



Town Planning & Building Committee

4 September 2012
6.35pm

MINUTES

Town of East Fremantle

135 Canning Highway, East Fremantle WA 6158
PO Box 1097, Fremantle WA 6959

Tel: (08) 9339 1577

Fax: (08) 9339 3399

E-mail: admin@eastfremantle.wa.gov.au

Web Site: www.eastfremantle.wa.gov.au



MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 4 SEPTEMBER, 2012 COMMENCING AT 6.35PM.

T72. OPENING OF MEETING

T72.1 Present

T73. ACKNOWLEDGEMENT OF COUNTRY

T74. WELCOME TO GALLERY

T75. APOLOGIES

T76. CONFIRMATION OF MINUTES

T76.1 Town Planning & Building Committee – 7 August 2012

T77. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T77.1 Philip Street No. 12B – New Residence

T77.2 Residential Design Guidelines

T78. REPORTS OF COMMITTEES

T78.1 Town Planning Advisory Panel – 14 August 2012

T79. REPORTS OF OFFICERS – STRATEGIC PLANNING

T80. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL

T80.1 Receipt of Reports

T80.2 Order of Business

*T80.3 Philip Street No. 12B (Lot 2 on Survey-Strata Plan 51146)
Applicant: Shane Le Roy Designs
Owner: F Abrusci
Application No. P110/12*

*Agenda Ref. 9.4
Page No. 2*

*T80.4 Dalgety Street No. 73A (Lot 2)
Applicant: Karine Lucas
Owner: Karine Lucas
Application No. P123/2012*

*Agenda Ref. 9.7
Page No. 11*

*T80.5 Gill Street No. 17A (Lot 68)
Applicant: L Ryan
Owner: L Ryan
Application No. P115/12*

*Agenda Ref. 9.9
Page No. 15*

*T80.6 Pier Street No. 20 (Lot 232)
Applicant: Solar Dwellings
Owner: K Elks & D Watson
Application No. P112/12*

*Agenda Ref. 9.11
Page No. 20*



4 September 2012

INDEX

T80.7	Locke Crescent No. 32 (Lot 4983) Applicant: Summit Home Improvements Owner: S Lee Application No. P104/2012	Agenda Ref. 9.1 Page No. 28
T80.8	Duke Street No. 88 (Lot 491) Applicant: W Pol Owner: C Eardley Application No. P119/12	Agenda Ref. 9.2 Page No. 34
T80.9	Sewell Street No. 79 (Lot 255) Applicant: Empire Building Company Owner: P Tottle & E McCloskey Application No. P124/12	Agenda Ref. 9.3 Page No. 40
T80.10	Walter Street No. 22 (Lot 58) Applicant/Owner: John & Sonya Wrenn Application No. P105/12	Agenda Ref. 9.5 Page No. 46
T80.11	Habgood Street No. 15 (Lot 5026) Owner: A & R Sheehan Applicant: Modern Home Improvers Application No. P86/2012	Agenda Ref. 9.6 Page No. 54
T80.12	Hamilton Street No. 33 (Lot 15) Applicant: Green-Shore Builders Owner: G & A Brunsdon Application No. P24/2011	Agenda Ref. 9.8 Page No. 68
T80.13	Windsor Road No .40 (Lot 274) Applicant: Officer Woods Architects Owner: T Monson & A Lannon Application No. P117/12	Agenda Ref. 9.10 Page No. 75
T81.	REPORTS OF OFFICERS – STRATEGIC PLANNING	
T81.1	Residential Design Guidelines – Adoption	Agenda Ref. 8.1 Page No. 81
T81.2	Town of East Fremantle Town Planning Scheme No. 3 Scheme Amendment 9 – Demolitions and Exemptions	Agenda Ref. 8.2 Page No. 87
T82.	CONFIDENTIAL BUSINESS	
T83.	URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING	
T84.	CLOSURE OF MEETING	

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 4 SEPTEMBER, 2012 COMMENCING AT 6.35PM.

T72. OPENING OF MEETING

T72.1 Present

Cr Alex Wilson	Presiding Member
Cr Cliff Collinson	
Cr Barry de Jong	
Cr Siân Martin	
Cr Dean Nardi	
Mr Jamie Douglas	Manager – Planning Services
Ms Carly Pidco	Town Planner
Mrs Peta Cooper	Minute Secretary

T73. ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member made the following acknowledgement:

“On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place.”

T74. WELCOME TO GALLERY

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

T75. APOLOGIES

Mayor Alan Ferris
Cr Maria Rico

T76. CONFIRMATION OF MINUTES

T76.1 Town Planning & Building Committee – 7 August 2012

Cr Nardi - Cr de Jong

That the Town Planning & Building Committee minutes dated 7 August 2012 as adopted at the Council meeting held on 21 August 2012 be confirmed. CARRIED

T77. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T77.1 Philip Street No. 12B – New Residence

Submission received from architect acting on behalf of owner of 12A Philip Street making comment on proposed development and seeking consultation with the designer of 12B Philip Street.

Cr de Jong – 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 T80.3). CARRIED

T77.2 Residential Design Guidelines

Submission received from Paintessa Developments Pty Ltd making comment on the Residential Design Guidelines in particular, the requirement for 50% minimum landscaping in the Woodside Precinct.

Cr de Jong – 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 T81.1). CARRIED

T78. REPORTS OF COMMITTEES**T78.1 Town Planning Advisory Panel – 14 August 2012**

Cr Wilson – Cr de Jong

That the minutes of the Town Planning Advisory Panel meeting held on 14 August 2012 be received and each item considered when the relevant development application is being discussed. CARRIED

T79. REPORTS OF OFFICERS – STRATEGIC PLANNING

Cr de Jong – Cr Collinson

That the order of business be altered to bring forward Statutory Planning/Development Control agenda items and that Strategic Planning matters be held over for discussion later in the meeting. CARRIED

T80. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL**T80.1 Receipt of Reports**

Cr de Jong – Cr Collinson

That the Reports of Officers be received. CARRIED

T80.2 Order of Business

Cr de Jong – Cr Collinson

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

T80.3 Philip Street No. 12B (Lot 2 on Survey-Strata Plan 51146)**Applicant: Shane Le Roy Designs****Owner: F Abrusci****Application No. P110/12**

By Carly Pidco, Senior Planning Officer, on 29 August 2012

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for the construction of a three-storey residential dwelling, pool and associated landscaping.

BACKGROUND**Description of Proposal**

The proposed development consists of an application for planning approval for the construction of a three storey dwelling. A swimming pool and associated landscaping is also proposed.

The dwelling incorporates three levels; an undercroft level containing a garage, gym and entertaining area, a ground floor which includes 2 bedrooms, office entertaining area and balcony and a first floor incorporating the main living (kitchen, dining, family, alfresco balcony) areas as well as the master suite.

From Philip Street, the proposed dwelling will present as a two storey dwelling. Due to the slope of the subject land, when viewed from the north, the proposed dwelling will present as a three storey dwelling incorporating the undercroft level.

A swimming pool and landscaping is proposed in the northern portion of the subject land.

The proposal also incorporates a new driveway, front fence and built-in letterbox.

Description of Site

The subject site is:

- a 556m² survey-strata block
- zoned Residential R12.5
- assessed as R20 development based on lot size.
- the land is vacant
- located in the Richmond Hill Precinct

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5 (to be assessed as R20 in accordance with cl. 5.3.3)

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)
Local Planning Policy No. 143	:	Fencing (LPP 143)
Council Policy No. 023	:	Use of Reflective Metal Roofing Material (CP 023)

Impact on Public Domain

Tree in verge	:	No impact
Light pole	:	No impact
Crossover	:	New crossover proposed
Footpath	:	No impact
Streetscape	:	New dwelling

Documentation

Plans and relevant forms date stamp received on 3 July 2012.

Amended plans and cover letter date stamp received on 14 August 2012

5 submissions received during public consultation

Date Application Received

3 July 2012

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

25 November 2003 Council resolved to advise the WAPC that the survey strata subdivision was not supported on the following grounds:

1. *the proposal is contrary to the intent of proposed Town Planning Scheme No. 3 which has been adopted by Council and may be taken into consideration during its decision making process.*
2. *the proposal does not meet the provisions of clause 5.9.1(b) of TPS No. 2 which requires that "the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality".*
3. *an application has not been received nor has Council given consideration to the demolition of the existing residence.*

17 December 2003 WAPC advises in it is prepared to endorse an appropriate form in accordance with plan submitted once the conditions have been fulfilled. This decision is valid for 3 years.

11 January 2007 WAPC approves Survey-Strata Plan creating 12A and 12B Philip Street.

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 9 July 2012 and the 28 July 2012. At the close of advertising 5 submissions had been

received and are attached to this report. The issues raised in the submissions are summarised in the following table alongside the applicant's response.

ISSUE	APPLICANT RESPONSE
<ul style="list-style-type: none"> - Proposal does not comply with height requirements. - Proposal does not comply with setback requirements. - Proposal will impact on views from 12B and 14 Philip Street. - Proposal will block cooling summer breezes to 14 Philip Street. - Proposal will overshadow and block access to light for 12B and 14 Philip Street - Proposal is not in keeping with the existing character and scale of the streetscape - Privacy requirements should be adhered to (obscure glazing, setbacks) - Proposal does not follow the natural slope of the site and therefore is austere and bulky 	<p>Revised plans prepared demonstrating compliance with height requirements; increased setbacks to some walls and the swimming pool; and a 'step down' design following the contours of the block.</p> <p>Note that there is no overshadowing created by this proposal as the block faces north/south.</p> <p>We have endeavoured to keep wall heights to a minimum.</p>

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 14 August 2012. The Panel made the following comment:

- *Query compliance of application regarding roof and wall heights.*

The applicant has responded that revised plans have been prepared addressing height compliance. Note that minor variations to height are still being sought, addressed in the assessment section of this report.

Site Inspection

28 August 2012

ASSESSMENT

The assessment section of this report refers only to the revised plans prepared by the applicant in response to submissions received during public consultation. The revised plans incorporate a number of variations to the Town's LPP 142 Residential Development and the Residential Design Codes, as detailed below.

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	50.4%	A
Site Works	Less than 500mm	Excavation 3m within 1m of western setback	D
Local Planning Policies:	Issues		Status
Policy 142	Setback variations; height variations		D
Roof	Pitched 67 degrees, concealed		D
Solar Access & Shade	Living areas face north		A
Drainage	To be conditioned		A
Views	Over-height elements do not block key views		A
Crossover	Condition to comply		A
Trees	Condition to comply		A
Front Fencing	Complies		A
Other:	Issues		Status
Overshadowing	Overshadows street		A

Privacy/Overlooking	EAST <ul style="list-style-type: none"> Northern opening to Balcony intrudes 3.3m over eastern boundary Northern opening to Alfresco intrudes 3.3m over eastern boundary WEST <ul style="list-style-type: none"> Northern opening to Balcony intrudes 3.1m over western boundary Northern opening to Alfresco intrudes 3.1m over western boundary 						D
Swimming Pool	Complies						A
Height:	Required	Proposed					Status
Wall	5.6	5.9 at north west corner					D
Wall (Concealed Roof)	6.5	6.6 at front					D
Roof	8.1	Complies					A
Roof type	Pitched						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (south)</i>							
<i>Undercroft</i>	Dwelling	N/A	N/A	N/A	7.5m, consistent with locality	8.6m, consistent	A
<i>Ground</i>	Dwelling	N/A	N/A	N/A	7.5m, consistent with locality	8.1m, consistent	A
<i>Upper</i>	Dwelling	N/A	N/A	N/A	7.5m	7.5m (screens assessed as compliant minor projection)	A
<i>Rear (north)</i>							
<i>Undercroft</i>	Dwelling	N/A	N/A	N/A	6.0m	10.0m	A
<i>Ground</i>	Dwelling	N/A	N/A	N/A	6.0m	9.3m	A
<i>Upper</i>	Dwelling	N/A	N/A	N/A	6.0m	9.3m	A
<i>Side (west)</i>							
<i>Undercroft</i>	Garage	1.6	28.6	N	1.5	Nil	D
	Dwelling	1.6	45.3	Y	1.5	Gym / Loggia: 1.5; Stairs / Ens: 1.0	D
<i>Ground</i>	WIR / Ens	4.6	8.6	N	1.1	Nil	D
	Balcony / Entertaining / Stairs	4.3	24.3	N	1.8	Bar / Lift: 1.0; Stairs / Entertaining / Balcony: 1.6	D
	Entry	4.3	38.0	N	2.0	2.8	A
<i>Upper</i>	Ensuite	4.6	4.4	N	1.1	1.2	A
	Alfresco / Kitchen / Scullery	5.9	24.3	N	2.4	1.6	D
	Master Suite / Hall	6.4	39.1	N	3.0	2.7	D

<i>Side (east)</i>							
<i>Undercroft</i>	Dwelling	1.5	36.7	Y	1.5	Garage: Nil; Store: 1.8; Entertaining: 1.1; Loggia, Ldry: 1.5	D
<i>Ground</i>	Bed 2	3.6	38.0	N	1.8	4.1	A
	Dwelling	4.5	32.7	N	2.0	Bed 3 / Porch: 1.0; Balcony / Entertaining / Office: 1.5	D
<i>Upper</i>	Dwelling	5.7	39.0	N	2.8	Family / Dining/ Alfresco: 1.5 Lift / Powder / Master: 2.1	D

* As calculated for assessment purposes

Site Works

The proposed development includes a basement garage that will abut the western boundary. It will be necessary to cut into the site a maximum of 3m to construct the basement. The cut will not be visible from the street as the ground floor will sit at street level, and there will be no overshadowing or overlooking of neighbours. The proposal is therefore supported.

Roof Pitch

The proposed development has an unusual contemporary roof form. The pitch on this roof is 67 degrees, well in excess of the Roofing Policy. However, as the roof is not a standard hipped or gable form, it does not look out of proportion with the main dwelling.

Visual Privacy

The cone of vision from the northern openings to the rear alfresco and balcony intrudes over the eastern and western boundaries. This overlooking occurs on an angle to the neighbouring properties and the subject major openings do not directly face neighbours. The dwelling has been designed to minimise overlooking of neighbours; all windows to the sides of the dwelling are 'hilite' designs or opaque glass. Screening has been provided to the sides of the alfresco and balcony to limit the extent of overlooking and direct views to the north. The intrusion occurs to the rear of the neighbouring lots and, while these have not yet been developed, it is unlikely that direct overlooking of sensitive living areas will occur. The discretion being sought is considered reasonable in that the practical impact on neighbours is minimal and the design has ensured no overlooking will occur into existing dwellings from the sides.

Wall Height (Concealed Roof)

The concealed roof wall element to the front of the dwelling measures 6.6m high, a variation of 0.1m. This is a minor variation that will not be perceptible at street level and has no detrimental impact on the streetscape. The dwelling height will not break the existing streetscape rhythm because of its concealed roof form; neighbouring dwellings have pitched roofs which can be, and typically are, higher. The variation will have negligible impact on views or overshadowing as it faces the street and is set lower than dwellings to the south. The variation is supported.

Wall Height

The maximum wall height over the development is 5.9m, 0.3m in excess of the maximum permitted in LPP 142. This variation occurs at the north-west corner of the site (rear) and extends approximately 4.0m along the building wall. The wall height is fully compliant along the eastern facade and the roof ridge height is compliant across the site. The following impacts are connected to wall height and are considered in relation to the current proposal.

- Overshadowing* The proposal complies with the overshadowing provisions of the R-Codes. The main shadow cast (for assessment purposes) is toward the street, and not over neighbouring properties. There is a 10m rear setback that will allow morning sunlight to the rear of 12A Philip Street. As this is the northern end of this block and faces the river, it is reasonable to assume that this is a logical place for main habitable rooms to be located.
- Bulk* While the wall height is 0.3m above the LPP height requirement, the roof ridge height is compliant and reducing the wall height to comply would not have a perceptible impact on the overall building envelope. The over-height portion of the wall runs only for 4m of its length and the majority of the wall is compliant.
- Views* The variation occurs to the rear of the development, and is lower than the development to the front of the block. It will not impact on views from the southern side of Philip Street any more than the front portion of the building. Similarly, the development is compliant along the eastern facade and the height variation on the western corner will have negligible additional impact on views from neighbours to the east.
The rear of neighbouring properties to the east and west face north and can access river views from this frontage. It is important to note that the protection of views through planning height controls must be reasonable in its application; some intrusion of views is to be expected in an urban area, and priority should be given to the protection of primary view corridors. The view to the north of neighbouring properties will not be impacted by the proposed wall height variation.

Side Setbacks

The development incorporates several setback variations. The subject site is approximately 10m in width and 55m in depth. It is logical that development on the site will also be long and thin. With such a narrow lot, it can be difficult to compromise a 'liveable' dwelling with requirements for setbacks. This is compounded by the zoning and development requirements for the property, adopted after it was subdivided, being more appropriate to low-density suburban development.

It is also worth noting the unusual pattern of subdivision in the immediate area. 12A and 12B Philip Street are long, narrow blocks that run the full depth of the parent lot. In contrast, 10A and 10B Philip Street and 14A and 14B Philip Street have been subdivided as battleaxe lots. It is to be expected that development on 12B (and 12A) Philip Street will have a very different footprint to development on 10A, 10B, 14A and 14B Philip Street. Setback variations are generally minor in nature and facilitate articulation along the sides of the building to reduce bulk. The proposed parapet walls are no greater than a single-storey in height which again reduces the visual impact. Also, setbacks have been optimised at the rear of the dwelling and on the upper floor, the points where walls may have the greatest impact on residential amenity.

The proposed setback variations are not readily in keeping with the considerations provided in LPP 142, with the exception of being compliant with overshadowing. However, as noted above, the site is highly constrained by virtue of its dimensions, its inconsistency with surrounding sites, and the applicable low-density planning requirements. It is reasonable to permit variations to setback requirements in this instance where there is no undue impact on neighbours, as outlined in the performance criteria of the R-Codes:

Buildings setback from boundaries other than street boundaries so as to:

- Provide adequate direct sun and ventilation to the building;
- Ensure adequate direct sun and ventilation being available to adjoining properties;
- Provide adequate direct sun to the building and appurtenant open spaces;
- Assist with protection of access to direct sun for adjoining properties;
- Assist in ameliorating the impacts of building bulk on adjoining properties; and
- Assist in protecting the privacy between adjoining properties.

As discussed throughout the assessment section of this report, the proposal is generally consistent with these performance criteria. The proposed setback variations are therefore supported.

Swimming Pool

The proposed swimming pool is not located in the front setback area or within 1m of any side/rear boundary. The paved area around the swimming pool and Finished Pool Level are slightly lower than Natural Ground Level, so overlooking requirements do not apply. The swimming pool is compliant with requirements and therefore supported.

Conclusion

The subject site is highly constrained by its natural topography, narrow width and inconsistency with neighbouring subdivision patterns. The proposed dwelling seeks to minimise its impact on neighbours through having no major openings directly facing side neighbours, complying with overshadowing requirements, providing some articulation to the sides of the buildings and keeping parapet walls to single-storey heights. The height variations being sought are minor in nature and will not have a detrimental impact on the solar access or views from neighbouring properties or on the streetscape. Variations to overlooking and setback requirements are reasonable in consideration of the site constraints and consistent with the performance criteria of the R-Codes. The proposal is supported subject to conditions.

