



Town Planning & Building Committee

4 December 2012
6.30pm

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, TUESDAY, 4 DECEMBER, COMMENCING AT 6.30PM.

T117. OPENING OF MEETING

T117.1 Present

T118. ELECTION OF PRESIDING MEMBER

T119. ACKNOWLEDGEMENT OF COUNTRY

T120. WELCOME TO GALLERY

T121. APOLOGIES

T122. CONFIRMATION OF MINUTES

T122.1 Town Planning & Building Committee – 6 November 2012

T123. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T124. REPORTS OF COMMITTEES

T124.1 Town Planning Advisory Panel – 13 November 2012

T125. REPORTS OF OFFICERS – STRATEGIC PLANNING

T126. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL

T126.1 Receipt of Reports

T126.2 Order of Business

*T126.3 Stratford Street No. 8 (Lot 421)
Applicant: John Chisholm Design
Owner: GJ Allen
Application No. P168/12*

*Agenda Ref. 10.2
Page No. 2*

*T126.4 Hubble Street No. 11 (Lot 57)
Applicant: John Chisholm
Owner: John Chisholm
Application No. P163/12*

*Agenda Ref. 10.4
Page No. 9*

*T126.5 King Street No. 84 (Lot 353)
Applicant: John Chisholm
Owner: Alan Whitham & Natalie Siemeons
Application No. P169/12*

*Agenda Ref. 10.5
Page No. 13*

*T126.6 Duke Street No.71 (Lot 389)
Applicant: John Chisholm
Owner: Jake Harding
Application No. P166/12*

*Agenda Ref. 10.6
Page No. 17*



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- T126.7** *Oakover Street No. 31A (Lot 2)*
Owner: Darren Mather & Harriet Pointon-Mather
Applicant: John Chisholm Design
Application No. P39/2010
Agenda Ref. 10.7
Page No. 21
- T126.8** *Pier Street No. 20 (Lot 232)*
Applicant: Solar Dwellings
Owner: K Elks & D Watson
Application No. P112/12
Agenda Ref. 10.9
Page No. 28
- T126.9** *Reynolds Street No. 7 (Lot 1)*
Applicant: Algeri Planning and Appeals
Owner: V Blagaich
Application No. P143/12
Agenda Ref. 10.10
Page No. 38
- T127. EN BLOC RECOMMENDATION TO COUNCIL**
- T127.1** *Glyde Street No. 4 (Lot 87)*
Owner: W Robertson & P Larkin
Applicant: Cottage Creations DIY P/L (Phoenix Patios)
Application No. P154/2012
Agenda Ref. 10.1
Page No. 53
- T127.2** *East Street No.2 (Lot 47)*
Applicant: Transform Design
Owner: Gregg and Leanne Cary
Application No. P170/12
Agenda Ref. 10.3
Page No. 59
- T128. REPORTS OF OFFICERS – STATUTORY PLANNING/DEVELOPMENT CONTROL (Cont)**
- T128.1** *Glyde Street No. 39 (Lot 139)*
Applicant: Dale Alcock Home Improvements
Owner: G Cole
Application No. P165/12
Agenda Ref. 10.8
Page No. 61
- T129. CONFIDENTIAL BUSINESS**
- T130. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**
- T131. CLOSURE OF MEETING**

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, TUESDAY, 4 DECEMBER, COMMENCING AT 6.30PM.**T117. OPENING OF MEETING**

The Manager – Planning Services, Mr Jamie Douglas, opened the meeting and advised that as Cr Wilson was an apology for this evening's meeting, nominations would be called for Presiding Member.

T117.1 Present

Mayor Alan Ferris

Cr Cliff Collinson

Cr Barry de Jong

Cr Siân Martin

Cr Dean Nardi

Cr Maria Rico

Mr Jamie Douglas

Mr Andrew Malone

Mrs Peta Cooper

Manager – Planning Services

Senior Town Planner

Minute Secretary

T118. ELECTION OF PRESIDING MEMBER

The Manager – Planning Services, Mr Jamie Douglas, called for nominations for the position of Presiding Member in the absence of Cr Wilson.

Cr Martin nominated Mayor Ferris who accepted the nomination. The nomination was seconded by Cr Nardi.

Mayor Ferris assumed the chair.

T119. 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.”

T120. WELCOME TO GALLERY

There were 8 members of the public in the gallery at the commencement of the meeting.

T121. APOLOGIES

Cr Alex Wilson

T122. CONFIRMATION OF MINUTES**T122.1 Town Planning & Building Committee – 6 November 2012**

Cr de Jong – Cr Collinson

That the Town Planning & Building Committee minutes dated 6 November 2012 as adopted at the Council meeting held on 20 November 2012 be confirmed. CARRIED

T123. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

T124. REPORTS OF COMMITTEES**T124.1 Town Planning Advisory Panel – 13 November 2012**

Cr Rico – Cr Martin

That the minutes of the Town Planning Advisory Panel meeting held on 13 November 2012 be received and each item considered when the relevant development application is being discussed. CARRIED

T125. REPORTS OF OFFICERS – STRATEGIC PLANNING

Nil.

T126. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL**T126.1 Receipt of Reports**

Cr de Jong – Cr Nardi

That the Reports of Officers be received. CARRIED**T126.2 Order of Business**

Cr de Jong – Cr Nardi

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

Mayor Ferris made the following impartiality declaration in the matter of 8 Stratford Street: "As a consequence of the applicant being known to me due to our friendship, 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".

T126.3 Stratford Street No. 8 (Lot 421)**Applicant: John Chisholm Design****Owner: GJ Allen****Application No. P168/12**

By Andrew Malone, Senior Planner, on 13 November 2012

PURPOSE OF THIS REPORT

This report recommends the conditional approval of a development application for carport, pergola and additions and alterations to an existing dwelling at 8 (Lot 421) Stratford Street.

BACKGROUND**Description of Proposal**

The additions and alterations comprise a new double carport located to the front of the dwelling and new kitchen, laundry, dining room, living room, wardrobe, bedroom and ensuite to the rear of the dwelling.

Description of Site

The subject site is:

- a 911m² freehold lot
- zoned Residential R12.5
- improved with a single dwelling
- located in the Richmond Precinct.

Statutory Considerations

State Planning Policy 3.1 Residential Design Codes
Town Planning Scheme No. 3 (Residential R12.5)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing
Local Planning Policy No. 142 : Residential Development

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : Existing crossover to be retained and utilised
Footpath : No impact
Streetscape : New carport will be visible from the street.

Documentation

Plans and relevant forms date stamp received on 19 October 2012.

Date Application Received

19 October 2012

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

7 November 2008 Approval for demolition of and replacement of existing garage issued under Delegated Authority.

24 August 2012 Approval for relocation of shed issued under Delegated Authority.

CONSULTATION**Advertising**

The plans were advertised for public comment from 25 October 2012 to 7 November 2012. No comments were received.

Town Planning Advisory Panel Comments

The application was considered by the Panel at its meeting on 13 November 2012. The Panel made the following comment:

- *Panel supports application.*

Site Inspection

16 November 2012

STATUTORY ASSESSMENT

The proposal has been assessed against the provisions of Town Planning Scheme No. 3 (TPS3), the Residential Design Codes of Western Australia (RDC) and the Town's Local Planning Policies (LPP). A summary of the assessment is provided in the following tables.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table <input checked="" type="checkbox"/> P <input type="checkbox"/> D <input type="checkbox"/> A <input type="checkbox"/> X	P

In all respects the proposed development is considered to comply with TPS3.

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	455.5m ² (55%)	650m ² (71.2%)	A
6.4.2 Outdoor Living	N/A	66.2m ²	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	470mm	A
6.9.1 Overshadowing	25% of adjoining lot	4.2%	A

6.9.2 Drainage				To be conditioned		A	
6.3 Boundary Setbacks							
Wall Orientation	Wall Type	Wall height (m)	Wall length (m)	Major opening	Required Setback (m)	Proposed Setback (m)	Status
Front (west)	As Existing						
Rear (east)	Dwelling	3.3 (max)	7.3	Minor	6.0	10.2	A
Side (north)	Carport	3.5 (max)	5.8	Minor	1.0	0.9	D
Side (south)	Dwelling	3.6 (max)	23.5	Minor	1.7	1.0	D
6.8 Visual Privacy							
Wall Orientation	Major Opening Type		Required Setback		Proposed Setback		Status
Front (south)	Bedroom 2		4.5		2.6		D

Notwithstanding the above RDC variations to the Acceptable Development Provisions (ADP), in all other respects the proposed development is compliant with the RDC ADP requirements.

Local Planning Policies Assessment

Local Planning Policies:	Issues	
Policy 142	Complies to height and setbacks	D
Roof	Roof pitch 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

Notwithstanding the above LPP variations, in all other respects the proposed development is compliant with the Town's other LPP requirements.

DISCUSSION

The proposed development comprises of a new carport setback behind the building line of the dwelling. Access to the carport is via an existing crossover. Rear additions and alterations comprise of kitchen, laundry, dining room, living room, robe, bedroom, ensuite and pergola to the rear of the existing dwelling. The proposed additions and alterations are single storey and are 'stepped' so as to facilitate the gradient of the lot.

The proposed extension will be constructed of brick and rendered walls, zincalume roof and aluminium windows.

Building Setbacks

The applicant is seeking Council discretion for two setback variations to the north (carport) and south (dwelling) elevations. The LPP 142 provides criteria by which to assess proposed variations to setback requirements, as follows:

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

The proposed carport has a maximum height of 3.5 metres. The length of the carport is 5.6 metres. It is noted the subject site has a slope of approximately 3.5 metres falling from east to west. The carport is setback 0.9 metres from the northern boundary. The 0.1m variation is considered minor.

The proposed additions and existing dwelling will have a total southern wall length of 23.4 metres, as assessed under the RDC. It is not considered the separation distance from old and new dwelling is sufficient to assess the wall as two separate walls. The maximum height of the rear addition is 3.6 metres. The proposed setback variation of 0.7 metres is not considered excessive considering the design, previous

approvals and single storey nature of the additions. It is considered there is minimal impact on the southern neighbour.

(b) Walls are behind the main dwelling.

The carport is located behind the main building line, however it will be clearly visible from the street.

The additions and alterations to the rear of the lot are single storey and will not be visible from the street.

(c) Subject to the overshadow provisions of the Residential Design Codes – Element 9.

The proposed carport, additions and alterations comply with the AD provisions of 6.9.1 Solar access for adjoining sites of the RDC.

(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.

Stratford Street has a number of double carports visible from the street. The carport will comprise approximately 28% of the street frontage of the subject site. The carport is considered to be distinctive from the existing dwelling and is not considered to be excessive in bulk or scale. The carport will not impact on the amenity of the area.

The rear additions and alterations are single storey. They will not be visible from the streetscape. The character of the existing dwelling will be maintained. The additions and alterations will not impact on the amenity of the area.

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

The proposed carport partially abuts an adjoining carport to the north, however the variation in the AHD levels is approximately 0.5 metres, therefore the proposed carport will be at a greater height than the adjoining carport.

The proposed additions to the rear of the lot are located abutting an approximate 4.0 metre boundary wall. The combined wall height and roof height has a maximum height of 4.3 metres, a “similar” height to the southern boundary wall.

In light of the above and the requirements of the Performance Criteria of the RDC, it is considered the proposed carport, additions and alterations can be supported by Council. The carport will not adversely impact on the streetscape or adjoining neighbours. The adjoining 4.0 metre boundary wall to the rear of the lot conceals the proposed additions from the adjoining neighbour to the south. The additions are single storey and are not visible from the streetscape.

Overlooking

The window to bedroom 2 is proposed to be amended to facilitate the construction of the additions and alterations to the rear of the lot. The applicant has requested the window remain a major opening. The cone of vision from bedroom 2 eastern elevation extends behind the setback line of the adjacent dwelling by approximately 1.9 metres. The area overlooked is a 4 metre high boundary wall and roller door for a bin storage area. The adjoining property is at a higher AHD than the subject site. No major openings or sensitive living area is overlooked. The impact of the overlooking on the neighbouring property is negligible. It is considered the overlooking variation can be supported by Council.

Roof Pitch

The Local Planning Policy 066 provides that dominant roof elements are to have a minimum pitch of 28 degrees. The proposed carport has a roof pitch of 15 degrees. The pitch on the additions and alterations is 5 degrees. It is considered the carport roof pitch provides delineation between the old and new building. The existing roof form of the older dwelling is being retained.

The 5 degree pitch of the rear additions minimise the impact of the development on neighbours and conceals the development from the streetscape.

The existing dwelling is considered to be the dominant structure of the streetscape, therefore it is considered the carport roof pitch and rear additions can be supported.

CONCLUSION

The proposal for a new carport, pergola and additions and alterations to an existing dwelling will not detrimentally impact the streetscape, residential amenity of the area or the adjoining neighbours. The proposal is substantially compliant with the TPS3, RDC and the LPP, except for minor variations highlighted above. These variations have been justified, and it is considered the proposal should be approved, subject to appropriate conditions.

RECOMMENDATION

That Council in granting approval for the development application for new carport, additions and alterations to an existing dwelling at 8 (Lot 421) Stratford Street, East Fremantle in accordance with the plans date stamped received on 19 October 2012 exercises its discretion in granting approval for the following variations:

- (a) setback to northern boundary
- (b) setback to southern boundary
- (c) overlooking of adjoining southern carpark
- (d) roof pitch

subject to the following appropriate conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed works are not to be commenced unless there is a valid 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. The existing crossover is to be retained and maintained to the satisfaction of Council's Works Supervisor.
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 (g) 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. 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/buildier 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".*

Mr John Chisholm (applicant) addressed the meeting in support of the application.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That Council in granting approval for the development application for new carport, additions and alterations to an existing dwelling at 8 (Lot 421) Stratford Street, East Fremantle in accordance with the plans date stamped received on 19 October 2012 exercises its discretion in granting approval for the following variations:

- (a) **setback to northern boundary**
- (b) **setback to southern boundary**
- (c) **overlooking of adjoining southern carpark**
- (d) **roof pitch**

subject to the following appropriate conditions:

1. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
2. **The proposed works are not to be commenced unless there is a valid 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. The existing crossover is to be retained and maintained to the satisfaction of Council's Works Supervisor.
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 (g) 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. 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.

Mayor Ferris made the following impartiality declaration in the matter of 11 Hubble Street: "As a consequence of the applicant being known to me due to our friendship, 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".

T126.4 Hubble Street No. 11 (Lot 57)

Applicant: John Chisholm

Owner: John Chisholm

Application No. P163/12

By Jamie Douglas, Manager Planning Services, on 7 November 2012

PURPOSE OF THIS REPORT

This report recommends the conditional approval of a development application for a first floor addition to a single dwelling at 11 Hubble Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 508m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- improved with a single dwelling

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

Local Planning Policy : Residential Development Guidelines

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : Addition will be visible from the street but will not significantly change the existing streetscape

Documentation

Application Plans and relevant forms date stamped received on 16 October 2012

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

14 October 2003 Council approves two storey additions to the existing residence and demolition of part of existing residence and removal of an existing garden shed.

