

14 September 2010

MINUTES

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 14 SEPTEMBER, 2010 COMMENCING AT 6.40PM.**

**T180. OPENING OF MEETING**

**T180.1 Present**

Cr Alex Wilson	Presiding Member
Mayor Alan Ferris	
Cr Rob Lilleyman	
Cr Siân Martin	
Cr Dean Nardi	
Cr Maria Rico	
Ms Gemma Basley	Acting Town Planner
Mrs Peta Cooper	Minute Secretary

**T181. WELCOME TO GALLERY**

There were 10 members of the public in the gallery at the commencement of the meeting.

**T182. APOLOGIES**

Cr Cliff Collinson  
Cr Barry de Jong

**T183. CONFIRMATION OF MINUTES**

**T183.1 Town Planning & Building Committee (Private Domain) – 10 August 2010**

Mayor Ferris – Cr Nardi

That the Town Planning & Building Committee (Private Domain) minutes dated 10 August 2010 as adopted at the Council meeting held on 17 August 2010 be confirmed. CARRIED

**T184. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T184.1 View Terrace No. 54 (Lot 89) – New Residence**

Submission received from adjoining neighbour at 52 View Terrace regarding concerns that the proposed new residence will impact on his northern aspect and views.

Mayor Ferris – Cr Nardi

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T186.5). CARRIED

**T185. REPORTS OF COMMITTEES**

**T185.1 Town Planning Advisory Panel – 24 August 2010**

Mayor Ferris – Cr Martin

That the minutes of the Town Planning Advisory Panel meeting held on 24 August 2010 be received and each item considered when the relevant development application is being discussed. CARRIED

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**T186. REPORTS OF OFFICERS**

**T186.1 Receipt of Reports**

Cr Rico – Cr Lilleyman  
That the Reports of Officers be received.

CARRIED

**T186.2 Order of Business**

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

CARRIED

**T186.3 Philip Street No. 12A (Lot 1)  
Applicant: Justin Everitt (J3D Pty Ltd)  
Owner: Mr & Mrs S & S Currie  
Application No. P130/2010**

By Gemma Basley Acting Town Planner on 9 September 2010

**BACKGROUND**

**Description of Proposal**

An Application for a new three storey dwelling and a swimming pool at 12A Philip Street, East Fremantle is the subject of this report.

The subject site is undeveloped and is the result of a subdivision which has created 2 long narrow lots with 12A being the western most of these. The subject site has a fall of 4.5 metres from south to north. The lot has a frontage width of 10.08 metres and a length of 55.31 metres.

The applicant has revised the plan throughout the application process in response to comments raised during public advertising and from the Town Planning Advisory Panel. The plans that are the subject of this report are predominantly compliant with the planning requirements with the exception of one small section of the dwelling that is over height.

**Description of site**

The subject site is:

- a 557m<sup>2</sup> block
- zoned Residential R12.5
- undeveloped site
- located in the Richmond Hill Precinct

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : The streetscape will be altered as a result of the proposed new dwelling

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**Documentation**

Plans and relevant forms date stamp received on 3 August & 7 September 2010

**Date Application Received**

3 August 2010

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

41 days

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

Nil

**Advertising**

The subject application was advertised to adjoining landowners for a 2 week period from 10 August to 26 August 2010.

Two submissions were received from each adjoining neighbour, respectively and are detailed and responded to below:

Neighbour Submission	Planning Response
JM Chilli of 10 Philip Street has no objection to the proposed three level residence at 12A Philip Street provided they comply in every respect with all relevant codes in respect of boundary setbacks and height limitations.	The plans have been revised to reduce the building height and to measure the heights from NGL and seeks a height relaxation to one section of the building.  All setbacks are compliant and consideration has been given to setting the dwelling as far away from the northern boundary as possible to minimise impacts on views from neighbouring properties (i.e. view corridor will still be achievable over the 17 metre rear setback area)
A & R Davey of 12B Philip Street believe the owners of 12A have given due consideration to neighbouring requirements. We understood that averaging of ground levels was not the way to determine height and that this was measured from NGL. We have no objection to averaging of ground levels but would expect to be able to apply the same averaging to 12B Philip Street.	Refer comment above. The height is being measured from NGL. The minor variation to building height will not impact this neighbour.

Since the close of advertising there has been ongoing liaison between the Acting Planner and the applicant regarding the measurement of building height. The applicant accepts that the measurement of building height will be taken from the NGL and has submitted amended plans accordingly. The amended plans have reduced the height of the northern most section of the dwelling.

A site inspection undertaken on 3 September 2010 was undertaken to assess the impact of the proposed development on 10 Philip Street and to determine if additional information was required from the applicant to address this issue. The site inspection determined that the building heights and setbacks could be determined on-site and that the impact could be assessed and no further information was required. The fact that the applicant is retaining the substantial rear setback is significant because it will still provide for views north east from 10 Philip Street.

The Acting Town Planner is satisfied that the concerns raised in these submissions have been responded to above and that the proposed residence predominantly complies with the height requirements.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

The Panel viewed the revised plans at its meeting of 24 August 2010 and made the following comments, which are also responded to below:

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TPAP Comment	Planning Response
Proposed construction would require substantial retaining that would appear to impact neighbouring properties.	It is accepted that the development on this site will require substantial retaining as have other residences on the street and in the locality but that this is a structural matter to be dealt with at the building licence stage and that can be managed through a dilapidation a report prior to site works being undertaken.  A footnote has been included in the recommendation to address this
Query 'Averaging' of natural ground level to substantiate wall and ridge heights.	The applicant has submitted revised plans that measure the building height from NGL.

The Panel's comments support the application and the design of the proposed residence.

**REPORT**

**Considerations**

Approval is sought for a new three storey residence at 12A Philip Street, East Fremantle.

The application proposes to develop a house that addresses Philip Street whilst also maximising views to the river.

It is considered that the proposed house will present well to the street and will not impact on the existing amenity of Philip Street. In fact as can be seen on the streetscape elevation, the proposed residence is considerably smaller than the adjoining dwellings and the size of the dwelling is appropriate for the width of the block. The application proposes an upper floor balcony also to face Philip Street, which will provide for surveillance and a more active street frontage.

The application was originally measured using average ground levels and the applicant submitted a compliant application in relation to the average ground level. The applicant has accepted that the height will be measured from NGL and has amended the plans accordingly.

The application meets all of the setback requirements and does not seek any relaxations to these. The application does however seek several small variations to the building height requirements listed under Local Planning Policy 142 and will be detailed and responded to below:

LPP 142/R-Codes	Proposed	Planning Response
<u>Building Height</u> 6.5 metres to top of wall (concealed roof).	Eastern and western elevations propose a small portion (less than 2 metres wide) to extend to 6.7 metres above NGL.	<b>Variation Supported</b> because of the small portion of wall that the variation applies to. The wall is setback appropriately to the western and eastern boundaries and will not cause overshadowing on adjoining lots.  This variation meets the Performance Criteria of the R-Codes with regard to building height.
5.6 metre to the top of the external wall (pitched roof).	Eastern and Western elevations propose a small portion of wall to extend to a height of 6 metres.	<b>Variation Supported</b> because of the small portion of the wall that the variation applies to. The walls are setback appropriately to the side boundaries and will not cause overshadowing or loss of amenity.  This variation meets the Performance Criteria of the R-Codes.

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LPP 142/R-Codes	Proposed	Planning Response
8.1 metres to the top of a pitched roof.	Western elevation proposes a small portion of the pitched roof to extend to a height of 8.2 metres.	<b>Variation Supported</b> because of the small portion of roof that exceeds the height requirements. The roof is setback adequately and will not cause any overshadowing or adverse impact on adjoining lots. The roof pitch height will not be visible from the streetscape.
Maximum cut/fill of 0.5 metres	Cut and fill to exceed 0.5 metres for boundary retaining walls and parapet wall.	<b>Variation Supported</b> because of the 4.5 metre fall over the site and the need to retain this.
Building on Boundary R12.5 to abut an existing boundary wall.  R20 to not exceed an average height of 2.7 metres and length of 9 metres.	A boundary wall along the eastern boundary not adjoining an existing parapet wall and extending to 13.75 metres in length and to a height of 3.8 metres.	<b>Variation Supported</b> because of the narrowness of the lot (10.08 metres) and the effectiveness of a boundary wall in maximising the use of the site. Discussions with the owners of 12B Philip Street indicate an intention to build 12B Philip up to the boundary wall of 12A Philip Street also.

The applicant has created a design that is responsive to the 4.5 metre fall across the site and which has minimised the impact on surrounding views by adhering to the boundary setbacks and the use of a flat roof in the northern two sections of the house. The application addresses the street and proposes a pitched roof on this elevation to match surrounding development and to complement the streetscape.

### CONCLUSION

The design of the proposal has been supported by the Town Planning Advisory Panel. The application generally presents as a two storey dwelling to Philip Street with the third storey component being located further back into the lot to take advantage of the considerable fall in the site. It is considered that the proposed house is appropriate for the Philip Street streetscape.

The application has been assessed against the requirements of the R-Codes and Council's TPS No. 3 and Local Planning Policies and is a predominantly compliant development with the exception of minor variations. The variations being sought do not relate to or impact upon loss of views or will impact on the amenity of the adjoining lots, because of the marginal height increase and because of this being setback adequately and the site positioned north-south ensuring overshadowing will not occur.

This is considered to be a significant achievement on a topographically limited site with a narrow frontage of 10.08 metres.

The submissions that were received have been assessed and it is determined that whilst there are minor variations being sought that these are acceptable and in response to the topography of the site. Further the position of these minor variations is such that there will be no adverse impact on the adjoining properties. The application is considered to have had due regard to the Town's requirements relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. More so the application has been designed to create a substantial setback to the rear/northern boundary to enable views from adjoining lots to be retained.

The application is recommended for approval.

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**RECOMMENDATION**

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

- (a) variation to the requirements of Local Planning Policy 142 to allow a portion of the eastern and western walls (pitched roof) to extend to a height of 6 metres in lieu of the 5.6 metres required by Local Planning Policy 142;
- (b) variation to the requirements of Local Planning Policy 142 to allow a portion of the eastern and western walls (concealed roof) to extend to a height of 6.7 metres in lieu of the 6.5 metres required by Local Planning Policy 142;
- (c) variation to the requirements of Local Planning Policy 142 to allow a portion of the pitched roof on the eastern elevation to extend to a height of 8.2 metres in lieu of the 8.1 metres required by Local Planning Policy 142;
- (d) variation to the requirements of the R-Codes to allow site works to exceed 0.5 metres; and
- (e) variation to allow a boundary wall with a length of 13.75 metres to a maximum height of 3.8 metres on the eastern boundary;

for the construction of a three storey residence and a pool at No. 12A (Lot 1) Philip Street, East Fremantle in accordance with the plans date stamp received on 7 September 2010 subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
7. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
8. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
9. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
10. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
11. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
12. This planning approval to remain valid for a period of 24 months from date of this approval.