RECOMMENDATION

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

- (a) Vary the Site Works requirements of the Residential Design Codes of Western Australia to permit excavation of up to 3.0m within 1.0m of the side setback as depicted on the submitted and approved plans;
- (b) Vary requirements of the Local Planning Policy 66 Council Policy on Roofing to permit a Concealed Roof form to the front facade; and 67 degree roof pitch;
- (c) Vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the northern openings to the Balcony and Alfresco to intrude 3.3m over the eastern boundary; and 3.1m over the western boundary;
- (d) Vary the height requirements of Local Planning Policy 142 Residential Development to permit a maximum wall height of 5.9m and wall (concealed roof) height of 6.6m, as depicted on the submitted and approved plans;
- (e) Vary the side setback requirements of the Residential Design Codes of Western Australia to permit:
 - i. Nil setback from the western wall of the Garage, Ensuite (Ground) and WIR (Ground) to the western boundary;
 - ii. 1.5m setback from the western wall of the Gym & Loggia to the western boundary;
 - iii. 1.0m setback from the western wall of the Ensuite (Basement), Bar and Lift (Ground) to the western boundary;
 - iv. 1.6m setback from the western wall of the Entertaining (Ground), Balcony, Alfresco, Kitchen and Scullery to the western boundary;
 - v. 2.7m setback from the western wall of the Master Suite and Hall (Upper) to the western boundary;
 - vi. Nil setback from the eastern wall of the Garage to the eastern boundary;
 - vii. 1.1m setback from the eastern wall of the Entertaining (Undercroft) to the eastern boundary;

- viii. 1.0m setback from the eastern wall of Bed 3 and Porch to the eastern boundary;
- ix. 1.5m setback from the eastern wall of Entertaining (Ground), Office, Alfresco, Dining and Family to the eastern boundary; and
- x. 2.1m setback from the eastern wall of Lift (Upper), Powder and Master to the eastern boundary

for the construction of Dwelling and Swimming Pool at No. 12B (Lot 2 on Survey-Strata Plan 51146) Philip Street, East Fremantle, in accordance with the plans date stamped received on 14 August 2012, subject to the following conditions:

1. Front fencing is to be completely in accordance with Local Planning Policy 143 – Policy on Local Laws Relating to Fencing.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the owner/applicant's expense and to the satisfaction of the Chief Executive Officer.
6. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)
9. 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.
10. 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.
11. 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.
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) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*

- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

Correspondence referred from MB Ref. T77.1 was tabled.

Mr Bruno Micalizzi of 14 Philip Street addressed the meeting expressing the following concerns with the proposed development:

- setbacks
- two parapet walls on both boundaries
- roof pitch
- wall and building height
- overshadowing
- potential for overlooking

Mr Jeff Chilli of 10 Philip Street addressed the meeting expressing some concern with the proposed development. He agreed to a parapet wall on eastern side boundary.

Ms Rachel Feldhusen, architect for proposed development at 12A Philip Street addressed the meeting on the proposed development. Ms Feldhusen suggested a shared parapet wall at the rear of the property. Ms Feldhusen also commented on her efforts to obtain more morning light to an eastern courtyard proposed for her development at 12A Philip Street.

Mr Ben McCarthy (Town Planning Consultant) and Mr Shayne Leroy (Designer) addressed the meeting on the proposed development on behalf of their clients and made the following comments:

- stairwell has been modified
- will consider treating walls with different colours and textures
- top of parapet wall to eastern boundary below fence height
- currently working on roof design
- there will be some loss of views for neighbouring properties
- there is no restriction on natural light and ventilation
- no overlooking
- no major openings to eastern elevations

Cr de Jong – Cr Wilson

That the officer's recommendation be adopted.

Amendment

Cr Collinson – Cr Martin

That the application for a Dwelling and Swimming Pool at No. 12B Philip Street, East Fremantle be deferred to the Council meeting to allow for an arranged site visit and to

allow the proponents to negotiate with adjoining neighbours in order to address some of their concerns. CARRIED

RECOMMENDATION TO COUNCIL**Cr Collinson – Cr Martin**

That the application for a Dwelling and Swimming Pool at No. 12B Philip Street, East Fremantle be deferred to the Council meeting to allow for an arranged site visit and to allow the proponents to negotiate with adjoining neighbours in order to address some of their concerns. CARRIED

Cr Wilson made the following impartiality declaration in the matter of 73A Dalgety Street: “As a consequence of having served on Council with Mr Jim O’Neill, neighbour at 72 Allen Street, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly”.

Cr Nardi made the following impartiality declaration in the matter of 73A Dalgety Street: “As a consequence of Mr Jim O’Neill, neighbour at 72 Allen Street, having been a work colleague and friend, 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”.

T80.4 Dalgety Street No. 73A (Lot 2)**Applicant: Karine Lucas****Owner: Karine Lucas****Application No. P123/2012**

By Jamie Douglas, Manager, Planning Services on 27 August 2012

PURPOSE OF THIS REPORT

This report considers an application for a retaining wall to be located on the rear lot boundary on a battle axe lot at 73A Dalgety Street and recommends conditional approval of the application.

BACKGROUND**Description of Site**

The subject site is:

- a 580m² rear battleaxe block
- zoned Residential R12.5
- dwelling under construction
- located in the Woodside Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Residential Design Codes (RDC)

Relevant Council Policies

N/a

Impact on Public Domain

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

Documentation

Forms date stamp received on 12 July 2012.

Date Application Received

12 July 2012

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

20 October 2005	Subdivision Approval (WAPC Ref. 630/02) survey approved.
20 April 2010	Council resolves to grant approval for a two storey single house.
28 June 2010	Building Licence No. 191 issued for a two storey single house.
23 September 2010	Council grants approval for a below ground swimming pool.
16 August 2011	Council grants approval for two storey house (redesign)

Site Inspection

By Manager, Planning Services on 27 August 2012

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 1 and 16 August 2012. At the close of advertising one submission was received from the owners of No. 75 Dalgety Street. The submission and the applicant's responses are detailed below. It should be noted that, as reported to Council at its meeting of 21 August, the rear neighbour, Mr James O'Neill of 72 Allen Street has also corresponded with the CEO and Manager Planning Services regarding the previous planning approval and compliance issues etc, with some of Mr O'Neill's correspondence previously forwarded to elected members at his request.

Submission	Applicants Response
<p>N & R Ferraro 75 Dalgety Street</p> <p>The top of the retaining wall will be below the final floor level of the proposed dwelling.</p>	<p>The site at 73A Dalgety Street was inspected by a qualified representative of a retaining company, Bradford Retaining, who determined the height of the retaining wall.</p>
<p>The proposed design may result in the undermining of the dwelling and may also result in stormwater coming from Lot 2 being discharged onto our property.</p>	<p>This retaining wall system has been supported by documentation from the engineers (provided to Council for Building Permit on 12/7/12) that it is sufficient and will support the dwelling, not undermine it. The claims by Mr & Mrs Ferraro are not based on facts or any supporting evidence.</p>
<p>We would raise no objection to the proposed retaining wall being redesigned to finish at one level with no stepping.</p>	<p>There is no practical requirement for the retaining to be one level (being 900mm high) as the levels of sand to be retained range from 200mm- 850mm high (approx).</p> <p>If it was necessary for effective retaining to put a 900mm high retaining for 200mm of sand then it would have been proposed, but this is not the case, hence why the retaining is stepped up.</p> <p>A stepped up retaining wall is quite common between boundaries. Any Colorbond fencing is also stepped up accordingly.</p>

BACKGROUND

The following extract from the planning assessment in respect to the approved dwelling which is under construction is relevant background to the current proposal;

As stated, Planning and Building approval was granted last year for a house on the subject site which was substantially larger, and required substantially more variations to the R-Codes, and Planning Policies than the present proposal. The previous approval was for a house of 399m² floor area which required variations to R-Code and planning policies in respect to its boundary setbacks, site coverage, height, roof pitches (which were to range from 24 – 26 degrees, in lieu of the required 28 degrees) and the size of the upper floor area (which was 36% of the ground floor, in lieu of the required 30%).

The current proposal is substantially smaller (319 m² total floor area) and complies with the required 30% maximum upper floor area (nominally shown as 31% on plans

based on external dimensions) and roof pitch requirements of the relevant Local Planning Policies. The design is compliant with the 'acceptable development' standards of the R-Code except in respect to the variations listed below. These variations are relatively minor and do not have a material impact upon neighbouring properties.

The current design of the house has reduced the height and massing of the previously approved dwelling so that overshadowing in respect to the neighbour to the south at 75 Dalgety Street is 9.2% as opposed to the 25% maximum over shadowing allowed under the R-Codes.

ASSESSMENT

The plans submitted for planning and building approval in respect to the dwelling under construction did not include boundary retaining walls. The subject lot has a sewerage easement located along the rear lot boundary. Accordingly it was envisaged that the site would be battered from the raised pad level of the house (which is approximately 0.5m above natural ground level) down to natural ground level at the lot boundary. However, the applicants have subsequently proposed the construction of a retaining wall along the rear boundary with 72 Allen Street, and a portion of the side boundary with 75 Dalgety Street to enable the site to extend at the pad level to the lot boundary.

The proposed retaining wall utilises a concrete post and panel construction method. An alternative limestone block wall was originally proposed but as this would necessarily encroach upon the rear lot at 72 Allen Street (because of the sewerage easement) this was denied by the owner of that lot. The Water Corp has confirmed that the alternative post and panel construction method can be sited on the lot boundary. The application incorporates a Structural Engineer's specification which confirms the structural integrity of the proposed wall for the intended site conditions.

Because of the sloping nature of the subject site, the proposed wall will range in height from 300mm to 900mm high along the side boundary with the high point being in the south west corner of the subject lot. The proposed retaining wall would be a 900mm high along the rear boundary. Because the proposed retaining wall exceeds 0.5m in height it requires a Planning Approval pursuant to the Residential Design Codes.

This assessment focuses on the impact of the proposed retaining wall upon the rear and relevant side neighbours. In this context it is noted that a Colorbond boundary fence of 1.8 m in height is proposed to be erected on top of the retaining wall. The total height of the fence relative to the rear neighbour and for a portion of the relative side neighbours property, will therefore potentially be 2.7metres. However it is not considered the rear neighbour will be unreasonably impacted by the aggregate fence height due to; the location of an existing outbuilding on the rear boundary, the mature vegetation which screens the rear wall from the home and swimming pool area and the substantial separation distance from the rear wall to the dwelling.

The neighbour to the side has advised they would not object to the retaining wall if it were redesigned to finish at one level with no stepping. However this is not practical since the retaining wall will necessarily be stepped to follow the sloping contour of the land. It is not considered that these neighbours will be materially impacted by the proposed wall. However, it is noted that there is some disputation regarding the location of the previously existing fence which has now been removed which the applicant advises encroached upon the subject property. In light of this it is proposed that any approval should be conditional upon the submission of a full boundary survey.

The location of a dividing fence on top of the proposed retaining wall will provide increased visual screening for neighbours from the new dwelling.

CONCLUSION

The proposed boundary retaining wall will not be visible from the street and will not materially impact upon the amenity of neighbouring properties.

RECOMMENDATION

It is recommended that Council approve the construction of a boundary retaining wall at 73A (Lot 2) Dalgety Street, East Fremantle in accordance with the plans date stamp received on 12 July 2012 subject to the following conditions:

1. a site survey and survey diagram to be prepared by a Land Surveyor which determines the lot boundaries and the position of the retaining wall and any proposed dividing fences in relation to these boundaries. A survey diagram is to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
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. 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.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Jim O'Neill, rear neighbour at 72 Allen Street addressed the meeting expressing concern with the proposed retaining walls and sought an on site meeting.

Mr Ron Lucas, owner of 73A Dalgety Street addressed the meeting on the proposed retaining walls and stated that he was happy to accommodate an on site meeting.

Cr Martin – Cr de Jong

That the officer's recommendation be adopted.

Amendment

Cr Wilson – Cr Nardi

That the application for retaining walls at 73A Dalgety Street be deferred pending a site visit. **CARRIED**

RECOMMENDATION TO COUNCIL

Cr Wilson – Cr Nardi

That the application for retaining walls at 73A Dalgety Street be deferred pending a site visit. **CARRIED**

T80.5 Gill Street No. 17A (Lot 68)**Applicant: L Ryan****Owner: L Ryan****Application No. P115/12**

By Aaron Augustson (Relief Town Planner) on 20 August 2012 and Jamie Douglas, Manager Planning Services

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for the development of front boundary fence and an extension of a retaining wall on the front boundary and recommends conditional approval.

BACKGROUND**Description of Proposal**

The site contains an existing retaining wall along a portion of the front lot boundary. It is proposed to extend this retaining wall along the entirety of the front garden area and construct a front fence on top of the retaining wall and extend it at 90 degrees back from the frontage for a distance of 6 metres on both sides, to facilitate the use of the front garden for outdoor living.

The forward portion of the subject land is already significantly retained to a maximum height of 1.5 metres. The proposed fence would have a maximum column height of 1.5m above the retaining wall. It is proposed the fence would be solid masonry up to 0.5m in height between the columns.

Description of Site

The subject site is:

- a 364m² survey strata lot
- zoned Residential R12.5
- Developed with 2 grouped dwellings
- located in the Richmond Precinct

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy 123 : Footpaths and Crossovers (LPP 123)
Local Planning Policy No. 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 : Existing
Footpath : Reduced sightlines may impact pedestrian safety

Documentation

Plans and relevant forms date stamp received on 6 July 2012

Date Application Received

6 July 2012

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

Council's officers previously resolved to refuse an application for a front fence with a maximum height of 2.2 metres at its meeting 20 November 1989 citing the height of the proposal.

CONSULTATION**Advertising**

The application has not been advertised to neighbouring landowners. The landowner at 17B Gill Street have agreed to and signed the plans date stamped 6 July 2012.

CONSULTATION**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 14 August and the following comment was made:

- *Panel supports the application as the fence appears to sit on top of a retained wall.*

STATISTICS

File	P/GIL17A
Zoning	R12.5
Lot Area	364 m ²
Heritage Listing	Not listed

SITE:	REQUIRED	PROPOSED	STATUS
Open space	R12.5 (55%)	N/A	-
Site works	Less than 500mm	Up to 1.5m	D
LOCAL PLANNING POLICIES:	ISSUES		
Policy 142	No		A
Fencing	Height variation		D
Crossover	Existing		A
Trees	No		A

Site Inspection

No site inspection.

REPORT**Issues****Fence Height**

The front setback area of the subject land is retained to a maximum height of 1.5 metres. This retaining is visible from the street as well as the battle-axe driveway to 17B Gill Street. The proposed fence will exist on top of the existing retaining wall.

The proposed fence has a maximum height of 1.5 metres and will be solid to a height of 0.5 metres above the existing retaining wall. However, due to the existence of the retaining wall, the overall development height of the proposed fence will be 3.0 metres to the top of the columns, while the solid portion of the wall will reach a maximum height of 2.0 metres. The proposal plans do not specify if any infill panels are proposed between the fence columns. However as this is likely to occur, any approval should be conditional upon these panels being semi-permeable. It is also considered that the column height should be lowered to a maximum of one metre to reduce the visual impact from the street.

While the existing level of retaining exaggerates the overall height of the development, under the provisions of the LPP –143 Fences, the height of the proposed fence is to be calculated in addition to the existing retaining.

Council's Local Policy on Local laws Relating to Fencing ('LPP 143') stipulates a maximum height of boundary fences to be 1.8 metres. Part 4 of LPP 143 allows for variation to this standard in so far as:

'...Council may approve fences...with a maximum height greater than 1.8m:

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 high fence.'

The proposed boundary fence satisfies the criteria outlined in Part 4 of Council's LPP 143.

It is also relevant to note that the subject house is the front lot of a battle axe subdivision and accordingly has limited outdoor living area. The proposal will facilitate the use of the front setback for outdoor living. The R-Codes and LPP143 recognise that higher front fences may be approved where there is a need to provide screening to the front setback.

Site works & retaining

Further retaining and filling of the land is proposed under the subject application. A triangular portion of land currently not retaining adjacent to the street alignment and access way to No. 17B Gill Street. This additional retaining will have a maximum height of 1.5 metres and a minimum height of approximately 1.3 metres. The area proposed to be filled will create an additional 1.125 square metres of level area in the front yard of the subject land.

Clause 6.6.1 (Excavation or fill) of the R-Codes provides that;

'A1.1 Excavation or filling between the street alignment and building, or within 3 m of the street alignment, whichever is the lesser, not exceeding 0.5 m, except where necessary to provide access for pedestrians or vehicles, or natural light for a dwelling.'

It is apparent that the proposed retaining and filling does not comply with this requirement. The Performance Criteria of 6.6.1 of the R-Codes provides the criteria for variation to this requirement in so far as;

'P1 Development that retains the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property.'

Given the existing retaining and filling of the subject land, the 'natural level' of the subject land is not defined. As this previous filling of the land has been approved by Council, it is not considered that the additional filling will detrimentally erode visual impression of natural ground level; as this is already substantially eroded.

Notwithstanding this variation being sought, the existing and proposed retaining does not result in any adverse impact on amenity as it does not erode perceptions of natural ground level along the rest of Gill Street.

The raised front garden area and retaining wall of 17 A Gill street is an established feature which does not substantially impact upon the amenity of the streetscape. The containment of the front garden area by a low fence is not considered to substantially diminish the existing streetscape character.

Vehicle Sightlines

The proposed retaining will result in solid retaining to a height of 1.5 metres above the driveway level with continuous solid wall 0.5 metres above the retained ground level between columns of 1 metre (as conditioned) above retained ground level.

Clause 6.2.6 of the R-Codes (Sightlines at vehicle access points and street corners) provides that;

'A6 Walls and fences truncated or reduced to no higher than 0.75 m within 1.5 m of where walls and fences adjoin vehicle access points where a driveway meets a public street and where two streets intersect.'

The existing triangular portion of land not currently retained provides this sightline. By retaining and filling this portion of the subject land, this sightline is lost. The Performance Criteria of 6.6.1 of the R-Codes provides the criteria for variation to this requirement in so far as:

'P6' Walls or fences to primary or secondary streets, rights-of-way or communal streets so that adequate sight lines are provided at vehicle access points.'

It is necessary to consider if the reduced sightline results in a dangerous interface between the public footpath and vehicles entering/exiting the subject land. However, the site specific circumstances of the subject land reduce the impact of the reduced sightlines. Foremost, the vehicles exiting the No. 17B via the access way can do so in a forward gear increasing visibility for vehicle drivers. Finally, a low fence exists between 17B and 19 Gill Street, which provides open views of vehicles exiting the 17B Gill Street. Having regard to these factors and condition 1 (below) with respect to the need for any infill to be semi permanent, the proposed variations are considered acceptable.

Conclusion

As a result of the proposed additional retaining and new boundary fence, variations to overall development height, retaining height and the provision of vehicle sightlines is sought. These variations are considered to be reasonable when the existing level of retaining previously approved by the Council is considered.

The containment of the front garden area by a low fence is not considered to substantially diminish the existing streetscape character provided the column height is reduced to one metre and any infill panels above the 0.5m fence height are semi-permeable.

Accordingly, conditional approval is recommended.