CONSULTATION

Advertising

The plans were advertised for public comment from 22 October to 5 November 2012. No submissions were received.

Town Planning Advisory Panel Comments

The application was considered by the Panel at its meeting on 13 November 2012. The Panel made the following comments:

- *Panel does not support the application, as the development falls right on the northern boundary of the neighbour and would appear to impact northern light access.*

Site Inspection

By Manager Planning Services on 6 November 2012.

ASSESSMENT

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

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	58%	A				
Site Works	Less than 500mm	Less than 500mm	A				
Local Planning Policies: Issues							
Residential Guidelines							
Roof	Contemporary roof form less than 28 degrees,		A				
Solar Access & Shade	N/A		A				
Views	N/A						
Verge Trees	N/A		A				
Other: Issues							
Overshadowing	23.8% over 13 Hubble Street		A				
Privacy/Overlooking	Nil		A				
Height:							
	Required	Proposed	Status				
Wall	7	6.23	A				
Roof type	Flat – skillion						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)		6.23	2.97	N/A	6	20.04	A
Rear (east)		6.23	2.97	yes	1.5	13.94	A
Side (south)		6.23	7.49	N/A	1	1	A

* Wall length as calculated for assessment purposes

ASSESSMENT

In 2003 Council approved the part demolition of an existing residence and the erection of major two storey extension behind the retained section of the original residence. The proposal required a number of relaxations relating to wall height, building heights, reduced setbacks, overshadowing and streetscape. The current proposal is for a first floor addition above the existing garage to accommodate a studio and sun deck. The proposed extensions do not impact upon the retained section of the original residence.

The original residence is contributory to the prevailing streetscape character although it is not listed on the Municipal Inventory. The proposed addition incorporates contemporary design elements and materials (Hardies Scycon Matrix coloured cladding and aluminium windows). However the proposed structure is set well back from the frontage of the dwelling and relates well to the newly constructed rear extensions and it is therefore considered that it will not diminish the streetscape character of the existing residence.

The Town Planning Advisory Panel considered the proposed extension at its meeting on 13 November 2012 and advised it *does not support the application, as the development falls right on the northern boundary of the neighbour and would appear to impact northern light access*. In light of the Panel's comments the author visited the affected neighbour and inspected their rear garden area. The shadow cast will fall across a roofed patio and pergola area and a fernery which is already shaded by the existing parapet boundary wall. Although the proposed extension will marginally increase the extent of shadow cast, the balance of the rear garden area will remain unaffected. It is noted that

the extent of overshadowing is within the maximum allowable under the R-Codes. The affected neighbours also confirmed on site that they were aware of the extent of shadow cast and did not feel that it would detrimentally affect their amenity and expressed strong support for the proposal.

Potential overlooking of the neighbouring property at 13 Hubble Street has been addressed by the use of high level windows with a sill height of 1650mm to the side and front elevations. A privacy screen on the side elevation of the proposed deck will prevent over viewing via direct line of sight from the rear windows and deck to the rear of 13 Hubble Street. Accordingly, the proposal satisfies the visual privacy requirements of Element 6.8 of the R-Codes.

CONCLUSION

The proposal is for a modest first floor addition above the existing garage. It is set well back from the building frontage, will not diminish the streetscape character of the existing residence and adequately addresses the visual privacy requirements of the R-Codes. Overshadowing will be marginally increased to No 13 Hubble Street however it is within the maximum allowable under the R-Codes and the affected neighbour supports the application. Accordingly it is recommended for approval.

RECOMMENDATION

That Council approve the development application for an addition to an existing dwelling at 11 Hubble Street, East Fremantle in accordance with the plans date stamped received on 16 October 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. the proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and 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. 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 (d) below*)
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) *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"

Mr John Chisholm (applicant / owner) addressed the meeting in support of his application.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

That Council approve the development application for an addition to an existing dwelling at 11 Hubble Street, East Fremantle in accordance with the plans date stamped received on 16 October 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. the proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and 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. 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 (d) below)*
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) 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.

Mayor Ferris made the following impartiality declaration in the matter of 84 King Street: "As a consequence of the applicant being known to me due to our friendship, 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".

T126.5 King Street No. 84 (Lot 353)
Applicant: John Chisholm
Owner: Alan Whitham & Natalie Siemeons
Application No. P169/12

By Jamie Douglas, Manager Planning Services, on 8 November 2012

PURPOSE OF THIS REPORT

This report recommends the conditional approval of a development application for alterations and additions to a single dwelling at 84 King Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 508m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- improved with a single dwelling
- Municipal Inventory Category B

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy : Residential Development Guidelines

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : the side addition and front window awning will be visible from the street but will not significantly change the existing streetscape

Documentation

Application Plans and relevant forms date stamped received on 19 October 2012

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

July 1986 Council issues Building permit for additions to residence
August 1988 Approval granted for replacement of asbestos cladding with weatherboard and a new bay window to front lounge.

CONSULTATION

Advertising

The plans were advertised for public comment from 22 October to 7 November 2012. No submissions were received.

Town Planning Advisory Panel Comments

The application was considered by the Panel at its meeting on 13 November 2012. The Panel made the following comment:

- *Panel supports application.*

Site Inspection

By Manager - Planning Services on 7 November 2012.

ASSESSMENT

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

Key: A = Acceptable, D = Discretion

Site:		Required	Proposed	Status			
Open Space		55%	58%	A			
Site Works		Less than 500mm	Less than 500mm	A			
Local Planning Policies:							
Residential Guidelines		Issues					
Roof		Contemporary roof form less than 28 degrees,		A			
Solar Access & Shade		N/A		A			
Views		N/A					
Verge Trees		N/A		A			
Other:							
Overshadowing		20.9% over 88 King Street		A			
Privacy/Overlooking		Nil		A			
Height:							
Wall		Required 6.5	Proposed 3.84	Status A			
Roof type		Flat - skillion					
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)	N/A						
Rear (east)		3.2	6.28	yes	1	14.2	A
Side (south)		6.23	19.1	no	1.5	1.32	D
Side (north)		2.2	20.8	yes	0 (abuts parapet boundary wall)	0.5	A

* Wall length as calculated for assessment purposes

ASSESSMENT

The proposal consists of an addition of 29m² to the rear of the existing dwelling with an adjoining deck and shade structure at the rear. Also proposed is a minor extension to accommodate a bay window on the northern side of the existing dwelling and an awning canopy over the existing bay window at the front of the dwelling.

The proposed addition will be wood framed with weatherboard cladding walls and wooden window frames. The proposed skillion roofs will be 'colorbond'. The design and materials match the existing rear portion of the dwelling which also has an existing skillion roof. The new works will be largely unseen from the street except for the side profile of the bay window extension and the sun awning over the front bay window. It is noted that this bay window was approved by Council as an alteration in 1988 and therefore is not an original feature of the house. The proposed works are considered to complement the existing façade of the house and as such do not detract from its heritage significance. The Town Planning Advisory Panel has advised that it supports the application.

The proposal has addressed visual privacy of neighbours through the use of high level windows and obscure glazing where appropriate. The proposed bay window on the northern boundary fronts a neighbours existing parapet boundary. Accordingly, the proposal satisfies the visual privacy requirements of Element 6.8 of the R-Codes.

A minor variation to the R-Code setback provision is required in respect to the southern side boundary setback. However this will not result in any material impact upon the relevant neighbour and no objection to the plans have been submitted.

CONCLUSION

The proposal is for a modest extension to the rear of an existing dwelling and some minor alterations affecting the streetscape façade. These alterations will not diminish the streetscape character of the existing residence and the proposal adequately addresses the visual privacy requirements of the R-Codes. A minor variation to the side boundary setback is proposed however this will not impact upon the neighbour. Accordingly it is recommended for approval.

RECOMMENDATION

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

- a variation to the R-Codes to allow a setback to the southern side boundary of 1.32m instead of the prescribed 1.5m

for additions and alterations to an existing dwelling at 84 King Street, East Fremantle in accordance with the plans date stamped received on 19 October 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. the proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and 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. 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 (d) below*)
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) *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"*

Mr John Chisholm (applicant) addressed the meeting in support of the application.

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

- *a variation to the R-Codes to allow a setback to the southern side boundary of 1.32m instead of the prescribed 1.5m*

for additions and alterations to an existing dwelling at 84 King Street, East Fremantle in accordance with the plans date stamped received on 19 October 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. the proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and 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. 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 (d) below)*
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) *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.**

Mayor Ferris made the following impartiality declaration in the matter of 71 Duke Street: "As a consequence of the applicant being known to me due to our friendship, 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".

T126.6 Duke Street No.71 (Lot 389)**Applicant: John Chisholm****Owner: Jake Harding****Application No. P166/12**

By Jamie Douglas, Manager Planning Services, on 9 November 2012

PURPOSE OF THIS REPORT

This report recommends the conditional approval of a development application for a two storey rear and addition to a single dwelling at 71 Duke Street, East Fremantle.

BACKGROUND**Description of Site**

The subject site is:

- a 508m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- improved with a single dwelling
- Municipal Inventory Category C+

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy : Residential Development Guidelines

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : the addition will be visible from the street and will impact the existing streetscape

Documentation

Application Plans and relevant forms date stamped received on 18 October 2012

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

February 1993 Council approves retention of two front rooms and rear addition to existing dwelling.

October 1996 Approval granted for alterations and further additions to rear.

CONSULTATION**Advertising**

The plans were advertised for public comment from 22 October to 7 November 2012. No submissions were received.

Town Planning Advisory Panel Comments

The application was considered by the Panel at its meeting on 13 November 2012. The Panel made the following comment:

- *The Panel supports the application*

Site Inspection

By Manager - Planning Services on 9 November 2012

ASSESSMENT

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

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	71%	A				
Site Works	Less than 500mm	Less than 500mm	A				
Local Planning Policies:							
Issues							
Residential Guidelines							
Roof	Hipped form 30degree pitch complies with roof form requirements of 28 degrees,		A				
Solar Access & Shade	N/A		A				
Views	N/A						
Verge Trees	N/A		A				
Other:							
Issues							
Overshadowing	15% over 73 King Street		A				
Privacy/Overlooking	Nil		A				
Height:							
	Required	Proposed	Status				
Wall	5.6	5.14	A				
Roof Pitch	8.1	6.45	A				
Roof type	Hipped						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)	N/A						
Rear (west)		5.14	9.3	yes	2.5	14.45	A
Side (south)ground		2.7	10	yes	1.5	1.6	A
Side (south)first		5.14	4	no	1.2	1.6	
Side (north)ground		2.7	10	no	1.5	1.36	D
Side (north)first		5.14	6.2	no	1.2	1.36	A

* Wall length as calculated for assessment purposes

ASSESSMENT

The proposal is for a two storey addition of 149m² in total to the rear of the existing dwelling at 71 Duke Street.

The proposed addition will be wood framed with weatherboard cladding walls and wooden window frames. It is proposed to re-roof the existing dwelling which has a 'non-original' pressed steel roof with 'zincalume' roofing to match the proposed new works. Given the proximity of existing housing and the roof pitch, there is a possibility of glare affecting neighbours. Accordingly a standard condition of planning approval should be applied requiring roof painting should glare become a problem.

The prevailing streetscape character in Plympton is one of single storey workers cottages which address the street. Double storey additions are acceptable where the new works are set back sufficiently so as to respect the existing single storey streetscape character. In respect to the current proposal the two storey addition is setback a sufficient distance so that it will not intrude into the direct line of sight of a person at the street frontage. Accordingly it will be largely unseen from the street frontage.

The existing dwelling has been subject to substantial amendment over time notwithstanding its listing on the Municipal Inventory. The existing dwelling has cement sheet (possibly asbestos) cladding with dado weatherboards. It currently has a pressed steel (faux tile) roof. The materials proposed for the new works, the scale and type of

windows and the roof form all respect the existing design cues of the dwelling. Accordingly the proposed works are supported on heritage and streetscape grounds.

The Town Planning Advisory Panel comments that it supports the application.

The proposal has addressed visual privacy of neighbours through the use of high level windows and obscure glazing where appropriate. The proposed rear deck has privacy screening to each side to restrict overlooking to the immediate side neighbours. The deck is 13 metres from the rear boundary and does not require screening from this neighbour. The windows proposed in the ground floor addition, where not obscure glazing, do not front openings to habitable rooms or outdoor recreation areas of neighbours.

A minor variation to the R-Code setback provision is required in respect to the northern side boundary setback. However this will not result in any material impact upon the relevant neighbour and no objection to the plans have been submitted.

CONCLUSION

The proposal is for a two storey extension to the rear of an existing dwelling and some minor alterations affecting the streetscape façade. The rear extension will be unseen from the frontage of the property because of its setback and accordingly it will not diminish the streetscape character of the existing residence. The proposal adequately addresses the visual privacy requirements of the R-Codes by the use of privacy screens and obscure glazing where appropriate. A minor variation to the side boundary setback is proposed however this will not impact upon the neighbour. Accordingly it is recommended for approval.

RECOMMENDATION

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

- *a variation to the R-Codes to allow a setback to the northern side boundary of 1.36m instead of the prescribed 1.5m*

for additions and alterations to an existing dwelling at 71 Duke Street, East Fremantle in accordance with the plans date stamped received on 18 October 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. the proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the 'zincalume' roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. 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 (d) below*)
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr John Chisholm (applicant) addressed the meeting in support of the application.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

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

- ***a variation to the R-Codes to allow a setback to the northern side boundary of 1.36m instead of the prescribed 1.5m***

for additions and alterations to an existing dwelling at 71 Duke Street, East Fremantle in accordance with the plans date stamped received on 18 October 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. **the proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
4. **the 'zincalume' roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.**
5. **all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
6. **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 (d) below)**
7. **this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

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

- otherwise approved by Council.*
- (c) *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) *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.

Mayor Ferris made the following impartiality declaration in the matter of 31A Oakover Street: “As a consequence of the applicant being known to me due to our friendship, 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 Martin made the following impartiality declaration in the matter of 31A Oakover Street: “As a consequence of the impacted neighbour being acquainted to me due to her friendship with my neighbours, 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”.

T126.7 **Oakover Street No. 31A (Lot 2)**
Owner: Darren Mather & Harriet Pointon-Mather
Applicant: John Chisholm Design
Application No. P39/2010
 By Christine Catchpole, Town Planner, on 23 November 2012

BACKGROUND**Description of Site**

The subject site is:

- a 533m² battleaxe block;
- zoned Residential R12.5;
- developed with a modern brick and tin single storey residence;
- adjoins 29 Oakover Street, which has been subdivided to create a battleaxe lot; and
- located in the Woodside Precinct.

