributes to the streetscape and its prominent location.
- significant underdevelopment of the site.
- surprisingly modest proposal for such a prominent site.
- deserves a building that relates more closely to the prominent location.
- there are a number of issues relating to streetscape that require addressing including relation to neighbouring properties and position on the block.
- solar orientation does not appear to have been contemplated in the positioning of the proposed dwelling on the block.
- we note the south setback does not comply and the house should be relocated to achieve compliance.
- more details in relation to the finishes for the proposed building.
- modesty of plans result in a request for landscaping plans.

Principal Building Surveyor's Comment

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

Other Agency/Authority

Swan River Trust

No objections to the proposal subject to the following conditions:

1. No fill, building materials, sediment, rubbish or any other deleterious matter shall be placed on the Parks and Recreation Reserve or allowed to enter the river as a result of the development.
2. Stormwater drainage shall be contained on site, or connected to the local government stormwater drainage system.
3. The development shall be connected to the reticulated sewerage system prior to occupation.

Public Submissions

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

Site Inspection

By Town Planner on 8 June 2009.

STATISTICS	Required	Proposed
Land Area		671m ²
Open Space	55%	Existing 75%
Zoning		Acceptable R12.5
<u>Setbacks:</u>		
Front (south)		
<i>Ground Family, Entry</i>	7.5	4.4 Discretion Required
<i>Bed 1</i>	7.5	3.5 Discretion Required
Rear (north)		
<i>Ground Bed 2 & 3</i>	6.0	8.7 Acceptable
<i>Alfresco</i>	6.0	8.3 Acceptable
Side (east)		
<i>Ground Bed 1, Ensuite, Laundry, Bath, Bed 2</i>	1.5	2.259 to 10.6 Acceptable
Side (west)		
<i>Ground Alfresco</i>	1.5	9.939 Acceptable
<i>Meals, Family</i>	1.5	9.939 to 18.0 Acceptable
<u>Height:</u>		
Wall	5.6	2.3 Acceptable
Building	8.1	5.35 Acceptable
<u>Overshadowing:</u>	N/a	
<u>Privacy/Overlooking:</u>	N/a	

REPORT

Issues

The property on which it is proposed to build this single storey house is an irregular (triangular) shaped block with 5 sides.

The front boundary is readily identifiable as a 44.16m long boundary line parallel with Bolton Street. However the two side boundaries comprise 3 non-parallel lines which converge at acute angles from the front boundary to a 4.04m long boundary line that would normally be considered the rear boundary.

The assessment of this application for the purposes of determining setbacks pursuant to the RDC is based on a conventionally configured lot with the front boundary as proposed, the rear boundary being the 4.04m long boundary line to the north side, with the two side boundaries comprising the remaining boundary lines.

Boundary Setbacks The application proposes that the family room and entry be set back 4.4m, and bedroom 1 be set back 3.5m from the front (south side) boundary.

The RDC specify a 7.5m front setback for R12.5 coded



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property.

TPAP Comments

The TPAP comments in general are quite negative in relation to the appearance of the proposed house and its impact on the local streetscape.

Discussion

Boundary Setbacks

The proposed family room, entry and bedroom 1 setback variation from the front boundary do not impact on property west of the subject property as this is a vacant vegetated Parks and Recreation Reserve under the Metropolitan Region Scheme.

The front setbacks of properties on the same side of Bolton Street near the subject property (No's 3 & 5) including 27 Preston Point Road (corner of Bolton Street and Preston Point Road) have front setbacks which are on or very close to the front boundary common with Bolton Street.

LPP 142 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."*

The impact of the front setback variation proposed for this single storey house is not considered to have a detrimental impact on the prevailing local streetscape given the setbacks of other houses along the north side of Bolton Street, and can be supported.

In addition the house has been purposely positioned on the block to eliminate any impacts that a house on a RDC specified setback might have on nearby property views.

TPAP Comments

The comments of TPAP are considered understandable given the scale and design of the proposed house, in comparison with houses in the immediate locality.