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Footnote:

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

- (a) *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.*
- (b) *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.*
- (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Justin Everitt (Architect) and Mr Steve Currie (owner) addressed the meeting in support of the application.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Lilleyman**

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

- (a) **variation to the requirements of Local Planning Policy 142 to allow a portion of the eastern and western walls (pitched roof) to extend to a height of 6 metres in lieu of the 5.6 metres required by Local Planning Policy 142;**
- (b) **variation to the requirements of Local Planning Policy 142 to allow a portion of the eastern and western walls (concealed roof) to extend to a height of 6.7 metres in lieu of the 6.5 metres required by Local Planning Policy 142;**
- (c) **variation to the requirements of Local Planning Policy 142 to allow a portion of the pitched roof on the eastern elevation to extend to a height of 8.2 metres in lieu of the 8.1 metres required by Local Planning Policy 142;**
- (d) **variation to the requirements of the R-Codes to allow site works to exceed 0.5 metres; and**
- (e) **variation to allow a boundary wall with a length of 13.75 metres to a maximum height of 3.8 metres on the eastern boundary;**

**for the construction of a three storey residence and a pool at No. 12A (Lot 1) Philip Street, East Fremantle in accordance with the plans date stamp received on 7 September 2010 subject to the following conditions:**

1. **Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
2. **Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
3. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
4. **The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
5. **With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
6. **protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.**
7. **pool installer and/or property owner to whom this licence is issued are jointly**

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responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.

8. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
9. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
10. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
11. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
12. 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) *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.*
- (b) *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.*
- (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

**Footnote**

*The Acting Town Planner undertook to review discretions (d) & (e) and provide more detailed information in time for the September meeting of Council.*

**T186.4 Coolgardie Avenue No. 17 (Lot 17)**

**Applicant & Owner: Paul Cattalini**

**Application No. P117/2010**

By Gemma Basley Acting Town Planner, 9 September 2010

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for alterations and additions to the existing single storey house located at No. 17 Coolgardie Avenue is the subject of this report.

The application ultimately proposes a two storey contemporary residence with a swimming pool at the rear of the house.

**Description of site**

The subject site is:

- a 954m<sup>2</sup> block
- zoned Residential R12.5
- developed with a dwelling not listed on MI
- located in the Richmond Precinct

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**Statutory Considerations**

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

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : The streetscape will be impacted as a result of the change in housing style

**Documentation**

Plans and relevant forms date stamp received 2 July & 10 August 2010

**Date Application Received**

2 July 2010

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

73 days

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

10 January 1990 The Council granted the Owner(s) of No. 17 Coolgardie Avenue Planning Approval for the addition of a concrete, brick and tile verandah and carport to the existing residence.

**Advertising**

The subject application was advertised to adjoining landowners for the standard 2 week period from 7 July to 22 July 2010. Two objections were received during this time which are detailed and responded to below and attached to this report.

Alan & Yvonne Pine - No. 15 Coolgardie Avenue	Applicant's Response	Planning Officer Comments
The proposed residence is out of character for the street and will overpower the other residences.	We deem the street to be varying in housing character and not set in any particular period, as evident by the very different nature of each of the houses in the street. We believe we have the correct setbacks from the front boundary, as for over powering other residences we don't believe this would be the case.	A site visit conducted by the Acting Town Planner has confirmed that Coolgardie Avenue contains a mix of housing types with single storey being the predominant type. With other two-storey development having occurred in the street the application is not considered to adversely affect the Coolgardie Avenue streetscape, which is diverse with an array of various housing types.
Reduce light into the east wall bedroom/study due to the raised garage wall and proposed second storey.	We agree to raise the existing rendered wall and complete the west side of the wall in a finish to match existing wall.	Overshadowing has been assessed by the Town's Officer and found it to be in accordance with the R-Codes requirements relating to overshadowing.
Loss of privacy due to second storey master bedroom window and screen.	The mentioned screen has purposely been included so overlooking issues are eliminated from that window.	The proposed windows to Bed 1 on the upper floor, has incorporated privacy screening, therefore satisfying the privacy setback requirements of the R-

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Alan & Yvonne Pine - No. 15 Coolgardie Avenue	Applicant's Response	Planning Officer Comments
		Codes 2008, eliminating the possibility of overlooking.
Increased noise and loss of privacy due to the proposed location of the pool located adjacent to boundary fence.	Increased noise – Our current outside living area is located in the same position as the proposed swimming pool, we have our children's play equipment in this area, and to date we have not received any complaints.  Loss of privacy – would agree to raise the wall height to 1.95 metres providing Council have no objections to the proposed wall height variation.	The proposed rear pool area is not likely to cause an excessive increase in noise, taking into account the area is currently utilized for outdoor entertaining purposes. An increased wall height to 1.95 metres could be considered however, amended plans would need to be submitted demonstrating these changes. Until then a condition will be applied for all fencing to comply with the Town's Local Policy relating to Fencing.
Loss of existing jarrah picket fence.	We would propose to build the wall abutting the existing fence without removing the jarrah fence. Our intention would be to have the least amount of impact to our neighbours during the construction period. If it is agreed we are to build a new wall we should be happy for our neighbours to select the colour of rendered finish.	The proposed new fence is compliant with the Town's requirement, the objection relating to proposed materials, and design is a civil matter and needs to be resolved between the two adjoining property owners.
Loss of existing plants when existing picket fence is replaced with rendered brick fencing.	As there may be some damage or loss of plants a new wall build is considered, we shall replace the reinstated damaged plants and gardens. We agree the method of construction is to cause as little disturbance as possible to adjoining properties. Again we agree to raise the height of the wall to 1.95 metres if Council approves.	Refer above
Loss of privacy due to the first floor en suite bathroom windows	En-suite bathroom windows are raised above eye level and are all opaque glazed, as over looking was considered during the design.	The proposed windows to the en-suite bathroom on the upper floor have incorporated privacy screening, therefore satisfying the privacy setback requirements of the R-Codes 2008, eliminating the possibility of adverse overlooking.
Do the plans submitted require the developers to apply for any relaxation of building regulations whatsoever? If so please advise us for comment well in advance of a final decision.	We don't believe the plans require any concession from Council and have been developed to meet all guidelines set within the building codes.	Minor relaxations to the planning requirements are sought by the applicant and will be detailed later in the report.

Mr & Mrs Meredith – No. 19 Coolgardie Avenue	Applicant's Response	Planning Officer Comments
Will the supporting pillars of the proposed new wall on the Eastern side of No. 17 Coolgardie Avenue be located within the subject's lot boundaries?	Yes. All pillars shall be within 17 Coolgardie Ave as indicated on Site Plan Drawing No. 1.	All proposed construction is located within No. 17 Coolgardie lot boundaries.
Does the proposed new boundary wall continue at the height of 1.8	No.	A condition will be applied for all newly proposed fencing to meet

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Mr & Mrs Meredith – No. 19 Coolgardie Avenue	Applicant's Response	Planning Officer Comments
metres to the Coolgardie Avenue footpath at the front of No. 17 and No. 19 Coolgardie Ave?		the Town's Fencing requirements.
If the answer above is in the affirmative, a wall height at 1.8 metres solid to the southern edge of the south footpath of Coolgardie Avenue would significantly decrease visibility for drivers reversing out from adjacent crossovers. Pedestrians would also adversely be affected, it should also be noted that accompanied and unaccompanied children use this footpath for access to Richmond Primary School.	We agree with these comments and will ensure drawings are changed to reflect concerns.	A condition will be applied for all newly proposed fencing to meet the Town's Fencing requirements
If the answer to question 2 is negative, where is the junction between the existing fence and the proposed new wall located on the Eastern Side of No 17 Coolgardie Ave?	Again this may be drawn as replacing the fence all the way to Coolgardie Ave footpath; however we would be happy to maintain the existing picket fence at the front of the house to an agreed location with the neighbours.	A condition will be applied for all newly proposed fencing to meet the Town's Fencing requirements.
If some of the existing fence at the eastern side of No. 17 Coolgardie Ave is to be retained, will it include the existing raking down to the present height that continues to the Southern edge of the footpath on the South of Coolgardie Ave?	We would agree to retain the front existing picket fence and make no changes.	A condition will be applied for all newly proposed fencing to meet the Town's Fencing requirements
Will the eastern-facing wall surface of the proposed new wall between 17 and 19 Coolgardie Ave be in the same position as the surface of the existing fence?	Yes. There would be no encroachment on to neighbouring properties, all pillars and wall width shall be within 17 Coolgardie Ave.	All proposed development is contained within the lot boundaries of No. 17 Coolgardie Avenue.
What will happen if vegetation in No. 19 is damaged during the removal of the existing fence and the building of the proposed new wall? Will there be provision for restoration?	As there may be some damage or loss of plants when the new wall build is constructed, we shall replace and reinstate damaged plants and gardens. We agree the method of construction is to cause as little disturbance as possible to adjoining properties.	Not a planning matter.
Will the proposed new wall reduce the block size on No. 19 Coolgardie Ave?	In no way would renovations reduce the block size of 19 Coolgardie Ave. Any construction of new features shall be contained within 17 Coolgardie Ave.	All proposed development is contained within the lot boundaries of No. 17 Coolgardie Avenue, and will therefore have no impact on the size of the adjoining properties.
<b>Clarification of Details on Plan</b>		
Name the existing tree 'to be retained' 13.3 metres from back boundary shown on plans.	Flame Tree	Revised plans have been submitted to address this.
Name the existing tree 'to be retained' at front of block as shown on plans.	Jacaranda Tree and unknown named tree in centre of property.	Revised plans have been submitted to address this.
Amend drawing No 0.2 from	It is proposed to replace the east	A condition will be applied for all

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Mr & Mrs Meredith – No. 19 Coolgardie Avenue	Applicant's Response	Planning Officer Comments
'remove existing wooden fence' to what is intended (the existing fence at the Eastern side of No 17 Coolgardie Avenue is partly fibro and partly wooden).	side fence with a new rendered brick fence, we would be happy for our neighbours to select the colour of rendered finish exposed to there property.	newly proposed fencing to meet the Town's Fencing requirements
The front of the proposed renovated dwelling at No. 17 Coolgardie Ave will be approximately 2 metres in front of our dwelling. This 2-metre misalignment of the adjacent buildings will generate a negative visual impact. What R-Code governs the setback of dwellings from the Road and does the proposed development comply?	We don't believe we are working outside the building codes and have applied the correct setback from the front boundary.	The proposed main building line of the ground floor is consistent with the existing dwelling. The new additions include a porch which projects beyond the main building line however, maintains the setback requirements of the R-Codes and is not considered to detract from the aesthetic streetscape appearance of Coolgardie Avenue.
<b>Privacy</b>		
The proposed elevated path on the eastern boundary of No. 17 effectively reduces the height of the wall to 0.9-1.1 metres. This wall height is below eye level and drastically reduces the privacy currently enjoyed by the residents of No. 19 Coolgardie Ave. The height of the proposed new path will result in two of our bedroom windows being overlooked.	Agree the proposed elevated path will result in a lower wall resulting in some over looking, agrees to increase the height of the wall to eliminate overlooking.	A condition will be applied to require the application to comply with the privacy requirements of the R-Codes.
Will the windows overlooking the carport of No. 19 Coolgardie Avenue be opaque?	The windows of the second storey stair well, bedroom and balcony void are above eye level as overlooking has been considered.	The windows are positioned 1.65 metres above the FFL and will therefore result in no overlooking.
<b>Structural Damage</b>		
The proposed renovations will involve significant earth moving, particularly during the construction of the proposed cellar and the establishment of footings for the new building and boundary walls/fences. What compensation will be made if structural damage occurs to our house?	Building Insurance would be taken to cover any damage or loss to neighbouring properties caused by construction.	A condition will be applied to recommend a dilapidation report to be prepared.