Description of Proposal

It proposed to construct a single storey addition to the existing dwelling comprising a master bedroom with bathroom ensuite and a combined dining and living area. The extension will be to the northern side of the dwelling clad in weatherboard with aluminium windows and a colorbond roof. It will cover an area of 46.6 square metres.

Statutory Considerations

- Town Planning Scheme No. 3 (TPS No. 3)
- Local Planning Strategy (LPS)
- Residential Design Codes of WA (R-Codes)

Relevant Council Policies

- Council Policy on Roofing (LPP - 066)
- Local Planning Policy – Residential Development (LPP - 142)

Date Application Received

19 October 2012

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

- 30 May 2012 12 month extension of planning approval (25 May 2010) issued on 9 March 2012.
- 25 May 2010 Conditional Council approval for two storey additions and alterations to an existing dwelling on a battleaxe lot.

Current Plans

A letter from the applicant in support of the current submission explains that due to unforeseen circumstances the owner is unable to proceed with the approval and subsequent 12 month extension received in 2012. They are now submitting a revised proposal, by a different architect, that is considerably reduced in scale from the original proposal.

Site Inspection

By Town Planner on the 23 November 2012

CONSULTATION

Advertising

Surrounding landowners were advised of the proposal and had the opportunity to comment from 24 October to 8 November 2012. The adjoining neighbour to the north has a number of concerns in regard to the application and the applicant and the owner have both responded to these concerns. All comments are summarised below.

Submission	Applicant Response	Officer Assessment
<p>29A Oakover Street (North)</p> <p>Concerned with the location of the master bedroom being adjacent to the master bedroom in adjoining property. Believes there will be a potential loss of amenity arising from diminished acoustic privacy. The floor plan as proposed will result in reduced amenity.</p> <p>The method of building construction will also result in a loss of acoustic privacy. The weatherboard material will likely be inferior to traditional double brick.</p> <p>Having regard for the acoustic privacy concerns it is considered it would be prudent for the neighbours to consider relocating their bedroom to the position of the proposed ensuite and walk in robe. This would achieve the objectives of development on battleaxe lots.</p> <p>The western side of the proposed extension should also be setback 1.0m from the rear boundary. This</p>	<p>The location and setback of the bedroom at 1.0m complies with the R-Codes.</p> <p>The acoustic performance of double brick is typically Rw 50, the owners intend to use a CSR / Bradford system comprising staggered studs, acoustic Glasswool Partition Batts, 16mm Gyprock Fyrchek linings internally and externally, insulating membrane and selected weatherboard cladding to the exterior face. This gives an acoustic performance of Rw + Ctr = 55, a higher performing wall than brickwork. The owners also intend to use a Viridian Hush glazed window on the highlight window effectively blocking any sound transmission from the room.</p> <p>As indicated above the proposed method of construction ensures the proposal will be of a superior construction to that of double brick. There will be no loss of amenity due to acoustics.</p> <p>The proposed design is 0.735m from the boundary as there seemed no need to make the building any larger</p>	<p>Support the applicant's comments in that the portion of the wall that is the master bedroom does not have a major opening (highlight window) and for the length of the wall is setback the required distance. The remainder of the wall is also setback the required distance.</p> <p>Support the applicant's comments that the acoustic rating is adequate and the building materials are of an acceptable standard.</p> <p>Support the applicant's comments and note that many additions and alterations in the Town are constructed of similar building materials without loss to residential amenity.</p> <p>Support the applicant's comments in that the R-Codes allow for variation in building setback as there is no</p>

Submission	Applicant Response	Officer Assessment
<p>will further assist in meeting the objectives of Council's Policy. Concerned with the proposed positioning of the dwelling so close to the rear boundary and the appearance of the proposed extension. The proposed setback of 735mm should be amended to 1.0m to be consistent with the rear boundary of the adjacent property at No. 29A Oakover (providing for a uniformity of appearance across both properties). This would also provide a more uniform response to the neighbour's properties at the rear.</p> <p>The appearance of the proposed addition when compared with the style of the original dwelling is incompatible, and appears 'out of place'. The proposed addition will look usual to surrounding properties, detracting from the character of the location. This character is fundamental to the reason the adjoining owner lives in this location. It also contributes to the value of the location in a monetary sense.</p>	<p>than was required. It would be within the guidelines of the R-Codes to apply for a parapet boundary wall to the rear, at just under 7m in length, however it is seen as unnecessary.</p> <p>Whatever the setback from the rear boundary there is no impact on any adjoining property in terms of viewing into rear gardens, overlooking, loss of privacy or overshadowing. The applicant is not aware of any guidelines which need to be considered for providing a uniform response to the rear of adjoining properties.</p> <p>The appearance of the building has been ameliorated to be of considerably less visual impact than the previously approved plans. The current planning approval would allow for the construction of a two storey extension of over 6m in height and 16m in length. The proposed variation is approximately 4m high on the east and south elevations and 3m high and 12m in length on the northern side. This represents a reduction in the scale of the building and it is of significantly less visual impact than the current approved plans.</p> <p>Regarding the comment that the building will 'look unusual' the applicant states that East Fremantle 'celebrates' a wide range of architectural styles. Fortunately there is no compunction to conform to the times of simply constructed homes with little design input, built en masse by 'spec builders' to satisfy the entry level market. Instead the owners have opted for a contemporary design, in framed construction, built using renewable resources in mostly light timber frame, well insulated and proven to be a very energy efficient form of construction with low thermal mass to prevent heat gain, and quality insulation and glazing systems to ensure low heat loss in winter.</p> <p>As for detracting from the character of the location, this addition cannot be seen until you are well onto the property on the approach to the house, or looking over the fence from a neighbouring property. The applicant believes that it can neither be appreciated, nor seen to be detracting from the adjoining properties, in any way whatsoever.</p>	<p>proper or correct setback standards that could be applied to all properties. There may be circumstances where a reduced setback does not have a detrimental impact on amenity and therefore can be supported.</p> <p>Support the applicant's comments in regard to previously approved plans. The R-Codes would allow for a building of a much greater scale and bulk to be constructed and in any case the building is not visible to the street and will not have an impact on the streetscape.</p> <p>The architectural comments are also noted. Whilst the design and choice of building materials may not be to the taste of the adjoining owner these are matters of personal taste and preference. As the building is not heritage listed, noted in the Town's Municipal Heritage Inventory, or subject to any other matters in regard to design guidelines the owner's choices in this regard are not a planning concern.</p>

The owner has also submitted a written response to the adjoining owner's comments and the following is a summary of that reply:

- *Consulted extensively with the adjoining owner in the planning of the original proposed extension and is surprised that the revised and reduced scale of the additions and alterations has been cause for concern.*
- *Living in a battleaxe subdivision situation will not afford the same level of amenity or acoustic privacy as on a single residential property with fewer neighbours.*
- *The building materials will be 'state of the art' and will address all concerns in regard to acoustic privacy. Furthermore, the use of weatherboard is a traditional building material in East Fremantle.*
- *Compliance with the R-Codes (in all but one respect) has addressed the issues of privacy and overlooking. The owner cannot see the need to comply with a 1.0 metre setback to the rear of the property. This has no bearing on the adjoining owner's property.*
- *The architectural merit of this design concept has already been approved by Council (previous approved plans in 2010) and the revised design reduces the impact of the addition on neighbouring properties. In addition, the design will not be visible from the street.*
- *The owners have discussed the option of building a masonry wall between the two properties which would contribute to addressing the neighbour's concerns. The owner has expressed that she is willing to discuss this option and costs further.*

Town Planning Advisory Panel

The application was not referred to the Panel as the additions and alterations are not visible from the street and are considered a minor extension to the property.

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	67%	A				
Site Works	Less than 500mm	Less than 500mm	A				
Local Planning Policies:							
Issues							
Policy 142							
Roof	Skillion – Colorbond (no colour nominated)		A				
Solar Access & Shade	North facing windows / doors		A				
Drainage	Condition to be applied		A				
Views	No impact		A				
Crossover	No impact		A				
Trees	No impact		A				
Other:							
Issues							
Overshadowing	Only on subject site		A				
Privacy/Overlooking	Single storey additions		A				
Height:							
	Required	Proposed	Status				
Wall	6.0	3.2	A				
Wall (Concealed Roof)	7.0	N/A					
Roof	9.0	4.2	A				
Roof type	Skillion 7.5°		A				
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)		3.2m*	5.2m	Yes	1.8m	7.4m	A
Ground							
Rear (west)		3.7m*	7.0m	No	1.1m	735mm	D
Ground				highlight			

				window 1.8m			
Side (north) overall wall		3.2m*	12.4m	Yes	1.5m	2.5m	A
Bedroom section of wall		3.2m*	4.0	No Highlight window 1.8m	1.0m	1.0m	A
Living room Projected portion of wall		2.7m*	4.0m	No	1.0m	2.0m	A
Side (south)		4.2m*	12.4m	No	1.5m	12.0m	A

* Wall height for purposes of calculating setback

ASSESSMENT

The proposed additions will result in a very modest extension to the existing house of approximately 46.6 square metres.

The proposal essentially complies with the R-Codes and Council Policy No. 142 with the exception of the rear setback. The wall and roof heights meet the requirements of the R-Codes and Council Policy No. 142 and, in fact, are substantially less than that permitted under the R-Codes and that of the current planning approval for a two storey extension of greater floor area.

The total site area that will be developed will comprise an area of 174.6 square metres. This represents a site cover of 33% and provides for 67% of the site to be retained as open space. This is consistent with the requirements of the R-Codes.

The setback variation to the rear (western) boundary is minor and can be supported as there are no major openings to this wall and the reduction in setback of approximately 300mm is not considered to have a detrimental impact on the amenity of the neighbouring properties.

The neighbour's objections to the plans are not considered to warrant amendments to the design. Issues in regard to acoustic privacy have been addressed in the construction material details and will also be dealt with by imposing conditions of planning approval. Other standard conditions of planning approval will address matters such as roof reflectivity and colour given a Colorbond roofing colour has not been nominated on the drawings.

Since the proposal essentially complies with the R-Codes and Local Planning Policies and given that the setback variation requested is minor, the application is considered acceptable and is recommended for Council approval subject to conditions.

RECOMMENDATION

That Council exercise discretion in granting planning approval to:

- vary the setback requirements of the Residential Design Codes of Western Australia to permit a 0.735 metre rear setback from the western boundary

for additions and alterations to an existing single storey dwelling at No. 31A (Lot 2) Oakover Street, East Fremantle, as shown on plans date stamped received on 19 October 2012 subject to the following conditions:

1. The colour of the roofing material to comply with Council's Local Planning Policy No. 066 – Roofing.
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 (e) 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 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 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.
 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. 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. 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 the 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); and*
- (e) *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".*

Ms Katherine Goldsmith (adjoining neighbour) addressed the meeting expressing her concern with the location of the main bedroom.

Mr John Chisholm (applicant) and Mr Darren Mather (owner) addressed the meeting in support of the application and stated that the 5 Star energy rating could still be achieved with a non openable highlight window to the north side wall.

Cr Martin – Cr Rico

That the following condition be inserted at (1):

1. *Highlight window in north wall of bedroom 1 to be non openable.*

and all other conditions to be re-numbered accordingly.

CARRIED

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Martin

That Council exercise discretion in granting planning approval to:

- ***vary the setback requirements of the Residential Design Codes of Western Australia to permit a 0.735 metre rear setback from the western boundary***

for additions and alterations to an existing single storey dwelling at No. 31A (Lot 2) Oakover Street, East Fremantle, as shown on plans date stamped received on 19 October 2012 subject to the following conditions:

1. **Highlight window in north wall of bedroom 1 to be non openable.**
2. **The colour of the roofing material to comply with Council's Local Planning Policy No. 066 – Roofing.**
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 to the satisfaction of the Chief Executive Officer. (refer footnote (e) below)**
4. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
5. **The proposed works are not to be commenced until Council has received an application for a demolition licence and a building permit and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
6. **With regard to the plans submitted with respect to the building 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.**
7. **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.**
8. **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.**
9. **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.**
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. 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.
12. This planning approval to remain valid for a period of 24 months from the 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); and***
- (e) 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.

T126.8 ***Pier Street No. 20 (Lot 232)***
Applicant: Solar Dwellings
Owner: K Elks & D Watson
Application No. P112/12

By Andrew Malone, Senior Planning Officer, on 15 November 2012

PURPOSE OF THIS REPORT

This report recommends the refusal of a development application for a two-storey plus loft single dwelling at 20 (Lot 232) Pier Street, East Fremantle, based on the applicant requesting the following variations:

- Setback;
- Height;
- Overlooking;
- Open Space; and
- Tree removal.

These will be discussed in more detail further in the report.

BACKGROUND**Description of Proposal**

The proposed development is a two-storey plus loft single dwelling. The ground floor includes two guest bedrooms, sitting room, bathroom, theatre, garage /store and cellar. The first floor comprises the main living areas of the house, including four bedrooms, study, activity room with associated balcony, study, office, nook, bathroom, laundry, and an open plan kitchen, meals and living area. The main living area has access to a rear deck and alfresco area. The loft comprises master suite, ensuite, walk in robe and retreat.

The application was previously presented to the Town Planning and Building Committee on 4 September 2012. 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.

The Committee's subsequent resolution which was adopted by Council, was as follows:

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.

The applicant subsequently revised the plans, incorporating a significant number of modifications, as discussed with the Planning officer.

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 (TPS3)
Residential Design Codes (RDC)

Local Planning Policies (LPP)

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.
- Revised plans date stamped received on 12 October 2012.
- Revised plans date stamped received on 26 November 2012.

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).
4 September 2012	Town Planning and Building Committee deferred the decision to facilitate the applicant address the Planning and the Town Planning Advisory Panel's concerns.

**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. These submissions were included in the report presented at the Town Planning and Building Committee on 4 September and are summarised in the following table alongside the applicant's response and officer's comment. The revised plans have not been advertised to the adjoining neighbours as the modifications to the dwelling are to reduce the number of variations being requested by the applicant.

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 (PC) of the RDC. Eastern windows to the loft have been modified to comply with the Acceptable Development Provisions (ADP).
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? Height of the building is 9.5m, is this above the approved maximum height of 8.1m?		Openings to the kitchen back sliding doors comply with RDC requirements (minimum 1.6m high screening). Openings to the balcony and alfresco are considered to be consistent with the ADP for the same reasons outlined above. Openings to the study and master bedroom allow for direct overlooking of the rear of the neighbouring dwelling – the main outdoor living area – and are considered to have an undue impact on privacy. 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.

