



# Town Planning & Building Committee

**6 November 2012**  
**6.30pm**

## MINUTES

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 6 NOVEMBER, 2012 COMMENCING AT 6.30PM.**

**T104. OPENING OF MEETING**

*T104.1 Present*

**105. ACKNOWLEDGEMENT OF COUNTRY**

**T106. WELCOME TO GALLERY**

**T107. APOLOGIES**

**T108. CONFIRMATION OF MINUTES**

*T108.1 Town Planning & Building Committee – 2 October 2012*

**T109. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

*T109.1 Locke Crescent No. 38 (4980)*

*T109.2 Preston Point Road No. 118 (4963)*

*T109.3 Allen Street No 28 (Lot 1 on Survey Strata Plan 47255)*

*T109.4 Philip Street No 12B (Lot 2)*

*T109.5 Alcester Street No 3 (Lot 2)*

**T110. REPORTS OF COMMITTEES**

*T110.1 Town Planning Advisory Panel – 9 October 2012*

**T111. PRESENTATIONS/DEPUTATIONS**

*T111.1 George Street Access and Parking Management Plan*

**T112. REPORTS OF OFFICERS – STRATEGIC PLANNING**

*T112.1 George Street Access and Parking Management Plan*

*T112.2 East Fremantle Oval Precinct Redevelopment – Progress Report*

*T112.3 Proposed Development Application Report Template*

*T112.4 Changes to Residential Design Guidelines*

**T113. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL**

*T113.1 Receipt of Reports*

*T113.2 Order of Business*

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6 November 2012

INDEX

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- T113.3**     *Locke Crescent No. 38 (Lot 4980)*  
          Owner: *F Marsella*  
          Applicant: *P Faranda*  
          Application No. *P69/2012*
- T113.4**     *Fraser Street No. 83 (Lot 121)*  
          Applicant: *Peter Stannard Homes Pty Ltd*  
          Owner: *P & C Falloon*  
          Application No. *P27/12*
- T113.5**     *Philip Street No. 12B (Lot 2)*  
          Applicant: *Shayne Le Roy Design*  
          Owner: *F M Abrusci*  
          Application No. *P110/12*
- T113.6**     *Alcester Street No. 3 (Lot2)*  
          Applicant: *L Zappara*  
          Owner: *L Zappara*  
          Application No. *P145/12*
- T113.7**     *Alexandra Road No. 31 (Lot 44)*  
          Applicant / Owner: *Yalena Pty Ltd*  
          Application No. *P141/2012*
- T113.8**     *Dalgety Street No. 27 (Lot 60)*  
          Applicant: *R Davey & S Hubbard*  
          Owner: *R Davey & S Hubbard*  
          Application No. *P189/12*
- T113.9**     *Marmion Street No. 130A (Lot 2 on Strata Plan 52016)*  
          Applicant: *Peter Stannard Homes Pty Ltd*  
          Owner: *J & L Price*  
          Application No. *P150/12*
- T113.10**    *Preston Point Road No. 118 (Lot 4963)*  
          Applicant: *P T Homes Pty Ltd*  
          Owner: *C Boase*  
          Application No. *P151/12*
- T113.11**    *Osborne Street No. 26 (Lot 13)*  
          Applicant: *Mellor Architects*  
          Owner: *K & B Howard*  
          Application No. *P152/12*
- T113.12**    *Allen Street No. 28 (Lot 1 on Survey Strata Plan 47255)*  
          Applicant: *Dale Alcock Homes*  
          Owner: *I G Handcock*  
          Application No. *P146/12*
- T114.**       **CONFIDENTIAL BUSINESS**
- T115.**       **URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**
- T116.**       **CLOSURE OF MEETING**
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**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 6 NOVEMBER 2012 COMMENCING AT 6.30PM.**

**T104. OPENING OF MEETING**

**T104.1 Present**

Cr Alex Wilson	Presiding Member
Cr Cliff Collinson	
Cr Barry de Jong	
Cr Siân Martin	
Cr Dean Nardi	
Cr Maria Rico	
Mr Jamie Douglas	Manager – Planning Services
Ms Janine May	Minute Secretary

**105. 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.”*

**T106. WELCOME TO GALLERY**

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

**T107. APOLOGIES**

Mayor Alan Ferris

**T108. CONFIRMATION OF MINUTES**

**T108.1 Town Planning & Building Committee – 2 October 2012**

**Cr Wilson – Cr de Jong**

**That the Town Planning & Building Committee minutes dated 2 October 2012 as adopted at the Council meeting held on 16 October 2012 be confirmed. CARRIED**

**T109. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T109.1 Locke Crescent No. 38 (4980)**

Submission from Julie Amor of 17 Habgood Street disputing the officer’s comment that the change to the Wauhup Road setback of the development at 38 Locke Crescent would not detrimentally affect the outlook from her property.

**Cr Rico – Cr Nardi**

**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T113.3).**

CARRIED

**T109.2 Preston Point Road No. 118 (4963)**

Correspondence from Neil Thomas of 116 Preston Point Road advising that he wished to withdraw his previous objection to the proposed development at 118 Preston Point Road.

**Cr Rico – Cr Nardi**

**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T113.10).**

CARRIED

6 November 2012

## MINUTES

**T109.3 Allen Street No 28 (Lot 1 on Survey Strata Plan 47255)**

Correspondence from Dale Alcock Homes seeking a deferral of the application for proposed development at 28 Allen Street until the December meeting.

**Cr Rico – Cr Nardi**

**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T113.12).**

CARRIED

**T109.4 Philip Street No 12B (Lot 2)**

Correspondence from Private Horizons Planning Solutions providing support and justification for the proposed development at 12B Philip Street.

**Cr Rico – Cr Nardi**

**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T113.5).**

CARRIED

**T109.5 Alcester Street No 3 (Lot 2)**

Correspondence from Luke Zappara in relation to his application for retrospective approval of a side boundary retaining wall and fence at 3 Alcester Street.

**Cr Rico – Cr Nardi**

**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T113.6).**

CARRIED

**T110. REPORTS OF COMMITTEES****T110.1 Town Planning Advisory Panel – 9 October 2012**

**Cr Wilson – Cr Nardi**

**That the minutes of the Town Planning Advisory Panel meeting held on 9 October 2012 be received and each item considered when the relevant development application is being discussed.**

CARRIED

**T111. PRESENTATIONS/DEPUTATIONS****T111.1 George Street Access and Parking Management Plan**

Mr Steve McDermott of GHD provided a power point presentation on the draft George Street Access and Parking Management Plan.

Elected members raised the following issues/concerns regarding the draft report:

- No recommendations in relation to the large volume of through traffic using lower King Street
- No recommendation on the possible removal of the road treatments at the bottom of Sewell and Hubble Streets to fairly distribute traffic through Plympton streets.
- In relation to resident parking scheme:
  - Why King Street was not considered
  - Why only the northern ends of streets were suggested
  - No recommendations on how far the restrictions should extend to or what particular times day or night should be considered

In addition to the above points, elected members stated the report should include further information on:

- Appropriate street lighting
- Suggested location of bicycle spaces
- The issue of street furniture and its impact on available parking

- The original concept for parking off Silas Street and how many bays could be achieved in this location.

Cr Martin advised:

- the draft report contained many inconsistencies.
  - some of the recommendations had not been explored in the commentary
  - the proposed recommendations needed to be more specific
- and she undertook to provide feedback to the Manager Planning Services.

Mr McDermott was thanked for his presentation and left the meeting.

## T112. REPORTS OF OFFICERS – STRATEGIC PLANNING

### T112.1 **George Street Access and Parking Management Plan** *By Jamie Douglas, Manager - Planning Services on 30 October 2012*

The George Street Access and Parking Management Plan draft report was enclosed with the papers for the Special Council Meeting held on 30 October 2012.

The Report authors - GHD will present the Report's findings to the Committee and be available to answer questions. Following feedback from Elected Members it is proposed that the Report will be finalised and presented to a subsequent Committee meeting for resolution. Elected Members are reminded to bring copies of the report to the Committee meeting.

#### RECOMMENDATION

That the report be received.

Cr Collinson raised the issue of the public car park behind 128 George Street and the effect on available parking in the vicinity, should these bays become unavailable.

#### RECOMMENDATION TO COUNCIL

**Cr de Jong – Cr Nardi**

**That the report be received in draft.**

CARRIED

### T112.2 **East Fremantle Oval Precinct Redevelopment – Progress Report** *By Jamie Douglas, Manager Planning Services on 30 October 2012*

#### PURPOSE OF THIS REPORT

To provide an update of project activity which has occurred since the last Progress Report to Council's meeting on 18 September 2012.

#### PROGRESS REPORT

The following is a summary of activity undertaken during this period:

1. The Mayor and Manager Planning Services have made presentations on 26 and 27 of September 2012 to:
  - representatives of the Western Australian Football Commission and Department of Sport and Recreation
  - Hon Simon O'Brien MLC – Minister for Finance, Hon John McGrath – Parliamentary Secretary, Hon Terry Waldren, Minister for Sport & Recreation, Nick Sloan – Policy Advisor Sport & Recreation and the Policy Advisor Minister for Planning.

The presentations consisted of a power point presentation which provided an update on the project and details of the Concept Plan. Project Summaries were distributed. There was general support for the outlined approach and Project Objectives.

2. The first meeting of the Working Group was held on 16 October 2012. The Minutes from this meeting form Attachment 1 to this report.
3. Consultants have been appointed to undertake two project streams to inform the Outline Development Plan. The Projects and outcomes were defined in Project Briefs. The following identifies the Scope of Works from the Briefs and the consultants who were contacted to supply fee submissions:

(a) Infrastructure, Movement Network and Sustainability.

Scope of Works

- (i) Identify, locate and describe existing (and planned) services as follows:

- .. Movement Network
- .. Drainage and Stormwater Management
- .. Water and Sewer Services
- .. Power Supply
- .. Telecommunications

- (ii) Generate an 'opportunities and constraints' analysis for redevelopment as identified in the Concept Plan based on the preceding services analysis and application of sustainable development principles.

Consultants contacted – GHD & SKM

(b) Environmental, Heritage and Landscape Services.

Scope of Works

- (i) Identify, locate and describe issues influencing development as follows:

- .. Geology and Soils including acid sulphate soils risk assessments
- .. Hydrogeology
- .. Vegetation – significant trees to be retained or removed.
- .. Site contamination
- .. Landscape assessment – microclimatic features, significant view corridors, landform and built form features etc.
- .. Heritage – Indigenous Heritage- determine if the study area contains any sites registered under the Aboriginal Heritage Act.
- .. European Heritage – buildings, structures or activities which are 'significant'.

- (ii) Generate an 'opportunities and constraints' analysis for redevelopment as identified in the Concept Plan based on the preceding analysis and application of sustainable development principles.

- (iii) Based on the preceding analysis establish development principles for inclusion within the ODP which will guide development outcomes within each development parcel indicated on the Concept Plan.

Consultants contacted – The Planning Group, Plan E & SKM.

Fee Submissions

Fee submissions were received from SKM in respect to both Briefs and Plan E in respect to the Environmental and Heritage stream. The following were selected:

- .. SKM to undertake the Infrastructure, Movement Network and Sustainability Project for a lump sum fee of \$38,226 (ex GST) for a project completion date in 14 weeks from date of commission.
- .. Plan E to undertake the Environmental, Heritage and Landscape Services Project for a lump sum fee of \$36,030 (ex GST) for a project completion date 12 weeks from date of commission.

4. The Outline Development Plan will provide the basis for a Scheme Amendment to rezone the development parcels and will set the planning requirements for development outcomes in terms of use, density, form and design – provides the framework for business planning.- Part One of the Plan has been completed by the Manager Planning Services. When they are completed the above consultancies will inform 'Part 2 – Analysis' of the ODP.

**RECOMMENDATION**

That the report be received.

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Martin**

**That the report be received.**

CARRIED

**T112.3*****Proposed Development Application Report Template***

*By Carly Pidco, Senior Planning Officer, on 25 October 2012*

**DISCUSSION**

The Council at its meeting of 18 September resolved to adopt the Draft Residential Design Guidelines as a Local Planning Policy. Planning staff have been preparing for the implementation of the new Local Planning Policy ("new LPP") in the Council's statutory planning functions.

Timing of Implementation

The new LPP will be used to assess development applications submitted on or after 24 October 2012. This date has been chosen as 23 October 2012 is the cut-off date for submission of development applications to be considered at the December 2012 Council meeting. All development applications submitted from 24 October 2012 will be considered at 2013 Council meetings (except where determined under delegated authority).

Format of Statutory Assessment and Reports to Council

The new LPP is significantly lengthier than the LPP 142 and includes varying provisions for each precinct. An assessment worksheet has been prepared for each precinct to be used by planning staff in their assessments. It has also been necessary to revise the standard format for residential development reports to Council to reflect the new LPP. The key features of the revised format include:

- Statutory assessment categorised into Town Planning Scheme; Residential Design Codes; and Local Planning Policies.
- Town Planning Scheme table is a new addition that acknowledges the key provisions for Development Applications.
- Residential Design Codes table is similar to the current statutory assessment table, however, it now includes several Design Elements not addressed in the current table; deletes Design Elements address by the new LPP; and reformats the Visual Privacy assessment for ease of use.
- Local Planning Policies assessment is a summary of all design elements in the Residential Design Guidelines, and a full assessment of building height.
- The summary approach (element and status) minimises the length of the Council report for ease of use. For the majority of assessment criteria / elements, the planner will note whether or not the development complies. If a development does not comply, the planner will provide a full assessment of the issue in the Discussion section of the report.
- The summary approach has not been used for building height, visual privacy and building setbacks. Greater detail will be included for these elements as they are the most frequently raised during public consultation and details of the assessment will be a useful reference for Elected Members in considering public submissions.



The proposed report format is provided to the Town Planning & Building Committee for its consideration and feedback prior to its introduction.

**RECOMMENDATION**

That the information be received.

Cr Martin sought inclusion of sections “Consultation” and “Recommendations from Town Planning Advisory Panel” and requested that the “Purpose of the Report” continue to include advice on whether the officer was intending to recommend approval/refusal or deferral.

**RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Rico**

**That the information be received.**

CARRIED

**T112.4 Changes to Residential Design Guidelines**

By Jamie Douglas, Manager - Planning Services on 1 November 2012

**PURPOSE OF THIS REPORT**

This report recommends changes to the new Residential Design Guidelines Local Planning Policy in respect to building height provisions applicable in some precincts.

**BACKGROUND**

Following some recent planning determinations, further consideration has been given to strengthening provisions relating to building height and scale applicable in some Precincts. Elected members would be aware of neighbours concerns in respect to the approval of a 2 storey garage and loft at 73 Duke Street. The development is substantially compliant with the former Residential Design Guideline 142 and the R-Codes but nevertheless is the cause of considerable concern to its neighbours. Accordingly, it is proposed to strengthen the new Guideline’s provisions relating to Building Height and Form in the Plympton Ward because of the relatively high development density which exists in this area.

Under the new Guidelines height provisions in the Richmond Hill, Richmond and Riverside Precincts allow for maximum building heights in accordance with Category B provisions of the R-Codes. This is an increase in height in comparison to the heights applicable under the former Residential Design Policy 142 in areas ‘*where views are an important part of the amenity of the area*’ the following table shows the comparative height of the relevant provisions:-

	<b>R-Codes Category B</b>	<b>Design Policy 142</b>
Top of external wall (roof above)	6m	5.6m
Top of external wall (concealed roof)	7m	6.5m
Top of pitched roof	9m	8.1m

Under the new Policy, the more restrictive height requirements in areas sensitive to the protection of views will be lost. Accordingly, the consultant who prepared the report Phillip Griffiths was asked to review these provisions; he advised as follows;

*“I think that the Category B provision in 1.4 reflected a view that we were trying to stay with the R-Codes where we could. The difference is not great and were you to apply the existing policy it should not be a huge issue. Category B seems to be widely accepted and can generally accommodate a pitched tiled roof on a larger floor plan. That was the logic, 8.1 m (max height to roof pitch) makes people work a bit harder to keep roofs low.”*

However, recent proposals in the view sensitive areas of Richmond, Richmond Hill and Riverside (for example 6 Habgood Street) evidence a trend to increasingly large (it could be argued over sized) houses which are being designed to maximise views and aspect.

While many such proposals have struggled to meet the height requirements of the former LLP 142 and often have sought height variations, to relax these provisions will tend to support houses of increased scale and bulk. Inevitably designers will seek variations above the 9m maximum (and associated wall heights) in comparison to the previously existing situation where variations were sought with reference to an 8.1m high maximum. Notwithstanding the design difficulties encompassed by the lower height requirements, an increase in these heights will have greater impacts upon neighbour amenity.