RECOMMENDATION

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

- (a) variation to the overall development height pursuant to the Council's Local Policy on Local laws Relating to Fencing from 1.8m to 2.5m having regard to the existing level of approved retaining;
 - (b) variation to the height of the new proposed retaining from 0.5m to 1.5m having regard to the existing level of approved retaining;
 - (c) variation to allow for reduced sightlines in respect to 17B Gill Street;
- for the construction of retaining and filling and a front boundary fence at No. 17A Gill Street in accordance with the plans date stamp received on 6 July 2012 subject to the following conditions:
1. the submission of amended plans incorporating a reduction in maximum column height of the proposed front fence from 1.5m to 1m and if infill between the fence columns is proposed this shall be semi-permeable above 0.5m in height and be to the satisfaction of the Chief Executive Officer.
 2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 3. the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council. The proposed works are to be designed by a structural engineer and approved by the Building Surveyor.
 4. with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 5. 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 Permit.
6. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
 7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision 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 Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) with regard to construction of any crossover the applicant/builder is to contact Council's Works Supervisor.*

Ms Leonie Ryan (owner) addressed the meeting in support of her application.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

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

- (a) variation to the overall development height pursuant to the Council's Local Policy on Local laws Relating to Fencing from 1.8m to 2.5m having regard to the existing level of approved retaining;**
- (b) variation to the height of the new proposed retaining from 0.5m to 1.5m having regard to the existing level of approved retaining;**
- (c) variation to allow for reduced sightlines in respect to 17B Gill Street; for the construction of retaining and filling and a front boundary fence at No. 17A Gill Street in accordance with the plans date stamp received on 6 July 2012 subject to the following conditions:**
 - 1. the submission of amended plans incorporating a reduction in maximum column height of the proposed front fence from 1.5m to 1m and if infill between the fence columns is proposed this shall be semi-permeable above 0.5m in height and be to the satisfaction of the Chief Executive Officer.**
 - 2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
 - 3. the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council. The proposed works are to be designed by a structural engineer and approved by the Building Surveyor.**
 - 4. with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
 - 5. 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 Permit.**
 - 6. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the**

satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.

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

Footnote:

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

- (a) *this decision 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 Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *with regard to construction of any crossover the applicant/builder is to contact Council's Works Supervisor.*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

T80.6

Pier Street No. 20 (Lot 232)

Applicant: Solar Dwellings

Owner: K Elks & D Watson

Application No. P112/12

By Carly Pidco, Senior Planning Officer, on 29 August 2012

PURPOSE OF THIS REPORT

This report recommends refusal of a development application for a two-storey plus loft single dwelling at No. 20 Pier Street, East Fremantle.

BACKGROUND

Description of Proposal

The proposed development is a two-storey plus loft single dwelling. The "ground" storey includes a guest wing with two bedrooms, theatre, garage /store and cellar. The main living areas of the house are located on the "upper" floor, including five bedrooms, two studies, activity room, bathroom, laundry and open plan kitchen, meals and living area. There is also a front balcony and rear alfresco on this floor. The "loft" floor is within the roof space of the dwelling and comprises master suite, ensuite, walk in robe and retreat. The dwelling is of rendered brick and colorbond construction with stone and weatherboard cladding detail.

Description of Site

The subject site is:

- a 891m² freehold block
- zoned Residential R12.5
- vacant
- located in the Richmond Hill Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)
 Local Planning Policy No. 142 : Residential Development (LPP 142)
 Local Planning Policy No. 143 : Fencing (LPP 143)

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : New crossover proposed
- Footpath : No impact
- Streetscape : New dwelling

Documentation

Plans and relevant forms date stamp received on 3 July 2012.
 Written submissions from applicant date stamped received on 6 August 2012 and 29 August 2012
 2 submissions received during public consultation

Date Application Received

3 July 2012.

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

- 18 March 2003 Council refuses to grant development approval for demolition of existing dwelling
- 17 June 2003 State Administrative Tribunal upholds an appeal against Council's refusal to grant development approval for demolition
- 31 January 2005 WAPC advises Council that it has refused an application for subdivision of the lot
- 15 December 2009 Council approves development application for construction of two-storey dwelling (not acted on)

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 9 July 2012 and the 25 July 2012. At the close of advertising 2 submissions had been received and are attached to this report. The issues raised in the submissions are summarised in the following table alongside the applicant's response and officer's comment.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
D & S Gurr, 22A Pier Street Concerned that the east window on the third floor would adversely affect our privacy as it overlooks our property	Appreciate neighbours' concerns regarding overlooking. We consider that the submitted plans are, on the eastern side, consistent with the Acceptable Development provisions of the R-Codes in that they do not provide for overlooking of the active habitable spaces and outdoor living areas of the adjoining properties.	Overlooking of eastern neighbour occurs from northern openings on the second floor. The extent of overlooking is minimal and the area overlooked is garden, not sensitive living area. It is agreed that these openings meet the Performance Criteria of the R-Codes. Note that the eastern opening to the loft (third floor) is compliant with R-Codes requirements for visual privacy (setback minimum 6.0m).
J Fitzgerald, 18 Pier Street - All windows on the western side have a cone of view directly into the property at 18 Pier Street (back sliding doors; study windows; kitchen windows; master suite windows) - Study windows are only set back 2.5m from the fence line - Roof line is only 0.7m from the fence, should this be set back 4.0m?		- Openings to the kitchen back sliding doors comply with R-Codes requirements (minimum 1.6m high screening). Openings to the balcony and alfresco are considered to be consistent with the Acceptable Development criteria for the same reasons outlined above. Openings to the study and master bedroom allow for direct overlooking of the rear

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
- Height of the building is 9.5m, is this above the approved maximum height of 8.1m?		<p>of the neighbouring dwelling – the main outdoor living area – and are considered to have an undue impact on privacy.</p> <ul style="list-style-type: none"> - Study windows do not comply with setback requirements. - Planning setback requirements are based on the distance between the boundary and the building wall in this instance - The building exceeds the maximum height requirements of LPP 142.

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 14 August 2012. The Panel's comments, applicant's response and officer's comment are summarised in the table below.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
Proposed development is out of proportion with the existing streetscape.	<ul style="list-style-type: none"> - Front elevation is consistent with the height of the houses to the east. - Note that neighbouring dwellings are three stories high, the third storey in this house has been designed as a loft and set back from the front boundary. - Roof line is consistent with streetscape. - Front street elevation has been articulated to more closely reflect the proportions and rhythms of existing adjoining residences that have been subdivided. - Design does not incorporate any parapet walls and maintains a visual break. 	There is a pronounced slope on this street which surrounding development generally maintains. The proposed dwelling is built up to have a higher FFL than the neighbouring dwelling higher up the slope, and a ground floor ceiling height similar to the maximum wall height of the dwelling down the slope.
Development doesn't appear to follow topography of site.	<ul style="list-style-type: none"> - House and external works have been designed to step up the site - Similar approach to the only other two-storey neighbouring dwelling. 	Filling of front of block to achieve ground floor FFL is significantly higher than NGL.
Fill requirement appears excessive in order to articulate ground floor across the lot.	<ul style="list-style-type: none"> - Fill requirements have resulted from limiting the extent of cutting. - Garage has been lowered 5 courses from the undercroft floor level to minimise build up. - Build-up to SW corner is consistent with existing neighbor. 	See above.
Roof forms should be simplified to reflect the rhythm of the existing streetscape and to reduce the overall massing of the building.	A more homogenous roof form would accentuate the horizontal visual aspect to the roof instead of the vertical pattern established by the existing residences.	Noted.

4 September 2012

MINUTES

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
Query over-height elements.	<ul style="list-style-type: none"> - The proposed ceiling heights (2.743m) are similar to homes of this size. - The roof is 28 degrees in accordance with Council policy. While this provides opportunity for loft the overall size of the ground floor plan has resulted in the ridge being over-height. This portion of the roof does not have any major impact on streetscape or restricting views from neighbours. - Note that there are several existing developments in the Precinct that are over-height. 	Proposed development exceeds maximum height requirements. Refer assessment section of this report.

Site Inspection

28 August 2012

ASSESSMENT

The proposed dwelling incorporates a number of variations to the Town's LPP 142 Residential Development and the Residential Design Codes, as detailed below.

Key: A = Acceptable, D = Discretion

<u>Site:</u>	Required	Proposed	Status
Open Space	55%	57%	A
Site Works	Less than 500mm	Front setback area to be filled up to 0.71m	D
Local Planning Policies:			
Policy 142	Issues		Status
Roof	Height variation; setback variations		D
	Hipped with gable and skillion to front projections. 28 degrees. Colorbond.		A
Solar Access & Shade	Alfresco and living areas face north		A
Drainage	To be conditioned		A
Views	Height non-compliant but does not obscure views		A
Crossover	To be moved – condition to comply		A
Trees	Site plan shows verge tree removed – condition to retain		D
Other:			
Overshadowing	Shadow cast over street		A
Privacy/Overlooking	WEST Balcony: 4.5m from western opening Bed 5: 0.9m from southern opening Study: 1.2m from western openings Alfresco: 5.5m from northern opening Master: 1.7m from western opening; 0.7m from northern and southern openings EAST Alfresco: 4.0m from northern opening NORTH Alfresco: 2.3m from northern opening		D
Height:	Required	Proposed	Status
Wall	5.6	8.9	D

Wall (Concealed Roof)	6.5	7.8		D				
Roof	9.1	12.9		D				
Roof type	Hipped, gable, skillion							
Setbacks:								
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status	
<i>Front (south)</i>								
<i>Undercroft</i>	Dwelling	N/A	N/A	N/A	7.5m / consistent with locality	8.9m, consistent	A	
<i>Ground</i>	Dwelling	N/A	N/A	N/A	7.5m	7.5m	A	
<i>Upper</i>	Dwelling	Behind ground floor main roof						A
<i>Rear (north)</i>								
<i>Undercroft</i>	Dwelling	N/A	N/A	N/A	6.0m	19.8m	A	
Ground	Dwelling	N/A	N/A	N/A	6.0m	Alfresco: 4.7m	D	
<i>Upper</i>	Dwelling	Behind ground floor main roof						A
<i>Side (east)</i>								
Undercroft	Dwelling	3.3	13.4m	N	1.5m	Min. 1.2m	D	
Ground	Bed 4/Bath	6.0	8.5m	N	1.2m	1.2m	A	
	Family/ Deck	3.8	9.1m	N	1.5m	2.1m	A	
	Nook/Office/Ldry	5.5	26.6m	Y	5.5m	5.1m	D	
<i>Upper</i>	Retreat	8.5	5.0m	Y	4.0m	5.5m	A	
<i>Side (west)</i>								
<i>Undercroft</i>	Sitting / Bath	4.0	8.0m	N	1.1m	1.5m	A	
	Retaining	2.2	3.6m	N	1.0m	1.5m	A	
	Guest Bed	4.0	14.4m	Y	1.5m	3.2m	A	
Ground	Balcony MO	8.1	3.0m	Y	4.0m	2.0m	D	
	Bed 5 / Activity	6.8	10.5m	N	1.5m	Min 1.5m	A	
	Ptry / Alfresco	5.5	16.5m	N	1.9m	Alfresco: 1.0m; Ptry: 1.5m	D	
	Study	6.0	31.5m	N	2.8m	2.6m	D	
	Study MO	6.0	7.8m	Y	2.8m	2.6m	D	
Upper	Master MO	8.9	4.5m	Y	4.3m	2.2m	D	
	Dwelling	8.3	11.8m	N	1.8m	4.2m	A	

* As calculated for assessment purposes

Site Works

The proposed development includes filling of the front setback area to create a consistent level through to the ground floor. Filling of the front setback area increases the overall building height, which is discussed more generally in the building height section of this report.

Filling will occur across the front setback to create a level front yard. This creates a pronounced level difference between the front of the dwelling and the street. The front yards of neighbouring dwellings are generally at natural ground level, with the verge sloping toward the street. The proposed filling of the site would create a front yard approximately 1m higher than the immediately adjacent verge, exacerbated by the slope toward the street. This is not in keeping with the surrounding character of the streetscape and will give the impression of a blank facade at street level.

Visual Privacy

Several major openings to the proposed dwelling do not maintain the visual privacy setback requirements of the R-Codes. As outlined in the consultation section of this report, the variations along the eastern boundary, balcony and alfresco are considered acceptable as they meet the performance criteria of the R-Codes. That is, the areas

overlooked are not sensitive living areas or primary outdoor living areas and the practical impact on privacy is negligible.

Major openings to the study and master suite appear to overlook the outdoor living area of the neighbouring dwelling. This is not in keeping with the performance criteria of the R-Codes.

Height

The proposed development significantly exceeds the maximum height requirements outlined in the LPP 142 (see attachment). This is a large lot of generous dimensions and no encumbrances. Although there is a prominent slope across the site, this is a common constraint in East Fremantle and compensated for by the generous lot size. The applicant submits that some relaxation of standards should be given in the interests of sustainability, as the discretions being sought will enable good solar access to the ground floor and create a practical home for a large family. While the applicant’s submission is acknowledged, the site does not pose any particular difficulties for designing a ‘family’ sized home or solar passive design.

It is noted that the proposal complies with the overshadowing provisions of the R-Codes and will not have a detrimental impact on views given the existing topography and development of Pier Street. However, the proposed height is considered to have an unacceptable impact on the streetscape. The “Pier Street Elevation” prepared by the applicant shows dwellings consistently following the natural slope of Pier Street. This creates a smooth line across both roofs and Finished Floor Level. The proposed development does not follow the slope of Pier Street, having been built up to a similar level of its higher neighbour (22A Pier Street). This is particularly pronounced when compared to the lower neighbour (18 Pier Street), where the ground floor FFL of the subject dwelling sits roughly in line with the ceiling level of the neighbouring ground floor. This disrupts the rhythm of the street at street level.

The applicant has acknowledged the need to respond to the vertical development of adjoining narrow lots and submits that this is the design justification for the articulated roof form. The skillion roof element, which sits prominently in the facade, jars the existing roofline as viewed from the street. The highest corner of the balcony is high and on an opposing angle to the dominant pitched roof. This has the effect of compounding the perceived height of the development, dwarfing the adjoining dwelling at 18 Pier Street and even being higher than the uphill neighbour at 22A Pier Street.

In his written submission, the applicant has noted that other development in the precinct appears to exceed the maximum height requirements. It is important to note that if variations have been granted elsewhere, this would occur in response to the unique circumstances of the development and is not to be construed as a ‘precedent’ for over-height development. Notwithstanding this, a review of height compliance for surrounding development in Pier Street, shown on the Pier Street Elevation provided, is summarised below.

HOUSE NO.	YEAR APPROVED	NOTES
18 PIER	1992	APPROVED PRIOR TO ADOPTION OF LPP 142 & TPS 3
20 PIER	N/A	SUBJECT SITE
22A PIER	1996	APPROVED PRIOR TO ADOPTION OF LPP 142 & TPS 3
22B PIER	1996	APPROVED PRIOR TO ADOPTION OF LPP 142 & TPS 3
24A PIER	2005	HEIGHT ASSESSED AS COMPLIANT
24B PIER	2003	HEIGHT ASSESSED AS COMPLIANT
26A PIER	2008	MAXIMUM RIDGE HEIGHT 8.7M, MAXIMUM WALL HEIGHT 6.5M. DISCRETION GRANTED DUE TO MINIMAL EXTENT OF NON-COMPLIANCE; SITE CONSTRAINTS; NO IMPACT ON NEIGHBOURING PROPERTIES OR STREETScape

The general compliance of development along this portion of Pier Street has enabled the even slope of development that creates a pleasant streetscape. The discretion granted at No. 26A Pier Street is not considered persuasive in Council's current decision as the site characteristics are different (26B is smaller, narrower and more steeply sloped), the impact on streetscape is far less and the extent of variations sought more reasonable.

Setbacks

The proposed development incorporates a number of variations to setback requirements on the rear and side boundaries. The LPP 142 provides criteria by which to assess proposed variations to setback requirements, summarised below.

- (a) *Walls are not higher than 3m and up to 9m in length up to one side boundary;*

Rear: Complies

Sides: Does not comply.

- (b) *Walls are behind the main dwelling;*

Rear: Complies

Sides: Setback variations occur toward the front of the dwelling, however, clear visual separation between 20 Pier Street and adjoining properties is maintained.

- (c) *Subject to the overshadow provisions of the Residential Design Codes – Element 9;*

Rear: Complies

Sides: Comply.

- (d) *In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views;*

Rear: Not visible from street. No impact on views.

Sides: Setback variations occur toward the front of the dwelling, however, clear visual separation between 20 Pier Street and adjoining properties is maintained. No impact on views.

- (e) *Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.*

Rear: Setback is to a single-storey open deck. There will be no impression of bulk from the neighbouring dwelling.

Sides: The eastern side of the property faces a dwelling of a similar height and with minimal setbacks approximately halfway along its length. The balance of the eastern side faces the neighbouring property's outdoor living area. The western side of the property faces a dwelling that approximately one storey lower. The *proposed* setbacks vary from the *required* setbacks primarily by virtue of the height of the building; at least 1.0m setback is provided across the development. However, the 'sliding scale' on which boundary setbacks in the R-Codes is based is designed to ensure greater setbacks to higher buildings to limit the impact of bulk. The proposed dwelling will dominate the neighbouring dwelling at 18 Pier Street. The neighbour has made a submission expressing concerns about building setbacks and building height, and it is likely that these will have an undue impact on her amenity.

Front Fencing

The submitted plans include front fencing to the development. The proposed fencing is not fully compliant with the height requirements of the LPP 143. If the application was to be approved, it would be recommended that the fencing be brought into compliance with the Policy.

Objectives of the Residential Zone

Part 4 of the TPS No. 3 outlines the objectives of each zone. The proposed development is not considered to be consistent with the following objectives of the residential zone:

To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of the existing built form.

The proposed building height and filling of the front yard are not consistent with the scale and built form of the immediate locality, as discussed in the relevant sections of this report.

CONCLUSION

The proposed development incorporates several variations to the Town's Policies and Residential Design Codes. Variations in relation to overlooking are either supported on the basis of the performance criteria of the R-Codes or could be addressed through obscure glazing and/or screening. The proposed setback variation from the alfresco to the rear boundary is also supported as it is consistent with the criteria outlined in the LPP 142 and will not adversely affect neighbours. However, the proposed variations in relation to site works, building height and side setbacks are not supported. The filling of the front of the site and proposed building height make the dwelling sit higher than surrounding development and break the sloping pattern of houses on Pier Street. This has a detrimental impact on the streetscape and it not in keeping with the character of the area. The reduced side setbacks do not achieve the R-Codes intent of siting high walls away from adjoining properties to limit the impact of bulk. The property at 18 Pier Street will be particularly affected, with the proposed dwelling appearing to be twice as high and located near an outdoor living area. It is recommended that the application be refused.

RECOMMENDATION

That Council refuse the application for the construction of single dwelling at No. 20 (Lot 232) Pier Street, East Fremantle, as described on the plans date stamped received 3 July 2012 for the following reasons:

1. The proposed development is not consistent with the objectives of the residential zone as provided in clause 4.2 of the Town Planning Scheme No. 3 (clause 10.2(a) of TPS No. 3 refers);
2. The proposed development does not comply with Design Element 6.3 Boundary setback requirements of the Residential Design Codes of Western Australia;
3. The proposed development does not comply with Part 3 – Side and Rear Boundary Setback Variations of the Local Planning Policy 142 Residential Development (clause 10.2(g) of TPS No. 3 refers); and
4. The building exceeds the maximum height requirements of LPP 142.
5. The front fencing is not compliant with LPP 143.
6. The proposed development would conflict with the provisions of Town Planning Scheme No 3, Clauses 10.2(j), 10.2(o) and 10.2(p) because it is incompatible with adjoining developments, has an undue impact on privacy and overlooking and would detrimentally impact upon the visual amenity of the area and the streetscape.

Mr Ken Wibberley (applicant) addressed the meeting and stated that having had insufficient time to address concerns raised in the officer's report, he sought deferral of the application to allow the opportunity to work with Council in order to resolve some of the issues raised.

RECOMMENDATION TO COUNCIL**Cr de Jong – Cr Nardi**

That the application for a single dwelling at No. 20 (Lot 232) Pier Street, East Fremantle be deferred to allow the applicant to address the concerns of the officer and Town Planning Advisory Panel with regard to the number of discretions sought.