Modifications have been made to the proposed development. Proposed variations will be discussed further in the Statutory Assessment section of this report.

Town Planning Advisory Panel Comments

This application was first considered by the Town Planning Advisory Panel at its meeting held on 14 August 2012. The application was subsequently considered by the Town Planning Advisory Panel at its meeting held on 13 November 2012. The Panel noted the following:

- *Panel finds it difficult to establish the proposed height of revised application.*
- *Panel reiterates previous comments.*
- *Application should be height compliant.*

The Panel's, applicant's and Planning Officer's comments from the report dated 29 August 2012 are summarised in the table below.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
Proposed development is out of proportion with the existing streetscape	<p>Front elevation is consistent with the height of the houses to the east.</p> <p>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.</p> <p>Roof line is consistent with streetscape.</p> <p>Front street elevation has been articulated to more closely reflect the proportions and rhythms of existing adjoining residences that have been subdivided.</p> <p>Design does not incorporate any parapet walls and maintains a visual break.</p>	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.	<p>House and external works have been designed to step up the site</p> <p>Similar approach to the only other two-storey neighbouring dwelling.</p>	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	<p>Fill requirements have resulted from limiting the extent of cutting</p> <p>Garage has been lowered 5 courses from the undercroft floor level to minimise build up</p> <p>Build-up to SW corner is consistent with existing neighbour</p>	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.
Query Over-height Elements	<p>The proposed ceiling heights (2.743m) are similar to homes of this size</p> <p>The roof is 28° in accordance with Council policy. While this provides opportunity for loft the overall size</p>	Proposed development exceeds maximum height requirements. Refer assessment section of this report.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
	<p>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.</p> <p>Note that there are several existing developments in the Precinct that are over-height.</p>	

It is noted the proposed development has been modified. No fill will occur. Proposed variations will be discussed further in the Statutory Assessment section of this report.

Site Inspection

16 November 2012

Revised Plans

The applicant and the assessing Planning Officer held a meeting on 19 November 2012 to discuss the application. Further discussions were undertaken with the owner. The applicant submitted revised plans to Council date stamped received 26 November 2012.

The drawings have been revised to incorporate the items discussed at our meeting and include:

1. Privacy Screening to west side of front balcony.
2. Drying Court and clothes line shown to external area to the eastern elevation. Privacy screen extended to minimise potential overlooking of adjoining property. As a non-habitable area, this area is not assessed under the provisions of the RDC overlooking criteria.
3. Additional visual screening to east side of rear deck. This will eliminate any potential overlooking from the family room to the adjoining neighbour.
4. Window sills to Master Bedroom western window and Retreat eastern window raised to be 1629mm Finished Floor Level to comply with the provisions of the RDC overlooking criteria. This addresses the overlooking concerns.
5. Obscure glazing added to Retreat eastern windows. This addresses overlooking concerns raised.
6. Hipped roof provided to Master Bedroom and Retreat in-lieu of gabled roof. This has reduced the height of both of these walls by approximately 1.5 metres. The wall heights and ridge heights of the roof will be assessed further in the report.
7. Additional drawings provided. The applicant has provided some additional elevations of the east, south and west elevations to clarify the building heights in respect of the natural ground levels and heights to adjoining properties.

STATUTOY ASSESSMENT

The proposal has been assessed against the provisions of TPS3, the RDC and the Town's LPP. A summary of the assessment is provided in the following tables.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table <input checked="" type="checkbox"/> P <input type="checkbox"/> D <input type="checkbox"/> A <input type="checkbox"/> X	P

Objectives of the Residential Zone

Clause 4.2 Residential Zone of TPS3 outlines the objectives of each development zone. The proposed dwelling is considered to be consistent with the objectives of the residential zone.

The applicant has made significant alterations to the proposed dwelling following discussions with Council.

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	484m ² (55%)	459.69m ² (52%)	D
6.4.2 Outdoor Living	30m ²	60.74m ²	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	400mm	A
6.9.1 Overshadowing	25% of adjoining lot	Orientation north/ south	A
6.9.2 Drainage		To be conditioned	A

Open Space

The proposed development does not comply with the Acceptable Development Provisions (**ADP**) of Table 1 of the RDC 12.5 zoning provisions for open space. The development will be assessed as per the PC of the RDC. The PC requires:

Sufficient open space around buildings

- *To complement the building;*
- *To allow attractive streetscapes;*
- *To suit the future needs of residents, having regard to the type and density of the dwelling.*

The proposed variation of approximately 24m² (3%) is considered minor and not considered to impact on the dwelling, the streetscape or the future needs of the residents. For the purposes of the assessment the alfresco area and a portion of the rear deck were not included in the open space calculations.

Setbacks

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	9.7m	A	
<i>Ground</i>	Dwelling	N/A	N/A	N/A	7.5m	8.5m	A	
<i>Upper</i>	Dwelling	Behind ground floor main roof						A
<i>Rear (north)</i>								
<i>Ground</i>	Dwelling	N/A	N/A	N/A	6.0m	7.5	A	
<i>Upper</i>	Dwelling	Behind ground floor main roof						A
<i>Side (east)</i>								
<i>Ground</i>	Bed4/ Bath/ Drying Court	5.7m (max)	15.5m	N	2.0m	1.2m	D	
	Family	4.3m (max)	8m	N	1.1m	2.0m	A	
<i>Loft</i>	Retreat	8.m (max)	4.75m	Y	4.0m	5.5m	A	
<i>Side (west)</i>								
<i>Ground</i>	Bed 5 / Activity/	7.5m	9.7m	N	1.5m	1.5m (min)	A	

	Balcony	(max)					
	Study	5.0m (max)	4.0m	N	2.0m	2.6m	A
	Pantry / Alfresco	4.2m (max)	11.5m	N	1.5m	1.0m & 1.5m	D
<i>Loft</i>	Master Bedroom	7.2m (max)	4.4m	N	1.3m	2.1m	D

The proposed development incorporates a number of variations to setback requirements to the side boundaries. The LPP 142 provides criteria by which to assess proposed variations to setback requirements can be considered, as summarised below.

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

The proposed dwelling has a single setback variation to each of the eastern and western elevations, as assessed under the RDC. The requested variations are considered minor.

- (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;*

Clear visual separation between 20 Pier Street and adjoining properties is maintained. There is no impact on views. The proposed dwelling will have a similar built form in terms of mass and scale as the adjoining properties at 22A, 22B, 24A and 24B Pier Street.

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

The eastern elevation of the dwelling adjoins a similar height dwelling and with minimal setbacks approximately for half the length of the dwelling. The balance of the eastern elevation is setback complies with the ADP 6.3.1 *Building setback from the boundary* of the RDC and adjoins the outdoor living area of the adjoining property.

The western side of the property faces a dwelling that approximately is two storey. The rear of the adjoining lot has been retained to approximately 1.4 metres above the subject site natural ground level. The proposed dwelling basement floor is at a relative level of 12.33, while the neighbour to the west has a relative level of approximately 13.30. The proposed development has been 'cut' into the subject site. The western neighbour has made a submission expressing concerns about building setbacks and building height. It is noted that the applicant has made changes to the proposed dwelling, subsequently there is now only one western setback variations being sought.

Notwithstanding the above LPP requirement, it is further considered that the proposed dwelling does not comply with the PC of 6.3.1 *Building setback from the boundary* of the RDC, with regard specifically to the following provisions:

- Assist in ameliorating the impacts of building bulk on the adjoining properties; and

- Assist in protecting privacy between adjoining properties.

The scale and bulk of the property has been ameliorated through 'cutting' into the subject site. The applicant has undertaken modifications to minimise potential impact to surrounding neighbours and the streetscape.

As noted below the applicant is seeking a number of visual privacy variations. Amendments were made to the proposed dwelling to reduce potential overlooking of the adjoining neighbours.

Visual Privacy

6.8 Visual Privacy				
Wall Orientation	Major Opening Type	Required Setback (m)	Proposed Setback (m)	Status
West	Bed 5	4.5	2.9	D
West	Bed 5	4.5	3.0	D
West	Kitchen	6.0	2.5	D
North	Rear Deck	7.5	7.0	D
North	Rear Deck	7.5	6.0	D
North	Master Bed	4.5	3.0	D
South	Bed 4	4.5	3.0	D
South	Master Bed	4.5	3.0	D
South	Balcony	7.5	3.0	D

The ADP provisions of the Clause 6.8.1 of the RDC - Visual Privacy requires major openings which have their floor level more than 0.5 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its setback line, to comply with the following:

- 4.5 metres in the case of bedrooms;
- 6.0 metres in the case of habitable rooms, other than bedrooms; and
- 7.5 metres in the case of active habitable spaces.

The proposed development does not comply with the ADP provisions of the RDC.

The PC of 6.8.1 allows for:

"Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location, and the design of major openings and outdoor active habitable spaces, screening devices, and landscape, or remoteness."

The overlooking to the north and south of the subject site are considered appropriate given the areas overlooked, a storage shed to the west and a portion of the north eastern corner of the eastern neighbour. The portion of the adjoining neighbour to the east overlooked is minor.

Local Planning Policies Assessment

Local Planning Policies:	Issues	
Policy 142	Height and Setbacks do not comply	D
Roof	Roof pitch less than 28 degrees	A
Solar Access & Shade	Deck has opening to north	A
Drainage	To be conditioned	A
Views	Height non-compliant but does not obscure views	A
Crossover	Condition to comply	D
Trees	Site plan shows verge tree removed (Appropriate condition applied).	D

Street Tree and Crossover

A tree is proposed to be removed to facilitate the construction of a double crossover. The crossover width is required to be a single width of 3.0 metres (single width as per Council Policy). This will enable to retention of the existing tree.

Height

Height:	Required	Proposed	Status	Discretion required
Wall South	5.6m	7.2m (max)	D	1.6m
Wall East	5.6m	7.4m (max)	D	1.8m
Wall West	5.6m	7.5m (max)	D	1.9m
Wall North	5.6m	3.4m (max)	A	Complies
Roof South	8.1m	9.1m (max)	D	1.0m
Roof East	8.1m	9.2m (max)	D	1.1m
Roof West	8.1m	9.1m (max)	D	1.0m
Roof North	8.1m	7.3 (max)	A	Complies

The proposed development exceeds the maximum height requirements outlined in the LPP 142, as noted above and the height requirements of the RDC.

The subject site ranges in height from 15.46 AHD at the north eastern corner of the site to 10.53 AHD at the south western corner of the lot, a height difference of 4.93 metres. It is recognised by Council that the subject site has constraints and a significant gradient change, therefore designing a suitable dwelling is challenging. Lot gradients are a common constraint in East Fremantle.

The applicant lodged plans on 12 October 2012 reducing the height of the proposed dwelling by approximately 0.7 metres. Further consultation was undertaken between the applicant and the Planning Officer on 19 November 2012. Revised plans were lodged on 26 November 2012 further amending the height of the dwelling.

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.

In his written submission, the applicant has noted that other developments in the precinct appear to exceed the maximum height requirements. The previous Council report contained a review of height compliance for surrounding development in Pier Street, as follows:

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

Notwithstanding the above height variations, each application for development approval is considered on its own merits. The applicant has undertaken measures to ameliorate the impacts of building height on the adjoining properties. The Finish Floor Level of the basement level has been 'cut' into the subject site to reduce the overall height of the building, however the changes still incorporate a substantial departure from the applicable height provisions.

CONCLUSION

The proposed development incorporates several variations to the Town's Policies and Residential Design Codes.

The applicant has attempted to address a number of the areas of non-compliance identified in respect to the initial application. However, the amended plans still incorporate the need for numerous variations of the LPP and the RDC requirements. It is considered that the physical qualities of the site do not necessitate a substantial departure from the applicable provisions of TPS3, LPP and the RDC and that other possible design options exist. Accordingly the development application is recommended for refusal.

RECOMMENDATION

It is recommended that the application for a three storey single dwelling at 20 (Lot 232) Pier, East Fremantle, as described on the plans date stamped received 26 November 2012, be refused for the following reasons:

1. The proposed development does not comply with the requirements 6.3.1 Building setback from the boundary of the Residential Design Codes:
 - (a) eastern elevation (Bed4/ Bath/ Drying Court); and
 - (b) western elevation (Pantry/ Alfresco).
2. The proposed development does not comply with the requirements of 6.4.1 Open space of the Residential Design Codes.
3. The proposed development does not comply with the requirements of 6.8.1 Visual Privacy of the Residential Design Codes cone of vision from the northern, southern and western openings.
4. The proposed development exceeds the maximum building height requirements of Local Planning Policy 142 Residential Development.
5. The proposed development conflicts with Local Planning Policy Residential Design Guidelines on over-width crossover.
6. The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (c), (o) and (p) because it is incompatible with adjoining development and would detrimentally impact upon the amenity of the area.

Mr Ken Wibberley (Designer – Solar Dwellings) addressed the meeting in support of the proposal. Mr Wibberley addressed issues raised in the officer's report relating to the R-Codes assessment including open space, alfresco & drying court, in particular the lowering of the drying court, setbacks, privacy screen which was assessed as a wall, and the pantry and alfresco to which he indicated his preparedness to move the alfresco back to 1500mm.

Mr Wibberley, in closing, stated that having liaised with Council officers, his clients had an expectation that the amended plans would be supported by elected members.

RECOMMENDATION TO COUNCIL

Cr Collinson – Cr Nardi

It is recommended that the application for a three storey single dwelling at 20 (Lot 232) Pier, East Fremantle, as described on the plans date stamped received 26 November 2012, be refused for the following reasons:

1. **The proposed development does not comply with the requirements 6.3.1 Building setback from the boundary of the Residential Design Codes:**
 - (a) eastern elevation (Bed4/ Bath/ Drying Court); and**
 - (b) western elevation (Pantry/ Alfresco).**
2. **The proposed development does not comply with the requirements of 6.4.1 Open space of the Residential Design Codes.**
3. **The proposed development does not comply with the requirements of 6.8.1 Visual Privacy of the Residential Design Codes cone of vision from the northern, southern and western openings.**
4. **The proposed development exceeds the maximum building height requirements of Local Planning Policy 142 Residential Development.**

5. The proposed development conflicts with Local Planning Policy Residential Design Guidelines on over-width crossover.
6. The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (c), (o) and (p) because it is incompatible with adjoining development and would detrimentally impact upon the amenity of the area. 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.

Cr Martin made the following impartiality declaration in the matter of 7 Reynolds Street: "As a consequence of my friendship with the impacted neighbour at 17 Preston Point Road, 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".

T126.9 Reynolds Street No. 7 (Lot 1)
Applicant: Algeri Planning and Appeals
Owner: V Blagaich
Application No. P143/12

By Andrew Malone, Senior Planning Officer, on 23 November 2012

PURPOSE OF THIS REPORT

This report recommends approval of a development application for a four-storey single dwelling at 7 (Lot 1) Reynolds Street, East Fremantle, based on the applicant requesting the following variations:

- Overshadowing;
- Garage Width;
- Boundary Setback;
- Building on the Boundary;
- Visual Privacy;
- Height; and
- Roof Pitch

These will be discussed in more detail further in the report.