**CONSULTATION**

**Principal Building Surveyor's Comment**

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

**Town Planning Advisory Panel Comments**

The Panel viewed the proposal on 27 July 2010. The Panel's advice is set out and responded to below:

- Recognises the architectural inconsistencies along the Coolgardie streetscape, the contemporary design is supported.
- It is noted that this design involves the demolition of almost all of the existing residence and will in effect present as a new two-storey house – interrupting the existing single storey rhythm of the northern side of Coolgardie Avenue and its established house pattern.

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The Panel's comments have been discussed with the applicants and an assessment of the streetscape has been made by the Acting Town Planner. It is the assessment of the Acting Town Planner that Coolgardie Avenue, which only extends 3 blocks, has a range of single and double storey residences and single dwellings and grouped dwellings. It is fair to say that whilst there are more single storey dwellings on Coolgardie Avenue there are also many two-storey houses and single and double storey grouped dwellings. A two storey residence on the site is not inconsistent with other development that has occurred on the street and other redevelopment that is likely to occur in the future.

**REPORT**

Approval is sought for alterations and additions to the existing dwelling, located at No 17 Coolgardie Avenue, East Fremantle.

The design of the proposal has been supported by the Town Planning Advisory Panel (albeit with a concern with respect to its effect on the northern streetscape and furthermore is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. As such the variations sought by the proposal are considered minor and furthermore seen to pose no adverse impact on the adjoining property owners or on the Coolgardie Avenue streetscape as detailed below:

Requirement	Proposed	Planning Officer Comments
<b>R-Codes:</b> <u>Building Setbacks</u> West 1.1 metre	Nil	<b>Supported</b> – the reduced setback along the western boundary is considered to be minor and have no adverse impact on the Coolgardie Avenue streetscape or on the adjoining property owners. The walls already exist and the application proposes to utilise these to make efficient use of space and to maintain the privacy of the adjoining house.
<u>Building on Boundaries</u> Where the wall abuts an existing or simultaneously constructed wall of a similar or greater dimension	Both boundary walls already exist and the application merely proposes to add to these.	<b>Supported</b> –The proposed boundary walls meet the length and height requirements of the R-Codes, and is furthermore considered to meet the performance criteria of the R-codes. The retention and extension of the boundary walls is considered to make effective use of space, enhance privacy and does not affect sun exposure and ventilation to the neighbouring property.
<u>Building Height</u> Category B: Top of external wall (Concealed Roof): 7 metres	South Elevation: 7.3258 metres  West Elevation: 7.46 metres	<b>Supported</b> - The increased wall height will not have an adverse impact on the adjoining properties in terms of access to sunlight and ventilation because of the east-west alignment of the street. The section of wall that exceeds the height limit only extends for a length of 4.5 metres, which is considered to be a minor relaxation request.

**CONCLUSION**

The comments raised by neighbouring owners have been taken on by the applicants or will be dealt with through the imposition of conditions.

The proposal meets the majority of the provisional requirements of the Residential Design Codes and the Town's Local Planning Policies and the application can therefore be

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supported. Whilst variations are being pursued it is considered that the variations are minor in nature and will not result in any adverse impact on the adjoining properties or the streetscape of the area.

**RECOMMENDATION**

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

- variation to the setback requirements to allow a nil setback to western boundary in lieu of the 1.1 metre required under the R-Codes;
- variation to allow two boundary walls in lieu of the restriction of the R-Codes to only allow one boundary wall under the R12.5 coding;
- variation to the building height requirements to allow a portion of the western wall to extend to a height of 7.46 metres AHD in lieu of the 7.0 metres prescribed by the R-Codes; and
- variation to the building on boundary requirement relating to properties zoned R12.5 as per the Residential Design Codes 2008;

for the construction of alterations and additions at No. 17 (Lot 17) Coolgardie Avenue, East Fremantle in accordance with the plans date stamp received on 10 August 2010 subject to the following conditions:

1. Prior to the issue of a Building Licence the applicant to submit the following:
  - (a) a schedule of materials and finishes;
  - (b) amended plans which demonstrate that no overlooking to the east will occur from the raised path by lowering the path on the eastern boundary; to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. The proposed alterations and 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.
8. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*

Dr Chris Meredith (adjoining neighbour at 19 Coolgardie Avenue) addressed the meeting reiterating his concerns as contained in his submission relating mainly to privacy along the eastern boundary and the elevated path designated for the eastern side of the proposed residence.

Mr Roger Munckton (Designer/Draftsman) addressed the meeting in support of the proposed alterations/additions.

Mr Munckton advised that his clients would be happy to lower the paving level proposed for the eastern side outside the laundry to lessen the overlooking aspect and undertake any further amendments to the plans if required. Mr Munckton also advised that the proposed design was an attempt to reduce the number of concessions sought and to reduce impact on surrounding residences.

Mayor Ferris – Cr Lilleyman

*That the officer's recommendation be adopted.*

LOST ON THE CASTING VOTE OF THE PRESIDING MEMBER

**RECOMMENDATION TO COUNCIL**

**Cr Wilson – Cr Nardi**

**That the application for alterations/additions to the residence at No. 17 (Lot 17) Coolgardie Avenue, East Fremantle be deferred pending clarification of the following:**

- (a) Residence set forward of predominant building line in street;**
- (b) Maximum building heights under Category 'B' of R-Codes versus Local Planning Policy 142 'Residential Development' Part 1(ii);**
- (c) Open space requirement; and**
- (d) Impact by lowering of the pathway on the eastern side.**

**Footnote:**

***A site visit to be undertaken prior to the September meeting of Council.***

**Reason for not Supporting Officer's Recommendation**

The Committee were of the view that the officer's recommendation could not be supported in view of the need to clarify the abovementioned issues, the bulk and scale of the alterations/additions as proposed and the impact on surrounding residences in replacing what is currently considered a modest residence.

**T186.5**

***View Terrace No. 54 (Lot 89)***

***Applicant: Sam Teoh Architects***

***Owner: David Sofield***

***Application No. P125/2010***

By Gemma Basley Acting Town Planner and Stuart Wearne, Chief Executive Officer on 10 September 2010.

**BACKGROUND**

**Description of Proposal**

An Application for a new two storey dwelling at 54 View Terrace is the subject of this report. The application includes the demolition of the existing two-storey residence. The application further proposes to construct a pool adjacent to the eastern boundary and in the back yard and to create a courtyard at the front of the house, adjacent to View Terrace.

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The applicant advises that the application complies with the requirements of Council's TPS No. 3 and Local Planning Policies and the Residential Design Codes with the exception of a minor relaxation to the front setback and a minor relaxation to the building height to allow a skylight to allow winter solar penetration.

**Description of site**

The subject site is:

- a 1062m<sup>2</sup> block
- zoned Residential R12.5
- developed with a two-storey dwelling on-site
- located in the Richmond Hill Precinct

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : The streetscape will be altered as a result of the proposed new dwelling

**Documentation**

Plans and relevant forms date stamp received on 3 and 4 August 2010

**Date Application Received**

27 July 2010

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

49 Days

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

Nil

**Advertising**

The subject application was advertised to adjoining landowners for a 2 week period from the 10 August to the 26 August 2010.

Two submissions were lodged by the owners of 52 View Terrace and their consultants Mr Peter Broad of In-House Building Design, respectively which raised concerns regarding potential loss of city views. A summary of the submissions is tabled below with a comment from the applicant and the Acting Town Planner.

Neighbour Submission	Applicant Response	Planning Response
In-House Building Design on behalf of Mr Graeme Herps and Mrs Lesley Lamont-Herps who reside at 52 View Terrace  The nature, height and position of the development is such that it blocks out a substantial portion of		See discussion on "Views" below.

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Neighbour Submission	Applicant Response	Planning Response
<p>my client's view looking north toward the city.</p> <p>A minor height reduction of 500 mm would substantially reduce the impact on the owners of 52 View Terrace.</p> <p>My client requests that one of 3 redesign options be adopted by the applicants to minimise impact on views (refer attachment).</p> <p>Seek the applicant to add the residence of 52 View Tce to their model (Computer Model) and demonstrate the view impact of the proposal from the balcony of 52 View Tce.</p>	<p>The applicants do not support lowering the height because they have designed the house to be compliant and to minimise impacts on views.</p> <p>Refer above</p> <p>If we had proposed a building which was over height or did not comply, I can see the need to provide further information to check that the neighbour's views are not adversely affected to support our proposal. I can even understand if the proposal substantially impacts on their views. In this situation is this extra work required or just to satisfy a right to exclusivity.</p>	<p>Refer above.</p> <p>Refer above.</p> <p>Refer above.</p>
<p>The rear wall is 0.73 metres above the 6 metres required under the R-Codes.</p>	<p>The 6.73 metre height is the measurement to the top of the gutter and that the wall height there is proposed to be 6.486 metres above NGL.</p>	<p>The rear wall height is compliant with the requirements of LPP No. 142.</p>
<p>Further specific information from the applicant to confirm the floor level relationship between 52 and 54 View Terrace has been requested and specifically in relation to the first floor / balcony of 52 View Tce. Have height calculations in the Teoh submission checked by an independent expert.</p>	<p>If we specify that the wall height at that point is 6.486 above the natural ground level and this complies with the Planning scheme, do we need to check/qualify that height. The structure has not been built yet. We will use that as the pitching point. If required at time of building that we do not get the ceiling heights we require, we can lower the ceiling heights or dig down at our expense. I can understand that if we have built a structure and it needed to be checked for the correct height, we may be subject to external auditing. This is implying they do not trust Council planning officer's interpretation of the town's regulations, i.e. a wall height of 6.486 complies with the scheme.</p>	<p>It has been advised that the Applicant has met with the owners of 52 View Terrace and their representative Mr Peter Broad to discuss the proposal and that the information on the plans is sufficient information to confirm the height relationship.</p>
<p>Seek verification of the height of the fascia / gutter line to the rear of the proposal ( in the spiral stair case area ) and how those heights relate to the first floor /balcony on the property of 52 View Tce.</p>	<p>At planning stage we have not detailed the construction detail of the gutter, fascia. We can give them a probable detail but reserve the right to change this detail. The scheme only talks about wall height at planning stage.</p>	<p>Refer above</p>

Since the close of advertising there has been ongoing liaison between the owners of 52 View Terrace representative Mr Peter Broad and the Acting Planner with all queries

being forwarded to the applicant also.