It is therefore proposed to amend the height provisions within the recently adopted Residential Design Guideline (to accord with the previous provisions) within areas where views are likely to be potentially impacted and to restrict the overall site coverage in these areas to provide view corridors and limit overdevelopment of the site.

In addition to the above a minor addition to the General standards of the Design Guideline is proposed to clarify that the Town Centre Redevelopment Guidelines take precedence where they are applicable.

#### **PROPOSED CHANGES**

The proposed changes are shown as 'track changes' in the relevant page extracted from the Guidelines document, attached to this report.

#### **STATUTORY PROCESS FOR AMENDING A LOCAL PLANNING POLICY**

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

#### **RECOMMENDATION**

That Council endorse the proposed amendments to the Local Planning Policy - 'Residential Design Guidelines, September 2012 included in this report and, pursuant to clause 2.4 of the Town of East Fremantle Town Planning Scheme No.3, resolves to publicly advertise the proposed amendments to the Local Planning Policy - 'Residential Design Guidelines, September 2012'.

#### **RECOMMENDATION TO COUNCIL**

**Cr Martin – Cr de Jong**

**That Council endorse the proposed amendments to the Local Planning Policy - 'Residential Design Guidelines, September 2012 included in this report and, pursuant to clause 2.4 of the Town of East Fremantle Town Planning Scheme No.3, resolves to publicly advertise the proposed amendments to the Local Planning Policy - 'Residential Design Guidelines, September 2012'.** CARRIED

### **T113. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL**

#### **T113.1 Receipt of Reports**

**Cr Rico – Cr Nardi**

**That the Reports of Officers be received.**

CARRIED

**T113.2 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**

**T113.3 Locke Crescent No. 38 (Lot 4980)****Owner: F Marsella****Applicant: P Faranda****Application No. P69/2012**

By Christine Catchpole, Town Planner on 26 October 2012

**PURPOSE OF THIS REPORT**

This report considers an application for the demolition of an existing residence and construction of a two storey dwelling and boundary fence.

**DESCRIPTION OF PROPOSAL**

The subject application proposes demolition of the existing residence facing Wauhop Road and the construction of a two storey dwelling of approximately 300m<sup>2</sup>.

The application proposes to construct a new residence which will now front Locke Crescent with access to a double garage from this frontage. The two existing crossovers on Wauhop Road will become redundant.

The lower floor comprises a theatre, study, kitchen and dining, with a laundry and storeroom and an upper storey housing the bedrooms, retreat and sitting areas.

Both the lower and upper floors have balcony and alfresco areas, under the main roof and facing north to take advantage of river views and to overlook a proposed pool. The solid masonry wall extending along the middle to lower part of Wauhop Road will screen the dining, alfresco and pool areas.

The dwelling will be rendered brickwork and tiles with a roof pitch of 26°.

**Description of Site**

The subject site is:

- a 718m<sup>2</sup> lot;
- zoned Residential R12.5;
- in the Richmond Hill Precinct; and
- occupied by a modest single storey residence.

**Statutory Considerations**

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

**Relevant Council Policies**

Local Planning Policy No. 142 : Residential Development (LPP 142)  
Local Planning Policy No. 143 : Local Laws Relating to Fencing (LPP 143)  
Local Planning Policy No. 123 : Footpaths and Crossovers (LPP 123)  
Local Planning Policy No. 066 : Roofing (LPP 066)

**Impact on Public Domain**

Tree in verge : No impact.  
Light pole : No impact.  
Crossover : Conditions to be imposed as crossover repositioned to Locke Crescent and redundant crossovers on Wauhop Road to be removed.  
Footpath : No impact.  
Streetscape : Solid rendered masonry fence to be constructed along middle to lower segment of Wauhop Road boundary.

**Documentation**

- .. Plans and relevant forms date stamped received on 8 May 2012
- .. Applicant's comments in support of application and in response to Town Planning Advisory Panel's comments of 26 June dated 3 June 2012
- .. Amended plans date stamped received 28 September 2012
- .. Streetscape montage submitted 28 September 2012
- .. Applicant's response to Town Planning Advisory Panel's comments of 9 October 2012 dated 15 October 2012
- .. Submission from adjoining owner date stamped received 18 October 2012
- .. Applicant's response to adjoining owner submission date stamped received 26 October 2012

**Date Application Received**

8 May 2012

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

21 October 1997 Council approval for demolition of existing dwelling and approval of construction of two storey residence subject to conditions and with reduced boundary setbacks.

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours from 17 May to 4 June 2012. No submissions were received during this period. Following the lodgement of amended plans in September the application was re-advertised from 4 to 18 October 2012. One submission has been received from a resident at 17 Habgood Street.

Submission	Applicant Response	Officer Assessment
<p><b>17 Habgood Street</b> Height of the residence will affect views from the northern side, kitchen, living room, and dining room windows.</p> <p>A change of setback on Wauhop Road. from 6m to 3m will eliminate or diminish my views from the northern side windows and balcony.</p>	<p>Request Council refer to the 3D colour montage submitted, which indicates the building height is in keeping with the existing streetscape and therefore will not have any adverse impact on the northerly views from No. 17.</p> <p>A site inspection indicates that the views from 17 Habgood Street will not be compromised by the 3.33m setback from Wauhop Road.</p>	<p>The height of the building as it fronts Locke Crescent will comply with Council's LPP No. 142. The impact on views from the windows suggested is difficult to determine, however, it would appear that the outlook from the house through the view corridor provided by the Wauhop Road and Locke Crescent road reserve intersection will not be obstructed (~50 metres wide including setback of the adjoining property on the south west cnr of Habgood and Locke Crescent).</p> <p>The change to the Wauhop St. building setback is not considered to detrimentally affect the outlook from 17 Habgood St. Whilst the house will be closer to the boundary than the existing residence the Wauhop Road road reserve will provide an uninterrupted outlook. Orientation of the house fronting Locke Cres. allows the owners to maximize their river views.</p>

<p>The size of the house for the lot appears to occupy more than 55% thus eroding the existing 'feel' and amenity of the area.</p> <p>At present there is a feeling of space around homes but the increasing size of houses is 'unpalatable'.</p> <p>The front balcony on Locke Cres. protrudes into the front setback and will offer views over my pool area.</p>	<p>Calculations show the design concept is modest, as calculations indicate 62.5% open space on site which is 7.5% more than the 55% minimum allowed.</p> <p>It is noted that 17 Habgood is a dominant two storey residence on 'build ups', which seems to cover a large area of the block.</p> <p>The residence at 17 Habgood Street does not face directly north, but north east, and hence the views are in that direction. Coupled with the fact that No. 17 is dramatically higher than the finished floor level of 22.20 should ensure there will be no overlooking into the pool area from the front balcony, which is approximately 40m away.</p> <p>The applicant also draws Council's attention to the fact that there were no objections during the first advertising period. Whilst the amended drawings submitted did not contain any material changes that would have necessitated a second advertising period. The only changes made to the drawings were items recommended by the TPAP, which encompassed design articulation and streetscape requirements. There were no changes to floor levels, building bulk or height changes.</p>	<p>The open space on-site is in compliance with the R-Code provision (calculated at 55.1% using the computer generated dimensions).</p> <p>Generally redevelopment of lots in the locality is two storeys and this allows for a greater development of open space on-site. The subject lot will have a landscaped front garden and the openness of the rear of the property, revealing both the lower alfresco and upper balcony, will contribute to the sense of space and openness around the building.</p> <p>The balcony does protrude into the front setback, however, the applicant's comments are supported in that overlooking will not be an issue from the proposed balcony (over the porch) due to the distance between the two properties (~40m) and the ~5m difference in elevation between the two sites. Also it is very likely that this balcony will be used less as it faces south and overlooks Locke Crescent, whilst the balcony and alfresco areas to the rear face north with river views. Furthermore, the Explanatory Guidelines for the R-Codes specify that acceptable development provisions in regard to privacy and overlooking are limited to areas of any adjoining property behind its setback line. A lesser need for privacy protection is the usual case for front gardens and areas accessible from the street – where a lesser degree of privacy is to be expected. This situation applies to the property at 17 Habgood Street where a pool is in the front setback area. Aerial photography (2008) also indicates a pool in the rear garden.</p>
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**Town Planning Advisory Panel (TPAP) Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 26 June and again on 9 October 2012 for comment on the amended plans. The Panel made the following comments in regard to the application and the applicant has responded.

Panel Comment	Applicant Response (summary)	Officer Assessment
<b>26 June 2012 TPAP</b>		
<p>Garage not supported forward of the building line.</p>	<p>Believed this may be rectified and attempts will be made to do so even though the porch projection, which currently separates the garage and the theatre, means that the garage will only have a minimal impact to streetscape.</p>	<p>Part 2 (ii) of Council's LPP 142 – Residential Development requires that garages/carports are to be located at or behind the main building line of the dwelling. Refer to TPAP 9 Oct officer assessment of amended plans.</p>
<p>Panel does not support the reorientation of the frontage of the house to face Locke Crescent and recommends plan reconsider frontage to remain addressing Wauhop Road.</p>	<p>Our clients are steadfast for their residence to be fronting Locke Crescent and that to be the principle street, as it is recognised by the Council as the current address of the property. Furthermore, in a previous submission that was made some years ago by my client's parents, the Council insisted that this be the case. It is our client's belief that this is the best orientation for their residence, keeping in mind making best use of space, privacy and delivery of mail.</p>	<p>Council records indicate the last approval for the dwelling on the land (dated 21 July 1997) noted Wauhop Road as the front setback (primary street) and Locke Crescent as the secondary street.</p> <p>Whilst it would have been optimal for the design to more directly address both streets there is no direct requirement that corner properties specifically address both property frontages by way of providing entrances or major openings to habitable rooms. Further, it would appear that this usually only occurs in this locality where there are significant advantages to be gained in regard to maximising views.</p>
<p>Application needs to address both streetscapes.</p>	<p>It is our belief that the Wauhop Road streetscape has been addressed and the elevation is aesthetically pleasing with the clever use of shape, form and ornate materials. There are traditional roof/eave lines combined with more modern contemporary brick parapets and a flat roof. All with ornate light weight mouldings to add both character and soften the elevation. Furthermore, the design elements of the windows and their location have been carefully considered to achieve symmetry and balance, while the rear balcony is clearly visible from Wauhop Road and will certainly add to the street appeal.</p>	<p>The main entrance to the proposed dwelling fronts Locke Crescent. The proposed dwelling maintains several large openings and outdoor areas and passive surveillance over both frontages. Furthermore, the amended plans indicate changes that from a pedestrian viewpoint provide a very good connection between the house and the street and a highly visible facade (major openings to bedrooms and dining area, balcony and al fresco area). Activity in the rear garden will be more visible and apparent than for most other properties in the locality.</p>

Panel Comment	Applicant Response (summary)	Officer Assessment
<b>26 June 2012 TPAP</b>		
<p>Building has over-height elements and does not address the existing topography of the site.</p> <p>Proposed application does not appear to respond to appropriate interpretation of natural ground level.</p> <p>Panel notes that the roof height increases as the topography drops away; adding to the bulk of the building addressing Wauhop Road.</p>	<p>We believe that these elements are unavoidable and cannot be totally eliminated due to the fall of the land. These issues were previously addressed in our letter dated 3 June 2012 under performance criteria.</p> <p>The plans show that the topography of the site has been considered without the need for any boundary retaining and therefore interference to adjoining neighbours, as the new ground levels follow existing ground levels. Furthermore, stepping of internal floor levels will not have any effect on building bulk as the roof cannot be dropped or the suspended slab split. This will only achieve higher ceiling levels.</p>	<p>The height non-compliance arises from the topography of the land. It is noted that stepping the roof structure will not result in a lesser height under the current building design.</p> <p>Access to the dwelling has been located at a level lower than Locke Crescent and the driveway cannot be constructed on a steeper gradient. The applicant appears to have responded to the topography of the site in the most sympathetic manner given the design option chosen.</p>

9 October 2012 TPAP	Applicant's Response	Officer Assessment
<p>Query height as the proposal moves north down Wauhop Road.</p>	<p>Requested the Council consider the proposal in its current form. Plans have not been amended from the original proposal submitted in May. It is requested that the Council consider and approve the maximum ridge height of 9m and maximum wall height of 6.75m. Due to the fact that the site has an excessive fall of 3.38m in a south to north direction. The wall and roof heights only exceed the policy at the lowest parts of the site and every attempt has been made to reduce the impact on neighbours. The driveway is at the maximum gradient and the roof pitch is as low as possible (26°) taking into account aesthetic values.</p>	<p>The height non-compliance arises from the topography of the land. It is noted that stepping the slab will not result in a lesser height under the current building design.</p> <p>The proposed height responds to the housing design selected and the site constraints.</p> <p>The proposed roof pitch reduces the ridge height and in the main compliance with setbacks helps to reduce the bulk and mass from the street perspective.</p>
<p>Development should step down the lot.</p>	<p>The design of the dwelling is not conducive to splitting the suspended floor slab. The bulk of the building at the rear of the house is in keeping with the adjoining properties as indicated on the streetscape montage.</p>	<p>It is acknowledged that this may have been a possible design option for the site, however, the opportunity to maximise river views is obviously a consideration given the location of the site and this would not have been possible</p>

6 November 2012

## MINUTES

9 October 2012 TPAP	Applicant's Response	Officer Assessment
	Furthermore, the photograph of 70 View Terrace will indicate the proposal is not dissimilar to the proposal and does not 'step down'. Further, with regard to bulk and over height elements the applicant believes this is unavoidable and cannot be totally eliminated due to the fall of the land. Stepping of internal floor levels will not have any effect on building bulk, as the roof cannot be 'dropped' nor can the suspended slab be split. This solution would only result in higher ceiling levels.	with a split level design option and lower levels to the rear.
Query garage setback.	The applicant stated he did not understand the TPAP's query. Request approval for the 6.4m front setback. The majority of new garages are setback approximately the same distance. Furthermore, the streetscape will not be unduly impacted due to the large expanse of verge and road reserve at this intersection.	The TPAP query was in regard to LPP 142 requirement that the garage not be forward of the building line. Amended plans indicate the garage is now setback essentially in line with the front building line, which is considered a better design option than previously proposed where it was 1m forward of the building line. This further setback in conjunction with the second storey of the house not extending over the garage reduces the visual impact of the garage and it is not considered to dominate the front façade.

## STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	55%	55.1%	D
Site Works	Less than 500mm	≥ 500 mm - ~1.0m fill for rear portion of property	D
<b>Local Planning Policies:</b>	<b>Issues</b>		
<b>Policy 142</b>	<b>Bldg height, secondary street setback &amp; garage</b>		D
<b>Policy 066 Roofing</b>	Tiled – gable pitch – does not comply with Policy		D
Solar Access & Shade	North facing living areas alfresco and balcony		A
Drainage	To be conditioned		A
Views	Possible impact for adjoining properties – one comment received		A
Garage	Not setback behind main building line. Part 2 (ii). 200mm forward of the building line.		D
<b>Policy 123 Footpaths and Crossovers</b>	New crossover to Locke Crescent – 2 crossovers on Wauhop Road to be removed – conditions required.		A
Trees	No impact – no street tree where crossover proposed.		A



<b>Policy 143 Fencing</b>	Rendered brick solid wall on eastern boundary – Wauhop Road – to be conditioned.		<b>D</b>				
<b>Other:</b>	<b>Issues</b>						
Overshadowing	No impacts on adjoining lots		<b>A</b>				
Privacy/Overlooking	Minimal impact – overlooks adjoining property to north – only roof space – complies with R-Codes. Upper balcony cone of vision extends 1.2m over western property boundary		<b>D</b>				
Car parking	No impact – 2 bays required and double garage provided.		<b>A</b>				
<b>Pool</b>	To be conditioned.		<b>A</b>				
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>					
Wall south	5.6	4.55	<b>A</b>				
Wall east	5.6	5.29	<b>A</b>				
Wall west	5.6	6.80	<b>D</b>				
Wall north	5.6	7.63	<b>D</b>				
Ridge south	8.1	6.85	<b>A</b>				
Ridge east	8.1	8.04	<b>A</b>				
Ridge west	8.1	9.20	<b>D</b>				
Ridge north	8.1	10.23	<b>D</b>				
Roof type	Tiled - pitch 26°		<b>D</b>				
<b>Privacy/Overlooking:</b>	cone of vision drawings – see below						
Clause 6.8.1 FFL 0.5m above NGL major opening to active habitable spaces	<b>Required</b>	<b>Proposed</b>					
	4.5m from bedrooms	4.5	<b>A</b>				
	6.0m other habitable rooms (retreat)	6.0	<b>A</b>				
	7.5m unenclosed outdoor active habitable (e.g. balcony)	6.3	<b>D</b>				
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (south)							
Ground		N/A	N/A	N/A	7.5	Avg 6.1	<b>D</b>
Upper					7.5	Avg 9.6	<b>D</b>
Balcony 7.5m <sup>2</sup>						5.4	<b>D</b>
Garage	Forward of main bldg line					6.0	<b>D</b>
Rear (north– rear)							
Ground	Alfresco						
		4.0* - 4.6*	9.7	yes	Max setback 2.5	7.5	<b>A</b>
Upper		6.5* – 7.0*	12.4	yes	Max setback 4.1	10.5	<b>A</b>
Side (west)							
Ground	Section of wall with no MO garage	3.9*	5.5	no	1.1	2.0	<b>A</b>
		1.9*	7.0	no	1.0	1.2	<b>A</b>
	Total wall	4.3*	22.8	no	1.8	2.6	<b>A</b>

<i>Upper</i>	<i>Section of wall – no MO</i>	6.8*	7.0	no	1.2	2.0	<b>A</b>
	<i>Remainder with no MO</i>	5.5* – 6.8*	15.5	no	Max setback 2.2	2.6 – 3.5	<b>A</b>
	<i>Section of wall – no MO (bedroom)</i>	5.2*	5.0	no	1.2	7.2	<b>A</b>
	<i>Total wall length</i>	5.5* - 6.8*	22.7	no	Max setback 2.8	2.0 – 7.2	<b>D</b>
Side (east) <b>secondary street</b>							
<i>Ground</i>	<i>theatre</i>	2.5	4.9	no	3.75 as per LPP 142	3.3 min Avg 4	<b>D</b>
	<i>Remainder of wall with MO</i>	2.8* - 4.2*	14.0	yes	Max setback 3.75	3.9 – 4.8	<b>D</b>
<i>Upper</i>		5.5* – 6.5*	17.5	yes	3.75	3.9 – 6.6	<b>D</b>

**Note 1: Subject lot slopes >3 metres from south to north along Wauhop Road**

**Note 2: \*wall height for the purpose of calculating boundary setbacks**

### ASSESSMENT

The application has been assessed in regard to the R-Codes and a number of Council's Local Planning Policies and the planning matters and variations proposed are discussed below.

### Demolition

Demolition of the existing residence is supported. The dwelling is not heritage listed and it is a modest house that does not present an attractive option for renovation or extension. There are no significant trees on-site.

### Site Works

The rear of the site will require fill of greater than 500mm to achieve a finished floor level that provides reasonable ease of access from Locke Crescent; the driveway is at the maximum gradient and the site falls slightly more than 3 metres from south to north. This has also improved the prospect of river views from the north facing outdoor living areas and the balcony. The natural topography of the site will not be significantly altered.

The result of the ground floor slab at the proposed level is that the dwelling will exceed the height limits of LPP 142 as assessed from the northern and western boundaries and will overlook the properties to the north. However, given the site constraints, the fact that the site topography will essentially remain the same, and the adjoining neighbours to the north had no comment to make, there are no objections to the site works proposed.

### Building Height

The proposed dwelling exceeds the height limits of LPP 142. As mentioned fill will occur to the rear of the site and as the site slopes down towards the river, the ridge and wall heights (as measured from the property boundaries) do not comply from a northern and western boundary perspective.

The western boundary wall height is 6.8 metres (5.6 metres permitted) and the ridge height is 10.2 metres (8.1 metres permitted). From the northern boundary the wall height is 6.7 metres and the ridge height is 10.2 metres. It should be noted however that from

the southern and eastern boundaries (street frontages) the height limits are not exceeded; wall height being 5.29 metres and ridge height 8.04 metres for the eastern boundary. From the southern boundary perspective (Locke Crescent) the wall height is 4.55 metres with the height of the ridge being 6.85 metres – well below the upper limit. It should also be noted the application does not comply with the required roof pitch of 28°, thus reducing the potential height of the dwelling.

A resident at No. 17 Habgood has objected to the proposal based on a number of concerns, however, the objection is principally in relation to the impact of the height and scale of the dwelling and the negative impact on views and privacy for that property.

Under LPP 142 **Part 1 – Maximum Building Heights** (i) the general intention is for buildings to retain the predominant bulk and scale of the locality / precinct and (ii) Category 'B' provisions as set out within Table 3 of the R-Codes are applicable as the 'Acceptable Development' standards except in localities where views are an important part of the amenity of the area then the maximum building heights are 8.1 metres to the top of the pitched roof and 5.6 metres to the top of the external wall.

As stated the building heights in this instance do exceed the upper limits; however, from the viewpoint of No. 17 Habgood Street the height of the dwelling will not exceed those specified in LPP 142 as the roof ridge height measured from the southern property boundary is 6.85 metres. Furthermore, No. 17 Habgood Street is at an elevation of approximately 28 metres above AHD, that is, approximately 5 metres higher than 38 Locke Crescent. No. 17 Habgood is also able to take advantage of the Habgood Street and Wauhop Road road reserve view corridor, which is approximately 50 metres wide (including the setback of the dwelling on the south west corner of Habgood Street and Locke Crescent).

In regard to **Part 4 – Views** Council is requested to exercise discretion under its Policies for the Performance Criteria of the Residential Design Codes, in particular building height where the Council will have regard for the impact a proposed building may have on views that the owners of adjoining property(s) may enjoy. In this regard and in relation to the concerns of the owner of No. 17 Habgood Street compliance with maximum building height from the southern and eastern perspective has addressed the expectations of the affected owner that obstruction of views will be minimised.

In respect to the height of the proposed additions from a streetscape perspective it is considered the application can be supported. The applicant has, in the main, either complied with setback provisions or has encroached a relatively minor distance into the building setback and this has minimised the height of the upper floor. The slope of the land has made it difficult to comply with Council's Policy and the applicant has endeavoured to reduce the bulk and scale of the building by also minimising roof pitch. Building height is in compliance from the southern and eastern perspectives, from which views of significance for properties higher on the hillside are most likely to be impacted.

As a consequence the proposed residence is not considered to contrast markedly with the scale and proportions of new contemporary homes and other extensions and additions in the locality and is not believed to be detrimental to the amenity of the area. The non-compliance with height limits is predominantly a result of the natural topography of the site and it is therefore considered the building height proposed can be supported.

#### **Setbacks and Streetscape**

The setback variations are not considered to be of significant concern. The dwelling will be constructed with the garage, essentially in line with the house (200mm forward of the building line); this does not comply with LPP 142 which requires the garage to be at or behind the main building line. The remainder of the front setback achieves an average building setback of 6.1 metres and 5.4 metres for the balcony/porch. Many new homes in the area have a similar design and in this case the garage is not considered to dominate the front façade of the dwelling. The second storey does not extend over the

garage, and this design element combined with the open balcony above the porch and large windows to habitable rooms serves to reduce building bulk on the streetscape.

Whilst the setbacks proposed do not meet the primary street setback of 7.5 metres required under the R-Codes, or the secondary street setback under LPP 142 of 3.75 metres, it is not considered to be significant on this corner site. The applicant has provided a considerable setback from Wauhop Road (average of 4 metres ground and 5.2 metres upper storey) and the reduced setback will not significantly change the position of buildings on the property. The existing house is setback approximately 5.8 metres from Locke Crescent and whilst the buildings are currently setback between 4 and 9 metres from Wauhop Road, the setback proposed will be more in keeping with the remainder of the houses on Locke Crescent and not too dissimilar from the house fronting Preston Point Road. The reduced street setbacks are therefore supported.

The other setback variation is considered very minor. The (full) length of the upper wall on the western boundary requires a setback of 2.8 metres; however, a 7.0 metre section of the wall is setback 2.0 metres. This is considered acceptable as this section of the wall is without major openings and the remaining sections of the wall comply with the R-Code requirements.

The owner of No. 17 Habgood Street comment's, in regard to the secondary street setback, essentially relate to obstruction of views. This issue has been addressed in the building height section of the report.

#### **Roof Pitch**

A roof pitch of 26° is proposed and Council's LPP 066 requires a roof pitch of 28°. This deviation from the LPP is considered insignificant given the variation in roof pitch of new, renovated and existing development in the area and the slope of the land having a significant bearing on building height. In this instance it assists with lowering the overall height of the building.

#### **Crossovers**

As the proposed dwelling will front Locke Crescent a new crossover will be constructed and the two existing crossovers to Wauhop Road will become redundant. Whilst this relocation is supported several conditions of planning approval should be imposed to ensure the crossover is installed to Council specifications and the redundant crossovers removed at the applicant's expense in a timely manner. This will also ensure compliance with Council's LPP 123.

#### **Fencing**

A boundary fence for the middle to lower section of Wauhop Road is indicated. The fence is not in compliance with LPP 143 in regard to fence design and therefore Council approval of the fence is required. Although the fence does not strictly comply Council has discretion to approve a fence of this nature if certain circumstances prevail.

Council approval is sought for the following LPP variations:

- **maximum height to exceed 1.8 metres** – the fence proposed ranges in height from 1.9 to 2.0 metres above natural ground level. The applicant has designed the house so that all outdoor living spaces, including the pool, face north and this requires screening along Wauhop Road to provide privacy and reduce headlight glare from the intersection. The minor increase in height is acceptable given the applicant is addressing privacy and traffic issues. It is also noted that where fence height exceeds 1.8 metres the fence must be designed by a structural engineer and approved by a Building Surveyor; and
- **infill sections and visual permeability** – LPP 143 specifies continuous vertical gaps of at least 50mm width occupying not less than 60% of the face in aggregate of the entire surface; that is at least 60% of the wall must be open. Whilst it would be ideal for the fence to be more visually permeable it is difficult to achieve this on a corner lot

and in such a prominent position. Further, the fence extends for 21 metres of the 30.6 metre boundary allowing the façade, major openings and balcony areas to be visible from the streets. Compliance with other aspects of LPP 143 has been achieved.

Given the site circumstances the solid masonry fence of the height proposed is considered acceptable subject to conditions.

### **Privacy and Overlooking**

The application proposes partly enclosed alfresco and balcony areas that are greater than 0.5 metres above natural ground level and face north overlooking the rear of the properties along Preston Point Road. These properties have river views and therefore the primary outdoor living areas and swimming pools are in the front gardens. Due to the slope of the land views from the balcony will predominantly overlook roof space and beyond to the river. The alfresco area is situated on the lower level and will look more directly at the roof space of the adjoining property.

The owner immediately to the west has a pool and outdoor area that is located further forward on the adjoining lot than the proposed position of the balcony and alfresco area. Furthermore, the balcony is located on the eastern side of the dwelling and a bedroom is positioned between the balcony and the adjoining lot, with only a small slither (0.5m wide) of the balcony extending along and in front of bedroom 1, so overlooking of active open space areas from this vantage point is very restricted, if not impossible, although technically the cone of vision does extend beyond the boundary by approximately 1.2 metres. Council discretion is required to approve of this variation.

No. 17 Habgood Street owner's concern about overlooking from the proposed front balcony (over the porch) is not believed to be an issue due to the distance between the two properties (~40m) and the likelihood that this balcony will be used less as it faces south and overlooks Locke Crescent, whilst the balcony and alfresco areas to the rear face north with river views. Furthermore, the Explanatory Guidelines for the R-Codes specify that acceptable development provisions in regard to privacy and overlooking are limited to areas of any adjoining property behind its setback line. A lesser need for privacy protection is the usual case for front gardens and areas accessible from the street – where a lesser degree of privacy is to be expected. This situation applies to the property at No. 17 Habgood Street where a pool is in the front setback area. Aerial photography (2008) also indicates a pool in the rear garden of No. 17 Habgood Street.

It should also be noted that the directly adjoining owners have not expressed any concern in regard to privacy or overlooking issues.

### **Swimming Pool**

It is noted that the plans indicate the construction of a swimming pool but do not provide specific details. Council will require a planning application for the construction of a swimming pool. This has been noted as a condition of planning approval should this component of the application proceed.

### **Conclusion**

The proposed development incorporates several variations to the Council's Local Planning Policies and Residential Design Codes. Variations being sought in relation to privacy, roof form, side and front setbacks, secondary street setbacks, building height, site works, fencing and the location of the double garage are not considered to have a detrimental impact on the amenity of surrounding properties or the locality and are supported.

The reduced street and building setbacks are not considered to have a negative impact on adjoining properties in terms of overlooking, building bulk and scale or overshadowing and the construction materials and finishes are acceptable. Furthermore, the new dwelling will effectively be positioned on the same building footprint as the existing dwelling and will provide for a more pleasing and interesting facade to both streets and

an improved streetscape. The house will provide passive surveillance of both streets and the facades are easily viewed from each roadway.

The exceeded building height limits from the western and northern boundary perspectives is also supported as the natural topography of the site is essentially remaining unchanged and building height is exacerbated from these viewpoints due to the significant slope, of greater than 3 metres, over the site from south to north. In this regard the minor site works (fill of approximately 1.0 metre to the rear of the site) are also supported as this will assist with a less steep access from Locke Crescent.

The overlooking and privacy variation in relation to the upper rear balcony has not presented any problems from the neighbour's perspective, is minor in nature and can also be supported.

The non-compliance with the local planning policies in regard to garage setback, roof form and fencing are acceptable as they are minor variations, and for the most part, the requirements and objectives of the Policies in regard to maintaining residential amenity and preserving the existing streetscape are adequately addressed.

One submission was received from notified surrounding owners objecting to building height, overlooking, open space and setbacks. These objections were not considered to warrant any amendments to the plans or any conditions of planning approval.

#### RECOMMENDATION

That Council exercise discretion in granting planning approval to vary:

- (a) the setback requirements of the Residential Design Codes of Western Australia to permit a 2.0 metre side setback from the western boundary for a portion of the upper storey;
- (b) Clause 6.8.1 of the Residential Design Codes of Western Australia in regard to visual privacy to permit the cone of vision from the upper level rear balcony to intrude over the western boundary and the balcony to be setback a distance of 6.3 metres as indicated on the plans date stamped received on 28 September 2012;
- (c) the front setback requirements of the Residential Design Codes of Western Australia to permit an average setback of 6.1 metres from Locke Crescent;
- (d) the secondary street setback requirements of Council's Local Planning Policy No. 142 to permit a minimum setback of 3.3 metres on the ground floor and a minimum setback of 3.9 metres for the upper floor;
- (e) the building height requirements of Local Planning Policy 142 – Residential Development to permit a maximum roof ridge height of 8.4 metres from a ground floor finished floor level of RL 22.20 as indicated on plans date stamped received 28 September 2012;
- (f) Local Planning Policy 066 - Roofing to permit a roof pitch of 26°;
- (g) the requirements of the Residential Design Codes of Western Australia in regard to Clause 6.6.1 (A1.2) to permit site works (fill) greater than 500mm;
- (h) Local Planning Policy 143 to permit a solid masonry fence no higher than 2.0 metres from natural ground level and 20.5 metres in length, on the Wauhop Road frontage, as indicated on the plans date stamped received 28 September 2012; and
- (i) Local Planning Policy 142 to allow the garage to be constructed forward of the building line as indicated on plans date stamped received on 28 September 2012;

for the demolition of the existing residence and construction of a two storey dwelling and boundary fence (Wauhop Road) at No. 38 (Lot 4980) Locke Crescent, East Fremantle in accordance with the plans date stamped received on 28 September 2012, subject to the following conditions:

1. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by the Chief Executive Officer (*refer footnote (h) below*).
2. 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.
3. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
  4. In cases where there is an existing crossover(s) this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
  5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
  6. 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.
  7. 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.
  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. This planning approval to remain valid for a period of 24 months from the date of this approval.
  11. A separate application for a Planning Approval is required in respect to the proposed swimming pool on the subject site as indicated on the plans date stamped received 28 September 2012.
  12. The masonry boundary fence on Wauhop Road being designed by a structural engineer and approved by a Building Surveyor.

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) *With regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *The alfresco area may not be enclosed without the prior written consent of Council.*
- (g) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

- (h) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – “An Installers Guide to Air Conditioner Noise”.

The email from Julie Amor, referred from Correspondence (MB Ref T109.1) was tabled.