It is noted that a similar development application with approximately the same built form was approved by Council on the subject site in 2007.

BACKGROUND

Description of Proposal

The proposed four storey single dwelling comprises of rumpus room, 6 bedrooms including master suite, playroom, garage, family/ meals/ kitchen, alfresco, swimming pool and associated service and utility rooms.

Description of Subject Site

The subject site exists as Lot 1, approved by the Western Australian Planning Commission (WAPC) on 22 March 2011. The lot has an area of 290m², representing an applicable residential density of approximately R35. The existing density on the lot is R12.5. The subject lot has a 12.5 metre frontage to Reynolds Street.

The subject site slopes down from west to east from 36.75 to 32.01 Australian Height Datum (AHD) (4.74m slope). The subject site raises another approximate 2 metres from the front of the lot to Reynolds Street. WAPC approval assigns the levels on the site as the natural ground levels. Development standards are considered from the approved levels of the subdivision.

Description of Site

The subject site is:

- a 290m² freehold block
- zoned Residential R12.5 (Assessment of the application has been undertaken at R35 density: Clause 5.3.3 of Town Planning Scheme No. 3)
- vacant
- located in the Riverside Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5 (TPS3)

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)

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

Site Inspection

By Senior Planning Officer on 23 November 2012.

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 31 August 2012.

Submissions received and forwarded to applicant 26 September 2012.

Applicant's response to public submissions and revised plans date stamp received on 5 November 2012.

Date Application Received

31 August 2012.

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

1990	Council conditionally approves an additional unit at the rear of 21 Preston Point Road (now 5 Reynolds Street) with increased building and ceiling heights.
23 February 1998	Council conditionally approves a 4-level house at the rear of 17 Preston Point Road (now 9 Reynolds Street) on reduced setbacks and increased building height.
30 March 1993	State Planning Commission certifies approval to subdivide 21 Preston Point Road into 2 strata lots (1 x 378m ² - 5 Reynolds Street, 1 x 524m ² - 21 Preston Point Road).
17 April 2001	Council grants special approval for a second storey deck and parapet wall additions to the house at 5 Reynolds Street.
22 March 2002	WAPC certifies approval to subdivide 17 Preston Point Road into 2 strata lots (1 x 217m ² - 9 Reynolds Street, 1 x 304m ² - 17 Preston Point Road).
30 May 2006	CEO under delegated authority conditionally approves an upper level deck addition to 5 Reynolds Street.
19 December 2006	Council defers an application for a 3-level house.
20 February 2007	Council defers application pending a site inspection.
6 March 2007	Council refuses the application.
10 April 2007	Applicant appeals Council decision.
9 May 2007	SAT orders applicant to prepare and submit preliminary elevations for an amended house plan for Council comment.
19 June 2007	Council decides to advise SAT that it is prepared to grant in-principle approval to amended plans and requests the applicant

- 22 June 2007 to submit a formal application for planning approval, consistent with the new plans, for Council's detailed consideration and the formulation of appropriate conditions of approval.
- 22 June 2007 SAT Directions Hearing to hear outcome of Council meeting, and decide on action to progress the matter.
- 17 July 2007 SAT orders Directions Hearing for 23 July 2007.
- 22 March 2011 Council conditionally approves 3-level house and 2-level garage & studio.
- 31 August 2012 WAPC certifies approval to subdivide 19 Preston Point Road into 2 strata lots (1 x 290m² - 7 Reynolds Street, 1 x 251m² - 19 Preston Point Road).
- 31 August 2012 New development application received by the Town.

Council conditionally approved a 3-level house with 2-level garage and studio in 2007. This application has lapsed. The proposed dwelling is consistent with the previous approval issued by Council.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between 6 September 2012 and 21 September 2012. At the close of advertising four 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
<p>B Lawrence & M Tideswell 21 Preston Point</p> <p>We require the east facing Alfresco and North facing pool on first floor and the Eastern Facing Balcony on ground floor to be screened to allow for maximum amount of privacy and avoid an overlooking aspect into our property at 21 Preston Point Road.</p>	<p>Agreed. Applicant submits that the first drawings did not adequately indicate the permanent planters at east perimeter of the first floor. Furthermore, the screening surrounding the pool will be set at a height so as to not allow any overlooking from the pool to the properties below.</p>	<p>A condition in the Officer's recommendation will screen the pool from overlooking the property at 21 Preston Point.</p> <p>The height of the alfresco area above natural ground level limits potential overlooking. The permanent planter boxes height and depth will also limit the potential overlooking into adjoining properties.</p> <p>The Application is considered to achieve requirements of the Performance Criteria (PC) of the RDC.</p>
<p>B & R Watson 5 Reynolds Street</p> <p>No objection.</p> <p>The plans presented show a building that will fit into, and enhance, the Reynolds Street streetscape.</p>	<p>The applicant notes that these submitters live at the property directly adjoining the land and are, in fact, the neighbours closest to the proposed development.</p>	<p>Noted.</p>
<p>Susan Gale Belridge Nominees</p> <p>In the strongest possible terms I object to this plan, firstly in a general objection on the grounds of bulk, scale, height of walls and height of the building generally.</p> <p>I believe this house would have a catastrophic effect on the amenity of No.9, primarily dues to loss of light and sunshine to the north facing living</p>	<p>The proposal is broadly consistent with a previous development approved by the Town. The Town's planning framework has not changed since this time.</p> <p>The subject land is essentially a hole on the side of the hill. To have a far more modest dwelling would not be viable given the extensive</p>	<p>The variations requested by the applicant relating to setback and building height are discussed in the Statutory Assessment section of this report.</p> <p>Overshadowing of the immediate lot to the south is 85%. The subject lot is east/ west orientated and has a significant variation in natural ground</p>

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>spaces.</p> <p>The proposed house is essentially a box, which is foreign to the existing streetscape and the built form of East Fremantle in general.</p> <p>I have been advised that the proposal does not comply with East Fremantle's town planning scheme and the Residential Design codes in the following areas:</p> <ul style="list-style-type: none"> • Height of walls • Height of roof • Side boundary setbacks • Level of fill. <p>I would like the following information that was not included in the documents available at Council:</p> <ul style="list-style-type: none"> • Overshadowing diagram • Open space diagram • Streetscape drawing • Existing site contour drawing • Cones of vision from windows and balconies <p>Is the proposal compliant in these areas?</p> <p>I would like clarification on the following points:</p> <ul style="list-style-type: none"> • Can a floor level which is more than 2.5 metres above the highest point of the site (and 4.2 metres higher than that adjoining) be referred to as "ground floor"? • Can a floor level which is less than 0.5 metres below the highest point of the site be referred to as "basement"? • Fill within the road reserve, especially at the common boundary, • The 'planters' shown on the east elevation. 	<p>site works required.</p> <p>Again, the design of the dwelling is largely the same as the previously approved proposal.</p> <p>The latest revisions to the proposal also taper back the upper floors and modify setbacks to give a less box like perspective.</p> <p>It is incorrect to suggest that where a proposal does not comply with the Acceptable Development provisions of the R-Codes that it is "non-compliant"; there must be an objective assessment of the relevant performance criteria. In respect to other matters, discretion arises to approve these non-compliant elements where there will not unreasonably impact on amenity.</p> <p>There is no standard for the appropriate naming of levels. The Applicant submits, however that relative levels shown are accurate and correctly scaled.</p> <p>Filling of the road reserve is required to provide vehicle and pedestrian access to the property. The filling will make the property boundary consistent with existing ground levels at No.5 and No. 9 Reynolds Street.</p> <p>The planters will be landscaped appropriately to provide visual screening and also to provide greater separation between users of the dwelling and surrounding properties and these are more clearly shown on the revised plans.</p>	<p>levels. This will be further discussed in the Statutory Assessment section of this report.</p> <p>The design is consistent with the previous planning approval by Council. Reynolds Street and surrounding streets do not have a distinctive built form or character, therefore the design is not considered foreign.</p> <p>This will be further discussed in the Statutory Assessment section of this report.</p> <p>Noted. The information has been provided to Council.</p> <p>There is no standard for the appropriate naming of levels.</p> <p>Filling of the road reserve is required. The proposed reserve filling will be consistent with existing ground levels at No.5 and No. 9 Reynolds Street.</p> <p>The planters will be conditioned to provide visual screening.</p>
<p>Penelope Johnson 17 Preston Point Road</p> <p>The proposed 4 level residence at 7 Reynolds Street, East Fremantle would cause significant negative impact on the amenity at my property.</p> <p>It would appear the proposed development, at the very least does not meet the acceptable development requirements or Performance Criteria of the R-Codes for parts 6.3 Boundary setback, 6.4 open space, 6.6 site works, 6.7 building height and 6.8 privacy.</p> <p>From several floor levels the proposed building overlooks the only outdoor living areas of my home.</p>	<p>As noted, the proposal is broadly consistent with a previous development approved by the Town. The Town's planning framework has not changed since this time.</p> <p>A smaller, more modest dwelling is not feasible for the site given its constraints. The style and scale of development is consistent with many other dwellings in this location of the Town.</p>	<p>This will be further discussed in the Statutory Assessment section of this report.</p> <p>Parts 6.3 Boundary setback, 6.4 open space, 6.6 site works, 6.7 building height and 6.8 privacy of the RDC will further discussed in the Statutory Assessment section of this report.</p> <p>The proposed development does overlook 17 Preston Point Road. The application will be assessed under the PC of the RDC.</p> <p>Noted.</p> <p>Noted. The future use of individual rooms cannot be controlled. The application is required to be</p>

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>The proposed development provides active living spaces producing unacceptable cones of vision over adjoining properties including my only outdoor living space.</p> <p>Rooms such as bed 5 seem mislabelled and more likely to be used as an active living room given the scale of the space.</p> <p>The proposed building does not have a high degree of articulation in its design and towers above my property.</p> <p>Development appears akin to a six level building some 3 to 4 metres from my rear boundary.</p> <p>Further the bulk, height and width of the building take away my outlook to all the sky to the northwest.</p> <p>If the application is to be determined under the Performance Criteria described in the Codes then all criteria should be addressed.</p> <p>In relation to boundary setback the proposal does not address the Performance criteria of 6.3.1 in particular it does NOT</p> <ul style="list-style-type: none"> - Ensure adequate direct sun and ventilation being available to adjoining properties - Assist with protection of access to direct sun for adjoining properties - Assist in ameliorating the impacts of building bulk on adjoining properties <p>In relation to building height the proposal does not address the Performance Criteria 6.7.1. in relation to protecting the amenities of adjoining properties being in particular</p> <ul style="list-style-type: none"> - Adequate direct sun to buildings and appurtenant open spaces - Adequate daylight to major openings to habitable rooms - Access to views of significance (in my case the sky). 		<p>considered under the information that has been provided to Council.</p> <p>Modifications to the rear and front of the building have improved the articulation of the building.</p> <p>Noted.</p> <p>The proposed dwelling has been designed with a zero lot northern boundary. The setback to the southern wall is a minimum of 1.7 metres. This will be further discussed in the Statutory Assessment section of this report.</p> <p>Noted. All PC provisions will be assessed.</p> <p>PC provision for 6.3.1 of the RDC will be further discussed in the Statutory Assessment section of this report.</p> <p>PC provision for 6.7.1 of the RDC will be further discussed in the Statutory Assessment section of this report.</p>

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 9 October 2012. The Panel noted the following:

- *Query overall height.*
- *Query wall height.*
- *Query site coverage.*
- *Query overshadowing.*

The Panel's, applicant's and Planning Officer's comments are summarised in the table below.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
Query overall height	Applicant has not addressed TPAP comments.	The proposed dwelling will be assessed in the Statutory Assessment section of this report. All TPAP queries will be addressed.
Query wall height		
Query site coverage		
Query Overshadowing		

Site Inspection

23 November 2012

STATUTORY ASSESSMENT

The format of this report has been varied from the standard report to allow for individual assessments of each of the planning requirements. The proposal has been assessed against the provisions of TPS3, RDC and the Town’s Local Planning Policies (LPP). A summary of the assessment is provided in individual sections as detailed later in the report.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table <input checked="" type="checkbox"/> P <input type="checkbox"/> D <input type="checkbox"/> A <input type="checkbox"/> X	P

Objectives of the Residential Zone

Clause 4.2 Residential Zone of TPS3 outlines the objectives of each development zone. The proposed development has been assessed specifically with regard to the following objective 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 overshadowing, setback, visual privacy and building height provisions as requested by applicant contribute to the proposed scale and bulk of the development. The applicant is seeking Council discretion to the LPP and the RDC. The Acceptable Development Provisions (ADP) of the RDC illustrates one way of satisfactorily meeting the corresponding PC, and are examples of acceptable design outcomes. The sole use of the ADP as an evaluation standard is not acceptable.

The proposed development will be assessed with regard to overshadowing, setback, visual privacy and building height and consequently scale and bulk through the PC provisions of the RDC. Based on the PC assessment, the LPP and TPS3, the proposed development is considered to be sympathetic with the character and scale of the existing built form in the area.

Residential Density

The lot has an area of 290m², representing an applicable residential density of approximately R35. The existing density on the lot is R12.5. For the purposes of this assessment Clause 5.3.3 has been considered, which states:

Existing non-complying development: Where a lot contains an existing authorised development which exceeds the prescribed density coding, the local government may permit redevelopment of the lot up to the same density as the existing development, or of a different form than otherwise permitted, provided that:

- (a) *in the opinion of the local government, the proposed development will contribute more positively to the scale and character of the streetscape, the improvement of the amenity of the area, and the objectives for the precinct than the existing building; and*

- (b) *except where proposed development comprises minor alterations to the existing development which, in the opinion of the local government, do not have a significant adverse effect on the amenity of adjoining land, advertising of the proposed development has been undertaken in accordance with the provisions of clause 9.4.*

In March 2011, the WAPC approved of the subdivision parent lot 19 Preston Point Road into 2 strata lots (1 x 290m² - 7 Reynolds Street, 1 x 251m² - 19 Preston Point Road). The subdivision of the lots by the WAPC constitutes development of the lot. As such Clause 5.3.3 can be used, therefore the assessment of the development application has been undertaken at R35.

The proposed dwelling has been designed to contribute positively to the scale and character of the streetscape, as the proposed development integrates with the existing streetscape. The subject site is currently vacant. The proposed dwelling improves the amenity of the area and it is considered as noted above the development adheres to the objectives for residential development in TPS3.