However given appropriate materials and finishes, incorporating landscaping the property at 11 Bolton Street could easily be developed to include the proposed house without any significant adverse impact on the local streetscape.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the front (south side) boundary setback for a family room and entry and bedroom 1 pursuant to the Residential Design Codes from 7.5m to 4.4m and 3.5m respectively for the construction of a single storey house at No. 11 (Lot 110) Bolton Street, East Fremantle comprising 3 bedrooms, entry, family, kitchen, meals, 2 bathrooms, laundry and outdoor alfresco in accordance with the plans date stamp received on 26 May 2009 subject to the following conditions:

1. prior to the issue of a building licence plans are to be submitted specifying:
 - (a) materials, finishes and colours of the house;



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- (b) proposed landscaping of the front setback;
to the satisfaction of the Chief Executive Officer in consultation with relevant 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.
 3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 4. 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. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
 9. this planning approval to remain valid for a period of 24 months from date of this approval.
 10. no fill, building materials, sediment, rubbish or any other deleterious matter shall be placed on the Parks and Recreation Reserve or allowed to enter the river as a result of the development.
 11. stormwater drainage shall be contained on site, or connected to the local government stormwater drainage system.
 12. the development shall be connected to the reticulated sewerage system prior to occupation.

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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (e) *the patio may not be enclosed without the prior written consent of Council.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Kim Hogan (owner) addressed the meeting in support of the proposed single storey residence.



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RECOMMENDATION TO COUNCIL

Cr Rico – Cr de Jong

That Council exercise its discretion in granting approval for a variation to the front (south side) boundary setback for a family room and entry and bedroom 1 pursuant to the Residential Design Codes from 7.5m to 4.4m and 3.5m respectively for the construction of a single storey house at No. 11 (Lot 110) Bolton Street, East Fremantle comprising 3 bedrooms, entry, family, kitchen, meals, 2 bathrooms, laundry and outdoor alfresco in accordance with the plans date stamp received on 26 May 2009 subject to the following conditions:

1. prior to the issue of a building licence plans are to be submitted specifying:
 - (a) materials, finishes and colours of the house;
 - (b) proposed landscaping of the front setback;to the satisfaction of the Chief Executive Officer in consultation with relevant 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.
3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. 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. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
9. this planning approval to remain valid for a period of 24 months from date of this approval.
10. no fill, building materials, sediment, rubbish or any other deleterious matter shall be placed on the Parks and Recreation Reserve or allowed to enter the river as a result of the development.
11. stormwater drainage shall be contained on site, or connected to the local government stormwater drainage system.
12. the development shall be connected to the reticulated sewerage system prior to occupation.

Footnote:

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

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

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (d) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.
- (e) the patio may not be enclosed without the prior written consent of Council.
- (f) matters relating to dividing fences are subject to the Dividing Fences Act 1961. CARRIED

T60.8

King Street No. 98 (Lot 348)

Applicant: Residential Attitudes

Owner: Michael & Megan Keep

Application No. P68/2009

By Chris Warrener, Town Planner on 8 July 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 98 King Street comprising:
Ground Floor: double garage & store, study, porch, entry, free form living, kitchen, laundry, powder room, home theatre, store in stairwell, and alfresco;
Upper Floor: 4 bedrooms, 2 bathrooms.

The garage door and its supporting structures occupy 49.7% of the property frontage.

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 064 : Richmond Raceway Design Guidelines (LPP 064)
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 on north side will have to be closed in favour of providing a new crossover on the south side.
Footpath : Bitumen footpath next to property boundary in reasonable condition.

Documentation

Plans and relevant forms date stamp received on 19 May 2009

Date Application Received

19 May 2009

Advertising

Adjoining land owners only

Date Advertised

13 May 2009

Close of Comment Period

28 May 2009

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No. of Days Elapsed between Lodgement & Meeting Date

66 days

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

21 May 2007 Demolition Licence DL07/140 issued;
5 June 2008 Demolition Licence 08/125 approved, not issued.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 23 June 2009 and the following comments were made:

- Council should be mindful that demolition of an existing house is required to allow any new development on this site to go ahead.
- contextually inappropriate to the precinct.
- double garage not acceptable.
- ground floor must address the streetscape.
- preferable design in this location is a single story at the front with double story at the rear.
- this house does not address the simplicity of the roofing that exists in the housing stock in the precinct. The planning of the home needs to be redesigned to allow for a more simplified roof design.
- bulk and scale of the property is not acceptable in this location.
- concern regarding of the overshadowing of the house next door.