Ms Amor addressed the meeting objecting to the change to the Wauhop Road setback proposed in this development and circulating further photographs outlining the impact the development will have on views currently enjoyed from her residence. Ms Amor also stated that contrary to advice in the officer’s report, there was only one swimming pool located on her lot.

Cr Rico drew attention to discrepancies in the officer’s report where heights indicated in the statistics table did not correspond with those appearing in the recommendation.

**Cr Wilson – Cr de Jong**

**That the application be deferred to allow the applicant to address the following concerns expressed by the Committee in relation to its:**

- over height
- disregard of the topography of the site
- bulk and scale, particularly from Wauhop Road
- presentation to Wauhop Road

**and to allow clarification of height discretions as contained in the officer’s report.**

CARRIED 5:0

**Note:**

As 5 Committee members voted for the amended recommendation which was supported by the Manager Planning Services, 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.

**T113.4**

**Fraser Street No. 83 (Lot 121)**

**Applicant: Peter Stannard Homes Pty Ltd**

**Owner: P & C Falloon**

**Application No. P27/12**

By Carly Pidco, Town Planner, on 17 October 2012

**PURPOSE OF THIS REPORT**

This report recommends refusal of a Development Application for construction of two-storey single dwelling at 83 Fraser Street, East Fremantle. The plans being considered in this report are amended plans, produced in response to comments by the Town Planning Advisory Panel, and have redesigned the initially proposed triple garage to a double garage plus store.

**BACKGROUND**

**Description of Site**

The subject site is:

- a 931m<sup>2</sup> green title lot
- zoned Residential R12.5
- located in the Richmond Precinct
- improved with a single storey, single dwelling with a C<sup>^</sup> Management Category under the Heritage Survey 2006 (development approval to demolish dwelling granted February 2012)

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Residential Design Codes of Western Australia (RDC)



6 November 2012

**MINUTES****Relevant Council Policies**

Local Planning Policy No. 066 : Roofing (LPP066)  
Local Planning Policy No. 142 : Residential Development (LPP142)

**Impact on Public Domain**

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

**Documentation**

Plans and relevant forms date stamped received on 22 August 2012  
Amended plans date stamped received on 12 October 2012

**Date Application Received**

22 August 2012

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

21 February 2012 Council grants approval for demolition of existing single dwelling

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours from 28 August 2012 to 13 September 2012. No submissions were received during this period.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 11 September 2012. The Panel's comments and applicant's and officer's responses are detailed below.

Panel Comment	Applicant Response	Officer Assessment
Panel deplores the loss of the heritage building via demolition approval.	No comment	No comment
Triple car garage is not supported.	Triple garage is necessary for extra parking facilities and provides security. Garage is proportional to dwelling and not a dominant feature.	After further discussions between the applicant and town planner, revised plans have been submitted converting the third parking bay to a store and reconfiguring the facade accordingly.
An unremarkable design that doesn't appear to contribute to the streetscape.	Residence demonstrates a balanced design with clever use of window presentation, contrasting render, front balcony to interact with street and roof design. Residence will compliment adjoining property but this design has much more character and design flair.	No comment on contemporary nature of design. Note that dwelling is greater in scale than surrounding streetscape. Refer assessment section of this report.
Query wall height compliance.	Height variation is unavoidable due to the site having a 2.98m fall from north to south. Every attempt has been made to reduce the wall height with a 1.33m cut to the rear and 0.87m fill to the front.	This is a large lot with topography typical of the area. The natural fall is not so great as to be prohibitive in the building of a new dwelling. Refer assessment section of this report.

**Site Inspection**

By Town Planner on 17 October 2012.

**ASSESSMENT**

The proposed development incorporates a number of variations to the Town's Local Planning Policies and the Residential Design Codes, as detailed below.

Key: A = Acceptable, D = Discretion

<u>Site:</u>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Open Space	55%	65.9%	A				
<b>Site Works</b>	<b>Less than 500mm</b>	<b>524mm fill within 1m of east boundary at garage;</b>	<b>D</b>				
<b>Local Planning Policies: Issues</b>							
<b>Policy 142</b>	<b>Height and setback variations</b>		<b>D</b>				
<b>Roof</b>	<b>Hipped, 24.43 degrees, colorbond</b>		<b>D</b>				
Solar Access & Shade	Alfresco faces north		A				
Drainage	To be conditioned		A				
Views	Exceeds height requirements but no impact		A				
Crossover	To be conditioned		A				
Trees	No impact		A				
<b>Other:</b>	<b>Issues</b>		<b>Status</b>				
Overshadowing	Overshadows street		A				
<b>Privacy/Overlooking</b>	<b>EAST Eastern opening to balcony 2.0m over eastern boundary</b>		<b>D</b>				
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
<b>Wall</b>	<b>5.6</b>	<b>Maximum 6.4m</b>	<b>D</b>				
Wall (Concealed Roof)	6.5	N/A	N/A				
<b>Roof</b>	<b>8.1</b>	<b>Maximum 8.6m</b>	<b>D</b>				
Roof type	Hipped roof						
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (south)</i>							
<i>Ground</i>	Dwelling	N/A	N/A	N/A	Consistent with locality	In line with western neighbour	A
	Garage	N/A	N/A	N/A	At or behind main building line	Complies	A
<i>Upper</i>	Dwelling	N/A	N/A	N/A	7.5m	7.5m	A
<i>Rear (north)</i>							
<i>Ground</i>	Dwelling	N/A	N/A	N/A	6.0m	20.3m	A
<i>Upper</i>	Dwelling	N/A	N/A	N/A	6.0m	15.0m	A
<i>Side (east)</i>							
<b><i>Ground</i></b>	<b>Store</b>	<b>3.7m</b>	<b>6.2m</b>	<b>N</b>	<b>1.1m</b>	<b>Nil</b>	<b>D</b>
	Dwelling	3.1m	22.3m	Y	1.5m	Min 4.8m	A
<i>Upper</i>	Balcony MO	6.4m	4.0m	Y	3.0m	5.0m	A
	Dwelling	6.2m	19.3m	N	2.3m	5.0m	A
<i>Side (west)</i>							
<i>Ground</i>	Dwelling	2.9m	24.0m	N	1.5m	1.6m	A
<i>Upper</i>	Dwelling	6.2m	18.3m	N	2.2m	3.8m	A

**Visual Privacy**

The cone of vision from the front balcony extends behind the setback line of the adjacent dwelling. The area overlooked is the neighbouring garage, which does not have major openings and is not a sensitive living area. The impact of the overlooking on the neighbouring property is negligible and the variation is supported.

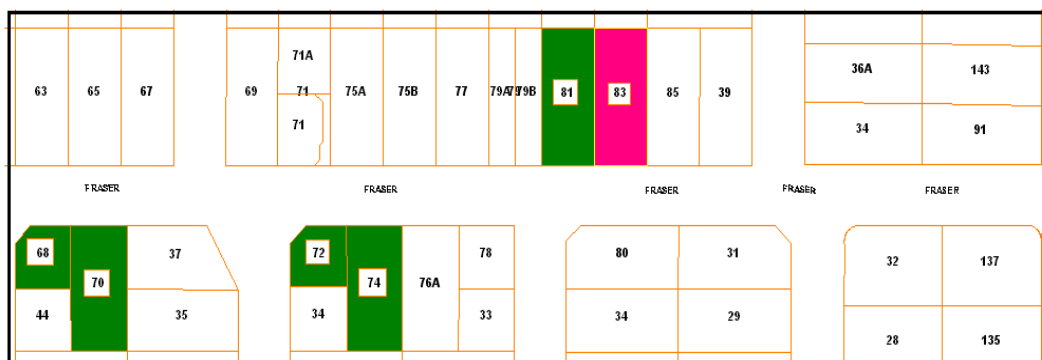
**Roof Form**

The Local Planning Policy 66 provides that dominant roof elements are to have a minimum pitch of 28 degrees while the proposed development achieves a 24.4 degrees roof pitch. Variations to this requirement are generally only supported where a development seeks to retain the existing roof form of an older dwelling or where a feature roof element is to be provided. The proposed dwelling is of a significant size and there is little justification for the roof to not follow the scale required by the LPP and characteristic of the area.

**Building Height**

The development exceeds the maximum permitted wall height and ridge height (see attached diagram). The variations occur primarily at the front of the building, which is the lowest part of the subject site.

Fraser Street is characterised by a diverse range of housing stock, however, it maintains a generally low and open streetscape. The majority of dwellings are single-storey in height and, where two-storeys are presented to the street, the overall height and scale of the buildings is minimal. At a site visit, it was observed that the houses marked in green on the diagram below have second storeys visible from the street.



- The current proposal is clearly differentiated from these houses:
- No. 70 Fraser Street is a visible upper storey loft, and the wall height to the front facade presents as a single-storey.
  - Nos 68, 70, 72 and 74 Fraser Street are set significantly lower than street level. The overall height and bulk of the dwellings as viewed from the street is minimal.
  - All of these dwellings except No. 81 were approved prior to adoption of the TPS No. 3 and LPP 142. Despite being two storeys, the overall height of No. 81 is not excessive and its presentation to the street as two gable elements (81A and 81B) breaks up its bulk.
  - All of these dwellings except No. 68 Fraser were height compliant. No. 68 Fraser required a 0.27m discretion on wall height and was compliant with ridge height.

In summary, the existing two-storey dwellings in this part of Fraser Street are distinguished from the current proposal by the general compliance with policy requirements and minimal visual impact. This is indicative of the existing character of the streetscape and also an absence of any justification for “precedent”.

The applicant has prepared a written submission justifying the proposed height variations. Essentially, the applicant considers the height variations an unavoidable consequence of the natural slope of the land. It is noted that this is a large lot with no encumbrances and a slope typical of land in this precinct. The natural grade is not

considered prohibitive to a compliant development; certainly compliant development has been achieved at nearby properties. The demolition of the existing dwelling will leave a vacant site and both the land and the new dwelling can be manipulated to achieve height compliance.

The applicant has not provided any comment on the impact of the proposed dwelling on the streetscape. While there is no general argument against a contemporary design in this area, the high geometric elements (blade walls) and width of the dwelling add to its overall scale, particularly when considered in relation to the low roof elements (which do not meet the minimum pitch of the LPP 66). When viewed from the street, the upper floor adjacent two-storey dwelling at No. 81 appears to sit about half-way up the ground floor of the existing dwelling at No. 83. While the two-storey development is distinguishably higher, the projection of its ridgeline is minimal and it does not break the established "roofscape". The proposed dwelling will sit approximately a half-storey higher again, disrupting the established rhythm of the street.

The general compliance and minimal height of development along this portion of Fraser Street has enabled the even scale of development that creates a pleasant streetscape. The proposed building height will detract from the streetscape and the variations are not supported for this reason.

#### **Building Setbacks**

The proposed development incorporates a parapet wall to the side (eastern) boundary. 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 wall is 3.7m high.

(b) *Walls are behind the main dwelling.*

The wall is located at the front of the dwelling and will be clearly visible from the street.

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

Require revised plans confirming compliance.

(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.*

Fraser Street has few parapet walls visible from the street and the proposed garage/store is a wide, blocky element with few design features. The parapet wall will exacerbate the bulk of the dwelling by removing the impression of space between properties and increasing the overall width of the building.

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

The parapet wall will be located near an existing garage wall at No. 85 Fraser Street. The garage at No. 85, however, has a visible side setback and is set much lower than the proposed wall. The proposed wall will dwarf the dwelling at No. 85 and is not considered to be consistent with the intent of the provision in relation to "similar or greater dimensions".

#### **Site Works**

The proposed filling at the south-east corner of the site will achieve a consistent finished floor level for the garage / store. The filling of the site contributes to its scale and non-compliance with maximum height requirements. The filling also occurs at the proposed

parapet wall, increasing its bulk and prominence in relation to the adjacent dwelling. The proposed filling of the site contributes to the impacts of the height and boundary setback variations as outlined above and is not supported.

### **Objectives of the Residential Zone**

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

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

The proposed dwelling is not consistent with the scale of built form in the immediate locality, as discussed above.

### **CONCLUSION**

The proposed development incorporates several variations to the Town's Policies and Residential Design Codes. The variations being sought in relation to building height, building setbacks and roof pitch are not considered to be sympathetic to the character of the locality. These variations contribute to a building that is of an incompatible height and scale and will likely have an undue impact on the streetscape. It is recommended that the application be refused.

### **RECOMMENDATION**

That Council refuse the application for the construction of a single dwelling at No. 83 (Lot 121) Fraser Street, East Fremantle, as described on the plans date stamped received 12 October 2012 for the following reasons:

1. The proposed development is not consistent with the objectives of the residential zone as provided in clause 4.2 of the Town Planning Scheme No. 3 (clause 10.2(a) of the Scheme refers);
2. The proposed development does not comply with Design Element 6.3 Boundary setback requirements of the Residential Design Codes of Western Australia;
3. The proposed development does not comply with Part 3 – Side and Rear Boundary Setback Variations of the Local Planning Policy 142 Residential Development (clause 10.2(g) of the Scheme refers);
4. The proposed development does not comply with Part 1 - Maximum Building Heights of the Local Planning Policy 142 Residential Development (clause 10.2(g) of the Scheme refers);
5. The proposed development does not comply with Local Planning Policy 66 Council Policy on Roofing (clause 10.2(g) of the Scheme refers); and
6. The proposed development is in conflict with clauses 10.2(j), 10.2(o) and 10.2(p) of Town Planning Scheme No. 3.

Mr Glen Stannard and Mr John Balcombe (Peter Standard Homes) addressed the meeting in support of the proposal and advised their clients were prepared to amend the roof pitch to 28° and attempt to reduce the height of the building.

*Cr Nardi – Cr Collinson*

*That Council refuse the application for the construction of a single dwelling at No. 83 (Lot 121) Fraser Street, East Fremantle, as described on the plans date stamped received 12 October 2012 for the following reasons:*

1. *The proposed development is not consistent with the objectives of the residential zone as provided in clause 4.2 of the Town Planning Scheme No. 3 (clause 10.2(a) of the Scheme refers);*
2. *The proposed development does not comply with Design Element 6.3 Boundary setback requirements of the Residential Design Codes of Western Australia;*
3. *The proposed development does not comply with Part 3 – Side and Rear Boundary Setback Variations of the Local Planning Policy 142 Residential Development (clause 10.2(g) of the Scheme refers);*

4. *The proposed development does not comply with Part 1 - Maximum Building Heights of the Local Planning Policy 142 Residential Development (clause 10.2(g) of the Scheme refers);*
5. *The proposed development does not comply with Local Planning Policy 66 Council Policy on Roofing (clause 10.2(g) of the Scheme refers); and*
6. *The proposed development is in conflict with clauses 10.2(j), 10.2(o) and 10.2(p) of Town Planning Scheme No. 3.*

Amendment**Cr de Jong – Cr Martin**

**That the application be deferred to allow the applicants to address the concerns of the Committee in respect of:**

- **roof pitch**
- **bulk and scale**
- **streetscape**
- **number of concessions sought.**

CARRIED 4:1

The motion as amended was put.

**RECOMMENDATION TO COUNCIL**

**That the application be deferred to allow the applicants to address the concerns of the Committee in respect of:**

- **roof pitch**
- **bulk and scale**
- **streetscape**
- **number of concessions sought.**

CARRIED 4:1**T113.5*****Philip Street No. 12B (Lot 2)******Applicant: Shayne Le Roy Design******Owner: F M Abrusci******Application No. P110/12***

By Carly Pidco, Senior Planning Officer, on 31 August 2012

**PURPOSE OF THIS REPORT**

This report recommends approval of a Development Application for construction of a new dwelling at 12B Philip Street, East Fremantle.

**BACKGROUND****Description of Proposal**

The proposed development is a three-level dwelling of rendered brick and colorbond construction. The original submitted plans were considered by the Council at its meeting of 18 September 2012, where it resolved to defer determination of the application while revised plans were prepared in response to neighbour submissions. The amended plans prepared during this process are the subject of this report. The applicant has described the key changes in the amended plans as:

- *Reducing the height of the front portion of the house facing the street by 686mm which also reduces the parapet wall height to ensuite 2.*
- *Remove the undercroft level facing the rear boundary so it therefore becomes a 2 level house from the rear.*
- *Increased the rear setback by reducing the depth of the house by 1400mm.*
- *Added in parapet walls to the rear as requested by the architect of 12A Philip Road.*

**Description of Site**

The subject site is:

- a 556m<sup>2</sup> survey strata lot
- zoned Residential R12.5
- vacant
- encumbered by a sewerage easement
- located in the Riverside Precinct.