A site inspection by the Acting Town Planner on 7 September 2010 was undertaken to assess the impact of the proposed development on 52 View Terrace and to determine if additional information was required from the applicant to address this issue. The site inspection determined that the building heights and setbacks could be determined on-site and that the views impact could be assessed and no further information was required.

### CONSULTATION

#### Principal Building Surveyor's Comment

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

#### Town Planning Advisory Panel Comments

The Panel viewed the revised plans at its meeting of 24 August 2010 and made the following comments, which are also responded to below:

TPAP Comment	Planning Response
Query front setback.	<p>The application proposes to setback the main wall of the house 6.8 metres to the front boundary, the garage 9.0 metres from the front boundary and the entry 12.4 metres from the front boundary.</p> <p>The required setback is 7.5 metres from the front boundary. The R-Codes however, permit the averaging of front setbacks and the encroachment into the front setback by 1 metre.</p> <p>The proposed front setback complies with the averaging as permitted under the R-Codes.</p>
Panel supports simple modern design.	Noted

### REPORT

#### Introductory Comments

Approval is sought for a new two storey residence at 54 View Terrace, East Fremantle.

The application proposes to develop a house that addresses View Terrace whilst also maximising views to the river and to the city. It is proposed to fill the current driveway area to create a development that is level with the street and to retain/redevelop the enclosed courtyard at the front of the house. The application proposes to enclose the courtyard similarly to the existing development. The fencing to the courtyard will be visually permeable above 1200mm meeting the requirements of the Fencing Local Laws. The eastern most section of the front fence is proposed to be solid to 1.8 metres.

#### Considerations

Council's LPP 143 provides for variations to the policy requirements. Part 4 of the Policy states that under special circumstances Council may approve a fence to be less visually, including the following:

- 4.1 *a higher fence/wall is required for noise attenuation.*
- 4.2 *a less visually permeable fence would aid in reducing headlight glare from motor vehicles. This would apply more particularly where the subject property is opposite or adjacent to an intersection which could lead to intrusion of light into windows of habitable rooms.*
- 4.3 *where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence.*
- 4.4 *where the applicant can demonstrate to Council that there is a need to provide visual screening to an outdoor living area. This may apply in situations where there is no alternative private living space other than in the front of the residence or for part of the secondary side boundary of a corner lot.*

Whilst the proposal for a solid portion of wall does not respond to any of the criteria above, the applicant has put forward strong arguments to support a small solid section of wall at the eastern boundary. The planning assessment of this element of the proposal is that the majority of the street frontage will be open and not screened by any fencing and most importantly the entry and porch will be completely visible to the street. Further the proposed courtyard will be fenced with visually permeable fencing. The small section of solid wall is considered to be insignificant and not inconsistent with the existing streetscape which comprises a variety of fencing types.

The applicant has created a design that is responsive to the 4.5 metre fall across the site and which has minimised the impact on surrounding views by adhering to the boundary setbacks, building heights and by the use of a flat roof as opposed to a pitched roof.

### Variations

The application seeks two minor variations to the requirements of the R-Codes and will be detailed below and responded to by the Acting Town Planner.

R-Code Requirement	Proposed	Planning Response
<u>Building Height</u> 6.5 metres to top of wall (concealed roof)	Skylight extends to a maximum height of 8.1 metres above NGL	<p><b>Variation Supported</b> because of the small portion of the roof that the skylight occupies. A mono pitch rake is proposed which minimises its impact on neighbouring properties. The skylight is setback 2.3 metres from the western wall and 7.8 metres from the eastern wall and even further setback from the lot boundaries.</p> <p>The skylight would not impact on views and as such, this variation is considered to be acceptable.</p>
<u>Front Fencing</u> To be visually permeable above 1.2 metres	A solid wall to 1.5 metres on the eastern most portion of the front boundary.	<p><b>Variation Supported</b> because of the small portion of fence that is to be solid above 1.2 metres and because of the existing front fencing, which is solid to 1.8 metres. The application, whilst seeking a minor variation to the fencing requirements, presents a more desirable fencing outcome than currently exists.</p>

### Views

The proposed application is largely R Code compliant. The most significant issue thus concerns the issue of impact on views.

Under clause 10.2(p) of the Scheme, this issue must still be considered, regardless of R Code compliance.

It is important to note that it is not a sufficient ground to reject the application simply on the basis that there is *some* loss of neighbour's views. Whilst a subjective issue as to how "significant" and "significance" are to be measured, the usual tests involve firstly whether the views are *significant* or not (eg river views, views of ocean, harbour etc); secondly *where* the views are obtained or lost from (eg loss of a view from a livingroom would be more significant than a loss of a view from a laundry); thirdly the *extent* of the loss of views (eg minor, moderate, severe); and fourthly the *reasonableness* of the proposal that is causing the impact. As SAT concluded in the recent Christie decision with respect to this issue "A development that complies with all planning controls would be considered more reasonable than one which breaches them".

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The applicant contends there is no significant loss of significant views and this assessment is supported by the Acting Town Planner based on a site visit and consideration of the plans.

Nevertheless, without measures to “scientifically” determine this issue, such as the use of poles indicating proposed heights etc, it is not possible to be certain on this issue or to quantify any loss.

The issue has been discussed with the applicant and the neighbour’s representative, Mr Broad.

Also discussed with Mr Broad were the three options outlined in his letter of 26 August 2010.

A resolution was not reached on the issue of how best this matter be dealt with, which has led to the following two options being proposed.

Option 1

On the basis of existing information in the officer’s report; consideration of plans; verbal submissions made at the meeting by the applicant and neighbour and/or neighbour’s representative; and debate, elected members either support or reject the application.

Option 2

The matter be deferred to allow better verification of the views issue, via erection of height poles or other appropriate means on the subject site, subject to the agreement by the neighbours at 52 View Terrace that such indicators can be viewed from relevant areas of their property.

A third option might be that at the meeting, agreement is reached between the applicant and objecting neighbours with respect to the 3 options posed in Mr Broad’s letter of 26 August 2010, such that the neighbour’s objections are withdrawn.

However at the time of writing this prospect is unclear and thus not included as one of the two alternate recommendations.

**CONCLUSION**

The design of the proposal has been supported by the Town Planning Advisory Panel. The application generally presents as a single storey to View Terrace with the second storey component being located further back into the lot. The proposed double garage has been set back well behind the main building line with the front of the house extending forward of this to articulate the frontage. It is considered that the proposed two storey house is appropriate for the View Terrace streetscape.

The application has been assessed against the requirements of the R-Codes and Council’s TPS No. 3 and Local Planning Policies and is a predominantly compliant development with the exception of two very minor variations. The two variations being sought do not relate to or impact upon building height or loss of views. This is considered to be a significant achievement on a topographically limited site as is such.

The submissions that were received have been assessed and it is concluded by the Acting Town Planner the impact on portions of the views achieved from 52 View Terrace are minimal and that significant views to the city as well as to river will still be available after 54 View Terrace has been redeveloped. Furthermore the application is considered to have had due regard for the Town’s requirements relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008.

The application only seeks two minor variations and is otherwise a compliant design.

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**RECOMMENDATION**

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

- (a) variation to the requirements of Local Planning Policy 143 to allow the eastern most section of front fence to be solid to 1.8 metres without visual permeability;
- (b) variation to the requirements of Local Planning Policy 142 to allow the skylight window to extend to a maximum height of 8.1 metres;

for the construction of a two storey residence, fencing and a pool at No. 54 (Lot 89) View Terrace, East Fremantle in accordance with the plans date stamp received on 3 & 4 August 2010 subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
4. 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.
5. 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.
6. 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.
7. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
8. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
9. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
10. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
11. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
12. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
13. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

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

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(d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

**ALTERNATIVE RECOMMENDATION**

That the application for the construction of a two storey residence, fencing and a pool at No. 54 (Lot 89) View Terrace, East Fremantle be deferred to allow better verification of the views issue, via erection of height poles or other appropriate means on the subject site, subject to the agreement by the neighbours at 52 View Terrace that such indicators can be viewed from their property.

Late correspondence referred from MB Ref. T184.1 was tabled.

Mr Graham Herpes (adjoining neighbour of 52 View Terrace) addressed the meeting reiterating concerns as contained in his submissions to Council in particular the accuracy of heights as proposed. Mr Herps circulated a montage showing proposed heights and their impact on his views and sought deferral of the proposal pending the erection of height poles and a survey.

Mr Sam Teoh (Architect) and Mr David Sofield (owner) addressed the meeting in support of the proposed new residence and circulated a diagram showing proposed height in relation to neighbouring property.

Mr Sofield advised the meeting that the proposed residence was designed to be ecologically friendly and R-Code compliant. Mr Sofield's main concern was that there is currently no privacy obtainable by the occupants of No. 54 due to overlooking by 52 View Terrace.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Martin**

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

- (a) variation to the requirements of Local Planning Policy 143 to allow the eastern most section of front fence to be solid to 1.8 metres without visual permeability;**
- (b) variation to the requirements of Local Planning Policy 142 to allow the skylight window to extend to a maximum height of 8.1 metres;**

**for the construction of a two storey residence, fencing and a pool at No. 54 (Lot 89) View Terrace, East Fremantle in accordance with the plans date stamp received on 3 & 4 August 2010 subject to the following conditions:**

- 1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
- 2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
- 4. 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.**
- 5. 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.**
- 6. 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.**
- 7. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.**
- 8. pool installer and/or property owner to whom this licence is issued are jointly**

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responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.

9. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
10. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
11. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
12. pool contractor/builder is required to notify Council's Building Surveyor ***immediately upon completion of all works*** including fencing.
13. 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) ***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.***
- (b) ***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.***
- (c) ***all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).***
- (d) ***matters relating to dividing fences are subject to the Dividing Fences Act 1961.***

**CARRIED**

**Footnote:**

***In the meantime height poles to be erected on site and a site visit be undertaken prior to the September meeting of Council.***

**T186.6 Allen Street No. 25 (Lot 7)  
Applicant & Owner: Morgan Barron  
Application No. P118/2010**

By Gemma Basley, Acting Town Planner and Clare Roszak, Acting Planning Officer on 6 September 2010

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval to extend the existing verandah at the rear of the property, at No. 25 Allen Street, East Fremantle is the subject of this report.