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:

- V Cook & S Avenell*
88 Duke Street
- residential blocks in Plympton are quite small and proposed;
 - residence is two storey;
 - windows that overlook backyard be made opaque to maintain privacy.

Site Inspection

By Town Planner on 20 May 2009.

STATISTICS	Required	Proposed
Land Area		508m ²
Open Space	50%	Existing 67.8%
Zoning		Acceptable R20
Heritage Listing		Draft Municipal Inventory
Setbacks:		
Front (west)		
<i>Ground Study</i>	6.0	6.5 Acceptable
<i>Garage</i>	6.0	6.0 Acceptable
<i>Store</i>	6.0	7.6 Acceptable

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STATISTICS		<i>Required</i>	<i>Proposed</i>
Upper	Bed 2	6.0	12.67 Acceptable
	Master	6.0	5.789 Discretion Required
Rear (east)	Ground Home Theatre	1.5	17.98 Acceptable
	Alfresco	1.5	16.3 Acceptable
Upper	Bed 4	4.5	17.98 Acceptable
	Bed 3	4.5	20.2 Acceptable
Side (north)	Ground Alfresco	1.5	1.2 Discretion Required
	Living	1.0	1.2 Acceptable
	Porch	1.0	1.2 Acceptable
	Study	1.5	2.0 Acceptable
Upper	Bed 4	1.1	5.85 Acceptable
	Bed 3 & 2	1.1	1.2 Acceptable
	Master	1.1	4.2 Acceptable
Side (south)	Ground Garage	1.0	1.07 Acceptable
	Store, laundry	Nil	Nil Acceptable
	Pdr	1.0	1.55 Acceptable
	Theatre	1.0	1.07 Acceptable
Upper	Master & ensuite	1.2	1.57 Acceptable
	Bath	1.1	3.0 Acceptable
	Bed 4	1.1	1.57 Acceptable
Height:			
	Wall	6.0	5.4 Acceptable
	Building	9.0	7.5 Acceptable

Overshadowing: (24.89% of adjoining property)

Privacy/Overlooking: N/a

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REPORT
Issues

Demolition

This application involves the demolition of a brick with decramastic roofed house with hardi-board additions at the rear, which is classified with a C- management category in the MI.

It is not considered to be a particularly attractive house, having a "low aesthetic value", and its demolition is not considered to be a loss in terms of its contribution to the heritage housing stock in the Plympton precinct.

However it is considered important for its replacement to contribute to the character of the area and not detract from it.

Boundary Setbacks

Side West (Front)

The application proposes an upper floor master bedroom which will be set back 5.789m from the front boundary.

The specified front setback on an R20 coded property under the RDC is 6m.

In addition, LPP 142 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."*

Side North (common with 96 King Street)

An alfresco is proposed to be set back 1.2m from the north side boundary common with 96 King Street.

The RDC specify a 1.5m setback.

Roof Pitch

The application proposes a 2-storey house with its roof pitched at 25° 38'.

LPP 066 states:

"dominant elements to be greater than 28°."

Submission

The submission from 83 Duke Street is concerned at the overlooking impact of the windows on the east side (rear) from the upper floor bedrooms 3 and 4 as well as the scale and nature of the proposed new dwelling.

Discussion

Boundary Setbacks

Side West (Front)

The proposed upper floor master bedroom front setback



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variation is considered acceptable given the reduced setbacks of the majority of properties including the adjoining properties along King Street, and in the area generally. The setback variation is supported.

Side North (common with 96 King Street)

The landowner potentially affected by the variation to the setback for the alfresco has not objected the application.

The alfresco is not considered to detrimentally impact on the character of the development in the immediate locality and not adversely affect the amenity of the affected adjoining property; the setback variation for the alfresco is considered minor and is supported.