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : New dwelling visible from street

**Documentation**

Plans and relevant forms date stamp received on 3 July 2012  
Revised plans date stamped received on 14 August 2012  
Revised plans date stamped received on 15 October 2012

**Date Application Received**

3 July 2012

**CONSULTATION**

**Advertising**

The revised plans were advertised to surrounding neighbours for a two week period. At the close of advertising 1 submission had been received and is attached to this report. The issues raised in the submission are summarised in the following table alongside the officer’s comment.

Submission	Officer Comment
<p><i>J &amp; L Warren</i> <i>11 Philip Street</i></p> <p>The proposed additions must comply with all planning regulations.</p>	<p>Note that planning controls are intended to protect amenity for neighbours and locality. However, this is a challenging site where complete compliance is near impossible to achieve. Theoretically, compliance may be achieved with a single-storey dwelling of 7m width, however, this would not be in keeping with the scale of development in the area and would sit awkwardly in the Philip Street streetscape. Council has the ability to approve variations to planning controls where there is sound justification and the objectives of the relevant controls are being met.</p>
<p>If exemptions are allowed for a subdivided block then the precedent will have detrimental consequences for the area.</p>	<p>Each development is considered on its unique merits. Development of subdivided blocks must meet the planning control objectives and/or performance criteria, and must demonstrate no unacceptable impact on neighbours and the locality.</p>

**Town Planning Advisory Panel Comments**

The original submitted plans were considered by the Town Planning Advisory Panel, at which time it made one comment querying height compliance of the application. The revised plans do not present significant changes to the front elevation and so the application has not been referred again. Height compliance is considered in the assessment section of this report.

**Site Inspection**

28 August 2012

**ASSESSMENT**

The revised plans incorporate a number of variations to the Town's LPP 142 Residential Development and the Residential Design Codes, as detailed below.

Key: A = Acceptable, D = Discretion

<b>Site:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Open Space	50%	53.5%	A				
<b>Site Works</b>	<b>Less than 500mm</b>	<b>1.9m excavation in front setback; 3.0m excavation within 1m of west and east boundaries (garage); 1.3m within 1m of west boundary (entertaining)</b>	<b>D</b>				
<b>Local Planning Policies:</b>	<b>Issues</b>						
<b>Policy 142</b>	<b>Height, setback variations</b>		<b>D</b>				
<b>Roof</b>	<b>Dominant roof form concealed roof / gable, colorbond, max 85 degree pitch</b>		<b>D</b>				
Solar Access & Shade	Outdoor living areas faces north		A				
Drainage	To be conditioned		A				
Views	Height variation						
Crossover	Condition to comply		A				
Trees	No impact		A				
<b>Other:</b>	<b>Issues</b>		<b>Status</b>				
Overshadowing	Overshadows street		A				
<b>Privacy/Overlooking</b>	<b>NORTH</b> <b>Verandah &amp; alfresco openings 2.1m over east boundary</b> <b>Verandah &amp; alfresco openings 3.7m over west boundary</b>		<b>D</b>				
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Wall	5.6	5.2	A				
<b>Wall (Concealed Roof)</b>	<b>6.5</b>	<b>7.6</b>	<b>D</b>				
Roof	8.1	7.8	A				
Roof type	Gable						
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (south)</i>							
"Undercroft"	Dwelling	N/A	N/A	N/A	Consistent with locality	Complies	A
	Garage	N/A	N/A	N/A	At or behind main building line	Complies	A
"Ground"	Dwelling	N/A	N/A	N/A	Consistent with locality	Complies	A
"First"	Dwelling	N/A	N/A	N/A	6.0m	7.0m	A
<i>Rear (north)</i>							
"Undercroft"	Dwelling	0.6	8.6	N	1.0	23.0	A
"Ground"	Dwelling	4.9	8.0	Y	1.1	9.8	A
"First"	Dwelling	7.6	8.0	Y	3.0	10.6	A
<i>Side (west)</i>							
"Undercroft"	Dwelling	0.6	18.4	N	1.5	Nil	D
"Ground"	WIR/ Ens 2	3.9	7.9	N	1.1	Nil	D
	Entertaining / Verandah	4.5	12.0	N	1.5	Nil	D
	Dwelling	3.7	36.6	N	1.8	Min. 1.5	D
"First"	Kitchen / Alfresco	7.6	12.0	N	1.7	Nil	D
	Scullery / stairs	3.8	10.7	N	1.5	Min. 1.0	D
	Ensuite	3.9	4.4	N	1.1	1.2	A
	Dwelling	3.8	37.7	N	1.8	Min. 2.7	A



<i>Side (east)</i>							
<b>"Undercroft"</b>	<b>Dwelling</b>	<b>0.6</b>	<b>23.7</b>	<b>N</b>	<b>1.5</b>	<b>Nil – 1.1</b>	<b>D</b>
<b>"Ground"</b>	<b>Bed 3 / Office</b>	<b>3.9</b>	<b>8.3</b>	<b>N</b>	<b>1.1</b>	<b>1.0</b>	<b>D</b>
	<b>Ldry /Ens 4</b>	<b>3.7</b>	<b>16.5</b>	<b>N</b>	<b>1.6</b>	<b>1.5</b>	<b>D</b>
	Dwelling	4.5	36.6	N	2.0	2.1	A
<b>"First"</b>	Dressing	3.9	8.3	N	1.1	1.2	A
	Dwelling		37.7	N	2.0	2.1	A

### Visual Privacy

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

### Wall Height (Concealed Roof)

The parapet wall element to the western boundary measures 7.6m high, a variation of 1.1m. The parapet wall has increased the setback to the eastern neighbour and been designed to align with a potential parapet wall at the western neighbour. The parapet wall will not be visible from the street. The impact of the parapet wall on neighbours is considered against the following:

*Overshadowing:* The proposal complies with the overshadowing provisions of the R-Codes. The main shadow cast (for assessment purposes) is toward the street, and not over neighbouring properties.

*Views:* The variation occurs to the rear of the development, and is lower than the development to the front of the block. It will not impact on views from the southern side of Philip Street any more than the front portion of the building. The rear of neighbouring properties to the east and west face north and can access river views from this frontage. It is important to note that the protection of views through planning height controls must be reasonable in its application; some intrusion of views is to be expected in an urban area, and priority should be given to the protection of primary view corridors. The view to the north of neighbouring properties will not be impacted by the proposed wall height variation.

### Side Setbacks

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

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

been optimised at the rear of the dwelling and on the upper floor, the points where walls may have the greatest impact on residential amenity.

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

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

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

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

### Swimming Pool

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

### Conclusion

The subject site is highly constrained by its natural topography, narrow width and inconsistency with neighbouring subdivision patterns. The applicant has consulted with neighbours to revise the plans for the development and address concerns raised through the first consultation period. The proposed dwelling seeks to minimise its impact on neighbours through having no major openings directly facing side neighbours, complying with overshadowing requirements and providing some articulation to the sides of the buildings. The height variations being sought will not have a detrimental impact on the solar access or views from neighbouring properties or on the streetscape. Variations to overlooking and setback requirements are reasonable in consideration of the site constraints and consistent with the performance criteria of the R-Codes. The proposal is supported subject to conditions.

"Undercroft"	Dwelling	0.6	18.4	N	1.5	Nil	D
"Ground"	WIR/ Ens 2	3.9	7.9	N	1.1	Nil	D
	Entertaining / Verandah	4.5	12.0	N	1.5	Nil	D
	Dwelling	3.7	36.6	N	1.8	Min. 1.5	D
"First"	Kitchen / Alfresco	7.6	12.0	N	1.7	Nil	D
	Scullery / stairs	3.8	10.7	N	1.5	Min. 1.0	D
Side (east)							
"Undercroft"	Dwelling	0.6	23.7	N	1.5	Nil – 1.1	D
"Ground"	Bed 3 / Office	3.9	8.3	N	1.1	1.0	D
	Ldry /Ens 4	3.7	16.5	N	1.6	1.5	D

**RECOMMENDATION**

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

- (a) Vary the Site Works requirements of the Residential Design Codes of Western Australia to permit excavation of up to 3.0m within 1.0m of the side setback as depicted on the submitted and approved plans;
- (b) Vary requirements of the Local Planning Policy 66 Council Policy on Roofing to permit a Concealed Roof form to the front facade; and 85 degree roof pitch;
- (c) Vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the northern openings to the Balcony and Alfresco to intrude 2.1m over the eastern boundary; and 3.7m over the western boundary;
- (d) Vary the height requirements of Local Planning Policy 142 Residential Development to permit a maximum wall (concealed roof) height of 7.6m, as depicted on the submitted and approved plans;
- (e) Vary the side setback requirements of the Residential Design Codes of Western Australia to permit:
  - i) Nil setback from the western wall of the Undercroft, WIR / Ensuite 2, Entertaining / Verandah and Kitchen / Alfresco to the western boundary;
  - ii) Nil setback from the eastern wall of the Undercroft to the eastern boundary;
  - iii) 1.5m setback from the western wall of the Powder 2 and stairs to the western boundary;
  - iv) 1.0m setback from the western wall of the Scullery to the western boundary;
  - v) 1.0m setback from the eastern wall of the Bed 3 / Office to the eastern boundary; and
  - vi) 1.5m setback from the eastern wall of the Laundry / Ensuite 4 to the eastern boundary

for the construction of Dwelling and Swimming Pool at No. 12B (Lot 2 on Survey-Strata Plan 51146) Philip Street, East Fremantle, in accordance with the plans date stamped received on 15 October 2012, subject to the following conditions:

1. Front fencing is to be completely in accordance with the Town of East Fremantle's Local Planning Policies.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the owner/applicant's expense and to the satisfaction of the Chief Executive Officer.
6. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)
9. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation

- of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
  11. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
  - 12 This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

The correspondence from Private Horizons Planning Solutions, referred from Correspondence (MB Ref T109.4) was tabled.

Mr Jeremy Warren (11 Philip Street) addressed the meeting objecting to the large number of discretions being sought for this proposal, in particular the concession relating to roof pitch.

Ms Rachel Feldhusen (representing owners of 12A Philip Street) addressed the meeting in relation to the revised plans and outlined proposed discretions her clients were willing to support.

Mr Shayne LeRoy (designer) addressed the meeting in support of the proposal and addressed issues relating to the common boundary with 12A Philip Street and roof pitch.

**Cr Martin – Cr de Jong**

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

- (a) **vary the Site Works requirements of the Residential Design Codes of Western Australia to permit excavation of up to 3.0m within 1.0m of the side setback as depicted on the submitted and approved plans;**

- (b) vary requirements of the Local Planning Policy 66 Council Policy on Roofing to permit a Concealed Roof form to the front facade; and 85 degree roof pitch;
- (c) vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the northern openings to the Balcony and Alfresco to intrude 2.1m over the eastern boundary; and 3.7m over the western boundary;
- (d) vary the height requirements of Local Planning Policy 142 Residential Development to permit a maximum wall (concealed roof) height of 7.1m;
- (e) vary the side setback requirements of the Residential Design Codes of Western Australia to permit:
  - i) Nil setback from the western wall of the Undercroft, WIR / Ensuite 2, Entertaining / Verandah and Kitchen / Alfresco to the western boundary;
  - ii) Nil setback from the eastern wall of the Undercroft to the eastern boundary;
  - iii) 1.5m setback from the western wall of the Powder 2 and stairs to the western boundary;
  - iv) 1.0m setback from the western wall of the Scullery to the western boundary;
  - v) 1.0m setback from the eastern wall of the Bed 3 / Office to the eastern boundary; and
  - vi) 1.5m setback from the eastern wall of the Laundry / Ensuite 4 to the eastern boundary

for the construction of Dwelling and Swimming Pool at No. 12B (Lot 2 on Survey-Strata Plan 51146) Philip Street, East Fremantle, in accordance with the plans date stamped received on 15 October 2012, subject to the following conditions:

1. Amended plans in respect to reduced height and length of parapet wall on the western boundary to be submitted to the satisfaction of the CEO.
2. Front fencing is to be completely in accordance with the Town of East Fremantle's Local Planning Policies.
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. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the owner/applicant's expense and to the satisfaction of the Chief Executive Officer.
7. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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. 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)*
10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by

Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

11. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
12. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
13. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

CARRIED 5:0

**Note:**

As 5 Committee members voted for the amended recommendation which was supported by the Manager Planning Services, 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.

**T113.6 Alcester Street No. 3 (Lot2)****Applicant: L Zappara****Owner: L Zappara****Application No. P145/12**

By Jamie Douglas, Manager, Planning Services on 5 October 2012

**PURPOSE OF THIS REPORT**

This report considers an application for retrospective planning approval of a side boundary retaining wall and fence at 3 Alcester Street and recommends refusal.

**BACKGROUND****Description of Site**

The subject site is:

- slopes to the rear and contains a single dwelling
- zoned Residential R12.5
- located in the Richmond Precinct.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Local Laws Relating to Fencing

R-Codes

**Impact on Public Domain**

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

**Documentation**

Plans and Application Forms date stamp received on 9 July 2012.

**Date Application Received**

7 September 2012

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

12 September 1983	Building Permit issued for ground floor extensions to the west and south sides of the house at 12 Preston Point Road comprising a dining room, kitchen, laundry, bathroom and 2 bedrooms;
6 August 2001	Building Licence issued for 2 shade sails over the driveway off Preston Point Road;
4 June 2003	Change of address approved from 12 Preston Point Road to 3 Alcester Street;
21 October 2003	Planning Consent granted under delegated authority for an isolated double carport to the southwest corner of the house;
21 October 2003	Council resolves to advise the WAPC that it does not support a 2-lot strata subdivision to create a 646m <sup>2</sup> lot and a 335m <sup>2</sup> lot;
11 November 2003	Building Licence issued for carport;
11 December 2003	WAPC conditionally approves the 2-lot strata subdivision;
8 January 2004	Applicant for subdivision requests that the WAPC reconsider its decision and delete Condition 7 which states: <i>“A residential dwelling being constructed to plate height on the proposed vacant lot in accordance with a planning approval/building licence issued by the Town of East Fremantle prior to the lodgement of the survey document. (LG)”;</i>
18 February 2004	Council advises the WAPC that it does not support deletion of Condition 7;
13 April 2004	WAPC advises that it resolved to retain Condition 7;

12 November 2004	Council receives a WAPC referral for an application to survey strata subdivide 3 Alcester St into a 631m <sup>2</sup> lot and a 350m <sup>2</sup> lot;
22 December 2004	Council advises the WAPC that it does not support the subdivision;
7 February 2005	WAPC conditionally approves the 2-lot survey strata subdivision (see Attachment) with a reworded Condition 7: <i>“The subdivider making arrangements satisfactory to the WAPC to ensure that the prospective purchasers of the proposed lots will be advised to seek development approval from the Town of East Fremantle for the development of a new dwelling on the proposed 350m<sup>2</sup> lot.”</i>
8 February 2005	WAPC grants subdivision approval of Lot 210 (3 Alcester street and corner lot No 12 Preston Point Rd.)
15 May 2007	Council grants Planning Approval for a new dwelling at 12 Preston Point Rd
2 February 2012	Principal Building Surveyor – M. Ioppolo writes to the applicant requiring either that fence be brought into compliance with the Local Laws or apply for retrospective planning approval and if this is granted, a Building Approval Certificate for the structure.

**Site Inspection**

By Manager, Planning Services on 27 September 2012

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 19 September 2012 and 4 October 2012. At the close of advertising two submissions were received, one from the adjacent neighbours at 12 Preston Point Road, Craig and Tracey Sweetman who support the application and one from Ivan Rijavec a co-owner of 10 Preston Point Road who objects. No 10 Preston Point Road is directly impacted by the application. This submission and the applicants response is attached in full and summarised and commented on below;

Submission Ivan Rijavec, 10 Preston Pt Rd.	Applicants Response	Comments
The applicants were made aware of the boundary alignment and a licensed survey was provided to the applicant at time of their purchase and prior to construction of the wall.	The natural ground level at 3 Alcester has not been changed. The level difference is due to excavation and compaction on 10 Preston Point Road and therefore the retaining wall should be wholly contained on that site.	The applicant does not dispute that a survey drawing was provided or that the retaining wall does encroach upon 10 Preston Point Rd. The issue of level difference between the lots is addressed within the planning assessment.
We did not consent to the construction and have objected to the construction of the fence on numerous and regular occasions. We requested he apply for a permit, correct the alignment and observe regulations regarding heights.	We have had extensive communication prior to construction.	While it is commonly agreed that pre- construction communication occurred it is acknowledged that no agreed plan was produced or formal consent obtained. However the applicant submits that verbal consent was given.
The following breaches regarding the fence are as follows: - It is constructed over 300mm on our property - It was constructed without any notice, using our property to construct the wall.		