Advertising of the proposed development has been undertaken in accordance with the provisions of clause 9.4. Four submissions were received by Council, one of support and three objecting to the proposed development. These have been noted and addressed above.

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	130.5m ² (45%)	223.4m ² (77%)	A
6.4.2 Outdoor Living	24m ²	118m ²	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	N/A	A
6.9.1 Overshadowing	35% of adjoining lot	85% of Lot 1 24.7% of Lot 2	D
6.9.2 Drainage		To be conditioned	A

Overshadowing

The orientation of the block is east/ west and the design of the proposed development with respect to the topography of the subject site creates overshadowing of the adjoining southern Lot 1 and 2 by 85% and 24.7% respectively. The topography of the subject site, lot size, development provisions, required vehicular access, streetscape and dwelling design create overshadowing that is required to be assessed as per the PC requirements of the RDC.

In regard to overshadowing the following extract from the RDC is relevant:

In terms of residential development, the three main aims of climate-sensitive design are to reduce energy consumption, optimise on-site solar access, and protect solar access for neighbouring properties.

However, it is difficult to translate these aims into development provisions. This is not because the issues are subjective but because conditions vary greatly from one situation to another, making it difficult to establish universally valid rules.

To give an obvious example, a narrow east-west oriented lot on the south side of a development site, especially where the terrain slopes toward the south, is highly vulnerable to being overshadowed, even by a relatively low building set back from the common boundary.

This application is a case in point to the above.

The property directly to the south of the subject land is a narrow east-west oriented lot. There is a significant level difference between the subject site and the property to the south.

In Element 9 – Design for Climate the RDC state:

It is clear that the sites most vulnerable to overshadowing are narrow east-west orientated sites, on the south side of a development site, especially if they are also lower or on a south-facing slope.

In such cases, even a relatively low building may cast mid-winter shadow over a greater proportion of the site than allowed the acceptable development provisions 6.9.1 of the codes.

In other cases a shadow cast by a proposed building may exceed the allowable limits in theory, but in practice may simply be casting a shadow onto a boundary wall or roof or both, with minimal adverse effect.

A shadow may not exceed the limit but may fall over the only available outdoor living area, or living room window, of an adjoining house.

The PC 6.9.1 Solar access for adjoining sites states:

- *The development designed to protect solar access for neighbouring properties taking account the potential to overshadowing;*
- *Outdoor living areas;*
- *Major opening to habitable rooms;*
- *Solar collector; or*
- *Balconies or verandahs.*

The proposed dwelling has been located on the northern boundary, maximising the southern setback between 1.7 metres and 2 metres.

Vehicle and Pedestrian access is required from Reynolds Street. To provide suitable and safe access a street grade/ level is required. To achieve this substantial fill is required or a design similar to that proposed. Either fill or the current design will impact on the neighbour Lot 1 directly to the south. In this instance, it is considered any proposed reasonable development will impact significantly on the dwelling at 9 Reynolds Street. Due to the nature of the topography and previous WAPC approvals, it is considered there are no suitable alternatives to sufficiently protect the property to the south from being overshadowed.

The WAPC certified approval to subdivide 17 Preston Point Road into 2 strata lots (1 x 217m² - 9 Reynolds Street, 1 x 304m² - 17 Preston Point Road). It is considered any proposed development will not comply with the provisions to completely protect the amenity of a lot that is 217m². The dwelling to the south has been designed on the southern boundary, so as to maximise northern light. The proposed development has been designed to the northern boundary so as to minimise the potential impact of the adjoining lot, however due to the nature of the east/ west orientation, any development of the subject site will impact on outdoor living areas and habitable rooms.

The proposed development has been designed to protect the solar access for neighbouring property to the south, as far as is possible given the constraints of the subject site.

The proposed development has been designed to comply with the ADP for overshadowing of all other properties.

Garage

The proposed garage including store represents approximately 8 metres (63%) of the subject site frontage. This does not comply with the ADP requirements. The garage is assessed to comply with the PC requirements, which states:

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

The proposed garage including store is setback 3.7 metres from Reynolds Street. The third floor is setback 2.1 metres from Reynolds Street. It is considered the proposed third floor with associated and second floor design features to the front of the garage minimises the dominance of the garage. These features add to the articulation of the building and maintain the desired streetscape, which is characteristic of the existing streetscape.

Boundary Setbacks

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (west)</i>							
Street Level	Dwelling	8.0	8.0	N	4m	3.7m	D
First	Dwelling	11.0	10.5	Y	4m	2.1m	D
<i>Rear (east)</i>							
Ground	Dwelling	3.5	9.3	Y	1.5m	2.8	A
First	Dwelling	6.7	9.3	Y	3.5m	2.8	D
Second	Dwelling	9.85	9.0	Y	4.8m	2.3	D
Third	Dwelling	11.0	9.3	Y	7.0m	2.4	D
<i>Side (north)</i>							
Ground	Dwelling	3.7	17.6	Y	3.3m	1.6	D
First	Dwelling	6.7	19.7	N	2.5m	Nil & 1.6	D
Second	Dwelling	9.7	16.0	N	2.8m	Nil & 1.6	D
Third	Dwelling	12.0	18.4	Y	9.0m	Nil & 1.2	D
<i>Side (south)</i>							
Ground	Dwelling	4.0	18.0	Y	3.3m	1.7	D
First	Dwelling	7.0	18.2	N	2.4m	1.3 & 1.7	D
Second	Dwelling	10.0	14.2	N	2.6m	1.7 & 2.0	D
Third	Dwelling	12.3	16.1	N	5.0m	1.3 & 1.7 & 2.0	D

The proposed development incorporates a number of variations to setback requirements to the side boundaries. The LPP 142 provides criteria by which to assess proposed variations to setback requirements can be considered, as summarised below.

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

The maximum wall height is 12.3 metres and the maximum length of the proposed dwelling is 19.7 metres. The proposed dwelling does not comply with this requirement, Council discretion is required.

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

No. The front of the dwelling has a setback of 3.7 metres to the garage and 2.1 metres to the balcony.

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

Does not comply with the provisions of overshadowing. Previously addressed.

- (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;*

The proposal is consistent with the character of development in the immediate locality as viewed from the streetscape. As previously discussed the proposed development will impact on the amenity of 9 Reynolds Road, with regard to overshadowing. It is considered there are no suitable alternatives to sufficiently protect the property to the south from being overshadowed.

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

The proposed dwelling is to be constructed on the northern boundary, with a nil setback. Notwithstanding this, the proposed dwelling does not comply with this requirement to the southern lot.

It is considered that the proposed dwelling does comply with the PC of 6.3.1 Building setback from the boundary of the RDC, with regard to the following provisions:

- *Assist in ameliorating the impacts of building bulk on the adjoining properties; and*
- *Assist in protecting privacy between adjoining properties.*

The proposed development is considered to assist in ameliorating the impacts of building bulk on the adjoining properties. The proposed dwelling has been positioned a maximum of 2 metres from the southern boundary and the ground floor has been 'cut' into the subject site reducing the height, bulk and scale of the development.

The dwelling has been designed to be consistent with an application previously approved by Council. The proposed height and side setback variations are considered appropriate to the area, especially when considered from the street. The scale and bulk are the same as adjoining properties on Reynolds Street and Surbiton Road.

As noted below the applicant is seeking the visual privacy to be assessed under the PC provisions of the RC.

The proposed setback variations are considered appropriate and are supported.

Building on the Boundary

The application proposes the following variation to the ADP of Clause 6.3.2 Buildings on the boundary of the RDC. The following table outlines the variation:

Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Side (north)</i>							
<i>First</i>	Dwelling	6.7	19.7	N	2.5m	Nil & 1.6	D
<i>Second</i>	Dwelling	9.7	16.0	N	2.8m	Nil & 1.6	D
<i>Third</i>	Dwelling	12.0	18.4	Y	9.0m	Nil & 1.2	D

The northern boundary is wall assessed to comply with the PC of the RDC for the following reasons:

- The proposal makes effective use of space on a particularly small lot, given the R12.5 zoning of the subject site (applicable R35 density);
- There will be improved privacy as a result of the proposed boundary wall to the northern neighbour;

- It is considered that the amenity of the adjoining owner to the north is improved and the boundary wall assists in ameliorating the impact of the dwelling to the neighbours to the south; and
- There is overshadowing of the property to the south. As the boundary wall is proposed on the northern side boundary, attempts have been made to minimise any overshadowing, however as discussed this is difficult due to the topography of the subject site.

It is noted that the adjoining owner to the north has no objection to the boundary wall. In summary, the proposed variation is assessed to comply with the PC of the RDC, and the provisions of the TPS.

Visual Privacy

6.8 Visual Privacy				
Wall Orientation	Major Opening Type	Required Setback (m)	Proposed Setback (m)	Status
East	Paving	7.5	2.8	D
East	Master Suite	4.5	3.7	D
East	Bed 4	4.5	1.0	D
East	Bed 5	4.5	3.5	D
East	Playroom	6.0	1.2	D
East	Meals	6.0	3.1	D
East	Alfresco	7.5	3.7	D
North	Alfresco	7.5	3.4	D
West	Family	6.0	1.3	D
West	Balcony	7.5	1.0	D

The ADP provisions of the Clause 6.8.1 of the RDC - Visual Privacy requires major openings which have their floor level more than 0.5 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its setback line, to comply with the following:

- 4.5 metres in the case of bedrooms;
- 6.0 metres in the case of habitable rooms, other than bedrooms; and
- 7.5 metres in the case of active habitable spaces.

The proposed development does not comply with the ADP provisions of the RDC.

The PC of 6.8.1 allows for:

“Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location, and the design of major openings and outdoor active habitable spaces, screening devices, and landscape, or remoteness.”

East The topography of the subject site exacerbates the overlooking to the eastern properties. The properties at 17 and 21 Preston Point Road have raised concern, however the immediate affected neighbour at 19 Preston Point Road has not commented. The design of the property limits the potential overlooking and the owner has included design changes to further limit overlooking. These have been conditioned in the Officer's Recommendation.

North The proposed ground floor has been cut into the subject site. It is considered the dividing fence limits overlooking of the adjoining neighbour to the north. The boundary fence is a sufficient screening device to minimise direct overlooking.

West The overlooking from the balcony and family room at the third floor overlooks Reynolds Street and the front garden to 5 Reynolds Street. The overlooking improves the passive surveillance of the street and does not directly look into active habitable spaces and outdoor living areas.

The proposed overlooking is considered acceptable given the provision and location of the planters and the proposed height of the development. It is considered the proposed overlooking can be supported.

Local Planning Policies Assessment

Local Planning Policies:	Issues	
Policy 142	Complies to height and setbacks	D
Roof	Roof pitch less than 28 degrees	D
Solar Access & Shade	Deck has opening to north	A
Drainage	To be conditioned	A
Views	Height non-compliant but does not obscure views	A
Crossover	Condition to comply	A
Trees	No verge trees to be removed	A

Height

Height:	Required	Proposed	Status	Discretion required
Wall South	5.6m	12.3m (max)	D	6.7m
Wall East	5.6m	11.0m (max)	D	5.4m
Wall West	5.6m	11.0m (max)	D	5.4m
Wall North	5.6m	12.0m (max)	D	6.4m
Roof South	8.1m	12.6m (max)	D	4.5m
Roof East	8.1m	12.6m (max)	D	4.5m
Roof West	8.1m	10.9m (max)	D	2.8m
Roof North	8.1m	12.0m(max)	D	3.9m

The proposed development significantly exceeds the maximum height requirements outlined in the LPP 142, as noted above.

This application is for a property with street frontage to Reynolds Street. The parent lot had two street frontages to Preston Point Road and Reynolds Street. The resultant subdivision approved by the WAPC was for a lot without direct off street access to Reynolds Street, due to a 2 metre fall from the street to the subject lot. The natural ground level has a gradient fall of approximately 4.7 metres from west to east away from Reynolds Road. Due to the gradient constraints of the subject site, the proposed development does not comply with the LPP height requirements.

The proposed development is a four storey dwelling with vehicular and pedestrian access from Reynolds Street. This building has the appearance of a 2-storey dwelling from Reynolds Street and is characteristic of the existing streetscape in the area. The topography of the site is such that to provide sufficient and safe vehicular and pedestrian access significant fill or a development similar to the proposal would be required to provide an at grade access. It is difficult to design dwelling with convenient access to Reynolds Street and comply with the height limits recommended in the RDC. Council previously approved dwellings at 5 and 9 Reynolds Street on reduced setbacks and increased building heights to take account of this topography. Council also previously approved a development application consistent with this application on the subject site in 2007.

The proposed dwelling is of a similar two storey built form as view from Reynolds Street. The proposed dwelling has a lower height than the house at 9 Reynolds Street, and

approximately equal in height to the house at 5 Reynolds Street. The proposed 2 storey design at Reynolds Roads is required to articulate the building and eliminate the starkness of the single garage at street level. The properties at 5 and 9 Reynolds Street all present a 2 storey element to the street. The 2 Storey section from Reynolds Street, provides for surveillance of the street and an attractive streetscape.

The proposed variations to the height limits are considered acceptable. There are no impacts on adjoining or nearby property views. The proposed height is necessary to build a practicable residence on a site with a steep gradient.

The proposed dwelling is required to address the PC of 6.7.1 of the RDC, in relation to protecting the amenities of adjoining properties being in particular:

- *Adequate direct sun to buildings and appurtenant open spaces;*
- *Adequate daylight to major openings to habitable rooms; and*
- *Access to views of significance.*

The building height is assessed to comply with the PC of the RDC for the following reasons:

- *The proposed dwelling has been design to facilitate direct sun to the building. The proposed dwelling does not comply with the overshadowing in relation to Lot 1, based on the winter solstice requirements of the RDC, however it is considered the adjoining property does receive adequate direct sun to buildings, major openings to habitable rooms and appurtenant open spaces throughout the remainder of the day; and*
- *There are no impacts on adjoining or nearby property views. The adjoining southern lot (Lot 1) has objected to the dwelling based on the loss of significant sky views, however, it is considered Lot 1 has sky views and the proposed development will not significantly remove these.*

Notwithstanding the height of the dwelling from natural ground level, the dwelling as viewed from Reynolds Street represents a two storey contemporary building. It is considered the proposed height can be supported under the requirements of the PC provisions of the RDC.

Roof Pitch

The Local Planning Policy 066 provides that dominant roof elements are to have a minimum pitch of 28 degrees. The proposed roof is a flat and concealed roof. The design of the dwelling is considered contemporary. The roof forms of adjoining properties in the area are not consistent, throughout the streetscape. Given the existence of other nearby properties containing dwellings with flat and low pitched roofs, the variation to roof pitched proposed in the application is considered acceptable and will not negatively impact on local streetscape.

Therefore it is considered the proposed dwelling roof pitch is not inconsistent with the existing streetscape can be supported.