CARRIED

Cr de Jong declared an interest in the following item as he is the owner of 126 Preston Point Road being the property to rear of the subject lot and left the meeting at 8.45pm.

T80.7**Locke Crescent No. 32 (Lot 4983)****Applicant: Summit Home Improvements****Owner: S Lee****Application No. P104/2012**

By Aaron Augustson (Relief Town Planner) on 1 August 2012

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for the construction of alterations and additions.

BACKGROUND**Description of Proposal**

A two-storey dwelling (ground & undercroft levels) currently exists at the subject land.

The existing sitting room and balcony area are proposed to be removed and replaced with an expansion of the existing dwelling to form a fully enclosed family room. The roof line of the main dwelling is proposed to be extended to cover the new family room.

A new double garage is also proposed at an undercroft level with a parapet wall along the western boundary of the subject land.

The proposal also includes several modifications to the internal layout of the existing dwelling.

Description of Site

The subject site is:

- a 736m² freehold lot
- zoned Residential R12.5
- developed with an existing two-storey dwelling.
- located in the Richmond Hill Precinct.

Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 26 June 2012

Date Application Received

26 June 2012

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

- 21 August 1995 Council approves application for additions to existing dwelling
- 16 October 1995 Council approves application for excavation and retaining walls in rear yard
- 18 August 1998 Council approves application for swimming pool
- 21 December 1998 Council approves a paved crossover

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between 9 June and 25 June 2012. At the close of advertising 1 submission was received from the owners of No. 128 Preston Point Road, which will be detailed and responded to below:

Submission	Town Planner's Response
The full length windows will provide an uninterrupted view into most of our backyard – likewise we will have full view into their living area and dining area.	The concern relating to potential for overlooking is noted. The proposed setback of living spaces from other living spaces complies with the relevant 'cone-of-vision' requirements pursuant to the R-Codes.
To keep the owners river views, but prevent views over our pool area, it would be appreciated if the north facing windows were bricked to approximately 1.2 metres.	The Applicant has acknowledged the request but does not agree to the suggested changes.

STATISTICS

File	P/104/12
Zoning	R12.5
Lot Area	736 m ²
Heritage Listing	Not listed

SITE:	REQUIRED	PROPOSED	STATUS
Open space	R12.5 (55%)	71%	A
Site works	Less than 500mm	N/A	-

LOCAL PLANNING POLICIES:	ISSUES	STATUS
Policy 142		
Roof	15° (Existing)	A
Solar access & shade	NO	A
Drainage	NO	A
Views	No change	A
Crossover	Existing	A
Trees	No	A

OTHER:	ISSUES	STATUS
Overshadowing	No	A
Privacy/overlooking	No	A

HEIGHT:	REQUIRED	PROPOSED	STATUS
Wall	5.6	5.4	A
Ridge	8.1	6.85	A
Roof type	Pitched (15° reflecting existing pitch)		

SETBACKS:							
Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Actual Setback	Status
Front (south)							
Undercroft	Garage	2.6	6.4	No	7.5	12.4	A
Ground	Existing facade	N/A	N/A	N/A	N/A	N/A	-
Rear (north)							
Undercroft	Games	2.4	14.4	Yes	6	9.7	A

4 September 2012

MINUTES

Ground	Family	5.4	14.4	Yes	6	9.3	A
Side (west)							
Undercroft	Garage	2.6	5.7	No	1	Nil.	D
	Parapet						
Ground	Family	5.5	12.6	No	1.6	2.6	A
Side (east)							
Undercroft	Existing Bedroom	2.6	7.9	Yes	1.5	2.9	A
Ground	Existing wall	N/A	N/A	N/A	N/A	N/A	-

Site Inspection

No inspection undertaken

REPORT**Issues***Garage Parapet*

The proposed development includes the expansion of the existing garage. A parapet garage wall is proposed at a length of 5.67 metres and a maximum height of 2.8 metres along the subject land's western boundary.

The proposed parapet wall does not comply with the acceptable development criteria of clause 6.3.2 of the R-Codes. The performance criteria provide the circumstances where the Council is able to modify this standard in so far as:

'Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *Make effective use of space; or*
- *Not have any significant adverse effect on the amenity of the adjoining property; and*
- *Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.'*

The proposed parapet will abut the lower storey of a two-storey dwelling located at No. 34 Locke Street. The proposed extension of the garage will not interrupt sunlight or ventilation to any rooms at this property as it exists at a substantially lesser height than the ground floor of the proposed development.

Overlooking/Privacy

Concern relating to privacy and potential for overlooking was raised during the advertising of the proposed development. The proposed development complies with clause 6.8.1 (Visual Privacy) in so far as it provides a 6 metre setback of a habitable room from any other habitable space on other properties.

While the proposal complies with this standard, due to slope of the immediate locality, there are opportunities for direct overlooking of properties surrounding the land; in particular the property at 124 Preston Point Road.

In any event, the proposed development proposes the

replacement of an existing sitting room and balcony area with an extended family room. The proposed change is not considered to have any measurable impact on the ability for privacy on surrounding land to be affected.

Conclusion

The proposed development includes two key elements; the expansion of an existing garage and the replacement of an existing sitting room and balcony with an enclosed family room.

The proposed development complies with the relevant criteria of the R-Codes and Council's policy framework with respect to such aspects as setback, building height and privacy.

While opportunities for overlooking may be present, the new development is not considered to have any measurable impact on the ability for privacy on surrounding land to be affected.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the western side boundary setback pursuant to the Residential Design Codes from 1m to a parapet wall with a nil setback for the construction of alterations and additions at No. 32 (Lot 4983) Locke Crescent, East Fremantle in accordance with the plans date stamp received on 26 June 2012 subject to the following conditions;

1. prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (i) below*)
2. a landscape plan which shows a sufficient level of 'soft landscaping' to be submitted to the satisfaction of the Chief Executive Officer in consultation with relevant officers prior to the issue of a Building Permit.
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 Permit and a Building Permit and the Building Permit 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 Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. the proposed extensions is not/are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. 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.
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. if requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 14. the proposed studio/laundry is not to be occupied for residential purposes.
 15. development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer.
 16. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That Council exercise its discretion in granting approval for a variation to the western side boundary setback pursuant to the Residential Design Codes from 1m to a parapet wall with a nil setback for the construction of alterations and additions at No. 32 (Lot 4983) Locke Crescent, East Fremantle in accordance with the plans date stamp received on 26 June 2012 subject to the following conditions;

1. prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (i) below)*
2. a landscape plan which shows a sufficient level of 'soft landscaping' to be submitted to the satisfaction of the Chief Executive Officer in consultation with relevant officers prior to the issue of a Building Permit.
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 Permit and a Building Permit and the Building Permit 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 Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. the proposed extensions is not/are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. 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.
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. if requested by Council within the first two years following installation, the zinalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
14. the proposed studio/laundry is not to be occupied for residential purposes.

15. development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer.
16. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

CARRIED

Cr de Jong returned to the meeting at 8.51pm. It should be noted that Cr de Jong, neither spoke nor voted on the foregoing item.

Cr Martin made the following impartiality declaration in the matter of 88 Duke Street: "As a consequence of the applicant being known to me as my physiotherapist, 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".

T80.8 Duke Street No. 88 (Lot 491)**Applicant: W Pol****Owner: C Eardley****Application No. P119/12**

By Aaron Augustson (Relief Town Planner) on 24 July 2012

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for an extension to an existing outbuilding (studio) and conversion of the extended outbuilding to Ancillary Accommodation.

BACKGROUND**Description of Proposal**

The proposed development includes the extension and interior alteration of an existing outbuilding to facilitate its use as ancillary accommodation.

Description of Site

The subject site is:

- a 508m² freehold block
- zoned Residential R20
- Developed with a single dwelling
- located in the Plympton Precinct

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 11 June 2012

Date Application Received

11 June 2012

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

9 September 2003 Building License issued for the construction of 'Garden Shed' (9 September 2003)
16 January 2004 Enquiry made to the Town for the conversion of the existing Garden Shed to a 'Studio' but no further application made.

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 13 July and 30 July 2012. At the close of advertising no submission were received.

STATISTICS

File	P/119/12
Zoning	R20
Lot Area	508 m ²
Heritage Listing	Not listed

SITE:	REQUIRED	PROPOSED	STATUS
Open space	R20 (50%)	69%	A
Site works	Less than 500mm	N/A	-

LOCAL PLANNING POLICIES:	ISSUES	
Policy 142	N/A	A
Roof	No (37°)	A
Solar access & shade	N/A	-
Drainage	N/A	-
Views	N/A	-

4 September 2012

MINUTES

Crossover	Existing	-					
Trees	No	-					
OTHER: ISSUES STATUS							
Overshadowing	No	A					
Privacy/overlooking	No	A					
HEIGHT: REQUIRED PROPOSED STATUS							
Wall	3.0	2.4	A				
Ridge	6.0	4.0	A				
Roof type	Pitched (37°)						
SETBACKS:							
Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Actual Setback	Status
Front (west)							
<i>Ground</i>		N/A	N/A	N/A	N/A	N/A	-
Rear (east)							
<i>Ground</i>		2.4	8.35	N	1.0	3.0	A
Side (north)							
<i>Ground</i>		2.4	3.5	Y	1.5	2.77	A
Side (south)							
<i>Ground</i>		2.4	6.95	N	1	1.15	A

Site Inspection

No site inspection

REPORT**Issues***Vehicle Parking*

The proposed development complies with all the requirements for the development of ancillary accommodation pursuant to clause 6.11.1 (A1) of the R-Codes except for that it provide one additional car space.

The Applicant's outline in their covering submission to the application that, while two bays exist at the subject land, an additional bay will not be provided and that parking will be sought on Duke Street.

The performance criteria of 6.11.1 of the R-Codes provide that;

'P1 Ancillary dwellings that accommodate the needs of large or extended families without compromising the amenity of adjoining properties.'

The Applicant has not provided any details as to the degree of on-street parking availability along this section of Duke Street.

The subject land exists nearby to the cul-de-sac head at the southern end of Duke Street. No stopping/parking is permitted nearby to the cul-de-sac head. Street parking (without permits) is permissible on both sides of Duke Street north of the subject lands southern boundary.

Neighbouring properties at No. 86, 89, 90, 91, 92 and 94 Duke Street maintain sufficient parking for two vehicles on-site. As a result, there is no direct and immediate need for permanent access to on-street parking. No. 85 Duke Street does not provide any on-site parking and as a result entirely relies on the availability of street parking.

The Council at its meeting of 17 July 2012 resolved to approve the construction of a double garage and loft (to be used as ancillary accommodation) at No. 73 Duke Street. In this application, sufficient on-site parking was provided.

It is considered that the location of the subject land provides sufficient opportunity for street parking to occur to satisfy the additional demand of the ancillary accommodation. This is on the basis of the lack of necessity of other nearby dwellings on street parking and the location of the land towards the end of the cul-de-sac. The land is also located a substantial distance (approximately 300 metres) from George Street when no-residential land use increases demand for street parking.

Conclusion

The proposed development includes the extension and interior alteration of an existing outbuilding to facilitate its use as ancillary accommodation.

The proposed development complies with all the requirements for the development of ancillary accommodation except for that it provides one additional car space.

It is considered that the location of the subject land provides sufficient opportunity for street parking to occur to satisfy the additional demand of the ancillary accommodation.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the acceptable development criteria of clause 6.11.1 of the Residential Design Codes in accordance with the performance criteria of 6.11.1 with respect to the use of offsite parking in lieu of a requirement for an additional onsite car bay for the construction of ancillary accommodation at No. 88 (Lot 491) Duke Street, East Fremantle in accordance with the plans date stamp received on 11 July 2012 subject to the following conditions:

1. the ancillary accommodation shall not be leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.
2. prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (i) below*)
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 Permit and a Building Permit and the Building Permit 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 Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. the proposed dwelling/extensions/ancillary accommodation is not/are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. 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.

10. if requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
11. the proposed studio/laundry is not to be occupied for residential purposes.
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) *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 Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document--"An Installers Guide to Air Conditioner Noise".*

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That Council exercise its discretion in granting approval for a variation to the acceptable development criteria of clause 6.11.1 of the Residential Design Codes in accordance with the performance criteria of 6.11.1 with respect to the use of offsite parking in lieu of a requirement for an additional onsite car bay for the construction of ancillary accommodation at No. 88 (Lot 491) Duke Street, East Fremantle in accordance with the plans date stamp received on 11 July 2012 subject to the following conditions:

- 1. the ancillary accommodation shall not be leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.**
- 2. prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)**
- 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 Permit and a Building Permit and the Building**

- Permit 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 Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 6. the proposed dwelling/extensions/ancillary accommodation is not/are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 7. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 9. 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.
 10. if requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of*

up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

T80.9

Sewell Street No. 79 (Lot 255)**Applicant: Empire Building Company****Owner: P Tottle & E McCloskey****Application No. P124/12**

By Carly Pidco, Town Planner, on 28 August 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of an application for Development Approval for additions to the existing single dwelling at 79 Sewell Street, East Fremantle.

BACKGROUND**Description of Proposal**

The proposed development is a single-storey rear addition to the existing single dwelling. The floor plan includes extended living room, a second kitchen, storeroom, master bedroom with ensuite, deck and alfresco. An existing swimming pool and retaining walls are to be removed to make way for the development. .

Description of Site

The subject site is:

- a 509m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- improved with a single-storey single dwelling
- assigned B Management Category in the Heritage Survey 2006

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes of Western Australia (RDC)

Local Laws Relating to Fencing

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)

Local Planning Policy No. 142 : Residential Development (LPP142)

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : Additions located behind existing dwelling

Documentation

Plans and relevant forms date stamped received on 24 July 2012

Amended plans date stamped received on 14 August 2012

Place Record Form from Heritage Survey 2006

Date Application Received

24 July 2012

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

- 17 June 2003 Council approves application for alterations and additions (studio and swimming pool) to the rear of the existing dwelling
- 1 July 2005 Owner advises they will not be proceeding with studio development
- 30 February 2006 Building Licence issued for carport and internal alterations

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 1 August 2012 to 16 August 2012. A query was received from a neighbour during this period in relation to an inconsistency in the plans for treatment of the dividing fence. The applicant has provided revised plans correcting this inconsistency.

No other submissions were received during the consultation period.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 27 March 2012. The Panel made the following comment:

- Panel supports the application.

Site Inspection

By Town Planner on 28 August 2012

ASSESSMENT

The proposed development incorporates a number of variations to the Town’s LPP 142 Residential Development and the Residential Design Codes, as detailed below.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	50%	A
Site Works	Less than 500mm	Less than 500mm	A
Local Planning Policies:	Issues		
Policy 142			
Roof	Hipped, 24 degrees (non-dominant roof element). Zinalume – apply standard condition		A
Solar Access & Shade	Living areas have openings to north		A
Drainage	To be conditioned		A
Views			
Crossover	Condition to comply		A
Trees	Condition to comply		A
Other:	Issues		Status
Overshadowing	24.7% over No. 81 Sewell Street		A
Privacy/Overlooking	SOUTH Windows to roof space – roof not to be used as habitable room NORTH Deck – northern opening 6.0m over northern boundary WEST Deck – western opening 1.8m over western boundary		D
Height:	Required	Proposed	Status
Wall	5.6	3.4m	A
Wall (Concealed Roof)	6.5	N/A	N/A
Roof	8.1	5.2m	A
Roof type	Hipped, 24 degrees		
Setbacks:			
Wall Orientation	Wall Type	Wall height	Wall length
		Major opening	Required Setback
		Proposed Setback	Status

Front (east)							
Ground	Dwelling	Located behind existing					A
Rear (west)							
Ground	Dwelling	3.4m	11.2m	Y	1.5m	5.2m	A
Side (north)							
Ground	Deck	3.2m	5.9m	Y	1.5m	1.0m	D
	Dwelling	2.8m	32.1m*	Y	1.5m	Min. 2.9m	A
Side (south)							
Ground	Ens / Store	3.0m	5.9m	N	1.0m	Nil	D
	Dwelling	2.7m	32.1m*	N	1.5m	1.5m	A

* As calculated for assessment purposes

Building Setbacks

The development proposes reduced side setbacks to the deck from the northern boundary and the ensuite / store from the southern boundary. Part 3 of the LPP 142 provides standards for assessing boundary setback variations, detailed below.

- (a) *Walls are not higher than 3m and up to 9m in length up to one side boundary;*

Both walls are less than 9m in length. The ensuite/store wall is 3.0m in height and the deck is 3.2m high. The deck will present as a single-storey facade and the 0.2m height discrepancy will not be perceptible at ground level.

- (b) *Walls are behind the main dwelling;*

Complies.

- (c) *Subject to the overshadow provisions of the Residential Design Codes – Element 9;*

Complies.

- (d) *In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and*

The reduced boundary setbacks are located toward the rear of the block and will not be visible from the street. The northern wall faces an existing outbuilding and the southern wall is located behind an existing outbuilding. It is unlikely that the development will have an impact on the amenity of the neighbouring dwellings.

- (e) *Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.*

The northern wall faces an existing outbuilding. Further, it is open in nature and the appearance of bulk will be minimal. The southern wall is a single-storey parapet. It will not have significant bulk and when viewed from the neighbouring dwelling, will appear to be behind the neighbour's shed. The proposed setback variations are considered to achieve the intent of this policy provision.

Visual Privacy

The cone of vision from the western and northern openings to the Deck intrudes over the corresponding boundaries 1.8m and 6.0m respectively.

The area to be overlooked on the western boundary is the side facade and entry to the neighbouring townhouse. These areas are not sensitive living areas and the impact on privacy is negligible. The area to be overlooked on the northern boundary is primarily an outbuilding and partly a swimming pool. As the outbuilding is a non-habitable room and presents a blank facade to the boundary, no practical impact on privacy will occur here.

The applicant has addressed overlooking from the deck (which will mainly affect the swimming pool) with a new boundary fence. The fence is to be a maximum of 2.5m above natural ground level and will be visually impermeable. The fence will act like a screen to the northern boundary approximately 1.6m higher than the finished floor level of the deck. Given that the affected neighbour has not objected, and the practical impact on privacy is minimal, the proposed fencing is supported as a technique to mitigate overlooking.

Boundary Fencing

The proposed boundary fencing comprises limestone retaining blocks with 2.0m brushwood screen on top. A standard boundary fence is 1.8m in height, while the proposed fence is up to 2.5m above natural ground level in height. As this height is similar to a standard wall height and the fence is to be located within the subject lot, it is appropriate to consider it as a building wall in assessing the impact on neighbouring properties. The fencing will not overshadow neighbours and does not result in any overlooking. It will face the side wall and parking area of the western neighbour and an outbuilding and swimming pool for the northern neighbour. With the exception of the swimming pool, the neighbouring developments will not be affected by visual bulk. As the fence will not overshadow the swimming pool and will give the pool a sense of privacy, its impact on amenity is not unacceptable.

CONCLUSION

The proposed development incorporates variations to the side setback and visual privacy requirements of the R-Codes. These variations are minor in nature and will not have an unacceptable impact on neighbouring dwellings or the streetscape. The proposed boundary fence is also unlikely to impact on neighbours and will aid in mitigating the privacy intrusion from the proposed deck to the neighbouring swimming pool. The Panel has advised that it supports the application and no objections have been received from neighbours. It is recommended that the proposed development be approved subject to conditions.

The cone of vision from the western and northern openings to the Deck intrudes over the corresponding boundaries 1.8m and 6.0m respectively.