Submission Ivan Rijavec, 10 Preston Pt Rd.	Applicants Response	Comments
<ul style="list-style-type: none"> <li>- No drawings of the design of the fence were provided for our approval.</li> <li>- The construction breaches regulation heights both for retaining walls and fences that rise to a total height of 3.2 m.</li> </ul>	<p>Height should be measured in accordance with the provisions of the Fencing Local Law which requires that (in the case of level differences between lots) height should be measured from the higher ground level, immediately below that point.</p> <p>It is noted that in our application that we have attempted to maintain regulation fence height as close as structurally possible.</p>	<p>The Local Law max height for a “sufficient fence” is 1800mm. Section A-A on the proposal shows a maximum height of 2.0m above a ground level of 25.63 AHD on the ‘high side’.</p>
<p>Backfilling between his house and the retaining wall to raise his ground level are all regulatory breaches as is the boundary encroachment.</p>	<p>There has been NO changes to the natural ground level of 3 Alcester St.</p>	<p>Both the Section A-A and image 03 in the proposal show infill of the ground level between the existing retaining wall and the new retaining wall.</p>
<p>We strongly object to this retrospective application and request you refuse the application and require the fence to be relocated to observe the boundary alignment and your height regulations pertaining to fences and retaining walls.</p>	<p>Whilst the regulations state that Retaining walls or embankments should generally be built entirely on the site where they are called for (in this case 10 Preston Point Rd.) we agreed to have the limestone section of the wall built 50/50 on each property with the ‘colorbond’ running down the centre. The wall needed to be slightly skewed on the boundary to ensure it had a flush, streamlined finish on the Rijavec’s side of the wall where the neighbouring walls met.</p>	<p>It is not common that structures straddle title boundaries without formal consent from both parties for obvious reasons. It is not accepted that level differences have occurred as a result of activity on 10 Preston Point Road and therefore that this property should accommodate the retaining wall.</p>

**STATUTORY CONTEXT**

It is necessary to consider the application in two parts – the retaining wall which requires planning approval and the ‘colorbond’ panel dividing fence which is erected on top of the retaining wall which must meet the requirements of a “sufficient fence” under the ‘Local Laws Relating to Fencing’. The following identifies the relevant policy provisions and provides an assessment of the application in relation to each.

Retaining Wall

Design Element 6.6 of the R-Codes applies. The ‘Acceptable Development’ standards in A1.4 require that filling within 1m of a common boundary to be ‘not more than 0.5m above the natural level at the boundary’. The development may be otherwise assessed under the Performance Criteria P1 which states - ‘Development that retains the visual impression of the natural level of a site as seen from the street or other public place, or from an adjoining property’.

The proposed retaining wall has a maximum height of approximately 1metre above the natural level at the boundary and clearly differentiates the level difference between the subject site and the adjoining property when viewed from 10 Preston Point Road. Accordingly it is considered the retaining wall does not meet the relevant R-Code provisions.

Dividing Fence

The ‘Colorbond’ panel dividing fence which sits atop the limestone footing is subject to the Local Law specifications for a “sufficient fence”. These specifications require the height of the fence to be 1800mm. The Local Law requires that where ground levels differ either side of the fence, the height of the fence is measured to the higher ground

level. Section A-A in the proposal plans shows the maximum height of the fence including footing to be in excess of 2 metres above the 'natural ground level' on the subject site (higher ground level) which is shown as NGL 25.63 (approx).

### ASSESSMENT

As evidenced by the neighbour's objection and applicant's response this matter is the subject of a vigorous dispute between the parties. The objector has requested that Council seek compliance in respect to the unapproved works. In accordance with Council's general practice, the applicant was requested to either bring the works into compliance or seek retrospective planning approval to determine if the development can and should be approved before Council takes legal action to regularise the works.

It is accepted by both parties that the retaining wall encroaches by 0.31 m onto 10 Preston Point Road. It would be contrary to the property rights of the co-owners of 10 Preston Point Road to approve works contained in part on their property to which they do not consent. Notwithstanding the applicants submission that consultation occurred and an informal agreement was reached prior to the construction of the wall and the fence, it is the contention of the objectors that they did not agree to the construction and in the absence of any formal agreement or land owners consent on the application for planning approval, this contention must stand.

The applicant submits that the level difference between the properties has occurred due to depression of the land on 10 Preston Point Road and therefore the responsibility for accommodating the retaining wall should be attributed to this property. However this submission is not supported by the prevailing site conditions. As can be seen in image 03 and 04 the applicant's property has an established retaining wall in parallel with the newly constructed wall. This established retaining appears of similar vintage to the heritage property and supports decking at similar floor level to that house. Image 01 also shows an established concrete driveway leading to a dilapidated garage at No.10 which indicates that the prevailing site conditions on this property have not been altered. Accordingly it is considered the visual evidence does not support the contention of a variation in ground level at 10 Preston Point Road.

As previously stated, neither the retaining wall nor the dividing fence conforms with the relevant statutory provisions.

### CONCLUSION

The retaining wall and dividing fence have been constructed without the necessary Planning and Building Approvals and do not comply with the relevant statutory provisions of the R-Codes and Local Laws. The works were undertaken without the formal consent of the adjacent neighbour whose property the works encroach upon.

The opportunity exists to site a retaining wall and dividing fence wholly within the subject site and consistent with the relevant statutory provisions.

In light of the above it is recommended that the application for retrospective approval be refused and that subsequent to Council's determination, necessary actions be undertaken to achieve compliance of the subject works.

### RECOMMENDATION

That Council refuse the application for retrospective planning approval for a retaining wall and dividing fence at 3 Alcester Street as submitted on plans date stamp received on 7 September 2012 for the following reasons:

1. The retaining wall encroaches upon the neighbouring property at 10 Preston Point Road, the owners of which do not consent to this encroachment and object to the structure.
2. The retaining wall does not satisfy the requirements of *section 6.6 Site works requirements* of the Residential design Codes.
3. The dividing fence exceeds the maximum height dimensions for a "sufficient fence" contained in the Town's Local Laws Relating to Fencing.

The email from Luke Zappara, referred from Correspondence (MB Ref 109.5) was tabled.

Luke Zappara (owner) addressed the meeting in support of his application.

Don Rijavec (owner) addressed the meeting seeking to have the alignment of the boundary fence corrected.

#### **Cr Martin – Cr Nardi**

**That the application be deferred to allow the applicant to address the moving of the limestone wall to within 50mm of the boundary and the reduction of the height of the fence to approximately 1.8m.** CARRIED 5:0

#### **Note:**

**As 5 Committee members voted for the amended recommendation which was supported by the Reporting Officer, 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.**

#### **T113.7**

##### **Alexandra Road No. 31 (Lot 44**

**Applicant / Owner: Yalena Pty Ltd**

**Application No. P141/2012**

By Christine Catchpole, Town Planner on 5 October 2012

#### **PURPOSE OF THIS REPORT**

This report considers an application for planning approval for modifications to the existing heritage dwelling for a verandah extension to the rear of the existing dwelling.

#### **BACKGROUND**

##### **Description of Proposal**

No. 31 Alexandra Road is a significant heritage property with an area of 2,023m<sup>2</sup>. The property addresses the Alexandra Road frontage but has a dual road frontage to Staton Road.

The application proposes the following works which amount to a change of design in comparison to previous approvals for the rear verandah extension:

- extension of the verandah immediately to the rear extending the full width of the existing house incorporating windows and a sliding glass door at the southern and northern ends of the decking and louvre doors on tracks on the western elevation;
- removal of an original but redundant stone wall under the rear verandah, and rebuilding an enclosed store under the southern verandah, western end;
- inclusion of stairs from the lower ground level to the upper level verandah; and
- a gable trussed roofed verandah extension rather than an extension of the main roof of the house to extend the verandah as previously approved.

##### **Description of Site**

The subject site is:

- a 2,023m<sup>2</sup> block that has a frontage to both Staton & Alexandra Roads;
- zoned Residential R12.5;
- developed with a single storey dwelling; and
- located in the Richmond Precinct.

##### **Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)

B+ Management Category - Municipal Heritage Inventory

Listed on the Heritage List under Town Planning Scheme No. 3

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : The verandah extension is proposed at the rear of the house and will not impact on the streetscape or heritage value of the residence. As the Staton Road portion of the property has not been developed the extension is visible from this street.

**Documentation**

Plans and relevant forms date stamped received on 28 August 2012

Note from CEO

*In discussion between the CEO and Gerard McCann, who is clearly shown as the author of the plans under consideration, which followed concerns by the CEO regarding the actual author of the plans, it was discovered the revised plans had neither been prepared nor submitted by Gerard McCann and in fact Mr McCann is no longer involved with the project.*

*It is considered improper and misleading that the plans submitted suggested otherwise and it is intended to draw these concerns to the owner's attention. Nevertheless this does not affect the process of a Council determination.*

**Date Application Received**

29 August 2012

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

8 November 2010 Notice of inclusion on the Heritage List under Town Planning Scheme No. 3.  
16 November 2010 Council resolved to grant approval for the restoration and extension of an existing dwelling and the development of three additional grouped dwellings fronting Staton Road. These dwellings have not been constructed.  
1 June 2011 Building Licence 2011072 approved for retaining walls.  
20 September 2011 Deck/verandah extension and minor works to the rear of the property including covered car parking under the deck approved by Council.  
25 May 2012 Building Permit issued for rear deck and verandah extension.

**CONSULTATION****Advertising**

The application was not advertised to surrounding neighbours as it is an application comprising amended plans in regard to a similar previous planning approval which had already undergone the advertising procedure in August 2011. At the close of that advertising period no submissions or objections were received.

**CONSULTATION****Town Planning Advisory Panel (TPAP) Comments**

This application was forwarded to the Town Planning Advisory Panel for comment because of the significant heritage value of the property and the Panel supported the application.

**Site Inspection**

By Town Planner on 28 September 2012

## STATISTICS

Key: A = Acceptable, D = Discretion

<b>Site:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Open Space	55%	84%	A				
Site Works	Less than 500mm	Less than 500mm	A				
<b>Local Planning Policies:</b>							
<b>Policy 142</b>							
Roof	Gable		A				
Solar Access & Shade	Verandah opening to west		A				
Drainage	To be conditioned		A				
Views	No impact		A				
Crossover	No impact		A				
Trees	No impact		A				
<b>Other:</b>							
<b>Issues</b>							
Overshadowing	Mostly contained within subject lot		A				
<b>Privacy/Overlooking</b>	<b>Verandah above 0.5m FFL (see section below)</b>		<b>D</b>				
<b>Height:</b>							
<b>Required</b>							
<b>Proposed</b>							
Wall							
Northern bndy	5.6m	2.06m FFL extension of rear of house	A				
Southern bndy	5.6m	4.92m FFL extension of rear of house Below roof level of existing house	A				
Wall (Concealed Roof)	6.5m	N/A	N/A				
Roof			A				
Northern bndy	8.1m	6.32m FFL extension of rear of house	A				
Southern bndy	8.1m	3.46m FFL extension of rear of house Below roof level of existing house	A				
<b>Roof type</b>	<b>Gable - 26°</b>		<b>D</b>				
<b>Privacy/Overlooking:</b>							
cone of vision drawings – see below							
Clause 6.8.1 FFL 0.5m above NGL major opening to active habitable spaces	<b>Required</b>	<b>Proposed</b>					
	4.5m from bedrooms	N/A	A				
	<b>6.0m other habitable rooms (verandah)</b>	<b>Setback 3.5m however lattice screening indicated to 1.6m</b>	<b>D</b>				
	<b>7.5m (partly) unenclosed outdoor active habitable (e.g. balcony)</b>	<b>7.5</b>	<b>D</b>				
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)			Located behind existing				A
Rear (west)	Open louvres on tracks	6.2m*	12.7m*	Yes	3.8m	29m	A
Side (north) –	Aluminium sliding doors and windows	2.06m*	4.6m*	Yes	1.5m	3.8m	A
Side (south)		4.92m*	4.6m*	Yes	2.3m	3.5m	A

\* As calculated for assessment purposes

**REPORT**

This report considers additions and alterations in the form of a verandah extension to the rear of the existing dwelling.

The proposed additions comply with the provisions of the R-Codes, TPS No. 3 and Council Policies with the exception of visual privacy and roof form which will be addressed below.

**Visual Privacy**

The visual privacy requirements of the R-Codes in relation to the western opening of the deck/verandah area and the openings facing the northern and southern boundaries require that the extension be setback between 6.0 and 7.5 metres. The application proposes to extend the rear of the house approximately 5 metres and the extension of the side setbacks of the house will remain at 3.8 metres (northern side) and 3.5 metres (southern side).

Even though the verandah is raised over 2.0 metres above the rear level of the garden there is minimal opportunity for overlooking of adjacent properties. The property at 33 Alexandra Road is at a higher ground level and the verandah extension will overlook the boundary wall and roof of an outbuilding (garage and shed) and the canopy of a large tree which also provides screening of the rear garden on that site. The property to the south at 29 Alexandra Road has been extended and the verandah will face small openings on the northern elevation of that property. Furthermore, significant vegetation screens the remainder of the lot boundary and it would be very difficult to gain any views of the rear garden.

It is also noted that the three grouped dwellings approved for the rear of the property which front Staton Road have not been constructed.

The application proposes to install some lattice screening to the windows on the southern side which would provide some screening but would not entirely block the view from these windows. This window treatment is acceptable in reducing the potential for overlooking but would need to be permanently fixed in position. This should be imposed as a condition of planning approval. It is not possible to screen the northern elevation openings as a sliding door will be used to access this section of the verandah. As previously noted this opening is not considered to present an overlooking concern so it is considered the openings as indicated can be supported.

**Building Materials and Roof Pitch**

The roofing material specified is Zinalume sheeting so 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.

A condition of approval is also imposed regarding colour of the finishes. This is imposed as the dwelling is a significant heritage building on the Town Planning Scheme Heritage List. This condition will ensure Council is satisfied there will be no detrimental impact on the heritage property, residential amenity or the streetscape. Details of the colour of the weatherboard cladding, louvres and window finishes to be used should be submitted prior to the issue of a Building Permit.

LPP 066 provides, amongst other things, that dominant roof elements of outbuildings are to have a minimum pitch of 28°; the verandah roof will be 26°. This roof pitch is complementary to the existing roof line and will not have a detrimental impact on the streetscape.

**Heritage Impact**

The existing dwelling is a heritage property assigned the B+<sup>^</sup> management category in the Town's Heritage Survey 2006. In summary, the Inventory states that the place has

considerable heritage significance at a local level and that it is generally considered worthy of a high level of protection, to be retained and appropriately conserved.

The existing residence has been renovated and restored to a high standard from an almost derelict state. A site inspection and details of this application indicate further renovation work and improvements will be undertaken over the property as a whole. The design, materials and finishes proposed are generally in keeping with the existing residence as is the roof pitch. Given the significance of a B+<sup>^</sup> management category, and as stated above, it is considered appropriate to impose a condition of planning approval that requires all materials, colours and finishes to be to the satisfaction of the Chief Executive Officer in consultation with the relevant Council officers.

A previous report to Council indicated there was one minor change to the heritage assessment submitted with the previously approved application; this being to dismantle the rubble stone wall under the rear verandah/kitchen/scullery and rebuild it underneath the western end of the southern verandah. The current set of plans indicates the same intention for the wall. It was previously noted that this wall had no structural purpose and its relocation will allow redundant space under the southern verandah and decked area to be available as covered storage area.

### CONCLUSION

The application proposes a rear verandah extension to a heritage listed dwelling. Applications of this nature have previously been approved by Council, however, with this application the applicant wishes to alter the design of the verandah. The application requires an exercise of discretion in relation to the visual privacy requirements of the R-Codes to allow the sliding door and windows of the verandah at the northern end to be unscreened and for the verandah roof to have a pitch of 26°.

The verandah will be in keeping with the existing residence and will result in further improvements to the heritage place as the owners are continuing with their renovation and restoration work on a number of other aspects of the property. The proposed verandah is at the rear of the main dwelling and will not be visible from the street.

In the main the improvements and construction materials will complement the existing dwelling in that compatible building materials are indicated and the roof pitch has been designed to match the current roof profile.

Subject to conditions of planning approval it is recommended the application be supported.