Roof Pitch

The variation to the roof pitch is considered not to have a detrimental impact on the local streetscape or general character of housing in the area, and is supported.

Submission

83 Duke Street is located at the rear of 98 King Street.

The upper floor windows at the rear of the proposed development are setback 17.98m and 20.2m respectively. Under the Residential Design Codes, the required setback is 4.5m.

The area at the rear of 83 Duke Street that is overlooked comprises an extensively densely vegetated backyard not an active outdoor living area.

The applicant states that all concerns regarding privacy were taken into consideration when designing the dwelling to ensure full compliance with the Residential Design Codes 6.8 privacy requirements.

As the windows are set back to more than comply with the specified setback under the Residential Design Codes, and the area overlooked is not an outdoor living area such as a barbeque, patio or swimming pool, the proposal is supported as submitted.

Local Streetscape

This property is in the Plympton Precinct and pursuant to the Local Planning Strategy the following design statements are made:

Land Use

The Council intends to retain the area predominately for single dwellings on small lots to reflect the existing heritage character and historical development of the area.

Design

New development throughout the precinct is to be generally small scale and sympathetic to the character (form, mass and materials) of existing development.

Front Setback should preferably be by street mode based on a standard of 3 metres. Additional setback will normally be required for buildings or parts of buildings in excess of one storey in height, so as to maintain the existing scale of development at street level



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Height Control: In general two storey development is to be provided for subject to strict limits on the actual height of walls and roofs.

CONCLUSION

The application is for a 2-storey house with its front entry situated behind a study not clearly visible to the street.

The majority of the houses along King Street are single storey however there are seven 2-storey houses near the subject property (No's 75, 77, 79, 81, 88, 91 & 93), and the impact of a 2-storey development in this particular location is not considered to have a particularly detrimental impact on the prevailing local streetscape.

However the comments of the Town Planning Advisory Panel in relation to the appearance of the proposed house are considered applicable.

Houses next to the subject land are single storey, and the majority of houses in the area are single storey. It is considered important when proposing 2-storey development in Plympton to ensure that this type of development does not dominate the local streetscape; many 2-storey additions in the area have involved the upper floor being well set back behind the ground floor so as to retain a "single storey feel" to the area. The proposed 2-storey house is considered to dominate the street front and detract from the general amenity of the local streetscape.

It is not considered to be small scale or sympathetic to the character of existing development in conflict with the design objectives stated in the LPS, and this particular application is not supported.

RECOMMENDATION

That Council refuses to grant planning approval for the construction of a 2-storey house at No. 98 (Lot 348) King Street, East Fremantle comprising:

Ground Floor: double garage & store, study, porch, entry, free form living, kitchen, laundry, powder room, home theatre, store in stairwell, and alfresco;

Upper Floor: 4 bedrooms, 2 bathrooms;

in accordance with the plans date stamp received on 19 May 2009 for the following reasons:

1. the application proposes development that is not small scale or sympathetic to the character (form, mass and materials) of existing development in conflict with the Local Planning Strategy for the design of development in the Plympton precinct. Clause 10.2 (b) of TPS No. 3 refers.
2. the application is for a 2-storey house the design of which is not compatible with its setting in conflict with Town Planning Scheme No 3 sub-clause 10.2 (i).
3. the application proposes development that will not preserve the amenity of the locality in conflict with Town Planning Scheme No 3 sub-clause 10.2 (o).
4. the proposed development poorly relates to development on adjoining land and on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal in conflict with Town Planning Scheme No 3 sub-clause 10.2 (p).

Mr Russell Barr (Sales Consultant) and Mr David Hotchwald-Jones (General Manager) of Residential Attitudes and Ms Megan Keep (owner) addressed the meeting in support of the proposed development application.

Discussion ensued on matters relating to compliance with the R-Codes apart from two minor setback discretions and the contradictory nature of the officer's report with respect to the second paragraph of the officer's conclusion and point (1) of the recommendation for refusal.

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The eclectic mix of architecture in this end of King Street was mentioned and the fact that initial enquiries did suggest that there was no problems with the proposal.