RECOMMENDATION

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

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.0m side setback from the northern wall of the Deck to the northern boundary; and a nil setback from the southern wall of the Ensuite / Store to the southern boundary;
- (b) vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the western opening to the Deck to intrude 1.8m over the western boundary; and from the northern opening to the Deck to intrude 6.0m over the northern boundary;

for the construction of alterations and additions at No. 79 (Lot 255) Sewell Street, East Fremantle in accordance with the plans date stamped received on 14 August 2012 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. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the owner/applicant's expense and to the satisfaction of the Chief Executive Officer.

5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)
8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

RECOMMENDATION TO COUNCIL**Cr de Jong – Cr Nardi****That Council exercise its discretion in granting approval for the following:**

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.0m side setback from the northern wall of the Deck to the northern boundary; and a nil setback from the southern wall of the Ensuite / Store to the southern boundary;**
- (b) vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the western opening to the Deck to intrude 1.8m over the western boundary; and from the northern opening to the Deck to intrude 6.0m over the northern boundary;**

for the construction of alterations and additions at No. 79 (Lot 255) Sewell Street, East Fremantle in accordance with the plans date stamped received on 14 August 2012 subject to the following conditions:

- 1. Windows to the loft to be obscure glazed.**
- 2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 4. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 5. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the owner/applicant's expense and to the satisfaction of the Chief Executive Officer.**
- 6. All stormwater is to be disposed of on site, clear of all buildings and boundaries.**
- 7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 8. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (h) below)**
- 9. 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.**
- 10. 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.**
- 11. 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.**

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) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

T80.10

Walter Street No. 22 (Lot 58)

Applicant/Owner: John & Sonya Wrenn

Application No. P105/12

By Jamie Douglas, Manager Planning Services, on 20 August 2012

PURPOSE OF THIS REPORT

This report recommends the conditional approval of a development application for partial demolition, alterations and additions to an existing dwelling at 22 Walter Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 917m² freehold lot
- zoned Residential 12.5
- located in the Richmond Precinct
- improved with a single dwelling

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
 Residential Design Codes of Western Australia (RDC)
 Municipal Heritage Inventory Category C^

Relevant Council Policies

Local Planning Policy No. 066 : Roofing
 Local Planning Policy No. 142 : Residential Development
 Local Planning Policy No 143 : Local Laws Relating to Fencing

Impact on Public Domain

Light pole : No impact
 Crossover : A double crossover proposed - apply standard condition
 Footpath : Apply standard condition
 Streetscape : The first floor extension will impact upon the existing streetscape

Documentation

Application Plans and relevant forms date stamped received on 27 June 2012 and revised plans received on 6 August 2012.

Date Application Received

27 June 2012

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

No records on file

CONSULTATION

Advertising

The plans were advertised to neighbours for public comment from 9 July 2012 and one submission was received. The issues raised in the submission and the response by the architects for the applicants are as follows:

Submission from S & L Stanley @ 24 Walter Street	Response from Kerry Kyriakakis – KYRIA design
<p>When we built our house we were told that we needed to follow natural ground level. The purpose of this was to ensure there would be no privacy issues to our neighbours.</p> <p>We note that the plans for number 22 extend the floor level of the existing home to the rear of the property by about 7.2m, resulting in the Alfresco deck area being about 950mm higher than natural ground level. – there does not appear to be any screening north of the deck which would prevent overlooking into our backyard and property.</p> <p>The upper story addition also appears to have a number of windows (e.g. the master bedroom and Ensuite) at 1650mm. from the floor level which does not appear high enough to prevent overlooking. The balconies to the rear of the upstairs addition is probably what concerns us most as the north facing screen appears to be set at only 1650mm. high.</p>	<p>In regard to the Stanley’s comments who are the north side adjacent neighbours:</p> <ul style="list-style-type: none"> • All new windows to the first floor north and south are to the (R Code) required height of 1650 above floor levels. • The privacy screen to the first floor balcony is also 1650mm above floor level as required by the R Codes. • The new access deck on the north side is the same level as the existing floor level, which is only 220 mm above the floor level on their house (number 24). • It should be noted that, as shown on the site survey, their house, continues more than 5.3 metres further along this boundary, which prevents any overlooking into their rear yard from the ground floor deck. • The bulk of the existing house south wing (at No.24) also prevents overlooking from the proposed first floor balcony taking into account the cone of vision angle, the number 24 rear yard as do existing trees in the applicants yard which will be retained. • If the Council requires further screening we can add an additional privacy screen on this boundary – (see attached revised plans and elevations).

Town Planning Advisory Panel Comments

The application was considered by the Panel at its meeting of 14 August 2012. The Panel made the following comments:

- *Car port needs to be set back behind the main building line.*
- *Consider emphasising the horizontal lines of the addition by providing a continuous line of aluminium louvered shades to the ridgeline of the front elevation.*

In response the applicant's designer has responded as follows:

- *The garage can be set back behind the building line...we will slide this back if the Council requires it.*
- *I felt the aluminium louvered shades needed to be broken at the centre as to reduce the horizontal impact as I felt it was a bit "commercial/industrial" to extend all the way across. However I will look at this again once we have chosen a louver system.*

Site Inspection

By - Manager Planning Services on 17 August 2012.

ASSESSMENT

The following table clarifies the proposal's performance in respect to the R-Codes and Planning Policies.

Key: A = Acceptable, D = Discretion

<u>Site:</u>	Required	Proposed	Status
<u>Open Space</u>	55%	69%	A
<u>Site Works</u>	Less than 500mm	1100mm for deck on northern boundary	D
Local Planning Policies:			
<u>Policy 142</u>	Variations to height and setbacks		D
<u>Roof</u>	Skillion roof to addition, less than 28 degrees		D
Solar Access & Shade	Deck has opening to north		A
Drainage	To be conditioned		A
Views	Area not characterised by views		A
Crossover	Condition to comply		A
Trees	Condition to comply		A
<u>Other:</u>	Issues		Status
Overshadowing	9% over No. 20 Walter		A
<u>Privacy/Overlooking</u>	NORTH: Bed 2 Window to be high level – condition. Windows to Sonya's Space (assessed as study) – 2.0m over northern boundary Dry court (capable of being used as outdoor living) – 7.0m over northern boundary Outdoor living – northern opening 5.2m over northern boundary Verandah – 4.8m over northern boundary SOUTH: Outdoor living – southern opening 2.3m over southern boundary Balcony – southern opening 2.3m over southern boundary EAST: Outdoor living – eastern opening 3.0m over northern boundary Balcony – eastern opening 1.4m over northern boundary Outdoor living – eastern opening 1.3m over southern boundary Balcony – eastern opening 1.3m over southern boundary		D
<u>Height:</u>	Required	Proposed	Status
<u>Wall</u>	6.0	7.5	D
Wall (Concealed Roof)	7.0	N/A	N/A

Roof	9.0	7.6	A				
Roof type	Skillion (additions)						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (west)</i>							
<i>Ground</i>	Verandah	N/A	N/A	N/A	7.5m / consistent with locality	7.7m, consistent	A
	Car port	N/A	N/A	N/A	At or behind main building line	7.7m, forward of main dwelling	D
<i>Upper</i>	Dwelling	N/A	N/A	N/A	7.5m	13.7m	A
<i>Rear (east)</i>							
<i>Ground</i>	Dwelling	N/A	N/A	N/A	6.0m	7.0m	A
<i>Upper</i>	Dwelling	N/A	N/A	N/A	6.0m	10.0m	A
<i>Side (north)</i>							
<i>Ground</i>	Dwelling	3.4m	17.8m	Y	1.5m	Dry court: Nil; Dwelling: 1.8m	D
<i>Upper</i>	Dwelling	7.5m	9.2m	N	1.5m	1.8m	A
<i>Side (south)</i>							
<i>Ground</i>	Car port	3.0m	11.1m	N	1.5m	Nil	D
	Dwelling	3.4m	17.8m	Y	1.5m	4.7m	A
<i>Upper</i>	Balcony	7.0m	3.8m*	Y	3.3m	4.7m	A
	Dwelling	7.4m	9.2m	N	1.5m	4.7m	A

* Wall length as calculated for assessment purposes

ASSESSMENT

The existing dwelling is a reasonably modest concrete block and tile structure located approximately in the centre of the lot. The proposal involves the demolition of a small side extension and the development of an upper floor extension, rear ground floor extension and deck and a swimming pool. As such the proposal is considered to be an efficient adaptation and reuse of an existing structure which (from the perspective of 'sustainability') is preferable to demolition and a replacement building.

The proposal raises the following issues:

Height

The proposed wall height of 7.5 metres requires a variation in respect to the LPP requirements of 6m. However this is considered to be a reasonable variation given that the wall height is a consequence of the skillion roof design of the upper floor. This design achieves a relatively low profile and reduces the height and bulk of the building in comparison to a hipped or gabled roof design that would otherwise conform with the maximum height requirements of the LPP.

The height variation will not impact upon neighbours in terms of overshadowing and will enhance the streetscape appearance of the building by achieving a relatively low profile to the front elevation.

Setbacks

As currently proposed, the new car port would be aligned with the verandah, however it is considered this should be amended by condition of any approval to align with the principal front wall of the dwelling in accordance with the requirements of LPP 142. A parapet wall on the

boundary is proposed for the car port however this will not impact upon the southern neighbours who have not lodged an objection to the development.

Privacy/overlooking

As indicated, in the above statistical assessment in respect to R-Code compliance, the 'cone of vision' assessed from the outdoor living areas and relevant upstairs windows encroaches onto the northern neighbour's property to varying degrees. However because of the location of the neighbouring property at 24 Walter Street, direct line of sight to the rear garden area is restricted and further impeded by a 1.8m high Colorbond fence on a limestone retaining wall. The applicants have amended their plans to address neighbours comments in respect to visual privacy to their dwelling windows by incorporating additional privacy screens to the outdoor living areas and confirming that sill heights to the relevant first floor windows will be high level to meet R-Code requirements.

Streetscape

As stated the proposed design is for a reasonably low profile structure which will improve the current visual appearance of the dwelling from the street frontage. By siting a portion of the upper floor extension within the existing roof space the upper floor will not appear to 'be over scaled' in comparison to the existing ground floor.

It is considered a condition of any approval should be applied requiring the setback of the proposed car port in alignment with the main front wall of the house, this will tend to reduce the prominence of the car port in the front elevation.

Although the property is included on the Municipal Inventory with a C Management Category it is considered to have only minor heritage significance which will not be diminished by the proposed works.

The Town Planning Advisory Panel's comments in respect to "*providing a continuous line of aluminium louvered shades to the ridgeline of the front elevation*" have been conveyed to the applicant's designer for consideration. Although the suggested aesthetic change may marginally improve the front elevation and may be picked up in respect to the final design for building approval, it is not considered that it is a matter that should necessarily be required as a condition of any planning approval.

CONCLUSION

The proposal will refurbish and extend an existing dwelling by the efficient adaption and extension of the existing structure. The proposed variations in respect to setbacks and visual privacy will not materially impact upon neighbours. The proposed upper floor addition will not over scale the existing dwelling and will improve its streetscape impact. It is considered the proposal should be conditionally approved subject to the realignment of the proposed carport with the principal front wall of the dwelling.

RECOMMENDATION

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

- (a) variation to the roof pitch requirements pursuant to the LPP: 142 Residential Development to allow a skillion roof, less than 28°;
- (b) variation in the maximum height requirements of the LPP: 142 Residential Development in respect to maximum wall height from 6m to 7.5m;
- (c) variation to the side boundary setbacks pursuant to the R-Codes from 1.5m to nil;
- (d) variation to the visual privacy requirements of the R-Codes to allow an intrusion in the 'cone of vision' to the extents identified in this report in respect to the adjacent neighbours;

for the partial demolition and extension of an existing dwelling at 22 (Lot 58) Walter Street, East Fremantle in accordance with the revised plans date stamp received on 6 August 2012 subject to the following conditions:

1. the proposed car port is to be setback from the lot frontage to align with the principal front wall of the dwelling.
2. prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)
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. 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
7. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. 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.
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.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (e) with regard to construction of the crossover the applicant/buildier is to contact Council's Works Supervisor.*
- (f) the 'alfresco' are may not be enclosed without the prior written consent of Council.*
- (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) under the Environmental Protection (Noise) Regulations 1997, the noise from an air conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

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

- (a) variation to the roof pitch requirements pursuant to the LPP: 142 Residential Development to allow a skillion roof, less than 28°;**
- (b) variation in the maximum height requirements of the LPP: 142 Residential Development in respect to maximum wall height from 6m to 7.5m;**
- (c) variation to the side boundary setbacks pursuant to the R-Codes from 1.5m to nil;**
- (d) variation to the visual privacy requirements of the R-Codes to allow an intrusion in the 'cone of vision' to the extents identified in this report in respect to the adjacent neighbours;**

for the partial demolition and extension of an existing dwelling at 22 (Lot 58) Walter Street, East Fremantle in accordance with the revised plans date stamp received on 6 August 2012 subject to the following conditions:

- 1. the proposed car port is to be setback from the lot frontage to align with the principal front wall of the dwelling.**
- 2. prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (h) below)**
- 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. 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
 7. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 9. 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.
 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.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *the 'alfresco' are may not be enclosed without the prior written consent of Council.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air conditioner must meet assigned allowable noise levels at all times. The*

Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

T80.11 Habgood Street No. 15 (Lot 5026)
Owner: A & R Sheehan
Applicant: Modern Home Improvers
Application No. P86/2012
By Christine Catchpole, Town Planner on 10 August 2012

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for upper floor additions and alterations to an existing single storey dwelling.

DESCRIPTION OF PROPOSAL

The subject application proposes an upper storey addition and alterations of approximately 145m² comprising a combined living and kitchen area, master bedroom with ensuite and walk in robe and an additional bedroom. A balcony of 28.5m² is accessible from the master bedroom and the living area. The upper floor additions will have major openings facing to the east and south.

The lower floor of the existing house comprises three bedrooms, kitchen, lounge, dining, bathroom, laundry, family and meals area, as well as a previous extension to provide a guest suite with master bedroom, bathroom ensuite and walk in robe.

The construction will be rendered brickwork with a tiled roof at a pitch of 23.5°.

Description of Site

The subject site is:

- a 736m² lot
- zoned Residential R12.5
- Richmond Hill Precinct

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Streetscape : Building setback will remain unchanged. Dwelling currently presents as single storey with undercroft garage.

Documentation

Plans and relevant forms date stamped received on 28 May 2012
Overlooking and shadow diagram date stamped received on 8 June 2012
Submission from the adjoining owner at No.17 Habgood Street dated 7 June 2012

Submission from adjoining owner 12 Chauncy Street dated 20 June 2012
 Additional comment from adjoining owner 12 Chauncy Street dated 21 June 2012
 Applicant response to neighbours' comments dated 25 June 2012
 Amended plans date stamped received on 23 July 2012
 Applicant response to Town Planning Advisory Panel's comments dated 2 July 2012
 Amended plans date stamped received on 1 August 2012

Date Application Received

28 May 2012

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

17 October 2000 Conditional Council approval for additions to the rear of the dwelling.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 5 to 20 June 2012 and two submissions were received. Amended plans were received on 1 August 2012 and as there were no substantial changes to the floor plan and the building's height was reduced it was not considered necessary to re-advertise the proposal. The comments below refer to the original proposal.

Neighbour Submission	Applicant Response	Planning Comments
<p>17 Habgood Street (North)</p> <p>Concerns are raised in regard to:</p> <ul style="list-style-type: none"> - Overlooking of front garden and pool area – No. 15 'sits' forward of the building line of No. 17 and therefore the projected upper floor living area will result in overlooking; - The proposed balcony would result in the same concerns – at present a tree screens the area from the verandah of No. 15; - The north east bedroom window is likely to overlook the upper bedroom/sitting room window. Requests a high window or obscure glass; and - The 'over' height is also of concern as it continues to increase the precedence of increased height. The roof of the house at No. 17 was required to be designed in a manner that complied with the height requirement. <p>The submitter has attached photographs to demonstrate overlooking from the pool and garden area and the screening offered by the small tree.</p>	<p>The dwelling at 15 Habgood Street was built in 1957 and therefore the setback and front verandah were constructed prior to the construction of 17 Habgood Street and the pool (in the front setback area).</p> <p>The proposed living area is setback from the existing building line of the undercroft garage and the existing verandah. With a front setback of 8.95m the upper level is well behind the required setback of 6.0m (7.5m required in R12.5 R-Coding). Further the cantilevering of the upper floor living room has been designed so that it acts as a shading device for the large windows/glazed bi-fold doors below. The shading is critical to the reduction in heat gain to the dwelling.</p> <p>A three dimensional moulding has been designed to surround the upper living room windows facing the street. The moulding acts as a sun shade to the window as well as a screening device to reduce the overlooking towards No. 17 and to ensure no overlooking behind the front setback (as stated in the R-Codes). Whilst further screening is not a requirement of the R-Codes, the owners of 17 Habgood Street are willing to come to an arrangement with the adjoining neighbour to plant additional screening plants along the boundary to increase privacy.</p> <p>No overlooking from the proposed balcony will occur. The balcony is</p>	<p>The design details and modifications in regard to prevention of overlooking and environmental issues are acknowledged and supported.</p> <p>Support the applicant's comments in that overlooking will not be an issue from the proposed balcony due to the projection of the proposed living room and as the remainder of this floor space is further setback at an upper level.</p> <p>The amended plans will address the privacy concerns for the neighbouring property owner.</p> <p>Acknowledge the applicant's comments in regard to the site constraints. The 3m fall in ground level from the rear boundary to the street, and the construction of the house over an undercroft garage presents difficulties in regard to compliance with Council's height controls. The proposed roof pitch also contributes to the excess height, albeit complementary to the existing roof form.</p> <p>The applicant's other comments in regard to design and construction issues are understood, however, it also has to be acknowledged that the owners require a large extension (floor space which cannot be provided on the ground level) in the first instance to accommodate additional family members in a manner that provides for separation between generations. In order to address these proposed living</p>

Neighbour Submission	Applicant Response	Planning Comments
	<p>located as far away as possible from the north eastern boundary and is screened by the living room wall to ensure there will be no overlooking of 17 Habgood Street.</p> <p>The bedroom 6 window was designed to make the most of the significant views of the river and the northern winter sun, whilst maintaining minimal overlooking if any into the neighbouring highlight window. However, the owner has decided to compromise and replace this window with a highlight window. An additional window for light and ventilation has been indicated on the south west wall. This window is within the required 4.5m cone of vision as required under the R-Codes.</p> <p>The existing house was built in 1957 and ownership still remains with the family. There is a need to enlarge the family home to accommodate elderly family members. This is preferred rather than to rebuild. The owner wishes to retain a rear garden for younger children and the location of the pool required second storey additions.</p> <p>When designing and building a second storey there are a number of factors that present challenges that would not arise with the construction of a new building. There is a large floor space required. The floor space must accommodate the existing ceiling joists and roof beams from the floor below. It is also required to accommodate the new floor beams and joists, as well as room for services such as air conditioning ducts. Secondly, the ceiling level is little more than the required minimum, and already significantly lower than the existing house.</p> <p>The existing building design can impact on the overall height of the addition such as the undercroft garage in this design. The living room over the undercroft garage has been designed with a part concealed roof to reduce the overall height of the roof and building bulk at the site's lowest point. The concealed roof also assists to reduce the ridge height beyond where there is a roof above by reducing the span.</p> <p>The existing roof pitch of 25.7 degrees on the second floor has been designed to match the existing dwelling as well as add continuity and aesthetic value to the</p>	<p>arrangements they require the layout of the dwelling to be such that two separate 'dwelling areas' are accommodated in the one house.</p> <p>Finished height of the residence will not comply with Council's LPP 142 and the dwelling will exceed the building heights permitted from all boundary perspectives. All street and boundary setbacks comply.</p>

Neighbour Submission	Applicant Response	Planning Comments
	<p>streetscape. The high roof pitch is a compounding factor in regard to roof height.</p> <p>The site contours must also be taken into consideration as the increase in the height from the street to the rear of the property impacts on the height of the building. The majority of the height of the building complies with the heights specified in Table 3 of the R-Codes. There are only a few points on the site where the lowest contours result in the height of the building exceeding the requirements. These points are unavoidable and an effective design layout, including the opportunity for significant views, should not be compromised.</p> <p>Given the above comments it is considered that the proposed second storey additions will not have any impact on the property at 17 Habgood Street in relation to building height as:</p> <ul style="list-style-type: none"> .. there will be no restriction to direct sunlight; .. adequate daylight to major openings will be unaffected; and .. there is no impact on views of significance for 17 Habgood Street. 	
<p>12 Chauncy Street (West)</p> <p>Concerned that height of the proposed additions will severely impact on the view from the upper level of the dwelling on the above property. Opposed to the proposed addition.</p> <p>Extension of the above dwelling in the future is likely if views are to be retained. This will then impact on the views of a dwelling recently constructed at 5 Chauncy Street.</p>	<p>Refer to responses regarding concerns of the owner of 17 Habgood Street. Leniency should be shown in regard to proposed additions due to the technical constraints of building a second storey to an existing house. The challenge of the slope of the site should also be considered.</p> <p>The proposed additions conform to the maximum height requirements specified in the R-Codes in relation to walls facing 12 Chauncy Street. Approval has been granted for a two storey residence on this site. The owner of 15 Habgood Street should also be afforded the same permission for a two storey residence. Whilst it is unfortunate that views may be restricted, the neighbours stated that they can make adjustments to their home to capture views. 12 Chauncy Street has increased elevation and this is to the owner's advantage.</p>	<p>The adjoining owner's comments are acknowledged. It is difficult to determine and measure the extent of the impact on views of the property at 12 Chauncy Street and even more difficult to predict what impact there might be on surrounding properties should other building works on properties in the vicinity eventuate. Nevertheless it is very likely that the views from the property at the rear will be impacted as the additions are increasing the height of the building and span the width of the existing house.</p> <p>In this respect it is noted under LPP 142 Part 4 <i>'that Council is required to exercise discretion under its Policies or the performance criteria of the R-Codes Sections...6.7 – Building Height, the Council will have regard for the impact a proposed building may have on views that owners of adjoining property(s) may enjoy.'</i></p> <p>It is also noted that whilst the building height may comply with regard to the rear elevation under the R-Codes the height of the building at the front setback would</p>

Neighbour Submission	Applicant Response	Planning Comments
		exceed the height provisions of the R-Codes (from the finished floor level of the undercroft garage).