The application is being referred to Council due to the property's inclusion on the Town's Draft Municipal Inventory ('B' Management Category) and for a variation that is being sought to the privacy setback requirements and to the maximum permitted retaining wall heights of the Residential Design Codes 2008.

**Description of site**

The subject site is:

- a 1100m<sup>2</sup> block

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- zoned Residential R12.5
- developed with a dwelling on-site
- registered on the heritage MI, with a rating of B
- located in the Woodside Precinct

**Statutory Considerations**

Town Planning Scheme No. 3  
Local Planning Strategy - Woodside Precinct (LPS)  
Residential Design Codes 2008 (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 stamped received on 5 July 2010

**Date Application Received**

5 July 2010  
27 August 2010 Privacy/Overlooking Plan

**Advertising**

The subject application was advertised to adjoining landowners for the standard 2 week period from the 17 August to the 1 September 2010. There were no comments received during this time.

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

Nil.

**Town Planning Advisory Panel**

The Town Planning Advisory Panel supports the application.

**REPORT**

**Comment**

Approval is sought to extend the existing verandah to the rear of the property at No. 25 Allen Street, East Fremantle. The application seeks a variation to the privacy setback requirements of the R-Codes to the eastern and western elevations. The proposed verandah also seeks a variation to the maximum permitted fill height of 500 millimetres to allow 1.015 metres of fill/retaining.

The proposal meets all other requirements of the codes and will provide a compliant outdoor living area space. Neither of the adjoining property owners objected to the proposed structure or to the setback variation. Based on the above, the proposed variations are supported.

Below details the variation to the R-Codes that forms part of the proposal:

Requirement	Proposed	Planning Officer Comments
<u>Privacy Setback</u>  East 7.5 metres	East Side (verandah) 4.13 metres to eastern boundary	<b>Supported</b> – The applicant's have provided a Cone of Vision diagram which demonstrates that the 7.5 metre privacy separation is not required because of the existing dense vegetation which

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Requirement	Proposed	Planning Officer Comments
West 7.5 metres	West Side (Verandah) 5.688 metres to western boundary	<p>extends higher than the eastern boundary fence and which provides visual screening to adjoining neighbours.</p> <p>The proposed variation meets the Performance Criteria for privacy requirements and can therefore be supported.</p> <p><b>Supported</b> – The applicant's have provided a Cone of Vision diagram which demonstrates that the 7.5 metre privacy separation is not required because of the existing shed on the western boundary of 25 Allen street which provides visual screening and separation to adjoining neighbours.</p> <p>The proposed variation meets the Performance Criteria for Privacy requirements and can therefore be supported.</p>
<u>Excavation &amp; Fill</u> not to exceed 0.5 metres	Maximum fill is 1.015 metres above the natural ground level.	<p><b>Supported</b> – There is only a very small portion of the retaining wall that seeks a variation. The proposed fill retains the visual impression of the natural level of the site from the adjoining properties and as such satisfies the Performance Criteria for Site Works and can therefore be approved.</p>

**RECOMMENDATION**

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

- variation to the privacy setback requirements on the northern elevation being 4.13 metres and the southern elevation being 5.688 metres in lieu of the required 7.5 metres required under the R-Codes 2008; and
- variation to the maximum permitted fill height to allow 1015 millimetres in lieu of the maximum permitted 500 millimetres as per the R-Codes 2008;

for the construction of alterations and additions at No. 25 (Lot 7) Allen Street, East Fremantle in accordance with the plans date stamp received on 5 July & 27 August 2010 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 patio structure 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; and
6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the*

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*application for a building licence is to conform with the approved plans unless otherwise approved by Council.*

- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

**RECOMMENDATION TO COUNCIL**

**Cr Lilleyman – Cr Rico**

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

- **variation to the privacy setback requirements on the northern elevation being 4.13 metres and the southern elevation being 5.688 metres in lieu of the required 7.5 metres required under the R-Codes 2008; and**
- **variation to the maximum permitted fill height to allow 1015 millimetres in lieu of the maximum permitted 500 millimetres as per the R-Codes 2008;**

**for the construction of alterations and additions at No. 25 (Lot 7) Allen Street, East Fremantle in accordance with the plans date stamp received on 5 July & 27 August 2010 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 patio structure 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; and**
6. **This planning approval to remain valid for a period of 24 months from date of this approval.**

**Footnote:**

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

- (a) ***this decision does not include acknowledgement or approval of any unauthorised development which may be on the site;***
- (b) ***a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council;***
- (c) ***all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended); and***
- (d) ***the patio may not be enclosed without the prior written consent of Council.***

**CARRIED**

**T186.7 Chauncy Street No. 5 (Lot 5041)**  
**Applicant: Arkitektura**  
**Owner: Rodney & Karen Coates**  
**Application No. P145/2008**

By Clare Roszak, Acting Planning Officer on 31 August 2010

**BACKGROUND**

**Description of Proposal**

A request seeking a 24 month extension to a planning approval granted on 10 October 2008 for a 7.0 metre long x 4.5 metre wide below ground swimming pool, as well as earthworks involving fill which exceeds 500 millimetres above the natural ground level at

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No. 5 Chauncy Street, East Fremantle is the subject of this report.

**Statutory Considerations**

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

**Relevant Council Policies**

Local Planning Policy No. 142 : Residential Development (LPP 142)  
Local Planning Policy No. 143 : Fencing (LPP 143)

**Documentation**

Plans and relevant forms date stamp received on 21 July 2010

**Date Application Received**

21 July 2010

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

23 September 2008 The Council granted the Owner(s) of No. 5 Chauncy Street Planning Approval for "a variation to the amount of fill in the front setback pursuant to the Residential Design Codes above 0.5m for a 7m long x 4.5m wide below ground swimming pool, in accordance with the plans date stamp received on 25 July 2008 subject to conditions.

**Background**

This application was considered by the Town Planning Advisory Panel at its meeting held on 26 August 2008 and the following comments were made:

- fence height creates an unnecessary intrusion into the streetscape;
- fence is totally out of context with the Chauncy Street streetscape;
- examples submitted of other East Fremantle fences bear no relation to the subject property and should not be seen as related;
- sufficient land at front of the property for an alternative scheme;
- difference in height between patio and pool is appropriate in this context.

Based on the Panels comments stated above, a condition was applied within the 'Decision on Application for Planning Approval' to ensure that prior to the issue of a building licence amended plans were to be submitted specifying that the *'visual permeability of the front fence complies with Local Planning Policy 143 and the front fence pillars be continued at equal spacing for the full length of the wall'*.

It is recommended that this condition be retained in any extension that is granted to the Planning Approval.

**Public Submissions**

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

**REPORT**

This application seeks a further 24 month extension to the planning approval dated 10 October 2008, pursuant to Clause 10.5 of TPS 3.

TPS 3 Clause states:

**"10.5 Term of Planning Approval**

- 10.5.1 *Where the local government grants planning approval for the development of land –*
- (a) *the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and*

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(b) *the approval lapses if the development has not substantially commenced before the expiration of that period.*

10.5.2 *A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1."*

**Discussion**

As highlighted within the applicant's submission, due to the global financial crisis and resulting budget constraints the owners of No. 5 Chauncy Street were unable to proceed with the proposal within the original 24 month approval period. As such the owners would like to apply for a 24 month extension to the planning approval which would subsequently expire on the 23 September 2012.

The plans re-submitted by the applicant date stamp received 21 July 2010 do not show the adoption of condition 1 and 2 of the 'Decision on Application For Planning Approval' relating to the fencing requirements of Local Planning Policy 143; as such the same conditions will be applied.

**CONCLUSION**

It is concluded there are no reasonable grounds for refusing the application.

Council approved the original application following a full assessment process and taking into account comments received by the Town Planning Advisory Panel.

In accordance with normal practice, the application for an extension of the planning approval has not been advertised.

**RECOMMENDATION**

That Council exercise its discretion in granting a 24 month extension to the term of the existing planning approval for the construction of a 7.0 metre long by 4.5 metre wide belowground swimming pool, earthworks involving fill of more than 0.5 metres above the natural ground level, at No. 5 (Lot 5041) Chauncy Street, East Fremantle in accordance with the plans date stamp received on 21 July 2010 and subject to the conditions previously imposed.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Lilleyman**

**That Council exercise its discretion in granting a 24 month extension to the term of the existing planning approval for the construction of a 7.0 metre long by 4.5 metre wide belowground swimming pool, earthworks involving fill of more than 0.5 metres above the natural ground level, at No. 5 (Lot 5041) Chauncy Street, East Fremantle in accordance with the plans date stamp received on 21 July 2010 and subject to the conditions previously imposed.**

CARRIED

*Cr Nardi made the following impartiality declaration in the matter of 3 Windsor Road: "As a consequence of the owner being known to me as our children attend the same school, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".*

**T186.8 Windsor Road No. 3 (Lot 18)**

**Applicant: Carl Huston of Huston & Associates**

**Owner: Tiffany Pia Louve & Robert Nigel Leeming**

**Application No. P120/2010**

By Gemma Basley, Acting Town Planner and Clare Roszak, Acting Planning Officer on 3 September 2010

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for renovations, alterations and additions to the existing single storey house located at No. 3 Windsor Road is the subject of this report.

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More specifically, it is proposed to undertake some internal modifications and to remove the rear verandah and to extend the house to accommodate an additional room and an outdoor dining area at the rear of the house. The application also proposes to extend the house to the southern boundary to provide for an additional room and to provide for an extension to the existing kitchen. Finally, the application proposes to construct a carport on the southern boundary of the site and to install a pool and to undertake landscaping in the back yard.

**Description of site**

The subject site is:

- a 690m<sup>2</sup> block
- zoned Residential R12.5
- developed with a dwelling on-site
- located in the Richmond Precinct
- included in the Municipal Inventory (B Management Category)

**Statutory Considerations**

Town Planning Scheme No. 3

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy 066 : Roofing (LPP 066)

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

**Impact on Public Domain**

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : No impact

**Documentation on**

Plans and relevant forms date stamp received on 14 July 2010

**Date Application Received**

14 July 2010

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

61 days

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

Nil.

**Advertising**

The subject application was advertised to adjoining landowners for the standard 2 week period from the 17 August to the 1 September 2010. No comments were received during the community consultation period.

**CONSULTATION**

**Principal Building Surveyor's Comment**

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

**Town Planning Advisory Panel Comments**

The Panel viewed the proposal on 24 August 2010. The Panel supported the application.

**REPORT**

**Comment**

Approval is sought for alterations and additions to the existing dwelling, located at No 3 Windsor Road, East Fremantle. The application proposes to demolish the existing wall

located adjacent to the southern boundary in order to extend the dwelling and incorporate a study, extend the kitchen and to also construct a single bay carport.