### RECOMMENDATION

That approval be granted to vary the:

- (a) visual privacy requirements of clause 6.8 of the Residential Design Codes of Western Australia and allow a setback of 3.8 metres from the northern boundary and a setback of 3.5 metres from the southern boundary; and
- (b) requirements of Local Planning Policy 066 – Roofing to permit a pitch of 26° for the verandah,

for the verandah extension to the rear of the existing dwelling at No. 31 (Lot 44) Alexandra Street, East Fremantle, in accordance with plans date stamped received on 28 August 2012, subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed works are not to be commenced until Council has received an application for a demolition permit and a building permit and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

3. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed verandah is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. This planning approval to remain valid for a period of 24 months from date of this approval.
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 by the Chief Executive Officer. (*refer footnote (c) below*)
8. 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.
9. A schedule of materials and finishes for the verandah extension are to be submitted and approved to the satisfaction of the Chief Executive Officer in consultation with relevant officers prior to the issue of a Building Permit.
10. A permanent screening device installed on the windows on the southern elevation to a height of 1600mm to be indicated on plans submitted with the building permit application.

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) *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 Dave Allen (builder) addressed the meeting in support of the proposal.

**Cr de Jong – Cr Nardi**

**That approval be granted to vary the:**

- (a) **visual privacy requirements of clause 6.8 of the Residential Design Codes of Western Australia and allow a setback of 3.8 metres from the northern boundary and a setback of 3.5 metres from the southern boundary; and**
- (b) **requirements of Local Planning Policy 066 – Roofing to permit a pitch of 26° for the verandah,**

**for the verandah extension to the rear of the existing dwelling at No. 31 (Lot 44) Alexandra Street, East Fremantle, in accordance with plans date stamped received on 28 August 2012, subject to the following conditions:**

1. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
2. **The proposed works are not to be commenced until Council has received an application for a demolition permit and a building permit and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have**



- received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed verandah is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
  5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
  6. This planning approval to remain valid for a period of 24 months from date of this approval.
  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 by the Chief Executive Officer. (*refer footnote (c) below*)
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  9. A schedule of materials and finishes for the verandah extension are to be submitted and approved to the satisfaction of the Chief Executive Officer in consultation with relevant officers prior to the issue of a Building Permit.
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**Footnote:**

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

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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.

T113.8

***Dalgety Street No. 27 (Lot 60)***

***Applicant: R Davey & S Hubbard***

***Owner: R Davey & S Hubbard***

***Application No. P149/12***

By Carly Pidco, Senior Planning Officer, on 16 October 2012

**PURPOSE OF THIS REPORT**

This report recommends conditional approval of a Development Application for additions and extensions to an existing single dwelling at 27 Dalgety Street, East Fremantle.

**BACKGROUND**

**Description of proposal**

The proposed development is single-storey extensions to an existing dwelling, including a garage; rear verandah, alfresco and games room; and internal renovations. The additions are of weatherboard and tile construction.

**Description of Site**

The subject site is:

- a 1088m<sup>2</sup> freehold lot
- zoned Residential 12.5
- located in the Woodside Precinct
- improved with a single-storey single dwelling
- assigned B Management Category in the MHI

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : To be retained  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : Garage visible from street

**Documentation**

Plans and relevant forms date stamped received on 18 September 2012

**Date Application Received**

18 September 2012

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

16 June 2010 Delegated Approval given for a rear shed  
17 August 2010 Delegated Approval given for a rear swimming pool  
15 March 2011 Council approves rear additions and garage

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours from 19 September 2012 to 4 October 2012. No submissions were received during this period.

The applicant has provided statements of support from the owners of 29 Dalgety Street and 25 Dalgety Street.

**Town Planning Advisory Panel Comments**

The application was omitted from the Town Planning Advisory Panel agenda and subsequently no TPAP comment was received within the statutory assessment timeframe.

It is noted, however, that the approval given in 2011 had a near identical garage. The approved design was refined in response to comments given by the TPAP at this time. Given the impact of the subject proposal on the heritage dwelling and streetscape is similar to that of the 2011 approval, it is not considered necessary to refer the application to the Panel prior to determination.

**Site Inspection**

By Town Planner on 16 October 2012

**ASSESSMENT**

The proposed development is generally consistent with the Town's LPP 142 Residential Development and the Residential Design Codes, with the exception of boundary setbacks and overlooking, as detailed below.

Key: A = Acceptable, D = Discretion

<b>Site:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Open Space	55%	76.7%	A				
Site Works	Less than 500mm	Less than 500mm	A				
<b>Local Planning Policies:</b>							
<b>Policy 142</b>							
Roof	Hipped, 30 degrees, tile		A				
Solar Access & Shade	No comment		-				
Drainage	To be conditioned		A				
Views	No impact		A				
Crossover	To be conditioned		A				
Trees	No impact		A				
<b>Other:</b>							
Overshadowing	<25%		A				
Privacy/Overlooking	<b>SOUTH:</b> <ul style="list-style-type: none"> <li>5.4m from southern opening to verandah over southern boundary</li> </ul> <b>WEST:</b> <ul style="list-style-type: none"> <li>4.5m from western opening to verandah over southern boundary</li> </ul> <b>NORTH:</b> <ul style="list-style-type: none"> <li>5.5m from northern opening to verandah over northern boundary</li> </ul>		D				
<b>Height:</b>							
	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Wall	6.0	3.5m; 4.2m (garage)	A				
Wall (Concealed Roof)	7.0	N/A	N/A				
Roof	9.0	5.5m	A				
Roof type	Hipped roof						
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (east)</i>							
Ground	Garage	N/A	N/A	N/A	At or behind building line	At main building line	A
	Dwelling	No change to existing					A
<i>Rear (west)</i>							
Ground	Dwelling	N/A	N/A	N/A	6.0m	16.2m	A
<i>Side (north)</i>							
Ground	Garage	3.0m	7.9m	N	1.0m	Nil	D
	Dwelling	3.5m	33.4m	Y	1.5m	1.5m	A
<i>Side (south)</i>							
Ground	Verandah/ Dwelling	3.3m	13.5m	Y	1.5m	1.6m	A

**Building Setbacks**

The development proposes a parapet wall to the garage on the northern boundary. Part 3 of the LPP 142 provides standards for assessing boundary setback variations, detailed below.

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

Complies.

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

The garage is located in line with main building line, and the parapet wall will be visible from the street. Its impact will be limited however as it is lower in height than the main dwelling and partly obscured by the front facade.

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

Complies.

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

Given the minimum dimensions of the parapet wall and its subservience to the main dwelling, it is not likely to dominate the facade. As the prominence of the existing dwelling is maintained, the overall impact of the development is consistent with the character of the locality. There is no impact on significant views.

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

The parapet wall does not abut a similar wall. However, the neighbouring property is set significantly higher and has a tall masonry return fence. The parapet wall will be of similar proportions to this fence and have limited additional visual impact on the streetscape.

**Visual Privacy**

The finished floor level of the proposed verandah is greater than 0.5m above natural ground level and it is therefore subject to visual privacy requirements. The cone of vision from the verandah intrudes over both the northern and southern side boundaries.

The property on the northern boundary is set higher than the subject property and it will be difficult to gain a direct view into sensitive living areas.

The main alfresco area is set behind and lower than the verandah and is close to the northern boundary. It is considered that alfresco area will serve as the principal outdoor living area and accordingly intense use of the southern end of the verandah is unlikely. The actual impact of the visual privacy variation on overlooking in this scenario is considered to be minimal.

It is also important to note that, although elevated above natural ground level, the verandah retains the impression of a single storey development. This will minimise the perception of overlooking in neighbouring properties. Both neighbouring dwellings extend further back than the proposed verandah and so the key outdoor living areas will not align, again minimising any practical impact.

It is also noted that statements from the affected neighbours have been received stating no objection.

The variations are supported as there will be little practical impact on the visual privacy of the affected neighbours.

### CONCLUSION

The proposed development incorporates variations to the side setback and visual privacy requirements of the R-Codes. These variations are minor in nature and will not detrimentally impact on neighbouring dwellings or the streetscape. Statements from the affected neighbours stating that they do not object to the proposal have been received. It is recommended that the proposed development be approved subject to conditions.

### RECOMMENDATION

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

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback from the northern wall of the Garage to the northern boundary; and
- (b) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the southern opening of the verandah to intrude 5.4m over the southern boundary; from the western opening of the verandah to intrude 4.5m over the southern boundary; and from the northern opening of the verandah to intrude 5.5m over the southern boundary;

for the construction of additions and extensions at No. 27 (Lot 60) Dalgety Street, East Fremantle, in accordance with the plans date stamped received on 18 September 2012 subject to the following conditions:

1. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the owner/applicant's expense and to the satisfaction of the Chief Executive Officer.
2. The "Games" is only to be used in conjunction with the main dwelling and is not to be used as ancillary accommodation.
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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)
9. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.

11. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

**Cr Martin – Cr Nardi**

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

- (a) **vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback from the northern wall of the Garage to the northern boundary; and**
- (b) **vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the southern opening of the verandah to intrude 5.4m over the southern boundary; from the western opening of the verandah to intrude 4.5m over the southern boundary; and from the northern opening of the verandah to intrude 5.5m over the southern boundary;**

**for the construction of additions and extensions at No. 27 (Lot 60) Dalgety Street, East Fremantle, in accordance with the plans date stamped received on 18 September 2012 subject to the following conditions:**

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

**Footnote:**

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

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

- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise"*
- (i) *the applicant is reminded that the development has been approved as a "Single House" and any use of the development not in keeping with this use will require further approval of Council.* 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.

**T113.9 Marmion Street No. 130A (Lot 2 on Strata Plan 52016)**

**Applicant:** Peter Stannard Homes Pty Ltd

**Owner:** J & L Price

**Application No.** P150/12

By Carly Pidco, Senior Planning Officer, on 14 October 2012

**PURPOSE OF THIS REPORT**

This report recommends conditional approval of a Development Application for construction of a new two-storey dwelling at 130A Marmion Street, East Fremantle.

**BACKGROUND****Description of Proposal**

The proposed development is two-storey dwelling of rendered brick and colorbond construction. The dwelling comprises open plan kitchen, meals and family; theatre; double garage; 5 bedrooms; 2 bathrooms; laundry and games room.

**Description of Site**

The subject site is:

- a 565m<sup>2</sup> battleaxe survey-strata lot
- zoned Residential 12.5
- located in the Woodside Precinct
- vacant

**Statutory Considerations**

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

Residential Design Codes of Western Australia (RDC)

**Relevant Council Policies**

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

Local Planning Policy No. 66 : Roofing (LPP 66)

**Impact on Public Domain**

Tree in verge : No impact

Light pole : No impact

Crossover : No impact



Footpath : No impact  
 Streetscape : No impact – development not visible from street

**Documentation**

Plans and relevant forms date stamped received on 19 September 2012  
 Amended plans date stamped received on 9 October 2012  
 Amended plans date stamped received on 19 October 2012  
 Amended plans date stamped received on 23 October 2012

**Date Application Received**

19 September 2012

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

5 January 2007 WAPC endorses Survey-Strata Plan  
 29 January 2007 Survey-Strata Plan registered

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours from 25 September 2012 to 12 October 2012. No submissions were received during this period.

The applicant has provided statements of support from the owners of 130 Marmion Street and 128A Marmion Street. The proposed boundary setback variations occur on the shared boundaries with these properties.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 9 October 2012.

The Panel made the following comments in relation to the application, presented alongside the applicant’s response and officer’s comment.

Panel Comment	Applicant Response	Officer Comment
Query upstairs floor area.	The upstairs floor was a request of our client. The client requested a cost effective design with ease of construction.  The design layout will be in keeping with the existing front home which does not demonstrate the reduction in floor area.	No bearing on planning requirements.  The upstairs floor area requirement applies to battleaxe lots; it would not apply to no. 130 Marmion Street.
Query street surveillance.	The amended drawings show an additional window to bedroom 5 south elevation to allow surveillance towards the access leg.	Major openings to eastern and southern facade provide some opportunity for surveillance.

**Site Inspection**

By Town Planner on 16 October 2012

**ASSESSMENT**

**Town Planning Scheme No. 3**

Clause 5.3.3 of the TPS No. 3 reads as follows:

*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 of 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 the 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 provision of clause 9.4.

The subject lot is a survey-strata development that was subdivided under the previous TPS No. 2 at a greater density than permitted under the current TPS No. 3 zoning (R12.5). Being 565m<sup>2</sup> in area, the site area is consistent with a density of R20. However, the Scheme provides that the local government will only assess the development at this higher density where 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”.

As there is no existing building, it is difficult to apply this clause, however the proposed development is considered sufficiently satisfactory to merit the application of the R20 zoning. If that had not been considered to be the case the application would need to be assessed against the R12.5 provisions.

The proposed development is generally consistent with the Town’s LPP 142 Residential Development and the Residential Design Codes, with the exception of boundary setbacks and overlooking, as detailed below.

Key: A = Acceptable, D = Discretion

<b>Site:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>
Open Space	50%	67.3%	A
Site Works	Less than 500mm	Less than 500mm	A
<b>Local Planning Policies:</b>			
<b>Policy 142</b>	<b>Height variations; setback variations</b>		<b>D</b>
<b>Roof</b>	<b>Colorbond, hipped, 25 degrees</b>		<b>D</b>
Solar Access & Shade	Alfresco areas faces north		A
Drainage	To be conditioned		A
Views	No impact; site does not have significant views		A
Crossover	Condition to comply		A
Trees	No impact		A
<b>Other:</b>	<b>Issues</b>		<b>Status</b>
Overshadowing	8.1% over Lot 1; complies		A
Privacy/Overlooking	Complies		A
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>
<b>Wall</b>	<b>3.0</b>	<b>5.4m</b>	<b>D</b>
Wall (Concealed Roof)	4.0	N/A	N/A
<b>Roof</b>	<b>6.0</b>	<b>8.1m</b>	<b>D</b>
Roof type	Hipped		

<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (south)</i>							
<b>Ground</b>	<b>Garage</b>	<b>2.7</b>	<b>7.6</b>	<b>N</b>	<b>1.0</b>	<b>Nil</b>	<b>D</b>
	Dwelling	2.6	14.3	Y	1.5	6.1	A
<i>Upper</i>	Dwelling	5.4	11.3	Y	3.1	6.1	A
<i>Rear (North)</i>							
<i>Ground</i>	Dwelling	2.6	14.6	Y	1.5	2.6	A
<i>Upper</i>	Dwelling	5.4	11.3	N	3.1	6.0	A
<i>Side (East)</i>							
<i>Ground</i>	Dwelling	2.6	19.6	Y	1.5	Min. 2.4	A
<i>Upper</i>	Bed 5 MO	5.4	5.4	Y	2.5	4.5	A
	Dwelling	5.4	11.9	N	1.5	4.5	A
<i>Side (west)</i>							
<b>Ground</b>	<b>Alfresco</b>	<b>2.4</b>	<b>13.3</b>	<b>Y</b>	<b>1.5</b>	<b>1.0</b>	<b>D</b>
	Store	2.5	19.6	N	1.5	6.1	A
<i>Upper</i>	Dwelling	5.4	11.9	N	1.5	4.4	A

### Roof

The roof pitch does not meet the minimum 28 degrees specified in the LPP66. The roof does not appear disproportionate to the house, however, and it will not be visible from the street. The reduced roof pitch is supported.

### Building Height

The LPP 142 provides that development on battleaxe lots is to be in accordance with the Category 'A' building height requirements of the R-Codes, which essentially restricts development to a single-storey. The LPP goes on to provide criteria for consideration of Category B (two-storey) height requirements, detailed below.

- (a) *The proposal demonstrates design, bulk and scale that responds to the established character or other site specific circumstances;*

Complies - note adjacent battleaxe development and front development. The development also complies with the modified Category B provisions that apply to non-battleaxe development.

- (b) *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped;*

Development can comply. Landscaping plan can be required as a condition of approval.

- (c) *Subject to the provisions of Residential Design Codes – Element 9 – Design for Climate and Element 8 - Privacy;*

Complies.

- (d) *A maximum of 30% of the ground floor area (including garages and roofed areas enclosed on three sides) being contained in all upper floor level portions of the dwelling; and*

The upper floor area is approximately 72% of the ground floor area. The development complies with all other criteria, however, notably the minimum 4m setback. The upper floor also complies with the Category B provisions of the R-Codes in relation to building height. The floor area of the upper floor is not

considered to impact on the amenity of neighbours given the generous setbacks and will not be visible from the street.