CONCLUSION

The proposed dwelling is consistent with the previous approval issued by Council and with the subdivision and natural ground levels as approved by the WAPC when the lot was subdivided in 2011. It is noted the subject site and the adjoining property at 9 Reynolds Street were subdivided at a residential density of approximately R35/ R40, well above the existing density of R12.5.

Council discretion is required to be exercised to address the unique topography of the site. Adjoining and nearby properties "suffer" similar topographic constraints and have been developed with similar variations.

The setbacks, street rhythm and appearance of the development viewed from Reynolds Street are in keeping with the streetscape and character of the street. The proposed

dwelling is a contemporary design, which will compliment the appearance or amenity of neighbouring properties.

Based on the proposed development it is recommended Council exercise its discretion and approve of the dwelling subject to appropriate and standard conditions as recommended by the Officer.

RECOMMENDATION

That Council approve the application for the construction of single dwelling at No. 7 (Lot 1) Reynolds Street, East Fremantle, as described on the plans date stamped received 5 November 2012, and exercise its discretion in granting approval for the following variations:

- (a) Overshadowing
- (b) Garage Width
- (c) Boundary Setback
- (d) Building on the Boundary
- (e) Visual Privacy
- (f) Height; and
- (g) Roof Pitch

subject to the following conditions:

1. Prior to the issue of a Building Licence the applicant is to provide engineering details to the satisfaction of Council's Building Surveyor and Works Supervisor for the work required to be undertaken in the reserve/verge on the east side of Reynolds Street to provide access to the proposed house.
2. Third floor pool to be suitably screened (as per the Residential Design Codes) from adjoining dwellings to prevent overlooking of 19 and 21 Preston Point Road, prior to occupancy of the dwelling, to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
3. Applicant to demonstrate prior to the issue of a Building Licence, that the planter boxes to first, second and third floors provide suitable screening (as per the Residential Design Codes) from adjoining dwellings to prevent direct overlooking of 17, 19, and 21 Preston Point Road, to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. The works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. 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.
6. 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.
7. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. 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. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
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/builders 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".*

Ms Penny Johnson and Mr Kim Miller (adjoining neighbours at 17 Preston Point Road) addressed the meeting expressing concern with the proposal. Mr Miller highlighted the negative impact the proposed residence will have on their property, in particular, overlooking.

Mr Miller was of the view that the officer's report did not address the Performance Criteria of the R-Codes with the comments inconsistent with issues relating to overshadow, solar access, boundary setbacks, wall and building height and visual privacy.

Mr Joe Algeri (Town Planner) and Mr Victor Blagaich addressed the meeting in support of the proposal. Mr Algeri, whilst accepting the comments of the adjoining landowners, stressed the difficulty in coming up with a conforming development given the east/west orientation and narrow frontage of the subject lot. He stated that the removal of one entire floor would not bring the development into conformity or have a material impact upon the effects of overshadowing and privacy on the neighbouring property.

Following discussion between the applicants and elected members, it was agreed that a site visit would be beneficial to all parties.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

That the application for a new residence on vacant lot at 7 Reynolds Street, East Fremantle be deferred to the December meeting of Council pending a site visit. The site visit to include the neighbouring property at 17 Preston Point Road. In addition, a review of the application previously approved for the site in 2007 to be undertaken.

CARRIED

Following discussion it was agreed that a site visit be scheduled for 9.00am Saturday 8 December.

T127. EN BLOC RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

That on behalf of Council, the Town Planning & Building Committee, under delegated authority, adopts en bloc the following officer recommendations in respect to Items MB Ref: T127.1 & T127.2. 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.

T127.1

Glyde Street No. 4 (Lot 87)

Owner: W Robertson & P Larkin

Applicant: Cottage Creations DIY P/L (Phoenix Patios)

Application No. P154/2012

By Christine Catchpole, Town Planner 23 November 2012

PURPOSE OF THIS REPORT

This application for Planning Approval proposes the construction of an outbuilding. It is recommended the application be approved subject to conditions.

BACKGROUND

Description of Proposal

The application seeks approval for construction of an outbuilding (storage shed) at the rear of the property in the north east corner. The shed will be constructed of Spruce Pine panels with a Colorbond roof and be of 5.2 metres in length, 4.2 metres in width and ranging in height from 2.4 metres (wall) to 3.5 metres at the peak of the skillion roof. French doors and full height windows either side of the door face the dwelling on the site.

Description of Site

The subject site is:

- a 506m²;
- zoned Residential R20;
- a single dwelling;
- located in the Plympton Precinct;
- Municipal Heritage Inventory – Management Category C; and
- Area 2 -Fremantle Port Buffer.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy No. 142: Residential Development (LPP 142)
Local Planning Policy No. 023: Reflective Roofing Material (LPP 023)

Impact on Public Domain

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

Documentation

Plans date stamped received 30 October 2012

Date Application Received

18 October 2012

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

21 November 2012 A planning application for re-roofing from tiles to zincalume was approved by the Chief Executive Officer under delegated authority.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 9 to 23 October 2012. Two submissions were received during this period and the applicant has responded to the submissions.

SUBMISSION	APPLICANT RESPONSE	OFFICER ASSESSMENT
<p>9 Hubble Street (Rear)</p> <p>Objects to the proposed shed in the revised location (north east corner 1.1m from the northern boundary). It is considered the shed obstructs ocean views. If the shed was constructed in the original position (see officer comment) the adjoining owner would have no objections.</p> <p>Prefers shed to be further setback from the rear boundary (2.0m indicated).</p> <p>Requests confirmation that the shed will only be used for the purpose of storage as stated.</p> <p>Requests confirmation that the perpendicular vertical height from actual ground level to the highest point does not exceed the total height indicated in the application. Concern was expressed that if fill is added to level the rear garden then the height indicated will be exceeded.</p> <p>5-7 Hubble Street (Rear – one lot north)</p>	<p>It is the applicant's intention to use the shed as proposed in the planning application. They have stated that it is not their intention to have anyone living there nor use the shed as a party 'venue'.</p> <p>They have also stated that if it was considered helpful they could use the term 'studio' in their application.</p> <p>The applicant refers council to the approval issued for a studio in the rear garden of 9 Hubble St. Which has a height of 5.7m (max), 1.0m from the common boundary and states that he believes that his proposal is very modest compared to the building that is 1.0 m from the common rear boundary.</p>	<p>The initial plans indicated the outbuilding was to be constructed in the centre of the garden at the rear of the property, however, this was an administrative error on the part of the builder and it was the applicant's intention to construct the outbuilding in the north west corner from the outset. The error on the plans was drawn to the applicant's attention when a neighbour passed comment to one of council's officers regarding the shed being adjacent to her side boundary. The applicant then submitted amended plans.</p> <p>When assessing the application the town determines the classification of the structure based on the definitions of various structures listed in the r-codes. In this case the building 'fits' the definition of an 'outbuilding' i.e. An enclosed non-habitable structure that is detached from any dwelling.</p> <p>A large building has been constructed in the rear garden of 9 Hubble St. The town's records indicate that approval was issued for a studio on 15 August 2000 with a relaxation of the side and rear setback requirements. There are highlight windows in the 5.7 metre section of the building, facing north. The window facing west has been painted to prevent overlooking of 4 Glyde St.</p>

SUBMISSION	APPLICANT RESPONSE	OFFICER ASSESSMENT
<p>Plans were inspected when the shed was indicated in the centre of the garden. Concerned with the size of the shed and the possibility that it might be used as an entertainment area and that this would have a considerable impact on amenity.</p> <p>With regard to amended plans - concerned with repositioning of the shed in that it will reduce light for the property at 4 Glyde St., affect westerly light and the very small view to the harbour, as well as limit the afternoon sunlight for 5-7 Hubble St.</p> <p>Prefer location of the shed to be in the centre of the property. The owners also express an opinion that they have been surrounded by 'oversized buildings' obstructing views and they request the proposal be rejected.</p>	<p>The owner of 5-7 Hubble St. Also expresses concern regarding the size of the proposed shed. The applicant does not recall being offered the opportunity to comment on the 'studio' erected in the rear garden. The applicant states he has no means of knowing the size of the structure, however, he believes the two buildings are probably similar in size, although in his opinion the proposed shed is lower in height.</p> <p>Requests the council approve the plan submitted. The applicant is of the understanding that the proposal fully complies with council guidelines and believes that it will not materially affect neighbours.</p> <p>The plans submitted indicate the preferred location of the shed and the applicant confirms that the shed will not exceed a height of 3.5 metres (amended podium height 200mm).</p>	<p>The town's records indicate that the current owners were sent a letter seeking their comments on the erection of a timber framed storage shed in the rear garden of 5-7 Hubble St. In December 2003. It is not possible to determine whether they received the letter. The application was approved by council subject to conditions at its meeting of 17 February 2004.</p> <p>The proposal complies with the r-codes in respect to the requirements for outbuildings and council policies in regard to residential development (reflective roofing condition to be imposed as colorbond colour not indicated).</p>

Town Planning Advisory Panel (TPAP) Comments

The application was not referred to the TPAP as the proposal has no impact on the streetscape or the heritage dwelling.

Site Inspection

By Town Planner on 16 November 2012.

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	55%	76%	A
Site Works	Less than 500mm	200mm	A
Outbuilding area	60m ²	21.84m ²	A
<u>Local Planning Policies:</u>	Issues		
Policy 142			
Roof	Skillion		A
Solar Access & Shade	Windows and French doors opening to west – shaded partly by existing house		A
Drainage	To be conditioned		A
Views	No impact		A
Crossover	No impact		A
Trees	No impact		A
<u>Other:</u>	Issues		Status
Overshadowing	Contained within subject lot		A
Privacy/Overlooking	Complies – less than 500mm above NGL		A
<u>Height:</u>	Required	Proposed	
Wall	2.4m	2.4m	A

Roof	4.2m	3.5m					A
Roof type	Skillion						A
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (west)</i>							
<i>Ground</i>	Outbuilding	Located behind existing					
<i>Rear (east)</i>		2.4m*	5.2m	No	1.0m	2.0m	A
<i>Ground</i>	Outbuilding						
<i>Side (north)</i>	Outbuilding	2.4m*	4.2m	No	1.0m	1.1m	A
<i>Ground</i>							
<i>Side (south)</i>							
<i>Ground</i>	Outbuilding	2.4m*	4.2m	No	1.0m	5.6m	A

* For purposes of calculating boundary setbacks

Note: The sewer line is located approximately 600mm from the rear boundary.

ASSESSMENT

It is proposed to position the outbuilding at the very rear of the property in the north east corner. This section of the garden is approximately 1.5 to 2.0 metres higher than the finished floor level of the house (FFL 16.95m).

The outbuilding is rectangular in shape and covers an area in the rear garden of approximately 22m². It is proposed that the building will sit on a podium approximately 400mm above natural ground level. This was increased from a podium height of 200mm. The applicant and builder have recently confirmed that there is no objection to the height of the podium being amended to again be at 200mm above natural ground level. The outbuilding will be setback 2.0 metres from the rear (eastern) boundary, 1.1 metres from the northern boundary and 5.6 metres from the southern boundary.

Outbuilding Finished Floor Levels and Building Height

The outbuilding meets all the required boundary setbacks and as mentioned above the plans initially indicated the finished floor level would be 200mm above natural ground level. Given the neighbours' concerns about height it is considered necessary to impose a condition that the podium for the outbuilding not exceed 200mm. At this podium height the outbuilding will comply with the requirements of the R-Codes in regard to the height of the walls and the roof.

Both neighbours to the rear on Hubble Street have expressed concern that the position and the height of the outbuilding will obstruct their remaining views of the harbour and the ocean. It is difficult to see how the construction of the outbuilding will obstruct views of the harbour from 5-7 Hubble Street. Immediately to the rear of this property is a two storey development and between that building and the owner's house is their studio, so views to the west are already obstructed. A view to the south west would already be obstructed by the studio to the rear of the adjacent property at 9 Hubble Street and vegetation.

Similarly, it is difficult to envisage how views from 9 Hubble Street will be obstructed as the studio to the rear of this property extends almost boundary to boundary and ranges in height from 3.5 metres to 5.7 metres; again this structure sits between the proposed outbuilding and the residence at 9 Hubble Street. As the studio at 9 Hubble Street is only approximately 1.0 metre from the boundary (a similar distance to that for the proposed outbuilding) any small glimpses of the ocean should still be available along this setback line as the outbuilding will be setback 1.1 metres from the boundary. Vegetation, however, may restrict views.

To address the neighbours' concerns regarding the height of the outbuilding a condition is recommended limiting the height of the outbuilding to that indicated on the plans date stamped 30 October 2012 and to ensure compliance with the R-Code provisions.

Use of Outbuilding

The neighbours have queried the potential use of the outbuilding for other than a shed. The applicant has indicated in their response to the neighbours' submissions that it is his intention to use the shed as stated in the planning application (storage shed) and that it will not be used for accommodation nor as a 'party venue'. This concern can be addressed through a condition of planning approval specifying that the outbuilding shall not be used for ancillary accommodation or leased either as a rental property or for short stay accommodation.

Roofing Materials

The roofing material specified is Colorbond, however, the colour is not indicated and Zinalume could be the preferred option to match the re-roofing of the house. To comply with LPP Policy 023 a condition of planning approval will be required ensuring that the roof will be painted upon request by Council to reduce reflectivity within a period of two years after construction at the applicant's expense.

Privacy

The door and windows of the outbuilding face the existing residence so there is negligible impact in regard to overlooking of neighbours' properties. In any case the active open space area of the adjoining property to the north is on the northern side of that property and there is an approximate 2.0 metre level difference between the two properties. Furthermore, a bathroom and rammed earth side wall of a bedroom abut this boundary. The open space areas of the lot to the south are screened by a 2.0 metre high masonry wall. However, as previously indicated, a condition of planning approval specifying that the finished floor level of the outbuilding does not exceed 200mm above natural ground level is considered necessary to limit the impact of the building in terms of bulk and scale and any potential for overlooking.

Sewer Easement

The location of the sewer is just inside the rear boundary and the shed is to be located 2.0 metres from the sewer, however a condition of planning approval requiring the applicant to seek approval from the Water Corporation prior to the commencement of construction is considered necessary to ensure adequate access to the sewer is maintained.

CONCLUSION

The proposed development complies with the requirements of the Residential Design Codes. The outbuilding is positioned to the rear of the property and abuts another large building to the rear of the property to the east on Hubble Street. The property to the immediate north east also has an outbuilding in the rear garden.

The structure is also well above street level and cannot be viewed from the road. The impact on the neighbours' outlook is considered to be minimal to negligible given there are structures of equal or greater height between the proposed outbuilding and the residences on Hubble Street. It would appear that only a very slim view corridor between the setbacks of houses is still available and this is partly obstructed by vegetation. Regardless the outbuilding will not encroach into the 1.0 metre setback required under the R-Codes. Therefore it is recommended that the application be supported subject to conditions relating to use, reflective roofing material, the finished floor level and wall and roof heights of the outbuilding.