The proposal also includes landscaping alterations to the rear of the property including the removal of the existing rear verandah and the construction of an outdoor dining and barbeque area. A limestone retaining wall adjacent to the southern side of the pool is also proposed to the height of 1200 millimetres and therefore seeking a variation to the Residential Design Codes 2008 requirements relating to the maximum permitted retaining wall height.

The design of the proposal has been supported by the Town Planning Advisory Panel, and furthermore is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. As such the variations sought by the proposal are considered minor and furthermore seen to pose no adverse impact on the adjoining property owners or on the Windsor Road streetscape.

### Considerations

In addition to the above, the proposal meets the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Requirement	Proposed	Planning Officer Comments
<p><b>R-Codes:</b> <u>Building Setbacks:</u></p> <p>South 1.8 metres</p>	1.0 – 1.67m	<p><b>Supported</b> – The reduced setback is not considered to have an undue impact on the adjoining property or on the streetscape, no objections were received during the community consultation period.</p>
<p><u>Building Height</u></p> <p>Category 'A' Top of external wall: 3.0m</p>	<p>South 4.1 – 4.45m</p>	<p><b>Supported</b> – The proposed wall height variation is minor and is not considered to have an undue impact on the adjoining property owners, or on Windsor Road streetscape. It should be further noted that the proposal has retained the existing dwelling on site which has an existing maximum wall height of 4.45 metres; exceeding the maximum requirement of 3.0 metres. As the majority of the existing dwelling is being retained, in this instance it would not be considered appropriate to reduce the proposed wall height. Additionally, the overall pitch height of the proposal is compliant and no objections were received during the community consultation process.</p>
<p><u>Excavation &amp; Fill</u></p> <p>Fill not to exceed 500 millimetres above natural ground level.</p>	1200 limestone retaining wall	<p><b>Supported</b> – The proposed retaining wall is more compliant than the retaining wall it is replacing. As such it is considered to have no undue impact on the adjoining properties or on the Windsor Road streetscape appearance.</p>

Given the proposal meets the majority of the provisional requirements of the Residential Design Codes and the Town's Local Planning Policies, the application can be supported.

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Whilst variations are being pursued it is considered that the variations are minor in nature.

**RECOMMENDATION**

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

- variation to the building setback on the southern elevation being 1.0 metre in lieu of the required 1.8 metre as per the building setback requirements of the Residential Design Codes 2008;
- variation to the building height on the southern elevations being 4.45 metres in lieu of the required 3.0 metres as per the building height requirements for a category A development of the Residential Design Codes 2008;
- variation to the permitted maximum fill height being 1200 millimetres in lieu of the required 500 millimetres;

for the construction of alterations and additions at No. 3 (Lot 18) Windsor Road, East Fremantle in accordance with the plans date stamp received on 14 July 2010 subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
3. Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
4. 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.
5. 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.
6. 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.
7. 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.
8. All storm water 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.
9. Any 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.
10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
11. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
12. 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

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- of Council, unless on application, Council approval for the crossover to remain is obtained.
13. This planning approval to remain valid for a period of 24 months from date of this approval.
  14. Protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
  15. Pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
  16. Swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
  17. Prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
  18. Pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.

That the applicant be advised of the following:

- (a) *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.*
- (b) *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.*
- (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Martin**

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

- **variation to the building setback on the southern elevation being 1.0 metre in lieu of the required 1.8 metre as per the building setback requirements of the Residential Design Codes 2008;**
- **variation to the building height on the southern elevations being 4.45 metres in lieu of the required 3.0 metres as per the building height requirements for a category A development of the Residential Design Codes 2008;**
- **variation to the permitted maximum fill height being 1200 millimetres in lieu of the required 500 millimetres;**

**for the construction of alterations and additions at No. 3 (Lot 18) Windsor Road, East Fremantle in accordance with the plans date stamp received on 14 July 2010 subject to the following conditions:**

1. **Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
2. **Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
3. **Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the**

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- Chief Executive Officer prior to the issue of a building licence.
4. 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.
  5. 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.
  6. 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.
  7. 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.
  8. All storm water 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.
  9. Any 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.
  10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
  11. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
  12. 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.
  13. This planning approval to remain valid for a period of 24 months from date of this approval.
  14. Protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
  15. Pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
  16. Swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
  17. Prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property

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closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.

18. Pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.

**Footnote:**

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

- (a) *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.*
- (b) *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.*
- (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T186.9

**Riverside Road No. 9 (Lot 1)**

**Applicant: Perth Home Improvements**

**Owner: Gary Sprunt & Gwen Parry**

**Application No. P111/2010**

By Gemma Basley Acting Town Planner on 9 September 2010

**BACKGROUND**

**Description of Site**

The subject site is:

- a strata titled 220m<sup>2</sup> block
- zoned Residential R20/40
- located in the Riverside Precinct
- the subject site is currently developed with one of a group of four terrace units.

**Description of Proposal**

An Application for Planning Approval to erect a covered patio over the existing courtyard area at the front of the unit at No. 9 Riverside Road, East Fremantle is the subject of this report.

The application has been considered by Council at its August 2010 round of meetings. The Council resolved to defer the application for a patio at 9 Riverside Road, be deferred pending the submission of a streetscape elevation which takes into account the relationship of the adjoining property to the west.

The applicant has since submitted a streetscape elevation and requests Council's determination of this application.

**Statutory Considerations**

Town Planning Scheme No. 3

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

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Crossover : No impact  
Footpath : No impact  
Streetscape : The proposed patio will have an impact on the streetscape

**Date Application Received**

Plans and relevant forms date stamped received on 24 June 2010 and 20 August 2010

**Advertising**

The subject application was advertised to adjoining landowners between 12 July and 27 July 2010. No comments or objections were received during the consultation period.

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

81 days

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

17 August 2010 Council deferred the application pending submission of a scaled streetscape elevation which takes into account the relationship of the adjoining property to the west.

**CONSULTATION**

**Principal Building Surveyor's Comment**

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

**Town Planning Advisory Panel**

The Panel considered the proposal on 27 July 2010. The Panel's advice is set out and responded to below:

Advisory Panel Comments	Acting Town Planner Comments
More detailed plans required to accurately assess this proposal.	The Acting Town Planner has approached the applicant to obtain more detailed plans. The applicant advised that it is difficult to show any more detail on the plans because of the simplicity of the structure. The applicant further explained that because it was difficult to illustrate the appearance of the structure, the plan had been annotated to describe the visual appearance.  The applicant has provided pictures of similar structures and details of the proposed solar span roof.

The Panel again considered the proposal, and additional information, submitted at its meeting of the 24 August 2010 and responded that the proposal is an architecturally inappropriate solution and that a timber and flat roofed structure would be a better contribution to the streetscape.

The Panels' comments have been passed on to the applicant for consideration. The applicant has advised that they wish to construct an attractive structure and hence they pursue the solar span roof.

**REPORT  
Comment**

Approval is sought to erect a patio on the north-west elevation, located at the front of the dwelling and partly within the front setback area, at No. 9 Riverside Road, East Fremantle. The application proposes a patio which is 2.3 metres high, 4.5 metres long and 4.55 metres wide. The application proposes a setback of 1.5 metres to the western boundary satisfying the R-Code 2008 requirements relating to building setbacks.

It could be argued that the proposed patio structure could be considered to be a building and as such would have to meet the requirements of LPP No. 142. In this regard, the application proposes to replace an existing structure, which is already forward of the main building line. The application is considered to meet all relevant requirements of the R-Codes 2008, and applicable Local Planning Policies.

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The proposal slightly encroaches the front setback area however, is compliant with Clause 6.2.2 of the Residential Design Codes 2008 relating to minor incursions within the street setback area, which permits a maximum encroachment 1.0 metre for a verandah, patio or the like to be located within the 7.5 metre setback area.

The proposed structure is to be constructed on the existing raised terrace, which is behind the limestone retaining wall and which is substantially screened.

The application is being referred to Council due to the location of the proposed patio at the front of the dwelling. Although compliant with the R-Code requirement 6.2.2 relating to minor incursions within the front setback area, concerns have been raised regarding the structure's impact on the amenity of the area, more specifically relating to its visual impact on the Riverside Road streetscape appearance.

It is the assessment of the Acting Town Planner that the additional information submitted by the applicants is sufficient for a decision to be made on the application and further, that the information demonstrates that the proposed structure will be a significant improvement to the existing timber structure and that it will be in keeping with the existing development and if anything will be an aesthetic improvement, with no adverse visual impact to the detriment of the streetscape. The proposed patio area is the applicants' only outdoor living area and it is considered necessary to be able to provide this area with shade and protection.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for the construction of a patio at No. 9 (Lot 1911) Riverside Road, East Fremantle in accordance with the plans date stamp received on 24 June 2010 and 20 August 2010 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 patio structure 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; and
5. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site;*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council;*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended); and*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

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**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Nardi**

**That the application for the construction of a patio at No. 9 (Lot 1911) Riverside Road, East Fremantle be deferred pending the following:**

- (a) clarification as to whether the plans submitted are to scale in relation to existing residence.**
- (b) applicant to respond to TP Advisory Panel's most recent comments as contained in Minutes of 24 August 2010.**
- (c) applicant to submit a schedule of materials and finishes to the satisfaction of the Chief Executive Officer in consultation with relevant officers. CARRIED**

**Footnote:**

***A site visit to be arranged prior to the September meeting of Council.***

**T186.10**

***Silas Street No. 9 (Lot 1)***

***Applicant & Owner: Kerry & Chris Eoannidis***

***Application No. P127/2010***

***By Clare Roszak, Acting Planning Officer on 31 August 2010***

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 1.8 metre high solid front fence at No. 9 Silas Street, East Fremantle is the subject of this report.

**Description of site**

The subject site is:

- a 285m<sup>2</sup> block
- developed with a dwelling on-site
- located in the Town Centre

**Statutory Considerations**

Town Planning Scheme No. 3

Local Planning Strategy – Town Centre (LPS)

Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy No. 143 : Fencing (LPP 143)

Local Planning Policy No. 145 : Neighbourhood Consultation (LPP 145)

**Impact on Public Domain**

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : New fencing will alter the streetscape

**Documentation**

Plans and relevant forms date stamp received on 30 July 2010.

**Date Application Received**

30 July 2010

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

45 days

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

Nil.

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**Advertising**

The subject application was not advertised to adjoining property owners however, a letter of consent was submitted by the Body Corporate stating no objection to the proposed fence improvements.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

The Panel viewed the proposal at the meeting held on the 25 August 2010. The Town Planning Advisory Panel supports the application.

**REPORT**

**Comment**

The application requests approval for a solid front fence (without visual permeability) to a height of 1.8 metres to be constructed at No. 9 Silas Street, East Fremantle.