At the conclusion of the discussion Mr Hotchwald-Jones advised that he was anxious that they leave tonight's meeting with a way to move forward.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Rico

That the application for the construction of a 2-storey house at No. 98 (Lot 348) King Street, East Fremantle be deferred to allow the applicants to work with the Town Planner to address compliance with Clause 10.2(b) and sub clauses 10.2(i), (o) and (p) of TPS3 with a view to revised plans being submitted in time for consideration at the 1st meeting of August. CARRIED

T60.9

Pier Street No. 3A (Lot 2)

Applicant & Owner: WJ & FS Enright

Application No. P76/2009

By Chris Warrener, Town Planner on 8 July 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for the use "bed & breakfast" at 3A Pier Street

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Precinct (LPS)

Documentation

Plans and relevant forms date stamp received on 26 May 2009

Date Application Received

26 May 2009

Advertising

Adjoining and nearby land owners.

Date Advertised

27 May 2009

Close of Comment Period

11 June 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

20 February 2001	Council decides to advise the WAPC that it has no objections to the subdivision of 3 Pier Street into 2 lots (1 x 441m ² , 1 x 511m ²);
2 April 2001	WAPC conditionally approves the subdivision;
17 June 2003	Council refuses an application for a 3-storey house at 3A Pier Street;
16 September 2003	Council defers a decision on an application for a 3-storey house at 3A Pier Street;
19 September 2003	WAPC endorses for final approval Survey Strata Plan for 3A & 3B Pier Street;
21 October 2003	Council grants conditional approval for a 3-level house at 3A Pier Street;
5 March 2004	Building Licence 129/3552 approved for 3-level residence;



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20 April 2007	CEO requests Mr & Mrs Enright (owners) to cease building immediately, and to obtain a valid building licence;
16 May 2008	Infringement Notice issued to owner pursuant to the Environmental Protection Act 1986 s.79(1) for causing or allowing equipment to be used in such a way as to allow it to emit unreasonable noise;
25 August 2008	Building Surveyor advises that the owner is required to seek retrospective approvals for a rear boundary wall that is higher than 1.8m;
9 December 2008	Council refuses an application for unauthorised existing development comprising a wall higher than 1.8m at the rear;
4 February 2009	SAT Directions Hearing;
11 February 2009	SAT on-site mediation conference;
23 February 2009	SAT mediation conference;
3 March 2009	Council grants planning approval for unauthorised existing development comprising a portion of a boundary wall higher than 1.8m between the southwest corner and the eastern edge of a brick & iron shed on 1C Fraser Street at the rear of 3A Pier Street.

CONSULTATION

Public Submissions

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

<i>J Russell</i> <i>2 Pier Street</i>	<ul style="list-style-type: none">- objection;- premises has little parking and cannot accommodate current vehicles;- continual noise from building equipment;- vehicles parked on street have created traffic problems.
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Site Inspection

By Town Planner on 20 October 2008

REPORT

Issues

<i>Bed & Breakfast</i>	<p>3A Pier Street is zoned Residential under TPS 3.</p> <p>The use "Bed and Breakfast" is listed as an "A" use in the Residential zone in the zoning table in TPS 3, which <i>"means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4."</i></p> <p>In accordance with clause 9.4 this application was advertised to adjoining property owners and to owners of properties opposite the subject land in Pier Street.</p> <p>Under TPS 3 the use is defined as follows:</p> <p><i>"means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast"</i></p>
<i>Submission</i>	<p>The submission from the owner of 2 Pier Street which is diagonally opposite the subject land is primarily</p>



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concerned with the potential for further commercial activity at 3A Pier Street and the resulting increase in traffic and noise which will result.

Discussion

Bed & Breakfast

The house at 3A Pier Street comprises a building on 3 levels incorporating an under-croft double garage. The owners/applicants state that it is intended to utilise a ground floor room large enough to accommodate two guests, and a double room with adjacent sitting room for guest use upstairs.

Both rooms have access to a private bathroom and laundry facilities would be an option.

The driveway at the front is built to accommodate two vehicles in addition to parking already provided for two cars in the double garage.