RECOMMENDATION

That Council grant approval for an outbuilding at the rear of No. 4 (Lot 87) Glyde Street, East Fremantle, in accordance with the plans date stamped received on 30 October 2012 subject to the following conditions.

1. the outbuilding shall not be used for ancillary accommodation or leased either as a rental property or for short stay accommodation.

2. the finished floor level of the outbuilding to be no higher than 200mm above natural ground level.
3. the height of the outbuilding skillion roof peak shall not exceed 3.5 metres above natural ground level and the height of the walls shall not exceed 2.4 metres above natural ground level as indicated on the plans date stamped received 30 October 2012.
4. 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.
5. 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 (e) below*).
6. 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.
7. the proposed works are not to be commenced until Council has received an application for a building permit and the building permit issued is in compliance with the conditions of this planning approval unless otherwise amended by Council.
8. 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.
9. 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.
10. 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.
11. this planning approval to remain valid for a period of 24 months from the date of this approval.
13. official building approval by the Water Corporation prior to commencement of construction.

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) *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".*

T127.2 East Street No.2 (Lot 47)
Applicant: Transform Design
Owner: Gregg and Leanne Cary
Application No. P170/12

By Jamie Douglas, Manager Planning Services, on 13 November 2012

PURPOSE OF THIS REPORT

This report recommends the conditional approval of a development application for additions and alterations to the rear of a single dwelling at 2 East Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 529m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- improved with a single dwelling
- Municipal Inventory Category C

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy : Residential Development Guidelines

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : the addition will not be visible from the street

Documentation

Application Plans and relevant forms date stamped received on 19 October 2012 and amended plans date stamped received 13 November 2012.

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

Nil.

CONSULTATION

Advertising

The plans were advertised for public comment from 25 October to 7 November 2012. No submissions were received.

Town Planning Advisory Panel Comments

The application was considered by the Panel at its meeting on 13 November 2012. The Panel made the following comment:

- *The Panel supports the application.*

Site Inspection

By - Manager Planning Services on 13 November 2012.

ASSESSMENT

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

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	66%	A				
Site Works	Less than 500mm	Less than 500mm	A				
Local Planning Policies:							
Issues							
Residential Guidelines							
Roof	skillion,		A				
Solar Access & Shade	n.a.		A				
Views	n.a.						
Verge Trees	n.a.		A				
Other:							
Issues							
Status							
Overshadowing	18% over 4 East Street		A				
Privacy/Overlooking	Nil		A				
Height:							
Required							
Proposed							
Status							
Wall (concealed roof)	6.5	3.6	A				
Roof Pitch	n.a.	n.a.	A				
Roof type	skillion						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)	n.a.						
Rear (east)		3.6	4	no	1	19.4	A
Side (south)		3.6	17	no	1.6	nil	D

* Wall length as calculated for assessment purposes

ASSESSMENT

The proposal is for a single storey addition of 5.2 m² with an adjoining verandah of 24.2m² at the rear of the existing dwelling at 2 East Street.

The proposed addition will contain a new bathroom laundry and the adjacent verandah will provide a covered outdoor living space in the private rear garden area. French doors will be provided onto the verandah from the existing kitchen/ living room openings to the rear and northern side of the bathroom/laundry extension will be fitted with wooden louvers to obscure overlooking.

The proposed extension will be constructed of rendered brick walls to match the existing house and the concealed roof will be of 'colorbond'. It is considered the proposed materials and design will not detract from the heritage significance of the existing dwelling.

The Town Planning Advisory Panel comments that it supports the application.

The southern side boundary wall of the existing dwelling has a nil setback and has no openings onto the neighbouring property. It is proposed to extend this existing wall as a parapet wall for a further 3.5 metres to accommodate the rear addition. The proposed works will cause only a minor increase in shadow cast across the roof of the neighbouring house at 4 East Street. Natural light to habitable rooms and outdoor living areas of this property will be unaffected.

CONCLUSION

The proposal is for a minor rear extension which will be unseen from the street and will not detract from the existing building character. The side boundary setback variation will have no material impact upon the neighbour. Accordingly it is recommended for approval.

RECOMMENDATION

That Council approve the development application for an addition and alterations to an existing dwelling at 2 East Street, East Fremantle in accordance with the plans date stamped received on 13 November 2012 by exercising discretion in respect to the following variation:

- *variation to the R-Codes to allow a zero setback to the southern side boundary of instead of the prescribed 1.6m*

and subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed works are not to be commenced unless there is a valid demolition licence and building licence and the demolition licence and 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. 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 (d) below*)
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) *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".*

T128. REPORTS OF OFFICERS – STATUTORY PLANNING/DEVELOPMENT CONTROL (Cont)

T128.1 Glyde Street No. 39 (Lot 139)
Applicant: Dale Alcock Home Improvements
Owner: G Cole
Application No. P165/12

By Andrew Malone, Senior Planner, on 15 November 2012

PURPOSE OF THIS REPORT

This report recommends the conditional approval of a development application for additions and alterations, comprising of alterations to the existing ground floor kitchen and bathroom and a new first floor to an existing dwelling at 39 (Lot 139) Glyde Street.

BACKGROUND**Description of Proposal**

The proposed alterations are to the existing ground floor kitchen and bathroom. A new first floor is proposed comprising a master bedroom, ensuite, powder room, balcony, hall, walk in robe and sitting room.

Description of Site

The subject site is:

- a 508m² freehold lot
- zoned Residential R20
- improved with a single dwelling
- located in the Plympton Precinct.

Statutory Considerations

State Planning Policy 3.1 Residential Design Codes
Town Planning Scheme No. 3 (Residential R20)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing
Local Planning Policy No. 142 : Residential Development

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : Existing crossover to be retained and utilised
Footpath : No impact
Streetscape : New first floor will be visible from the street.

Documentation

Plans and relevant forms date stamp received on 18 October 2012.

Date Application Received

18 October 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 for public comment from 22 October 2012 to 7 November 2012. No comments were received.

Town Planning Advisory Panel Comments

The application was considered by the Panel at its meeting on 13 November 2012. The Panel made the following comments:

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
Design does not respond to the architecture of the existing heritage streetscape.	There is a multi storey unit block next to my client's property as can be seen below which has significantly affected and has compromised the heritage streetscape. (Attached email) In addition to this, there are a	The design of the addition has been designed to be distinct and to not respond to the architecture of the existing heritage street. The multi-storey apartment complex on the corner of East Street and George Street to the rear of the dwelling overlooks and impacts on the existing

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
	number of properties along Glyde Street and neighbouring streets that demonstrate a great diversity of architectural style to the area. (Attached email).	amenity of the dwelling and surrounding character of the street. In this instance it is considered the heritage value of the surrounding streetscape is compromised. The proposed additions have been designed so as to address the adjoining carpark and street, with a contemporary design that is articulated both vertically and horizontally (see applicants 3D imaging), thereby minimising the impact of the additions to the existing heritage character of the area. The addition is considered to minimise the impact of the multi-storey and will improve the streetscape.
Front elevation needs to be altered to articulate upper and lower story.	Here is an attachment of an artist impression of our proposal which should demonstrate the articulation much more clearly than the working drawings you have received in particular the roof of the front porch as a protrusion on the ground floor to emphasise this. (Attached email).	The proposed first floor addition is articulated vertically and horizontally. The skillion roof, existing ground floor verandah and carport, window design and location of the balcony all contribute to the articulation of the lower and upper floors. (Applicant's email).
Master bedroom and Bedroom 1 should not have their front elevations completely aligned.	As can be seen from images above, the existence of the flat roof over porch breaks up the elevation and clearly defines the ground floor and upper floor prominently. (Attached email).	The existing ground floor verandah and existing carport roof divide the master bedroom and bedroom 1 front elevations from the streetscape. (Applicant's email).
Schedule of materials required.	Schedule of materials provided.	The proposed extension will be constructed of brick and rendered walls with a colorbond roof. The applicant has provided list of the schedule of materials.

Site Inspection
16 November 2012

STATUTORY ASSESSMENT

The proposal has been assessed against the provisions of Town Planning Scheme No. 3 (TPS3), the Residential Design Codes of Western Australia (RDC) and the Town's Local Planning Policies (LPP). A summary of the assessment is provided in the following tables.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table <input checked="" type="checkbox"/> P <input type="checkbox"/> D <input type="checkbox"/> A <input type="checkbox"/> X	P

In all respects the proposed development is considered to comply with TPS3.

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	254m ² (50%)	338m ² (66%)	A
6.4.2 Outdoor Living	30m ²	As existing	A
6.5 Car Parking	2	As existing	A
6.6 Site Works	Less than 500mm	As existing	A
6.9.1 Overshadowing	25% of adjoining lot	23%	A
6.9.2 Drainage		To be conditioned	A

Building Setbacks

6.3 Boundary Setbacks							
Wall Orientation	Wall Type	Wall height (m)	Wall length (m)	Major opening	Required Setback (m)	Proposed Setback (m)	Status
Front (east)	As Existing						
Rear (west)	As Existing						
Side (north)	Dwelling	7.7 (max)	13.0	Major	4.6	1.4 & 2.6	D
Side (south)	Dwelling	7.0 (max)	6.9	Minor	1.7	3.0	A

The applicant is seeking Council discretion for a setback variation to the northern elevation. The north elevation adjoins a carpark associated with the apartment complex on the corner of East Street and George Street. The LPP 142 provides criteria by which to assess proposed variations to setback requirements, as follows:

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

The proposed northern elevation wall of the addition will have a total wall length of 13.0 metres, as assessed under the RDC including the balcony. The maximum height of the first floor addition is 7.7 metres. The required setback is 4.6 metres. The proposed setback varies from 1.4 to 2.6 metres. The proposed setback variation to the northern boundary is a maximum of 3.2 metres.

- (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.*

The additions are located adjoining a carpark for the multi-storey apartment complex on the corner of East Street and George Street. While the prevailing building form of Glyde Street is single storey, it is considered in this instance the multi-storey apartment complex on the corner of East Street and George Street impacts significantly on the streetscape and character of the dwelling. The bulk and scale of the apartment complex are visible from Glyde Street and impact on the immediate locality. Therefore it is considered that the character of the existing dwelling has already been compromised. The proposed additions are designed to minimise impact to adjoining neighbours to the south. It is considered the additions will not impact on the amenity of the area.

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

The proposed first floor northern additions do not abut an existing or simultaneously constructed wall.

In light of the above and the requirements of the Performance Criteria of the RDC, it is considered the proposed additions and alterations can be supported by Council. The proposed wall adjoins a carpark and the setback variation is not considered to impact on adjoining neighbours, the amenity of the area or on streetscape.

Overlooking

6.8 Visual Privacy				
Wall Orientation	Major Opening Type	Required Setback	Proposed Setback	Status
Side (north)	Master Bedroom	4.5	2.6	D
Side (north)	Sitting room	6.0	1.4	D
Side (north)	Balcony	7.5	1.4	D

The master bedroom window, the sitting room window and the balcony all overlook the adjoining carpark to the north. This is considered an appropriate design as the carpark and Glasson Park are overlooked from the proposed additions, thereby increasing the passive surveillance of the carpark, George Street and the park. The carpark is associated with the multi-storey apartment complex on the corner of East Street and George Street. The carpark and apartment complex are not envisaged to be redeveloped in the near future. The area being overlooked is not a habitable area and is not a sensitive living area. The impact of the overlooking on the neighbouring property is negligible and the variation is considered can be supported by Council.

Notwithstanding the above RDC variations to the Acceptable Development Provisions (ADP), in all other respects the proposed development is compliant with the RDC ADP requirements.

Local Planning Policies Assessment

Local Planning Policies:	Issues	
Policy 142	Complies to height and setbacks	A
Roof	Roof pitch less than 28 degrees	D
Solar Access & Shade	Balcony 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

The variations to policy 142 have been addressed in the setback section of this report. The proposed setback variations are appropriate. It is considered the variations can be supported by Council.

Roof Pitch

The Local Planning Policy 066 provides that dominant roof elements are to have a minimum pitch of 28 degrees. The proposed roof is a skillion roof and has a pitch of approximately 3.5 degrees. The design of the addition is considered contemporary. The roof form of the apartment complex to the rear of the dwelling is a flat roof. In this instance the proposed 3.5 degree skillion roof is not considered out of character with the current apartment complex and streetscape.

The apartment complex is considered to be the dominant structure of the streetscape, therefore it is considered the proposed additions and pitch of the roof are not inconsistent with the existing streetscape can be supported.

Notwithstanding the above LPP variations, in all other respects the proposed development is compliant with the Town's other LPP requirements.

CONCLUSION

The proposal additions and alterations to an existing dwelling will not detrimentally impact the streetscape, residential amenity of the area or the adjoining neighbours. It is considered the overlooking to the adjoining carpark will act to improve the passive surveillance of the area. The proposal is substantially compliant except for the minor variations highlighted above. These variations are justified, and it is considered the proposal should be approved, subject to appropriate conditions.

RECOMMENDATION

That Council in granting approval for the development application for additions and alterations to an existing dwelling at 39 (Lot 139) Glyde Street, East Fremantle in accordance with the plans date stamped received on 18 October 2012 exercises its discretion in granting approval for the following variations:

- (a) *setback to northern boundary*
- (b) *overlooking of adjoining southern carpark*
- (c) *roof pitch*

subject to the following appropriate conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed works are not to be commenced unless there is a valid 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. The existing crossover is to be retained and maintained to the satisfaction of Council's Works Supervisor.
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 (g) 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. 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".

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

That Council in granting approval for the development application for additions and alterations to an existing dwelling at 39 (Lot 139) Glyde Street, East Fremantle in accordance with the plans date stamped received on 18 October 2012 exercises its discretion in granting approval for the following variations:

- (a) **setback to northern boundary**
- (b) **overlooking of adjoining southern carpark**
- (c) **roof pitch**

subject to the following appropriate conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed works are not to be commenced unless there is a valid 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. The existing crossover is to be retained and maintained to the satisfaction of Council's Works Supervisor.
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 (g) 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. 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

Under s.5.21(4)(b) of the Local Government Act 1995, Cr Collinson requested that the voting of Council members be recorded.

Mayor Ferris and Crs de Jong, Martin & Nardi voted in favour of the recommendation with Crs Collinson & Rico having voted against the motion.

T129. CONFIDENTIAL BUSINESS

Nil.

T130. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T131. CLOSURE OF MEETING

There being no further business the meeting closed at 9.04pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **4 December 2012**, Minute Book reference **T117. to T131.** were confirmed at the meeting of the Committee on*

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Presiding Member