The fence in its existing state is constructed solid to the approximate height of 600 millimetres with brushwood material extending above this to an approximate height of 1.7 metres. The proposal seeks to replace this with a solid masonry wall (without visual permeability) to a height of 1.8 metres.

The application is being referred to Council because it seeks a variation to the requirements specified within the Town's Local Planning Policy 143 Policy on Local Laws Relating to Fencing.

**Considerations**

Council's LPP 143 provides for variations to the policy requirements. Part 4 of the Policy states that under special circumstances Council may approve a fence to be less visually, including the following:

- 4.1 *a higher fence/wall is required for noise attenuation.*
- 4.2 *a less visually permeable fence would aid in reducing headlight glare from motor vehicles. This would apply more particularly where the subject property is opposite or adjacent to an intersection which could lead to intrusion of light into windows of habitable rooms.*
- 4.3 *where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence.*
- 4.4 *where the applicant can demonstrate to Council that there is a need to provide visual screening to an outdoor living area. This may apply in situations where there is no alternative private living space other than in the front of the residence or for part of the secondary side boundary of a corner lot.*

It is considered that 4.1, 4.2 and 4.4 are applicable to the subject site and are therefore appropriate grounds to vary Council's LPP 143.

It is considered that the proposed fence is appropriate for the locality. As noted within the applicant's the increase in height of the solid fence (above 1.2m) on the Silas Street frontage is in response to traffic glare caused by traffic headlights. It is further noted within the applicants' submission, concerns have been raised relating to the ageing brushwood fence and the possibility of it being a fire hazard. Safety concerns were also addressed within the submission, given the high amount of pedestrian traffic flow and the lack of security the current material provides. Whilst finally it was also noted that the front setback is the only area suitable for entertaining purposes; as such increasing the wall height and permeability will aid in noise reduction from cars and enhance the dwellings privacy.

In light of the above, the application seeking planning approval for the proposed 1.8 metre solid front fence without visual permeability can be supported and is recommended for approval.

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**RECOMMENDATION**

That Council exercise its discretion in granting approval for the following for a solid fence to 1.8metres in height (without visual permeability) on the Silas Street frontage of No. 9 (Lot 1) Silas Street, East Fremantle as shown on plans received 30 July 2010 and 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. 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.
3. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

**RECOMMENDATION TO COUNCIL**

**Cr Wilson – Mayor Ferris**

**That Council exercise its discretion in granting approval for the following for a solid fence to 1.8metres in height (without visual permeability) on the Silas Street frontage of No. 9 (Lot 1) Silas Street, East Fremantle as shown on plans received 30 July 2010 and 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. 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.
3. 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

Footnote:

*The applicant to consider the use of anti-graffiti paint on the proposed fence.*

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**T186.11**     **Locke Crescent No. 18 (Lot 4990)**  
**Applicant & Owner: Erica Lorimer**  
**Application No. P97/2010**  
By Gemma Basley, Acting Town Planner on 6 September 2010

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for an extension to the rear screening along the back boundary of 18 Locke Crescent, East Fremantle is the subject of this report.

**Description of site**

The subject site is:

- a 706m<sup>2</sup> block
- developed with a new two-storey dwelling on-site
- located in the Richmond Hill Precinct

**Statutory Considerations**

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

**Relevant Council Policies**

Local Planning Policy No. 143 : Fencing (LPP 143)

**Impact on Public Domain**

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

**Documentation**

Plans and relevant forms date stamp received on 8<sup>th</sup> June 2010.

**Date Application Received**

8 June 2010

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

97 days

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

19 February 2010     Council approved a 2 storey house at No. 18 Locke Crescent.  
28 February 2010     Under Delegated Authority Council approved a below ground  
Swimming Pool.

**Advertising**

The subject application was advertised to the affected neighbour at 146 Preston Point Road. No comments or objections were received at the close of the 2 week advertising period.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

The application was not referred to the Town Planning Advisory Panel because it only related to a rear screen fence, which would not be visible from or impact on the streetscape or amenity of the locality.

**REPORT**

**Comment**

The application requests approval to extend the existing brushwood screening, which runs parallel to the rear boundary fence of 18 Locke Crescent to a height of 2.7 metres.

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The application is being referred to Council because the screening fence exceeds 1.8 metres in height and therefore requires a variation to the requirements of LPP No. 143.

The application has been submitted by the owners of 18 Locke Crescent in response to longstanding and ongoing conflict with the adjoining neighbour at 146 Preston Point Road concerning their perceived loss of privacy and overlooking issues as a result of the development of 18 Locke Crescent which followed a development approval in February 2008.

This issue has been investigated by the Acting Town Planner, former Town Planner and the Chief Executive Officer and it has been determined that the development at 18 Locke Crescent has occurred in accordance with the approval dated 19 February 2008. Further to this it has been confirmed that at the time the development of 18 Locke Crescent was approved, the proposed balcony met all of the necessary setback and visual privacy requirements of the Residential Design Codes 2008. Further to this, vegetation has been planted along the rear boundary by the owners of 18 Locke Crescent to provide additional screening to 146 Preston Point Road. This vegetation has already grown to a height of 2 metres plus and will continue to grow.

Despite the development at 18 Locke Crescent being compliant the applicants propose to provide further screening in the form of a brushwood fence to ameliorate any current or future concerns and conflict from the owners of 146 Preston Point Road.

**Considerations**

Council's LPP 143 provides for variations to the policy requirements. Part 4 of the Policy states that under special circumstances Council may approve a fence with a maximum height greater than 1.8 metres including the following:

- 4.1 *a higher fence/wall is required for noise attenuation.*
- 4.2 *a less visually permeable fence would aid in reducing headlight glare from motor vehicles. This would apply more particularly where the subject property is opposite or adjacent to an intersection which could lead to intrusion of light into windows of habitable rooms.*
- 4.3 *where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence.*
- 4.4 *where the applicant can demonstrate to Council that there is a need to provide visual screening to an outdoor living area. This may apply in situations where there is no alternative private living space other than in the front of the residence or for part of the secondary side boundary of a corner lot.*

It is considered that 4.4 is applicable to the subject application and is therefore appropriate grounds to vary Council's LPP 143.

It is considered that the proposed screening fence is appropriate for the site and the locality and will resolve the concerns of the owners of 146 Preston Point Road by enhancing the privacy of their outdoor living area.

In light of the above, the application seeking planning approval for the proposed brushwood screening fence to a height of 2.7 metres can be supported and is recommended for approval.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a brushwood screen fence to 2.7 metres in height parallel to the rear boundary fence of 18 Locke Crescent, East Fremantle as shown on plans received 8 June 2010 and 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.

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2. 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.
3. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

**RECOMMENDATION TO COUNCIL**

**Cr Wilson – Cr Lilleyman**

**That Council exercise its discretion in granting approval for a brushwood screen fence to 2.7 metres in height parallel to the rear boundary fence of 18 Locke Crescent, East Fremantle as shown on plans received 8 June 2010 and 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. **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.**
3. **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

**T186.12** **Walter Street No. 12 (Lot 53)**  
**Applicant: Rochelle Williams**  
**Owner: Rochelle & Aled Williams**  
**Application No. P104/2010**

By Gemma Basley Acting Town Planner and Clare Roszak, Acting Planning Officer on 8 September 2010

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for renovations and additions to the existing two-storey house located at 12 Walter Street is the subject of this report.

The application proposes to undertake internal renovations to the ground and upper floor bathrooms, the kitchen and dining room and to extend the passage through the house to the proposed new decking/verandah that will extend eastwards from the rear of the

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residence toward the pool. In addition to these internal works, the application proposes to replace the existing north facing upper floor dormer window with a wider window and re roof this and to construct an additional dormer window to face west.

The application also proposes to refurbish the existing outbuilding and convert this into a games room, laundry and bathroom. Finally the application proposes a gazebo on the existing decking to provide a shaded area adjacent to the pool.

**Description of site**

The subject site is:

- a 896m<sup>2</sup> block
- zoned Residential R12.5
- developed with a two-storey heritage dwelling on-site
- located in the Richmond Precinct
- included in the Municipal Inventory (B- Management Category)

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : The streetscape will be altered as a result of the proposed new west facing bay window

**Documentation**

Plans and relevant forms date stamp received on 17 June and 19 August 2010

**Date Application Received**

17 June 2010  
19 August 2010 - Amended Plans

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

88 days

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

22 July 2008 Building Licence granted for new fencing.

**Advertising**

The subject application was advertised to adjoining landowners for a 2 week period from the 6 July to 21 July 2010.

Two submissions were lodged by neighbouring owners and raised concerns regarding potential overlooking and loss of privacy. A summary of the submissions is tabled below with a comment from the Acting Town Planner.

Neighbour Submission	Planning Response
Brenda Abercromby of 14 Walter Street raised concern of potential overlooking from the new north facing upper floor window onto outdoor living area.	There is no new north facing window. The application proposes to replace the existing dormer window with a wider window to allow more northern light into the upper floor. The window is to the master bedroom and this is

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Neighbour Submission	Planning Response
	<p>setback 6 metres from the northern boundary which satisfies the privacy requirements of the R-Codes.</p> <p>The applicants have further advised that the window will be widened in a westerly direction and any overlooking will occur over the roof of 14 Walter Street.</p>
<p>Don Grove on behalf of the owners of 13 Stratford Street raised concerns about overlooking from the new north facing window into the rear yard of 13 Stratford Street and that overlooking could occur from the proposed gazebo.</p>	<p>Refer comments above.</p> <p>In addition to the above, the applicant advises that there is currently no overlooking from this window into 13 Stratford Street and that this situation will not alter.</p> <p>The gazebo referred to in this submission formed part of the original plans which have been superseded with revised plans. The revised plans propose a similar gazebo but in a different location. The gazebo will be screened by the dividing fence preventing any overlooking.</p>

The Acting Town Planner is satisfied that the concerns raised in these submissions have been responded to above and that the proposed north facing windows meet the privacy requirements of the R-Codes by its 6 metre setback to the northern boundary.

**CONSULTATION**

**Principal Building Surveyor's Comment**

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

**Town Planning Advisory Panel Comments**

The Panel viewed the revised plans at its meeting of 24 August 2010 and made the following comments, which are also responded to below:

TPAP Comment	Planning Response
<p>Panel would like to see additional dormer window directly aligned with the existing above.</p>	<p>The Acting Town Planner has discussed this with the applicants and has also undertaken a site inspection and house inspection to understand that the existing dormer window extends from the east west pitched roof that extends over the back of the house. There is no other pitch to extend a dormer window from and as a result the applicants propose a window separate to the existing dormer.</p> <p>Attached photos show the existing west facing window and the pitch from which it extends.</p>
<p>Materials and finishes schedule requested.</p>	<p>A condition is included in the Recommendations at the end of this report</p>

**REPORT**

**Comment**

Approval is sought for alterations to the existing two – storey dwelling, located at 12 Walter Street, East Fremantle. The application proposes to undertake internal renovations to the ground and upper floor bathrooms, the kitchen and dining room and to extend the passage through the house to the proposed new decking/verandah that will extend eastwards from the rear of the residence toward the pool. In addition to these internal works, the application proposes to replace the existing north facing upper floor dormer window with a wider window and re roof this and to construct an additional dormer window to face west.