Given the relatively low key nature of this activity, the amenity afforded by the subject property both for the owners and users of the bed and breakfast, its proximity to public recreation areas, the Swan River, and public transport, this application for bed and breakfast is supported.

Applicant's Response to Submission

The applicant provided the following response to the submission from the owner of 2 Pier Street:

*"With regard to the content of this letter we wish to advise that we **do not** and **never have** conducted businesses from 3A Pier Street. Any carpentry work that was undertaken here was only related to work being done on our building. Our business name is on our work vehicle; that does not mean we run our operation at this address. Our work premises and office have always been in a nearby industrial area. The previous owner and existing owner of the neighbouring vacant block gave us verbal permission for the use of this whilst doing our project.*

The caravan mentioned does not belong to us, and is not our business.

With reference to the noise come from here – Granted there has been noise from our building project, this cannot be avoided. We will all endure the same thing when our neighbour decides to build, but as stated, is not coming from a carpentry business being run here.

Since living at number 3A, and whilst not able to provide parking on our unfinished driveway, two visitors on two separate occasions had three of their tires slashed, one visitor had their car hit by a car just passing, and our car parked on the roadside while our garages was being finished, was hit by a taxi backing our from cross the road. It is for this reason that some of our visitors pull in on the vacant block next door. However it is our understanding that roadside parking can be used for visitors; that visitors and callers to this address have this option.

In regard to the comments on the nuisance value of 'our visitors'; no guest has stayed several nights other than my

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mother who is 70 years of age. We did have a 'mature' family member stay for 2 nights. This person did not occupy a room at the front of the house and in fact we did not go near the balcony at the front of the house to socialise nor did we cause any noise, and certainly none that would have gone 'through the front bedrooms of 2 Pier Street to wake anyone up at night. No such nuisance noise from our social contact with guests has come from these premises."

CONCLUSION

Based on the applicant's response, and observations made by Council officers of the property during and after completion of the house, the concerns raised by the owner of 2 Pier Street are not considered to be valid, and the application is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for Bed and Breakfast use of the downstairs living area at No. 3A (Lot 2) Pier Street, East Fremantle in accordance with the documentation date stamp received on 26 May 2009 and subject to the operation of the Bed & Breakfast being conducted in a clean and hygienic manner to the satisfaction of the Chief Executive Officer in consultation with the Principal Environmental Health Officer.

Ms Suzanne Enright (owner) addressed the meeting advising that she was satisfied with the officer's recommendation.

RECOMMENDATION TO COUNCIL

Cr Olson – Cr de Jong

That Council exercise its discretion in granting approval for Bed and Breakfast use of the downstairs living area at No. 3A (Lot 2) Pier Street, East Fremantle in accordance with the documentation date stamp received on 26 May 2009 and subject to the operation of the Bed & Breakfast being conducted in a clean and hygienic manner to the satisfaction of the Chief Executive Officer in consultation with the Principal Environmental Health Officer.

CARRIED

T61. EN BLOC RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Rico

That Council adopts en bloc the following recommendations of the Town Planning & Building Committee Meeting of 14 July 2009 in respect to Items MB Ref: T61.1 to T61.3.

CARRIED

T61.1 Stirling Highway – Riverside Road to Marmion Street

Applicant: Complex Land Solutions Pty Ltd

Owner: Commissioner of Main Roads

By Chris Warrener, Town Planner on 3 July 2009

BACKGROUND

Description of Proposal

A referral of a proposal to dedicate portions of land situated between Riverside Road and Marmion Street for the purposes of a road.

Statutory Considerations

Town Planning Scheme No. 3 – Metropolitan Region Scheme Reserve for Primary Regional Road

Land Administration Act 1997

Main Roads Act 1930

Documentation

Plans and relevant forms date stamp received on 29 November 2005

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Date Application Received

29 November 2005

REPORT

Issues

Road Dedication

The section of the Stirling Highway extension through East Fremantle between Riverside Road and Marmion Street comprises a number of freehold lots that continue to be held in the proprietorship of the Commissioner for Main Roads.