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 26 June 2012.

The Panel made the following comments in regard to the application and the applicant has responded. As indicated above the Panel's comments are in respect to the original proposal and not the amended plans.

Panel Comment	Applicant Response	Officer Assessment
The proposed building height is not supported.	<p>The proposed height of the dwelling is determined by a number of factors as discussed below:</p> <ul style="list-style-type: none"> .. the floor space indicated must accommodate the existing ceiling joists and roof beams from the floor below. The new floor beams and joists, as well as room for services such as air conditioning ducts must also be accommodated. .. the ceiling level, which is little more than the required minimum, and already significantly lower than the existing house. .. the existing building design (such as the undercroft garage) can impact on the overall height of the addition. The living room over the undercroft garage has been designed with a part concealed roof to reduce the overall height of the roof and building bulk at the site's lowest point. The part concealed roof also assists to reduce the ridge height beyond where there is roof above by reducing the span. .. the existing roof pitch of 25.7° has been matched on the second floor to maintain the character of the home as well as continuity and aesthetic value to the streetscape. This existing steeper roof pitch is an additional factor to the overall height of the roof. .. the site contours must also be taken into consideration as the large variance impacts on the overall height of the building. Whilst the majority of the building complies with the height specified in Table 3 of the R-Codes, there are only a few points where the site contours are at a lower point and the building does not meet the criteria. These few points are 	<p>The height of the dwelling does not comply with Council's LPP 142 in regard to Part 1 - Building Height and Part 4 - Views.</p> <p>The proposed height responds to the construction and design characteristics of the existing dwelling and the site constraints. However, the extended dwelling will exceed the building height and have an impact on the views of surrounding properties due to the expanse of the upper floor additions across the width of the lower floor.</p> <p>The proposed reduction in required roof pitch reduces the ridge height of the proposed additions and complements the existing dwelling.</p>

Panel Comment	Applicant Response	Officer Assessment
	<p>unavoidable and an effective design layout and the desire to maximize views should not be compromised.</p>	
<p>The lounge and dining upper floor addition is too 'top-heavy' for the architecture of the existing residence.</p>	<p>The architectural intention is not to replicate the characteristics of a bygone era, but rather to preserve the authenticity of the existing in unification with the new works. Art deco elements have been used in the new works as a fusion point between the old and new. This includes design elements of the balcony balustrade, fenestrations and curvature of walls.</p> <p>The second storey solid massing is balanced in composition by the negative open spaces of the balcony. Whilst the cantilevering of the living room forms a point of tension and visual interest, the solid massing of the masonry and large format limestone blocks below roots the base of the building to alleviate any notion of being 'top heavy'.</p>	<p>The Panel's concerns are relevant given Council is obliged to consider issues which include the appearance of the proposal (Clause 10.2(p) refers). The concerns regarding the lounge and dining upper floor being too "top heavy" come within the area of personal judgement as to whether this is the case. The proposed addition complies generally with the relevant setback requirements, helping to reduce its bulk and mass from the street.</p> <p>The reduced roof pitch reduces the scale of the proposed dwelling by reducing its overall height. However, the proposed addition, by virtue of the original house's construction, will result in what appears as three levels of building.</p> <p>The architectural elements of the proposed addition are complementary to the existing dwelling. The forward protruding balcony features contribute to reducing the bulk and mass of the dwelling.</p>
<p>This proposed residence is not considered to be in sympathy with the lighter architecture of the surrounding streetscape.</p>	<p>Habgood Street and those streets intersecting it have an assortment of houses from the modern era, each with their own style. Whilst there are those with a 'lighter style' there are some examples of 'heavier' architecture than that of the proposed additions.</p> <p>No. 34 Locke Crescent represents a heavier form of architecture as a two-storey, Mediterranean style residence with a concealed roof and solid massing of walls. No. 10 Habgood Street is a newly constructed residence which comprises a solid mass of construction without a pitched roof to the street frontage and without any characteristics of the 'lighter' architecture. The proposed extensions are not out of character with those of the surrounding area, that is, a standard hipped roof for the majority of the addition, rendered walls, neutral palette and simple window details. The applicant and owner are of the opinion that the additions will enhance the appeal of the dwelling and the streetscape.</p>	<p>There is evidence of differing architectural styles and elements along Habgood Street, as well as in the immediate locality and as identified at No. 34 Locke Crescent.</p>

4 September 2012

MINUTES

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	No change	A				
Site Works	Less than 500mm	Less than 500 mm – no change	A				
Local Planning Policies:							
Policy 142	Issues		Status				
	Height discretion		D				
Roof (LPP 066)	Upper floor extension – non-compliance with Policy		D				
Solar Access & Shade	Balcony facing east – bedroom window north highlight		A				
Drainage	To be conditioned		A				
Views	Potential for impact on view corridors		D				
Crossover	No impact		A				
Trees	No impact		A				
Other:							
	Issues		Status				
Overshadowing	Minimal impact on adjoining lot 2.8% – no impact on usable open space. Meets R-Code requirements		A				
Privacy/Overlooking	Impact on adjoining balconies		D				
Height: LPP 142							
	Required	Proposed	Revised Plans (plans dated 1.8.12)	Height Reduction	Status		
Wall east (undercroft garage)	5.6	8.69	7.78	0.91	D		
Wall (projected section)	5.6	9.69	8.78	0.91	D		
Wall north	5.6	7.54	7.29	0.25	D		
Wall (projected section)	5.6	8.54	8.29	0.25	D		
Wall south	5.6	6.44	6.19	0.25	D		
Wall west	5.6	5.92	5.72	0.20	D		
Ridge							
Ridge east (undercroft)	8.1	11.19	9.73	1.46	D		
Ridge north	8.1	9.94	9.24	0.70	D		
Ridge south	8.1	8.89	8.14	0.75	A		
Ridge west	8.1	8.42	7.67	0.75	A		
Roof Form:	Hipped / Pitch – 25.7° Revised plans (1.8.12) 23.5°						
Privacy/Overlooking:							
	Cone of Vision Drawings						
Clause 6.8.1 FFL 0.5m above NGL major opening to active habitable spaces	Required		Proposed				
	4.5m from bedrooms northern boundary		4.5		A		
	6.0m other hab rms		5.0		D		
	7.5m unenclosed outdoor active hab (eg balcony)		2.5		D		
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
Ground			N/A	N/A	N/A	N/A	A
Upper	Same as lower floor				7.5	8.5	A
Rear (west)							
Ground		N/A	N/A	N/A	N/A	N/A	
Upper		5.7* - 5.9*	14	yes	3.8	15.6 – 18.4	A
Side (north)							
Ground		N/A	N/A	N/A	N/A	N/A	
Upper		6.9* - 7.9*	9.3	no	1.5	1.9 – 3.0	A

Side (south)							
Ground		N/A	N/A	N/A	N/A	N/A	
Upper		5.8* - 6.6*	8.0	no	1.2	2.5 – 4.0	A

- Note:** 1. *Wall height for purpose of calculating boundary setbacks
2. Setbacks calculated on revised plans dated 1.8.12

ASSESSMENT

The application has been assessed in regard to the R-Codes and Council's Local Planning Policies and the variations proposed are discussed below in regard to plans submitted on 28 May, 23 July 2012 (original proposal) and on 1 August 2012 (amended proposal).

Amended Proposal

The applicant and owners were advised of the issues and concerns in regard to the application and in reply responded to the adjoining owners' and the Town's concerns by submitting amended plans that the applicant claims reduce the height of the building as much as possible. In support of the application the applicant has made the following statement.

"Firstly I have engaged an engineer to design a sub-floor structure that is as compact as possible. The result is a 380mm reduction in height from 750mm to 320mm. This does mean that services such as air conditioning ducting to the ground floor will not be an option for the residents for heating and cooling. The window to the powder room was also lost due to the height change. This amendment has made a large impact on the overall height of the building.

Secondly I have reduced the roof pitch from 25.7 to 23.5 degrees further reducing the ridge height (the highest point of the building). A section has been included on page 05 through the ridge line to demonstrate the height from the lowest point of natural ground level to the ridge directly under the ridge as measured per the R-Codes (The local planning policy residential development states "All building height measurements are as determined by the Residential Design Codes". Whilst the ridge height does not meet the reduced heights set out in the Council Policy of 8.1m, it does meet the maximum height of 9m set out in the R-Codes.

I hope that in considering the application you will acknowledge that every effort has been made to eliminate any overlooking at the neighbour's request and to reduce the height of the renovation of which is constrained by the design of the existing house with pre-existing floor levels, high ceilings on a sloping site. The renovation is essential to the amenity of the family unit, with no feasible alternate option on the site."

Building Height

The proposed additions will result in the dwelling not complying with LPP 142 in regard to Part 1 (Maximum Building Height) and Part 4 (Views).

The amended plans indicate wall height and roof ridge limits are still exceeded for the eastern and northern elevations of between 1.0 and 1.6 metres, and wall height limits are exceeded for all elevations. This is primarily due to the fall of the land from the rear of the lot to the road by almost 3 metres. Also adding to the building's height from the street perspective is an undercroft garage which, with an upper storey addition, will effectively result in three levels of building. Assessment of the amended plans indicates a reduction in the overall height of the proposal as outlined by the applicant. The result being that the application now complies with the roof ridge limits as measured from the western and southern boundaries; being 7.7 and 8.1 metres respectively .

The owners are wishing to gain as much height as possible in regard to the finished floor level of the upper storey to maximise neighbourhood and river views, however in order to

address LPP 142 requirements they have reduced the sub-floor structure so that finished floor level of the upper floor additions has been reduced by 400mm. The space between the ceiling height of the lower floor and the finished floor level of the upper floor additions has been reduced from 700mm to 320mm. The original dwelling has been designed to maintain a continuous finished floor level over the sloping block and the upper floor additions will be constructed in relation to this finished floor level. There are limited options for expansion of the residence as the home has a rear garden pool and rear extensions were completed in recent times.

In support of the application the applicant has submitted the following information:

The existing house being built by the family in 1957 and being passed down through the generations holds significant sentimental value. When the need for enlarging the home to accommodate elderly family members arose it became more important to retain the original house and extend rather than rebuild. The owner seeks to maintain a backyard for children to play in and the location of the pool required the extension to be built as a second level.

and

“The proposed development on the site has significant importance to the family unit. The addition will accommodate the owner’s elderly parents to live with their children and grand children. The extension allows for the two family parts to live independently within the house with areas for separate living and privacy. This move is financially beneficial as well as providing in house care when required as the parents’ age.”

The existing house combined with the addition also caters for the second set of parents who live in the south of Western Australia and when travelling up to Perth stay for extended periods of time. The additions will allow a bedroom and ensuite to be maintained for them or other visiting guests.”

Under LPP 142 Part 1 – Maximum Building Heights (i) the general intention is for buildings to retain the predominant bulk and scale of the locality / precinct and (ii) Category ‘B’ provisions as set out within Table 3 of the R-Codes are applicable as the ‘Acceptable Development’ standards except in localities where views are an important part of the amenity of the area then the maximum building heights are 8.1 metres to the top of the pitched roof and 5.6 metres to the top of the external wall. The building heights in this instance do exceed the upper limits; however, from the viewpoint of the property to the rear the height of the additions will not exceed those specified in LPP 142 as the roof ridge height measured from the rear property boundary is 7.6 metres. Furthermore, their dwelling is on higher ground towards the front of the property fronting Chauncy Street thereby resulting in a finished floor level higher than that of the dwelling on the subject site.

In regard to Part 4 – Views Council is requested to exercise discretion under its Policies for the Performance Criteria of the Residential Design Codes, in particular building height where the Council will have regard for the impact a proposed building may have on views that the owners of adjoining property(s) may enjoy. In this regard and in relation to the concerns of the rear property owner compliance with maximum building height from the western perspective has addressed the expectations of the affected owner that obstruction of views will be minimised.

The adjoining owner of No. 17 Habgood Street’s comment that a precedent will be set if building height is exceeded is not supported as the Town assesses every application (where applicable) under LPP 142 and gives careful consideration to the impact of the height, bulk and scale a building may have in regard to adjacent properties and the streetscape.

In respect to the height of the proposed additions from a streetscape perspective it is considered the application can be supported. The applicant has endeavoured to comply

with all setback provisions and to minimise the height of the upper floor. The slope of the land and the undercroft garage has made it difficult to comply with Council's policy and in attempting to do so the applicant has worked to reduce the bulk and scale of the building. They have complied with building height from the south west and south east perspective, from which views of significance for properties higher on the hillside are most likely to be impacted. The forward protruding balcony also helps reduce the bulk of the building from the street.

As a consequence the proposed additions are not considered to result in a dwelling that will contrast markedly with the scale and proportions of new contemporary homes and other additions in the locality and will not be detrimental to the amenity of the area.

Setbacks

The amended plans date stamped received on 1 August 2012 indicate compliance with the required setbacks under the R-Codes. The windows of the adjoining dwelling to the north are highlight windows as is the proposed window of bedroom 6 facing this boundary. As such the adjoining owner's concerns have been addressed.

Roof Pitch

A roof pitch of 23.5° is proposed and Council's LPP 066 requires a roof pitch of 28°. This deviation from the LPP is considered insignificant given the variation in roof pitch of new and existing development in the area and within the street. Furthermore, any increase in roof pitch will further increase the actual and perceived height of the dwelling; as such it is not considered essential for the roof pitch to be 28°.

Privacy and Overlooking

The application proposes a balcony area that is greater than 0.5 metres above natural ground level and faces north east towards the street and river, and a living room window that also faces in the same direction with an outlook over the front garden of No. 17 Habgood Street.

The owners on each side of the subject lot have swimming pools and outdoor living areas situated in the front setback area of their properties and in the case of 13 Habgood Street the front verandah has been roofed and is also used for outdoor living. The proposed balcony will allow overlooking of the front setback area (pool and surrounds) of the neighbouring property to the south, and to a limited extent the front verandah although this is somewhat screened by its roof. Overlooking of 17 Habgood Street is more restricted because the adjoining property is screened by the protrusion of the proposed living area (forward of the balcony setback) and the box framed living room window. The view from the balcony into the front setback of No. 17 Habgood is therefore far more restricted and any potential for overlooking can be addressed through planting to further screen the outdoor area.

The owner of 17 Habgood Street has objected to aspects of the proposal based on overlooking and privacy issues. In regard to the upper storey bedroom window the matters have been addressed by the amended plans indicating relocation of the larger bedroom window to the rear (west) wall and replacement with a highlight window on the north wall.

The R-Codes specify that acceptable development provisions in regard to privacy and overlooking are limited to areas of any adjoining property behind its setback line. A lesser need for privacy protection is the usual case for front gardens and areas accessible from the street – where a lesser degree of privacy is to be expected. This situation applies to both the adjoining properties and whilst the expectation of privacy for the pool area in the front setback of No. 13 cannot be as great as if this were a rear habitable open space area there is some expectation of privacy for the front verandah (being behind the building setback line).

As this particular aspect of the proposal does not meet the R-Code requirement in regard to compliance with Clause 6.8.1 regarding privacy and overlooking (setback provisions of between 6.0 and 7.5 metres) it is considered that the matter should be addressed

through a condition of planning approval stipulating fixed screen louvres be installed on the southern aspect of the balcony. The applicants have also indicated that the owners of No. 15 Habgood Street are willing to liaise with the owners of No. 17 in regard to augmenting the existing landscape screening with further planting. A condition regarding landscape screening can also be imposed to address this aspect of concern.

The owner of No. 13 Habgood Street did not make a submission.

Conclusion

The proposed development incorporates variations to the Town's Local Planning Policies and the Residential Design Codes with regard to building height, roofing and visual privacy.

The non-compliance with Local Planning Policy 066 in regard to roof form is acceptable as it is a minor variation and there is no detrimental impact on the amenity of the area. In any case the pitch will assist in reducing the overall height of the additions.

The proposed balcony will allow overlooking of one of the neighbouring property's (No. 13) front setback area (pool and surrounds) and the front verandah to a limited extent. This can be adequately addressed through a fixed screening device on the southern aspect of the balcony. It is noted the adjoining neighbour has not submitted comments in regard to this or any other aspect of the proposal. Similarly, a condition requiring additional planting along the northern boundary of No. 15 Habgood Street to provide screening of the pool area at No. 17 should also be imposed.

Two objections to the proposal based on impact of building height, obstructed views, privacy and overlooking were received from property owners to the rear and to the north. These matters are considered to have been adequately addressed by the applicant in amended plans which reduce the height of the building and consequently the impact on views for the property to the rear.

The proposed building height, although not in compliance with LPP 142 from the eastern and northern boundary perspectives, is also supported as the building height is exacerbated from these viewpoints due to the significant fall of the land over the site from south west to north east. From the southern perspectives the building height is not exceeded and the impact on views of significance has been minimised.