The application also proposes to refurbish the existing outbuilding and convert this into a games room, laundry and bathroom. Finally the application proposes a gazebo on the existing decking to provide a shaded area adjacent to the pool.

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The design of the proposal has been predominantly supported by the Town Planning Advisory Panel. The element of the design recommended to be altered by the Panel has been responded to above demonstrating that it is not possible to place the new window immediately next to the existing dormer window.

The submissions that were received have been assessed and it is determined that the proposed alterations will not have any impact on the privacy of the adjoining lots. Furthermore the application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. The application does not seek any variations to the R-Codes or to Council's TPS or Local Planning Policies and as such it can be supported. And it is recommended for approval.

**RECOMMENDATION**

That Council grants approval for the construction of alterations to No. 12 (Lot 53) Walter Street, East Fremantle in accordance with the plans date stamp received on 19 August 2010 subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. 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) 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.
- (b) 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.
- (c) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (d) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.

**RECOMMENDATION TO COUNCIL**

**Cr Martin – Cr Lilleyman**

**That Council grants approval for the construction of alterations to No. 12 (Lot 53) Walter Street, East Fremantle in accordance with the plans date stamp received on 19 August 2010 subject to the following conditions:**

1. **Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**

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2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. 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) *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.*
- (b) *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.*
- (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T186.13

**Gill Street No. 34 (lot 33)**

**Applicant & Owner: Patrick Matthews**

**Application No. 144/2010**

By Gemma Basley, Acting Town Planner on 13 September 2010

**BACKGROUND**

**Description of Proposal**

An application for a home occupation to provide dog grooming from the premises at 34 Gill Street, East Fremantle is the subject of this report.

**Description of site**

The subject site is:

- a 911m<sup>2</sup> block
- zoned Residential R12.5
- developed with an existing dwelling on site
- located in the Richmond Precinct.

**Statutory Considerations**

Town Planning Scheme No. 3

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes 2008

**Relevant Council Policies**

Local Planning Policy – Residential Development (LPP142)

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**Impact on Public Domain**

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

**Documentation**

Plans and relevant information date stamped received on 24 August 2010

**Date Application Form Received**

24 August 2010

**ADVERTISING**

The applicant submitted consent letter from all adjoining neighbours stating that they had no objection to the proposed home occupation. On this basis the application was not advertised for further public comment.

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

20 days

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

Nil

**CONSULTATION**

**Town Planning Advisory Panel Comments**

The application was not referred to the Town Planning Advisory Panel because it did not involve any changes to the building.

**REPORT**

**Comment**

Approval is sought for a proposed home occupation (dog grooming) at 34 Gill Street, East Fremantle.

Home Occupation

The applicant is seeking approval for Home Occupation – Dog Grooming. The following information outlines the use and hours of operation of the home occupation:

- Only the side verandah will be used for the grooming.
- The applicant is the sole employee.
- There will be a maximum of one client at any given time.
- The maximum hours of operation proposed will be Monday to Friday from 8.30am – 2.30pm and the occasional Saturday from 9am – 4pm.
- Adequate space available in the backyard to park.

Home Occupation is a “D” use in the Residential zone, which means:

*“that the use is not permitted unless the local government has exercised its discretion by granting planning approval.” (TPS 3, sub-clause 5.3.2)*

Home Occupation - Required	Comment
Does not employ any person not a member of the occupier's household	Owner is only employee
Will not cause injury to or adversely affect the amenity of the neighbourhood	No Impact on neighbourhood (assuming no barking behaviour)
Does not occupy an area greater than 20 square metres	Proposed verandah area is 10m <sup>2</sup> & meets this requirement
Does not display a sign exceeding 0.2 square metres	Condition applied

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Home Occupation - Required	Comment
Does not involve the retail sale, display or hire of goods of any nature	Condition applied
In relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles	Condition applied
Does not involve the use of an essential service of greater capacity than normally required in the zone	Complies

The proposal meets the provisions of TPS3, the R-Codes and applicable Local Planning Policies the application is considered acceptable and recommended for council approval.

**RECOMMENDATION**

That Council grant approval for the proposed Home Occupation (Dog Grooming) to operate from No. 34 (Lot 33) Gill Street, East Fremantle, in accordance with documentation date stamped received on 24 August 2010 subject to the following conditions:

1. The hours of operation are limited to Monday to Friday from 8.30am – 2.30pm and the occasional Saturday from 9am – 4pm.
2. No signage shall be displayed that is exceeding 0.2 square metres.
3. The home occupation (dog grooming) shall not involve the retail sale, display of hire of goods of any nature.
4. The home occupation (dog grooming) shall not employ any person who is not a member of the occupier's household.
5. Only one (1) client shall be seen at any one time and there shall be at least a fifteen (15) minute break between each consultation.
6. Clients visiting No. 34 Gill Street for use of the proposed home occupation (dog grooming) must park on-site.
7. The home occupation (dog grooming) approval is for 12 months only from the date of this approval. Continuation of this planning approval shall require application for renewal before the expiration of the approval.
8. Should any adverse comment be received on matters relating to car parking, noise, safety and any other issues arising from the home occupation, Council reserves the right to terminate the home occupation prior to expiration of the planning approval.
9. An Annual Renewal Fee for this home occupation is required to be paid prior to the expiry date specified in Condition (7) to enable continuation of the practice notwithstanding Condition (8) above.

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Martin**

That Council grant approval for the proposed Home Occupation (Dog Grooming) to operate from No. 34 (Lot 33) Gill Street, East Fremantle, in accordance with documentation date stamped received on 24 August 2010 subject to the following conditions:

1. The hours of operation are limited to Monday to Friday from 8.30am – 2.30pm and the occasional Saturday from 9am – 4pm.
2. No signage shall be displayed that is exceeding 0.2 square metres.
3. The home occupation (dog grooming) shall not involve the retail sale, display of hire of goods of any nature.
4. The home occupation (dog grooming) shall not employ any person who is not a member of the occupier's household.
5. Only one (1) client shall be seen at any one time and there shall be at least a fifteen (15) minute break between each consultation.
6. Clients visiting No. 34 Gill Street for use of the proposed home occupation (dog grooming) must park on-site.

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7. The home occupation (dog grooming) approval is for 12 months only from the date of this approval. Continuation of this planning approval shall require application for renewal before the expiration of the approval.
8. Should any adverse comment be received on matters relating to car parking, noise, safety and any other issues arising from the home occupation, Council reserves the right to terminate the home occupation prior to expiration of the planning approval.
9. An Annual Renewal Fee for this home occupation is required to be paid prior to the expiry date specified in Condition (7) to enable continuation of the home occupation notwithstanding Condition (8) above. CARRIED

**T186.14 George Street No. 133 (Pt Lot 2) - Pizza Palace**

**Applicant: Enrico D'Alessandro**

**Owner: E & D D'Alessandro**

**Application P121/2010**

By Gemma Basley, Acting Town Planner on 13 September 2010

**BACKGROUND**

**Description of Subject Site**

The subject site:

- comprises Part Lot 2 on Strata Plan 41827;
- is zoned Mixed Use;
- is developed with a single-storey commercial building at the corner of George and Duke Street and which is used as a restaurant/take away (Pizza Palace);
- is included in the Town's Municipal Inventory (management Category of B+); and
- is located within the George Street Heritage Precinct. The George Street Precinct is listed in the Town Planning Scheme 3 Heritage List.

**Description of Proposal**

Planning approval is sought for the construction of a toilet for Pizza Palace staff and patrons at the rear of the building located at 133 George Street, East Fremantle.

**Statutory Considerations**

Town Planning Scheme 3 (TPS3)

Local Planning Strategy – Plympton Precinct (LPS)

**Relevant Council Policies**

None

**Date Application Received**

14 July 2010

**Advertising**

The proposal was advertised for public comment between 17 August 2010 and 1 September 2010. During this period no comments were received.

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

61 days

**Any Relevant Previous Decisions of Council**

Nil.

**CONSULTATION**

**Building Surveyor & Environmental Health Officer Comment**

Preliminary assessment from both officers identified the issue of disabled access which has been addressed at Condition (1).

**Heritage Council of WA**

The subject site is not included on the State Heritage Register and hence referral to the Heritage Council of WA is at the Town's discretion. In this case the proposal was not

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referred to the Heritage Council because the toilet is a stand alone structure, which will not be visible from the street.

**Town Planning Advisory Panel**

The subject application was assessed by the Panel on the 24 August 2010 and the application was supported.

**REPORT**

**Considerations**

The proposal accords with the provisions of TPS3 and the Town's Planning Policies. The application addresses a current shortage of staff and patron amenities available to the Pizza Palace. This staff/patron amenity is a requirements and the proposal to construct a toilet specifically for the Pizza Palace is supported and recommended for approval

**RECOMMENDATION**

That Council grant approval to construct a toilet at the rear of the 'Pizza Palace' located on Pt Lot 2 of Strata Plan 41827 (No. 133) George Street, East Fremantle as shown on the plans dated 14 July 2010 subject to the following conditions:

1. Prior to the issue of a Building Licence documentation shall be submitted showing compliance with Part D3, (Access for People with Disabilities) of the Building Code of Australia, the Australian Standards, AS 1428.1 (Design for Access and Mobility) and the Disability Discrimination Act for the sanitary facilities and the access ways.
2. A schedule of materials and finishes to be submitted to the satisfaction of the Chief Executive Officer in consultation with relevant officers prior to the issue of a Building Licence.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a 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.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnotes:

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

- (a) *This approval does not include acknowledgement or approval of any additional 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).*

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Mayor Ferris**

**That Council grant approval to construct a toilet at the rear of the 'Pizza Palace' located on Pt Lot 2 of Strata Plan 41827 (No. 133) George Street, East Fremantle as shown on the plans dated 14 July 2010 subject to the following conditions:**

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1. Prior to the issue of a Building Licence documentation shall be submitted showing compliance with Part D3, (Access for People with Disabilities) of the Building Code of Australia, the Australian Standards, AS 1428.1 (Design for Access and Mobility) and the Disability Discrimination Act for the sanitary facilities and the access ways.
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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).*

CARRIED

**T187. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

Nil.

**T188. CLOSURE OF MEETING**

There being no further business the meeting closed at 9.35pm.

*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 September 2010**, Minute Book reference **T180. to T188.** were confirmed at the meeting of the Committee on*

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*Presiding Member*