This land is reserved as a Primary Regional Road in the Metropolitan Region Scheme however due to an administrative oversight by Main Roads it has not been dedicated as a road reserve and transferred to the Crown.

The issue was not concluded at the time because it became linked with a broader Main Roads land use proposal which never eventuated.

Discussion

If this land is dedicated as a road it will then be owned as a Crown Reserve pursuant to the Land Administration Act 1997 this would mean that in the event of any application to sell any part of the land a formal road closure procedure would have to be followed. It is considered this would better protect Council's interests in the act of such a scenario.

RECOMMENDATION

That Council advises Main Roads WA that it concurs to the dedication of the land as detailed and contained in the annexed Plan, as Road under Section 26 of the Land Administration Act.

RECOMMENDATION TO COUNCIL

That Council advises Main Roads WA that it concurs to the dedication of the land as detailed and contained in the annexed Plan, as Road under Section 26 of the Land Administration Act.

T61.2

Windsor Road No. 37 (Richmond Primary School)

Applicant: Department of Treasury & Finance

Owner: Minister for Education

By Chris Warrener, Town Planner on 3 July 2009

BACKGROUND

Description of Proposal

A referral of an Application for Approval to Commence Development pursuant to the Metropolitan Region Scheme for a new library and art-craft music multipurpose block additions to the Richmond Primary School.

Statutory Considerations

Town Planning Scheme No. 3 – Local Scheme Reserve for Public Purposes - School

Local Planning Strategy - Richmond Precinct (LPS)

Metropolitan Region Scheme

WAPC Planning Bulletin 96

Delegation Instrument DEL 2009/02 Powers of Officers (Department of Treasury and Finance), the Executive Director, Building Management & Works (BMW), Department of Treasury and Finance (DTF)

Documentation

Plans and relevant forms date stamp received on 3 July 2009

Date Application Received

3 July 2009

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REPORT

Discussion

Councillors would be aware of the money that the present federal government has allocated to the states for the purposes of providing additional facilities at schools in Australia.

The attached plans are for two new building additions to the Richmond Primary School.

The proponent (Department of Treasury and Finance for the Minister for Education) has submitted a copy of the application to Council inviting it to advise whether it requires any special conditions to be imposed on the development.

It is important for elected members to note that pursuant to the Delegation Instrument referred to above, Council had no decision making role in respect of this application. Rather, Council could only provide comments and we have, only had seven days in which to do so.

The proponent has been advised of the conditions which should be imposed in addition to any other conditions that may be applied.

RECOMMENDATION

That Council receives the information.

RECOMMENDATION TO COUNCIL

That Council receives the information.

T61.3

Moss Street No. 19 (Lot 6)

Applicant: Gerard McCann Architect

Owner: Peter Jeffery

Application No. P75/2009

By Chris Warrener, Town Planner on 8 July 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for additions and alterations to the single storey house at 19 Moss Street comprising:

- enclose the verandah on the south side to incorporate a kitchen and ensuite;
- extend the patio at the rear to a new parapet wall on the south side boundary;
- add a covered area for a laundry/utility space next to the patio;
- minor alterations to external walls from the verandah space to the internal rooms.

The proposed parapet wall on the south side is 8.7m long x 2.6m high.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

Local Planning Strategy - Woodside Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

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

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 25 May 2009



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Date Application Received

25 May 2009

Advertising

Adjoining land owners only

Date Advertised

26 May 2009

Close of Comment Period

10 June 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

18 July 1988	Council approves a Home Occupation for public relations;
16 August 1993	Council grants a relaxation of standards for additions incorporating the relocation of the kitchen and toilet, the extension of the family room, a patio, and construction of a detached laundry/shower/toilet;
18 October 1993	Council approves alterations and additions to alter the bathroom/laundry/kitchen and add a family room, patio and verandah;
15 November 1993	Council approves a Home Occupation as an Office for a plumbing contracting business;
20 December 1993	Council grants approval for the Home Occupation for a plumbing contracting business;
21 March 1994	Council decides to request an explanation from the owner regarding traffic and parking problems experienced adjacent to the residence;
20 March 2001	Council grants approval for the installation of a belowground concrete swimming pool at the rear;
8 January 2002	Building Licence 15/3166 approved for fibre-glass swimming pool.