The additional height of the building is not considered detrimental in terms of its impact on the streetscape and compliance with building setbacks has helped to reduce the buildings bulk and scale. It is not out of character with the scale and proportions of contemporary housing or recent additions to properties in the locality.

Given the above comments the application is supported subject to a number of conditions.

RECOMMENDATION

That Council exercise discretion in granting planning approval to:

- (a) vary Clause 6.8.1 of the Residential Design Codes of Western Australia in regard to visual privacy to permit the cone of vision from:
 - (i) the balcony to intrude over the south eastern boundary and the balcony be setback a distance of 2.5 metres as indicated on the plans date stamped received on 1 August 2012; and
 - (ii) the living room to intrude over the north eastern boundary and the living room window to be setback a distance of 2.6 metres as indicated on the plans date stamped received on 1 August 2012;
- (b) vary the building height requirements of Local Planning Policy 142 – Residential Development to permit a maximum roof ridge height of RL 37.65 as indicated on plans date stamped received on 1 August 2012; and
- (c) vary Local Planning Policy 066 - Roofing to permit a roof pitch of 23.5°,

for upper floor additions and alterations to an existing single storey dwelling No. 15 (Lot 5026) Habgood Street, East Fremantle in accordance with the plans date stamp received on 1 August 2012, subject to the following conditions:

1. The installation of fixed screen louvres on the south eastern aspect of the balcony to ensure privacy for the adjoining owner to the satisfaction of the Chief Executive Officer and in consultation with relevant officers.
2. The submission of a landscaping plan indicating planting along the northern property boundary, which is to be implemented and maintained, that will provide screening of the pool and surrounding outdoor area at No. 17 Habgood Street to the satisfaction of the Chief Executive Officer in consultation with the relevant officers prior to the issue of a building licence.
3. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by the Chief Executive Officer (*refer footnote (h) below*).
4. 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.
5. 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.
6. In cases where there is an existing crossover(s) this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.
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) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) with regard to construction of the crossover the applicant/builders is to contact Council's Works Supervisor.
- (f) the balcony area may not be enclosed without the prior written consent of Council.
- (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (h) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That Council exercise discretion in granting planning approval to:

- (a) vary Clause 6.8.1 of the Residential Design Codes of Western Australia in regard to visual privacy to permit the cone of vision from:
 - (i) the balcony to intrude over the south eastern boundary and the balcony be setback a distance of 2.5 metres as indicated on the plans date stamped received on 1 August 2012; and
 - (ii) the living room to intrude over the north eastern boundary and the living room window to be setback a distance of 2.6 metres as indicated on the plans date stamped received on 1 August 2012;
- (b) vary the building height requirements of Local Planning Policy 142 – Residential Development to permit a maximum roof ridge height of RL 37.65 as indicated on plans date stamped received on 1 August 2012; and
- (c) vary Local Planning Policy 066 - Roofing to permit a roof pitch of 23.5°, for upper floor additions and alterations to an existing single storey dwelling No. 15 (Lot 5026) Habgood Street, East Fremantle in accordance with the plans date stamp received on 1 August 2012, subject to the following conditions:
 1. The installation of fixed screen louvres on the south eastern aspect of the balcony to ensure privacy for the adjoining owner to the satisfaction of the Chief Executive Officer and in consultation with relevant officers.
 2. The submission of a landscaping plan indicating planting along the northern property boundary, which is to be implemented and maintained, that will provide screening of the pool and surrounding outdoor area at No. 17 Habgood Street to the satisfaction of the Chief Executive Officer in consultation with the relevant officers prior to the issue of a building licence.
 3. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by the Chief Executive Officer (*refer footnote (h) below*).
 4. 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.
5. 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.
 6. In cases where there is an existing crossover(s) this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
 7. 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.
 8. 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.
 9. 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.
 10. 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.
 11. 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.
 12. 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.
 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) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation*

report should be lodged with Council and one copy should be given to the owner of any affected property.

- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) the balcony area may not be enclosed without the prior written consent of Council.*
- (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

T80.12

Hamilton Street No. 33 (Lot 15)

Applicant: Green-Shore Builders

Owner: G & A Brunsdon

Application No. P24/2011

By Carly Pidco, Town Planner, on 27 August 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of an application for Development Approval for alterations and additions to the existing single dwelling at 33 Hamilton Street, East Fremantle.

BACKGROUND

Description of proposal

The proposed development is for alterations and additions to the existing dwelling. Alterations to the front facade include replacing the existing flat verandah with a bullnose verandah and replacing the existing tiled roof with zincalume and increasing the roof pitch. The additions are located to the rear and side of the existing dwelling and comprise open plan meals, family and kitchen; bathroom; master bedroom with ensuite; laundry; garage; and alfresco. The additions are single-storey and finished with brick and zincalume to match the existing dwelling.

Description of Site

The subject site is:

- a 904m² freehold lot
- zoned Residential 20
- located in the Woodside Precinct
- improved with a single-storey single dwelling and outbuilding
- assigned B-^A Management Category in the Heritage Survey 2006

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)
Local Planning Policy No. 142 : Residential Development (LPP142)
Local Planning Policy No. 143 : Policy on Local Laws Relating to Fencing (LPP 143)

Impact on Public Domain

Tree in verge : To be retained
Light pole : No impact
Crossover : Second crossover proposed
Footpath : New crossover proposed
Streetscape : Additions visible from street

Documentation

Plans and relevant forms date stamped received on 23 July 2012
Amended plans date stamped received on 15 August 2012
Place Record Form from Heritage Survey 2006
Email from applicant sent 15 August 2012

Date Application Received

23 July 2012

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

9 December 2008 Council approves application for alterations and additions (garage, store, workshop, granny flat, home office, laundry, dining, family room, ensuite, spa and arbour). *Note approval was not acted on.*
18 October 2011 Council approves application for alterations, additions and ancillary accommodation
18 May 2012 Council approves under delegated authority application for shed.

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours from 1 August 2012 to 16 August 2012. No submissions were received during this period.

The applicant has provided signed letters from the owners of 31 Hamilton Street (adjacent to northern boundary) and 32 Moss Street (adjacent to western boundary) stating they have no objection to the development.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 27 March 2012. The Panel made the following comments:

- *Panel supports the application.*
- *Panel recommends researching physical and/or documentary evidence, to confirm the original verandah form.*

The applicant's written response to the second comment is attached. The applicant states that the proposed bullnose verandah is in keeping with houses of a similar age in East Fremantle and will be an improvement to the existing flat verandah. The planning officer has reviewed plans held in the Town's archives to investigate what the original verandah style may have been, however, no such plans were available.

Whilst the issue of physical evidence could have been further pursued, or a heritage report sought, it is clear the existing verandah is not original and evidence that similar houses of the period had bullnose verandahs.

Site Inspection

By Town Planner on 28 August 2012

ASSESSMENT

The proposed development incorporates a number of variations to the Town's LPP 142 Residential Development and the Residential Design Codes, as detailed below.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	50%	34%	A				
Site Works	Less than 500mm	Less than 500mm	A				
Local Planning Policies:							
Policy 142	Boundary setback variation		D				
Roof	Hipped, 31 degrees Zinalume (apply standard cdn)		A				
Solar Access & Shade	Alfresco has opening to north		A				
Drainage	To be conditioned		A				
Views	Area not characterised by views		A				
Crossover	Revised plans 15/08/2012 comply		A				
Trees	Condition to comply		A				
Other:							
Overshadowing	1.7% over No. 35 Hamilton		A				
Privacy/Overlooking	WEST: Bedroom – western window 3.7m over northern boundary Alfresco – western opening 0.4m over western boundary NORTH: Meals – northern window 1.9m over northern boundary		D				
Height:	Required	Proposed	Status				
Wall	6.0	3.5m	A				
Wall (Concealed Roof)	7.0	N/A	A				
Roof	9.0	6.9m	A				
Roof type	Hipped						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (east)</i>							
Ground	Garage	N/A	N/A	N/A	At or behind main building line	9.6m, behind main dwelling	A
<i>Rear (west)</i>							
Ground	Alfresco	3.4m	5.1m	Y	1.5m	6.6m	
	Dwelling	3.4m	17.2m	Y	1.5m	Min. 10.8m	A
<i>Side (north)</i>							
Ground	Bath	3.7m*	14.4*	Y*	2.8m	Bath: 1.6m	D
	Meals	3.4m	16.5*	Y	1.5m	4.6m	A
	Dwelling	3.4m	25.0*	Y	1.5m	8.1m	A
<i>Side (south)</i>							
Ground	Garage / Master	3.1m	14.1m	N	1.5m	Min. 3.5m	A
	Dwelling	3.4m	25.0*	Y	1.5m	10.5m	A

* As calculated for assessment purposes

Crossover

The original submitted plans show two crossovers serving the development – an existing 3 metre wide crossover and a new 5 metre wide crossover. Following discussion with the Planning Officer, the applicant has submitted a revised site plan, received 15 August

2012, showing the old crossover being removed and new crossover reduced to 3.0m wide. This brings this aspect of the development into compliance.

Building Setbacks

The development proposes a reduced side setback to the bathroom from the northern boundary. Part 3 of the LPP 142 provides standards for assessing boundary setback variations, detailed below.

- (a) *Walls are not higher than 3m and up to 9m in length up to one side boundary;*

The wall height is in excess of both height and length requirements. However, the assessed wall length is based upon the entire length of the dwelling and not just the bathroom wall (ie verandah, Bed 2, Bed 3 and Bath). The bathroom has a greater setback than the existing dwelling and is only 3.1m in length, and will have minimal visual impact on top of what already exists.

- (b) *Walls are behind the main dwelling;*

Complies.

- (c) *Subject to the overshadow provisions of the Residential Design Codes – Element 9;*

Complies.

- (d) *In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and*

The proposed bathroom sits in line with the neighbouring dwelling which also has a minimal side setback. It will not be out of place in this context. The site does not have access to significant views and the proposed development is single-storey and compliant with height requirements.

- (e) *Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.*

Complies - The proposed bathroom sits in line with the neighbouring dwelling which also has a minimal side setback.

Visual Privacy

The cone of vision from the northern opening to the meals room intrudes 1.9m over the northern boundary. The submitted plans show that screening will be erected at the boundary for privacy and a submission from the affected neighbour stating no objection has been provided. The practical intrusion from this opening is negligible; the height difference between the two properties is minor and the finished floor level of the dwellings essentially the same. It is unlikely that the opening will have an unacceptable impact on the neighbouring property and as the neighbour does not object, the discretion is supported.

The cone of vision from the western opening to bedroom 3 intrudes 3.7m over the northern boundary. The overlooking occurs on an angle and given the minimal height difference between properties and width and location of the bedroom 3 window, the intrusion will be negligible. The area overlooked is the rear of the neighbouring dwelling and narrow side setback area, and not a sensitive living area. The discretion is supported.

The cone of vision from the western opening to the alfresco intrudes 0.4m over the western boundary. The extent of this intrusion is negligible and, taking into account a

standard boundary fence, will not be perceptible at ground level. The affected neighbour has provided a signed letter stating no objection. The discretion is supported.

The cone of vision from the proposed alfresco intrudes 1.8m over the proposed northern boundary with unit 2. However, the significant proposed level difference between the grouped dwellings will result in the view of unit 2 from unit 1 being mostly of the roof and not through windows or into sensitive living areas. The practical impact of the privacy variation on the proposed unit 2 is negligible and it is recommended that the variation be supported.

CONCLUSION

The proposed development incorporates variations to the side setback and visual privacy requirements of the R-Codes. These variations are minor in nature and will not detrimentally impact on neighbouring dwellings or the streetscape. Signed letters stating no objection to privacy variations have been received from the affected neighbours. The new verandah and reroofing will improve the appearance of the existing heritage dwelling and complement the surrounding streetscape. The Panel has advised that it supports the application, and while further information regarding the original verandah has not been provided, the applicant's statement that the proposed bullnose verandah is typical of a dwelling of this age is accepted. It is recommended that the proposed development be approved subject to conditions.

RECOMMENDATION

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

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.6m side setback from the northern wall of the Bath to the northern boundary;
- (b) vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the western window to Bed 3 to intrude 3.7m over the northern boundary; from the western opening to the Alfresco to intrude 0.4m over the western boundary; and from the northern window to Meals to intrude 1.9m over the northern boundary;

for the construction of alterations and additions at No. 33 (Lot 15) Hamilton Street, East Fremantle, in accordance with the plans date stamped received on 23 July 2012, sheets A.01 through A.03 and sheets A.05 through A.08; and revised plan date stamped received on 15 August 2012, sheet A.04, 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. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)
7. 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.
8. 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.
 9. 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.
 10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Collinson

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

- (a) **vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.6m side setback from the northern wall of the Bath to the northern boundary;**
- (b) **vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the western window to Bed 3 to intrude 3.7m over the northern boundary; from the western opening to the Alfresco to intrude 0.4m over the western boundary; and from the northern window to Meals to intrude 1.9m over the northern boundary;**

for the construction of a alterations and additions at No. 33 (Lot 15) Hamilton Street, East Fremantle, in accordance with the plans date stamped received on 23 July 2012, sheets A.01 through A.03 and sheets A.05 through A.08; and revised plan date stamped received on 15 August 2012, sheet A.04, 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. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (h) below)*
7. 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.
8. 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.
9. 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.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air-Conditioner Noise”.*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

T80.13

Windsor Road No .40 (Lot 274)**Applicant: Officer Woods Architects****Owner: T Monson & A Lannon****Application No. P117/12**

By Carly Pidco, Senior Planning Officer, on 30 August 2012

PURPOSE OF THIS REPORT

This report recommends approval of a Development Application for alterations and additions to the existing single dwelling at 40 Windsor Road, East Fremantle.

BACKGROUND**Description of Proposal**

The proposed development is alterations and additions to the existing single dwelling. The alterations include significant changes to the internal floorplan to create an open plan living area, fourth bedroom, second bathroom, relocated laundry and rebuilt pergola. The main front wall of the dwelling is to be increased in height and new roof and awnings installed. Additions include a walk in robe and ensuite to the main bedroom.

Description of Site

The subject site is:

- a 911m² freehold lot
- zoned Residential R12.5
- improved with a single-storey single dwelling, outbuilding and decking
- assigned C+ Management Category in the Heritage Survey 2006
- located in the Richmond Precinct

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

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 : Additions visible from street

Documentation

Plans and relevant forms date stamp received on 9 July 2012
 Submissions from applicant date stamped received 29 August 2012 and 30 July 2012

Date Application Received

9 July 2012.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between 13 July 2012 and 27 July 2012. At the close of advertising 1 submission had been received and is attached to this report. The issues raised in the submission are summarised in the following table alongside the applicant’s response.

SUBMISSION	APPLICANT RESPONSE
R & P Di Iorio, 38 Windsor Road New laundry door on south wall leads to our north boundary brick wall. It is important to note that no fixtures are shown on the plan in this location and no approval is given for any fixture to be affixed to the boundary wall. Possible impact on privacy from Bed 2 window The increase in height will cause an increase in shadow which may in turn impact on our garden.	We confirm that the existing boundary wall is to remain and does not form part of this submission. Window is fully compliant with the R-Codes. Overshadowing diagram is accurate and represents a significantly lower solar impact than is allowed for under the Codes.

The officer’s assessment against the LPP 142 and R-Codes is consistent with the applicant’s response with respect to these issues.

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 14 August 2012. The Panel made the following comment:

- *Panel doesn't support the addition of the robe in line with the existing house as this will distort the original roofline and front elevation of the house.*

The applicant has provided a written response making the following key points:

- *The robe extension is completely harmonious with the existing dwelling*
- *The lean-to roof form clearly identifies the robe as new work*
- *Location of the extension and existing typography and vegetation on the lot limit its impact on the streetscape*
- *Dwelling has had numerous significant modifications that make it difficult to identify the extent of the original dwelling. The southern bedroom wing is a recent extension that has widened the front elevation*

It is acknowledged that the dwelling has been altered over time and its interpretation is problematic. The roof line as presented in the submitted elevations appears awkward but achieves the design intent to be clearly identifiable as new work. The impact of the addition on the heritage values of the property is discussed further in the assessment section of this report.

Site Inspection

28 August 2012

ASSESSMENT

The proposed development is fully compliant with the Town's LPP 142 Residential Development. The development incorporates a variation to the visual privacy requirements of the Residential Design Codes, as detailed below.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	>55%	A				
Site Works	Less than 500mm	Less than 500mm	A				
Local Planning Policies:							
Local Planning Policies:	Issues		Status				
Policy 142	Complies		A				
Roof	Hipped, zincalume, 26°		A				
Solar Access & Shade	Living areas have major openings to north		A				
Drainage	To be conditioned		A				
Views	Complies with height requirements		A				
Crossover	Condition to comply		A				
Trees	Condition to comply		A				
Other:							
Other:	Issues		Status				
Overshadowing	<25%		A				
Privacy/Overlooking	NORTH: Northern opening to living room intrudes 0.9m over northern boundary		D				
Height:							
Height:	Required	Proposed	Status				
Wall	5.6	4.5	A				
Wall (Concealed Roof)	6.5	4.9	A				
Roof	8.1	7.3	A				
Roof type	Pitched						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
Ground	Located behind existing						A
Rear (east)							
Ground	Dwelling	N/A	N/A	N/A	6.0m	Min. 17.0m	A
Side (north)							
Ground	Robe / Ensuite	2.4	5.4	N	1.0	2.6	A
	Living / Terrace	4.9	17.9	Y	3.9	4.6	A
Side (south)							
Ground	Dwelling	4.0	12.5	N	1.5	2.3	A

* As calculated for assessment purposes

Visual Privacy

The cone of vision from the northern opening to the living room intrudes 0.9m over the northern boundary. The affected dwelling has a generous setback to its southern boundary, and there will be no practical overlooking into the house. The main outdoor living areas of the house are located at the northern side of lot and there will be no direct line of sight from the living room. The living room window sits comfortably in the elevation and will not dominate views from the neighbouring dwelling. In consideration of these points, the proposed living room window is consistent with the Performance Criteria of the R-Codes and is therefore supported.

Heritage

The subject dwelling is entered on the Town's Municipal Heritage Inventory and assigned a C+ Management Category. This Management Category recognises places that have some local significance but also contemplates demolition or adaptation of the building. The proposed development will extend and reconfigure the dwelling to achieve a contemporary family home, and is considered to be in the spirit of the C+ Management Category.

The walk-in-robe (WIR) addition will widen the façade and present a lean-to roof form to the streetscape. The TPAP has expressed concern that locating the WIR at the main building line will complicate interpretation of the original dwelling. The applicant submits that the contrasting roof form will make the WIR identifiable as new work, and this is supported. The WIR is also distinguishable as it sits behind the feature porch element and will have a different finish to the main bedrooms, which have large windows.

Although the Place Record Form rates the property highly for Integrity, it does appear to have been substantially altered. The existing southern bedroom reads as a later addition, particularly in consideration of the projecting roof to the master bedroom. It is noted that the proposal includes 'unifying' the roofline, which will remove this distinction. The reroofing will improve the appearance of the dwelling and is not incompatible with its character. In view of the C+ Management Category, this is considered appropriate.

The original chimney to the current living room / proposed bedroom is being retained, and this is commended.

Conclusion

The proposed development is compliant with the Town's LPP 142 and the R-Codes with the exception of overlooking from the living room window. However, the minor incursion of the cone of vision from this window onto the northern neighbour will not detrimentally impact on privacy and is consistent with the Performance Criteria of the R-Codes. The WIR addition and re-roofing will alter the façade of the dwelling and the TPAP has expressed concern that this will make interpretation difficult. It is noted that the dwelling façade has already been compromised by earlier additions, and in consideration of the C+ Management Category, adaption of the dwelling that enhances its street appeal – although not fully authentic – is considered an appropriate response to the heritage values of the dwelling. The proposal is supported subject to conditions.