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

Boundary Setbacks The application proposes a kitchen and ensuite wall that is set back 1.2m from the south side boundary common with 21 Moss Street.

The RDC specify a 1.5m setback.

Discussion

The landowner potentially affected by the variation to the setback for the kitchen and ensuite has endorsed support for the application.

The kitchen and ensuite is not considered to detrimentally impact on the amenity of the potentially affected property, and the application is supported.



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RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the south side boundary setback for a kitchen pursuant to the Residential Design Codes from 1.5m to 1.2m for additions and alterations to the single storey house at No. 19 (Lot 6) Moss Street comprising:

- enclose the verandah on the south side to incorporate a kitchen and ensuite;
- extend the patio at the rear to a new parapet wall on the south side boundary;
- add a covered area for a laundry/utility space next to the patio;
- minor alterations to external walls from the verandah space to the internal rooms;

in accordance with the plans date stamp received on 25 May 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 patio may not be enclosed without the prior written consent of Council.*

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(g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

RECOMMENDATION TO COUNCIL

That Council exercise its discretion in granting approval for a variation to the south side boundary setback for a kitchen pursuant to the Residential Design Codes from 1.5m to 1.2m for additions and alterations to the single storey house at No. 19 (Lot 6) Moss Street comprising:

- enclose the verandah on the south side to incorporate a kitchen and ensuite;
- extend the patio at the rear to a new parapet wall on the south side boundary;
- add a covered area for a laundry/utility space next to the patio;
- minor alterations to external walls from the verandah space to the internal rooms;

in accordance with the plans date stamp received on 25 May 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.*



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

T62. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T62.1 Local Planning Policy No. 142

By Chris Warrener, Town Planner, on 14 July 2009

BACKGROUND

It has come to light that some of the wording in LPP 142 needs to be clarified for the purposes of providing a clear understanding what is meant/intended by the policy. A copy of LPP 142 is attached.

I refer to Part 2 – Streetscape, which 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.*
- (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.*
- (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."*

Council has historically applied the policy, in relation to garages and/or carports, to mean that these structures should be located at or behind the main building line of the house on a property.

However the policy does not say this.

It states that these structures should be *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. (RDC).*

The RDC Table 1 - General site requirements is attached.

This table specifies the primary and secondary street minimum setbacks under Column 8. For a property coded R12.5 the primary street setback is 7.5m, and for a property coded R20 the setback is 6m.

Therefore based on the wording of LPP 142 (as it stands) if a garage or a carport is located at or behind the primary or secondary street setback line then it "complies" with the policy.

There are many examples in East Fremantle of properties which contain houses that are set back further behind the RDC specified primary or secondary street setback and allow

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a garage or a carport to be located so as to be at or behind the primary or secondary street setback, yet be forward of the main building line.

It is believed an error, possibly a typographical error, occurred in the wording of the policy as, grammatically for one, it does not make sense in its current wording.

REPORT

It has never been Council's intent in interpreting this policy to support a garage or a carport forward of the main building line, and LPP 142 should be reworded to reflect this position.

The following is suggested:

"(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."

If Council supports this change then pursuant to TPS 3 the amended policy must be advertised for a period of 21 days, any submissions received are to be considered in light of the amended policy and Council is then required to subsequently resolve to adopt the amended policy with or without modification.

RECOMMENDATION

That "Part 2 – Streetscape subsection (ii)" of Local Planning Policy 142 be amended to read as follows:

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

and the amended Policy be advertised for 21 days prior to being submitted to Council for adoption.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Olson

That "Part 2 – Streetscape subsection (ii)" of Local Planning Policy 142 be amended to read as follows:

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

and the amended Policy be advertised for 21 days prior to being submitted to Council for adoption. CARRIED

T63. CLOSURE OF MEETING

There being no further business the meeting closed at 8.05pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **14 July 2009**, Minute Book reference **T53. to T63.** were confirmed at the meeting of the Committee on*

.....

Presiding Member