RECOMMENDATION

That Council exercise its discretion in granting approval to vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the northern opening to the living room to intrude 0.9m over the northern boundary for the construction of additions and alterations at No. 40 (Lot 274) Windsor Road, East Fremantle, in accordance with the plans date stamped received on 9 July 2012, 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 permit 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. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally

- adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (g) below*)
 7. 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.
 8. 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.
 9. 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.
 10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builders is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

That Council exercise its discretion in granting approval to vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the northern opening to the living room to intrude 0.9m over the northern boundary for the construction of additions and alterations at No. 40 (Lot 274) Windsor Road, East Fremantle, in accordance with the plans date stamped received on 9 July 2012, 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 permit 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. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
 5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (g) below)*
 7. 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.
 8. 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.
 9. 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.
 10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 July 2012, this application is deemed determined, on behalf of Council, under delegated authority.

Ms Carly Pidco, Town Planner, left the meeting at 9.20pm.

T81. REPORTS OF OFFICERS – STRATEGIC PLANNING

T81.1 Residential Design Guidelines - Adoption

By Jamie Douglas, Manager Planning Services on 28 August 2012

PURPOSE OF THIS REPORT

This report recommends the recently formulated Residential Design Guidelines be adopted as a Local Planning Policy under the Town Planning Scheme and that existing Local Planning Policies which have been incorporated within the new Design Guidelines, be revoked.

BACKGROUND

The Guidelines for the Local Planning Policy have been developed to protect and promote the existing and desired character of each Precinct within the Town. They have been developed to control the maintenance, conservation and adaptation of existing residential development, along with the development of new infill and replacement residential development.

Residential development within the Town is currently controlled by the provisions of the Town Planning Scheme No. 3 (TPS 3), the Residential Design Codes (R-Codes) and more than twenty relevant Local Planning Policies. State Planning Policy 3.5 Historic Heritage Conservation must also be considered where relevant.

In August 2011, Council commissioned 'Griffiths Architects', together with 'Chris Antill Planning and Urban Design', to build on the development requirements contained in these planning documents, and consolidate the guidelines into a comprehensive Local Planning Policy (LPP) to replace the current Local Planning Policies relevant to residential development.

The draft Guidelines have been subject to an extensive period of consultation and review prior to finalising in their present form.

Development of Residential Design Guidelines

The development of the Design Guidelines has comprised two stages as follows:

Research

Consisting of:

- An analysis of all relevant information, base mapping, strategic and statutory planning provisions;
- Site surveys and examination of historical data to determine building typologies, significant features and streetscape character for each precinct;
- Identification and description of prevailing building typologies, significant features and streetscape character for each precinct;
- Sketches, photographs, and explanations necessary to describe the existing desirable built form and design elements of each precinct; and,
- Identification of the desired future character for each Precinct, the elements which contribute to that character, and the range of design elements appropriate for guidelines applicable specifically to each Precinct, or applicable generally throughout the Policy Area.

Guidelines Development

Consisting of:

- an analysis of all existing relevant Local Planning Policies which can be adopted into the Planning Policy;
- An analysis of relevant R Code provisions which could be modified and adapted to suit the requirements of the streetscape character of each Precinct;
- Identification and establishment of standards for land use and development that apply to both the entire Suburb and individual Precincts;
- Statements, desired development outcomes, performance criteria and acceptable development provisions that developments have to comply to for each standard; and,
- Information required when submitting a development application.

CONSULTATION

Given the importance of the Design Guidelines and its impact upon future developments within the Town, a comprehensive community engagement program was undertaken prior to commencement of the statutory advertising process which is required under clause 2.4 of the Planning Scheme for the adoption of a Local Planning Policy. The community engagement program included advertising in the local press and media releases and the preparation of display material and fact sheets to support a public information session which was held in May 2012.

The Council considered a report on the public feedback and the changes made to the draft Guidelines in June 2012 and approved the draft document for the purpose public advertising for adoption as a Local Planning Policy. The draft Policy was advertised in accordance with the statutory provisions of clause 2.4.1 of the Scheme. No submissions were received during the 21 day statutory advertising period which will conclude on 3 September 2012 (any late submissions will be tabled at the meeting).

REVOCATION OF EXISTING RELEVANT LOCAL PLANNING POLICIES

The following adopted Local Planning Policies are replaced by the proposed Residential Design Guidelines LPP and it is recommended that they be revoked:

- No. 012 Pergolas;
- No. 023 Use of reflective metal roofing material;
- No. 024 Demolition permits – properties on Heritage List;
- No. 043 Television Reception Antennae;
- No. 047 Design Precinct No. 5 Surbiton;
- No. 058 Issue of Demolition Permits – Places of Heritage Value & Places Deemed to be of Heritage Value;
- No. 064 Richmond Raceway Area 7 – Design Guidelines Policy & Policy Plan;
- No. 066 Roofing;
- No. 116 Conservation of trees in the private domain;
- No. 123 Footpaths and Crossovers;
- No. 126 Heritage – Burra Charter reference documents;

- No. 135 Domestic satellite dishes, microwave antennae, air conditioners & tower masts;
- No. 140 Fremantle Port Buffer Development Guidelines;
- No. 142 Residential Development;
- No. 143 Fencing;
- No. 144 Rainwater Tanks;
- Guidelines for Solar Collectors;

The above policies were reviewed and incorporated in to the Design Guidelines as follows:

Local Planning Policy 012 – Pergolas

Consolidated and adapted to suit Guidelines with minor revisions:

- Provisions that have been removed:
 1. “Height of the pergola not to exceed 2.500 at its lowest point measured from average ground level. Where this cannot be obtained Council will determine the height.” The height and visual presence of the pergola is to be illustrated in submitted drawings;
 2. “The horizontal plane of the structure to be level and not to be sloped or pitched in any direction.” This has been removed to allow more flexible and creative designs;
 3. “All pergolas approved for erection shall be completed within 6 months after the issue of a building permit and shall include coating with an approved paint finish.” Construction should not have a time limit and finish should not be limited to paint;
 4. “Brick piers may be used in the construction of pergolas, providing they meet the above requirements and if approved shall be reinforced with a 12 mm diameter mild steel rod embedded into concrete footing and extending inside the brick pier and fixed to the beam over with a steel bracket nut and washer.” Rather than specifically describe the construction method we have stated construction of pergolas shall meet the requirements of the current building standards;
 5. “A pergola for the purpose of this policy is defined as a structure supported on timber, steel or brick columns, consisting of timber beams or steel members capable of supporting timber or steel joists in turn providing a support for timber battens and/or shade cloth or similar material the combined area of the covering such as shade cloth, battens or trellis shall not exceed 50% of the total “plane” area and shall be evenly distributed over the whole of that plane.” Pergola definition is to match definition of the R-Codes and is located in the Glossary; and,
 6. “...set back from the front boundary not less than half the gazetted front ‘set back’ measured from the projection of the pergola closest to the front boundary.” To retain the visual presence of the existing dwelling pergolas are not to be located in the front setback area. Pergolas may be constructed in the front setback zone where pergolas are an established element of the streetscape.

Local Planning Policy 023 – Use of Reflective Metal Roofing Material

Reviewed and consolidated within the Guidelines.

Local Planning Policy 024 – Demolition Permits – Properties on Heritage List

- Consolidated and adapted to suit Guidelines; and,
- Amalgamated with Local Planning Policy 058.
- Further addressed with Amendment 9 which now requires Planning Approval for demolitions proposed for all Heritage Listed Buildings.

Local Planning Policy 043 – Television Reception Antennae

- Consolidated and adapted to suit Guidelines; and,
- Amalgamated with Local Planning Policy 135, 144 and Guidelines for Solar Collection.

Local Planning Policy 047 – Design Precinct No 5 Surbiton

- Consolidated in to the Riverside Precinct - Section 11.

Local Planning Policy 058 – Issue of Demolition Permit – Places of Heritage Value

- Consolidated and adapted to suit Guidelines; and,
- Amalgamated with Local Planning Policy 024.

Local Planning Policy 064 – Richmond Raceway Area 7

- Consolidated in to the Richmond Raceway Precinct - Section 13.

Local Planning Policy 066 – Roofing

- Consolidated and adapted to suit Guidelines with minor revisions:
 - Roof pitch to be between 28° and 36° (Original Planning Policy states greater than 28°). This change establishes a maximum which assists the retention of the traditional roof pitch pattern; and,
 - Materials are to be compatible with the colour, finishes and proportion of existing materials in the immediate locality (the original Planning Policy states orange Marseille tiles and Custom Orb Profile). This is to allow new materials that are compatible with the existing streetscape character to be explored.

Local Planning Policy 116 – Conservation of Trees in the Private Domain

- Consolidated and adapted to suit Guidelines.

Local Planning Policy 123 – Footpaths and Crossovers

- Consolidated and adapted to suit Guidelines.

Local Planning Policy 126 – Burra Charter Reference Documents

- Consolidated and adapted to suit Guidelines.

Local Planning Policy 135 – Satellite Dishes, Microwave Antennae, Air Conditioners & Tower Masts

- Consolidated and adapted to suit Guidelines; and,
- Amalgamated with Local Planning Policy 043 and Guidelines for Solar Collection.

Local Planning Policy 140 – Fremantle Port Buffer Development Guidelines

- Consolidated and adapted to suit Guidelines.

Local Planning Policy 142 – Residential Development

- Consolidated and adapted to suit Guidelines with minor revisions:
 - Removal of the following provisions to Maximum Building Height that have often led to poor design outcomes:
 1. “A maximum of 30% of the ground floor area (including garages and roofed areas enclosed on three sides) being contained in all upper level portions of the dwelling”; and,
 2. “Setbacks to the second storey being a minimum of 4m from all boundaries unless it is demonstrated to Council’s satisfaction that a lesser setback will not adversely impact on amenity”.

Local Planning Policy 143 – Local Laws Relating to Fencing:

- Consolidated and adapted to suit Guidelines with minor revisions:
 - No constraints on how to achieve permeability (the original Planning Policy states continuous vertical gaps of at least 50mm width). This is to allow for more creative and contemporary ways to achieve permeability (refer to the Section 7.7.8 Front Boundary Fences for examples); and,
 - An allowance for materials to be selected outside the stated acceptable materials.

Local Planning Policy 144 – Rainwater Tanks

- Consolidated and adapted to suit Guidelines; and,
- Amalgamate with Local Planning Policies 043, 135 and Guidelines for Solar Collection.

Local Planning Policy – Guidelines for Solar Collectors

- Consolidated and adapted to suit Guidelines; and,
- Amalgamate with Local Planning Policies 043, 135 and 144.

Statutory Process for the Adoption of a Local Planning Policy

Local Planning Policies are adopted under the Part 2 of TPS No. 3. Clause 2.4 of the Scheme requires that a proposed Policy is advertised for 2 consecutive weeks in a local newspaper and that submissions may be made during a period of not less than 21 days. Subsequent to the closure of the submission period, Council is then required to review the proposed Policy in the light of any submissions made and resolve whether or not to adopt the Policy with or without modification. If the Policy is adopted, a notice of the Policy must be advertised once in a local paper and it comes into force on the date of this advertisement. The Policy should also be forwarded to the Western Australian Planning Commission if Council decides it affects the interests of the Commission.

Statutory Process for the Revocation of a Local Planning Policy

Revocation of existing Local Planning Policies is subject to the provisions of clause 2.5 of the Scheme which are as follows:

2.5 Revocation of Local Planning Policy

A Local Planning Policy may be revoked by:

- (a) the adoption by the local government of a new Policy under clause 2.4 that is expressed to supersede the existing Local Planning Policy; or*
- (b) publication of a formal notice of revocation by the local government once a week for two consecutive weeks in a local newspaper circulating within the Scheme Area.*

Accordingly the adoption of the new Residential Design Guidelines LPP will give effect to the revocation of the identified policies. However it is also proposed that publication of the revocations should accompany the publication of the adoption of the Residential Design Guidelines given the substantial changes to the statutory planning provisions which will occur.

As an adjunct to the adoption and revocation processes Council's website will be updated in respect to Policies which are listed for downloading by the public.

RECOMMENDATION

That:

- A. pursuant to clause 2.4 of the Town of East Fremantle Town Planning Scheme No.3, the Council resolves to adopt the draft Local Planning Policy – “Residential Design Guidelines, September 2012” and that a notice of the adopted Policy be publicly advertised.
- B. pursuant to clause 2.5 of the Town of East Fremantle Town Planning Scheme No.3, the Council resolves to revoke the following Local Planning Policies be revoked and that notice of the revocation be publicly advertised:
 - No. 012 .. Pergolas;
 - No. 023 .. Use of reflective metal roofing material;
 - No. 024 .. Demolition permits – properties on Heritage List;
 - No. 043 .. Television Reception Antennae;
 - No. 047 .. Design Precinct No. 5 Surbiton;
 - No. 058 .. Issue of Demolition Permits – Places of Heritage Value & Places Deemed to be of Heritage Value;
 - No. 064 .. Richmond Raceway Area 7 – Design Guidelines Policy & Policy Plan;
 - No. 066 .. Roofing;

- No. 116 .. Conservation of trees in the private domain;
- No. 123 .. Footpaths and Crossovers;
- No. 126 .. Heritage – Burra Charter reference documents;
- No. 135 .. Domestic satellite dishes, microwave antennae, air conditioners & tower masts;
- No. 140 .. Fremantle Port Buffer Development Guidelines;
- No. 142 .. Residential Development;
- No. 143 .. Fencing;
- No. 144 .. Rainwater Tanks;
- (No No.) .. Guidelines for Solar Collectors.

Absolute Majority Resolution Required

Correspondence referred from MB Ref. T77.2 was tabled.

The following memo from the Manager – Planning Services was tabled:

The following advice is tendered in response to the submission by Mr. Barry Toms received on Monday 3 September 2012.

1. *Inconsistency between illustration (page 52) and the Acceptable Development Provisions A3 in respect to garage width.*

There is no inconsistency the illustration indicates garages can have a max. width of 30% of lot frontage, this is consistent with the provisions of A3.

2. *Also the provision A3 (ii) is inconsistent in that a property with a 12m frontage can have a maximum garage of 6m while a site with say a 13m frontage can have a garage of 3.9m.....ref. 3.7.14.3 A2.2*

This is a miss-interpretation of the 'acceptable development provision' which aims to restrict garages etc. to a max of 30% of all lots. So narrower lots (say 10m) may only achieve a single bay garage unless varied under the Performance Criteria.

3. *Footpaths and crossovers restricted to a max. of 3m is overly restrictive. Council should have discretion and allow the provision of double crossovers. Ref 3.7.14.3 A2.2*

This is consistent with existing policy – single crossovers are preferred to maintain kerbside parking and street trees. There is discretion to allow wider crossovers subject to assessment against Performance Criteria

4. *Precinct materials are new/replacement footpaths in the Woodside Ward to be constructed with concrete, they are in part currently bitumen with rolled embedded gravel.*

The precinct survey undertaken in support of the guidelines identified the prevailing materials. However variations are possible where the use of concrete would not be consistent with the existing pathways.

5. *Statement - Garages and carports are discouraged in the Woodside Precinct....Garages and carports are an essential part of a residence*

Agreed .The following sentence on pp51 under 3.7.15.3.1 should be deleted

"Garages and carports are discouraged in the Woodside Precinct but are compatible with the Richmond Precinct."

6. *Garages, Carports and Outbuildings – Performance Criteria – Existing Dwellings P3. This is supported however the flexibility of this clause appears to lack consistency with the Acceptable Development Requirements which restrict their width to 30% of the frontage.*

There is no inconsistency. The Performance Criteria allow for variations to the acceptable development standards subject to the development meeting certain performance criteria. Therefore they have differing requirements.

RECOMMENDATION

That The Residential Design Guidelines be adopted, subject to the deletion of the following sentence on pp 51.

"Garages and carports are discouraged in the Woodside Precinct but are compatible with the Richmond Precinct."

RECOMMENDATION TO COUNCIL

Cr Wilson – Cr Martin

That:

- A. pursuant to clause 2.4 of the Town of East Fremantle Town Planning Scheme No.3, the Council resolves to adopt the draft Local Planning Policy – “Residential Design Guidelines, September 2012” subject to the deletion of the following sentence on Page 51:

“Garages and carports are discouraged in the Woodside Precinct but are compatible with the Richmond Precinct.”

and that a notice of the adopted Policy be publicly advertised.

- B. pursuant to clause 2.5 of the Town of East Fremantle Town Planning Scheme No.3, the Council resolves to revoke the following Local Planning Policies be revoked and that notice of the revocation be publicly advertised:

No. 012 .. Pergolas;

No. 023 .. Use of reflective metal roofing material;

No. 024 .. Demolition permits – properties on Heritage List;

No. 043 .. Television Reception Antennae;

No. 047 .. Design Precinct No. 5 Surbiton;

No. 058 .. Issue of Demolition Permits – Places of Heritage Value & Places Deemed to be of Heritage Value;

No. 064 .. Richmond Raceway Area 7 – Design Guidelines Policy & Policy Plan;

No. 066 .. Roofing;

No. 116 .. Conservation of trees in the private domain;

No. 123 .. Footpaths and Crossovers;

No. 126 .. Heritage – Burra Charter reference documents;

No. 135 .. Domestic satellite dishes, microwave antennae, air conditioners & tower masts;

No. 140 .. Fremantle Port Buffer Development Guidelines;

No. 142 .. Residential Development;

No. 143 .. Fencing;

No. 144 .. Rainwater Tanks;

(No No.) .. Guidelines for Solar Collectors.

- C. A Public Information Programme including all relevant website changes be formulated and completed prior to the implementation and release of the Residential Design Guidelines. CARRIED UNANIMOUSLY

T81.2

***Town of East Fremantle Town Planning Scheme No. 3
Scheme Amendment 9 – Demolitions and Exemptions***

By Jamie Douglas, Manager Planning Services, on 30 August 2012

PURPOSE OF THIS REPORT

This report advises of the Minister's Final Approval of Scheme Amendment 9 to TPS No 3.

BACKGROUND

Draft Scheme Amendment 9 makes textural changes to the Scheme to require an application for planning approval for demolitions relating to buildings on the Municipal Inventory, also to increase the extent of minor non-consequential works which are exempt from the need for planning approval.

DISCUSSION

The Minister has required that the proposed amendment, which encompassed all buildings in the Town, be changed so that the requirement for a planning approval for a

demolition be applicable only for buildings which are included on the State Register of Heritage Places, the Town’s Heritage List, the Town’s Municipal Inventory or subject to an order under Part 6 of the Heritage of WA Act. It was originally proposed that the requirement for a planning approval should apply in all instances however the required change will still achieve Council’s objectives in respect to controlling the vast majority of demolition applications in respect to significant buildings. Elected Members will recall that staff are currently progressing the transfer of properties listed on the Municipal Inventory onto the Heritage List. The Amendment remains unchanged in respect to all other aspects.

The Scheme Amendment becomes effective on the date of the Gazettal of the Minister Approval – 31 August 2012

RECOMMENDATION

It is recommended that the report be received.

RECOMMENDATION TO COUNCIL

Cr Wilson – Cr de Jong

That the officer’s report be received.

CARRIED

T82. CONFIDENTIAL BUSINESS

Nil.

T83. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T84. CLOSURE OF MEETING

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

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **4 September 2012**, Minute Book reference **T72. to T84.** were confirmed at the meeting of the Committee on*

.....

Presiding Member