- (e) *Setbacks to the second storey being a minimum of 4m from all boundaries unless it is demonstrated to Council's satisfaction that a lesser setback will not adversely impact on amenity.*

Complies – minimum 4m setback to upper floor from all boundaries.

The development complies with all criteria, except the maximum upper floor area. It is noted that the upper floor also complies with the Category B provisions of the R-Codes in relation to building height. The floor area of the upper floor is not considered to impact on the amenity of neighbours given the generous setbacks and will not be visible from the street. The upper floor development is supported.

### Building Setbacks

The development proposes a parapet wall to the garage on the southern boundary and 1m setback from the alfresco. Part 3 of the LPP 142 provides standards for assessing boundary setback variations, detailed below.

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

Garage: Complies

Alfresco: Less than 3m high, greater than 9m in length.

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

Garage: Located at the front of the dwelling. However, as this is a battleaxe block, the reduced setbacks will not be visible from the street and the intent of the provision is upheld.

Alfresco: Complies.

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

Garage: Complies.

Alfresco: Complies.

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

Both the garage and alfresco are single-storey in height and will not impact on the amenity of neighbouring properties. Nor will they be visible from the streetscape.

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

The walls do not abut similar walls. However, the neighbouring properties are set back and the proposed development will not impact on amenity.

The proposed boundary setback variations will not impact on the amenity of neighbouring properties and have no impact on the streetscape. The variations are supported.

### CONCLUSION

The proposed development incorporates variations to the side setback requirements of the R-Codes, building height requirements of the LPP 142 and roof pitch requirements of

the LPP 66. The variations do not impact on the amenity of neighbours or on the streetscape. The proposed building, despite being two-storeys high and thus exceeding the intent of the "Category A" height provisions, is mostly consistent with the criteria outlined in the LPP 142 and the overall bulk and scale of the dwelling is not out of character with the locality. It is recommended that the proposed development be approved subject to conditions.

### RECOMMENDATION

That subject to a landscape plan demonstrating a minimum of 50% of the effective lot area being landscaped being submitted and approved by the Chief Executive Officer, that Council exercise its discretion in granting approval for the following:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback from the southern wall of the Garage to the southern boundary; and a 1.0m setback from the western wall of the alfresco to the western boundary;
- (b) vary the roof pitch requirements of the Local Planning Policy 66 Council Policy on Roofing to permit a 25 degree roof pitch; and
- (c) vary the building height requirements of the Local Planning Policy 142 Residential Development to permit a maximum ridge height of 8.1m and maximum wall height of 5.4m

for the construction of two-storey dwelling at No. 130A (Lot 2 on Strata Plan 52016) Marmion Street, East Fremantle, in accordance with the plans numbered sheets 1 of 11 and 14 of 11 date stamped received on 9 October 2012; sheet 2 of 11 date stamped received on 19 October 2012; Sheet 3 of 11 date stamped received 23 October 2012; and Sheet 11 of 11 date stamped received on 19 September 2012, subject to the following conditions:

1. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the owner/applicant's expense and to the satisfaction of the Chief Executive Officer.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (h) below*)
8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted

- across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
  11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

**Cr Rico – Cr Nardi**

**That subject to a landscape plan demonstrating a minimum of 50% of the effective lot area being landscaped being submitted and approved by the Chief Executive Officer, that Council exercise its discretion in granting approval for the following:**

- (a) **vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback from the southern wall of the Garage to the southern boundary; and a 1.0m setback from the western wall of the alfresco to the western boundary;**
- (b) **vary the roof pitch requirements of the Local Planning Policy 66 Council Policy on Roofing to permit a 25 degree roof pitch; and**
- (c) **vary the building height requirements of the Local Planning Policy 142 Residential Development to permit a maximum ridge height of 8.1m and maximum wall height of 5.4m**

**for the construction of two-storey dwelling at No. 130A (Lot 2 on Strata Plan 52016) Marmion Street, East Fremantle, in accordance with the plans numbered sheets 1 of 11 and 14 of 11 date stamped received on 9 October 2012; sheet 2 of 11 date stamped received on 19 October 2012; Sheet 3 of 11 date stamped received 23 October 2012; and Sheet 11 of 11 date stamped received on 19 September 2012, subject to the following conditions:**

1. **All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the owner/applicant's expense and to the satisfaction of the Chief Executive Officer.**

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

**Footnote:**

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

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

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

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.

**T113.10 Preston Point Road No. 118 (Lot 4963)**

**Applicant:** P T Homes Pty Ltd

**Owner:** C Boase

**Application No.** P151/12

By Carly Pidco, Senior Planning Officer, on 25 October 2012

**PURPOSE OF THIS REPORT**

This report recommends conditional approval of a Development Application for construction of a new two-storey dwelling at 118 Preston Point Road, East Fremantle.

**BACKGROUND****Description of Proposal**

The proposed development is a two-storey dwelling of rendered brick construction with trimdeck roof. The dwelling comprises open plan living and dining; kitchen; alfresco; triple garage; 4 bedrooms; 2 bathrooms; laundry; sitting / entertaining room and balcony. The development also includes construction of retaining walls.

**Description of Site**

The subject site is:

- a 736.6m<sup>2</sup> freehold lot
- zoned Residential 12.5
- located in the Richmond Hill Precinct
- vacant

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Residential Design Codes of Western Australia (RDC)

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : New crossover to Shire requirements



Footpath : No impact  
 Streetscape : New dwelling

**Documentation**

Plans and relevant forms date stamped received on 21 September 2012  
 Amended plans date stamped received on 17 October 2012  
 Amended plans date stamped received on 18 October 2012

**Date Application Received**

21 September 2012

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

13 December 2011 Council approves an application for demolition of an existing dwelling and construction of a new two-storey dwelling.  
 2 May 2012 Demolition Permit for demolition of existing dwelling issued.

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours from 26 September 2012 to 12 October 2012. One submission was received during this period. The issues raised in the submission alongside the applicant’s response and officer’s comment is detailed below.

Submission	Applicant Response	Officer Comment
<i>N Thomas</i> <i>116 Preston Point Road</i>  Concerned about the bulk of the development to the streetscape	We have reduced the external wall heights to be closer to the LPP. The height variations requested are minimal and will not be of a significant noticeable height difference to impact the streetscape.	Note reduced wall height and increased front setback as presented in revised plans. This has reduced any building bulk impact on the streetscape.
Concerned about setbacks as presented to my shared boundary and impact on shading and views.	The wall that affects this boundary is under the maximum wall height of 6500mm. Feel this will have little impact on views. Note that due to the northerly aspect of the block, overshadowing will be of little impact if any since most shading will be directed towards the rear of the developments own lot.	Note that setback variation is being sought in relation to the western boundary. The variation occurs at ground level and behind the key view corridor from No. 116. The impact of this reduced setback on amenity is minimal. Note that upper storey setbacks and overshadowing are compliant.
If in respect of my concerns, the application is wholly compliant, then I have no comment.		

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 9 October 2012.

The Panel made the following comments in relation to the application, presented alongside the applicant’s response and officer’s comment.

Panel Comment	Applicant Response	Officer Comment
Query wall height.	Have reduced the building height but still slightly overheight to some walls. We would like to point out that these variations are minor and feel that the impact to the neighbouring properties will be minimal in respect to	Building heights have been reduced by approximately 342mm to achieve a maximum height of 6.8m.  Agree that this does not impact on overshadowing, streetscape or amenity.

6 November 2012

## MINUTES

	overshadowing and bulk. Significant setbacks reduce impact. Varied wall heights conceal the roof ridge and break up the consistent 'flatness' to the brick work.	Agree that varied wall heights add interest and relief to the facade.
Query front setback.	We have changed the front setback from 8.5m to 10m.	Revised setback is in line with the adjacent dwelling at No. 120. Considered to meet the LPP 142 provision to be consistent with the locality.

**Site Inspection**

By Town Planner on 16 October 2012

**ASSESSMENT**

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

Key: A = Acceptable, D = Discretion

<u>Site:</u>	Required	Proposed	Status				
Open Space	55%	60.1%	A				
<b>Site Works</b>	<b>Less than 500mm</b>	<b>750mm fill within 1m of south bdry; 500mm cut within 1m of east bdry</b>	<b>D</b>				
<b>Local Planning Policies:</b>							
<b>Policy 142</b>	<b>Height, setback variations</b>		<b>D</b>				
Roof	Concealed roof, 3 degrees		A				
Solar Access & Shade	No comment		-				
Drainage	To be conditioned		A				
<b>Views</b>	<b>Exceeds height</b>		<b>D</b>				
Crossover	To be conditioned		A				
Trees	No impact		A				
<b>Other:</b>	<b>Issues</b>		<b>Status</b>				
Overshadowing	<25%		A				
Privacy/Overlooking	Complies		A				
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Wall	5.6	N/A	N/A				
<b>Wall (Concealed Roof)</b>	<b>6.5</b>	<b>6.6 – 6.8</b>	<b>D</b>				
Roof	8.1	N/A	N/A				
Roof type	Concealed roof						
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (north)</i>							
<i>Ground</i>	Dwelling	N/A	N/A	N/A	Consistent with street	Consistent with No 120	A
<i>Upper</i>	Dwelling	N/A	N/A	N/A	7.5m	10.0m	A
<i>Rear (south)</i>							
<b>Ground</b>	<b>Dwelling</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>6.0m</b>	<b>2.3m</b>	<b>D</b>
<i>Upper</i>	Dwelling	N/A	N/A	N/A	6.0m	14.7m	A
<i>Side (east)</i>							
<i>Ground</i>	Garage	3.8m	13.3m	N	1.5m	1.5m	A
	Alfresco	3.9m	18.5m	Y	3.4m	5.3m	A
	Bed 1	3.7m	24.3m	Y	4.5m	11.5m	A

Upper	Dwelling	6.8m	11.6m	N	1.6m	2.0m	A
Side (west)							
<b>Ground</b>	<b>Dwelling</b>	<b>3.1m</b>	<b>36.6m</b>	<b>Y</b>	<b>1.5m</b>	<b>Min 1.0m</b>	<b>D</b>
Upper	Dwelling	6.9m	11.9m	N	1.6m	2.0m	A

### Site Works

The proposed site works achieve a level building site and do not contribute to building height or bulk. Similarly the associated retaining walls facilitate construction but have little visual impact, with the TOW indicated on the submitted plans being similar to existing levels. The proposed site works are supported as there will be no undue impact on the streetscape or neighbouring properties.

### Building Height

The proposed development exceeds the maximum wall height for concealed roof development by a maximum of 0.3m at the front facade. This variation occurs at the central blade wall, which is approximately 3.6m wide and not near any boundaries. The impact of this blade wall is minimal. The main front wall to the house is 6.6m high, a variation of 0.1m. This will not be perceptible at street level and has limited impact on building bulk or streetscape. The upper level of the dwelling complies with R-Codes setback requirements, privacy requirements and overshadowing requirements, indicating limited impact on neighbouring dwellings. The dwelling to the rear has a significantly higher FFL than the TOW for the proposed dwelling, and will still be able to access views over the top. The proposed variations to building height are minimal and will not impact on residential amenity or the streetscape and are therefore supported.

### Building Setbacks

The development proposes reduced setbacks from the ground floor to neighbouring boundaries. These occur at the southern wall of Bed 1 (rear boundary) and western wall of the laundry/pantry (side boundary). Part 3 of the LPP 142 provides standards for assessing boundary setback variations, detailed below.

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

Bed 1: Complies

Laundry/Pantry: Complies.

Note that variations occur at more than one boundary, however, the height and length of the proposed walls and the absence of parapet walls will mean minimal impact.

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

Bed 1: Complies.

Laundry/Pantry: Complies.

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

Bed 1: Complies.

Laundry/Pantry: Complies.

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

Bed 1: The scale of the wall is minimal and will have no overshadowing, privacy, loss of views or bulk impact on neighbouring property. The reduced setback is not visible from the street and will have no impact on the streetscape.

Laundry/Pantry: As above.

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

Bed 1: The wall does not abut similar walls. However, the neighbouring property is set back and the proposed development will not impact on amenity.

Laundry/Pantry: As above.

The proposed boundary setback variations will not impact on the amenity of neighbouring properties and have no impact on the streetscape. The variations are supported.

### **Swimming Pool**

The swimming pool complies with all planning requirements for a swimming pool and is therefore supported.

### **CONCLUSION**

The proposed development incorporates several variations to the R-Codes and LPP 142. Amended plans prepared in response to a neighbour submission and TPAP comments have reduced the building height and increased the front setback, and are considered to adequately address concerns regarding building bulk and streetscape. The variations being sought do not impact on the streetscape or amenity of neighbouring properties and are therefore supported. It is recommended that the proposed development be approved subject to conditions.

### **RECOMMENDATION**

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

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 2.3m rear setback from the southern wall of Bed 1 to the southern boundary; and a 1.0m setback from the western wall of Laundry / Pantry to the western boundary;
  - (b) vary the site works requirements of the Residential Design Codes of Western Australia to permit 750mm fill within 1m of the southern boundary and 500mm cut within 1m of the eastern boundary; and
  - (c) vary the building height requirements of the Local Planning Policy 142 Residential Development to permit a maximum wall height (concealed roof) of 6.8m;
- for the construction of two-storey dwelling at No. 118 (Lot 4963) Preston Point Road, 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
  3. Pool filter and pump equipment to be located and designed to minimise noise emissions. The pump shall be located a minimum of 1.0 metre away from any boundaries and contained within an acoustically insulated enclosure to the satisfaction of the CEO and all pool equipment shall comply with the Environmental Protection (Noise) Regulations 1997.
  4. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (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. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

The letter from Neil Thomas, referred from Correspondence (MB Ref T109.2) was tabled.

**Cr de Jong – Cr Martin**

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

- (a) **vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 2.3m rear setback from the southern wall of Bed**

- 1 to the southern boundary; and a 1.0m setback from the western wall of Laundry / Pantry to the western boundary;
- (b) vary the site works requirements of the Residential Design Codes of Western Australia to permit 750mm fill within 1m of the southern boundary and 500mm cut within 1m of the eastern boundary; and
  - (c) vary the building height requirements of the Local Planning Policy 142 Residential Development to permit a maximum wall height (concealed roof) of 6.8m;

for the construction of two-storey dwelling at No. 118 (Lot 4963) Preston Point Road, 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
3. Pool filter and pump equipment to be located and designed to minimise noise emissions. The pump shall be located a minimum of 1.0 metre away from any boundaries and contained within an acoustically insulated enclosure to the satisfaction of the CEO and all pool equipment shall comply with the Environmental Protection (Noise) Regulations 1997.
4. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (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. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

**T113.11 Osborne Street No. 26 (Lot 13)**

**Applicant: Mellor Architects**

**Owner: K & B Howard**

**Application No. P152/12**

By Jamie Douglas, Manager - Planning Services on 25 October 2012

**PURPOSE OF THIS REPORT**

This report recommends the conditional approval of a development application for alterations and additions to an existing dwelling at 26 Osborne Street, East Fremantle.

**BACKGROUND****Description of Site**

The subject site is:

- a 911m<sup>2</sup> freehold lot
- zoned Residential 12.5
- located in the Richmond Precinct
- improved with a single dwelling

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes of Western Australia (RDC)

**Relevant Council Policies**

Local Planning Policy No. 066 : Roofing

Local Planning Policy No. 142 : Residential Development

Local Planning Policy No 143 : Local Laws Relating to Fencing

**Impact on Public Domain**

Tree in verge : No impact  
 Light pole : No impact  
 Crossover : Existing crossover will be utilised  
 Footpath : Apply standard condition  
 Streetscape : Existing street setbacks and front elevations not affected.

**Documentation**

Application Plans and relevant forms date stamped received on 25 September 2012

**Date Application Received**

25 September 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 26 September to 12 October 2012.  
 No submissions were received.

**Town Planning Advisory Panel Comments**

The application was considered by the Panel at its meeting of 9 October 2012. The Panel made the following comment:

- *The Panel supports the application.*

**Site Inspection**

By - Manager Planning Services on 25 October 2012

**ASSESSMENT**

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

<b>Site:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>
Open Space	55%	68%	A
<b>Site Works</b>	<b>Less than 500mm</b>	<b>An existing retaining wall on southern boundary is to be replaced at similar height</b>	A
<b>Local Planning Policies:</b>	<b>Issues</b>		
<b>Policy 142</b>	Complies to height and setbacks		A
<b>Roof</b>	Roof pitch exceeds 28 degrees		<b>A</b>
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
<b>R-Codes:</b>	<b>Issues</b>		<b>Status</b>
Overshadowing	10% over southern neighbour No. 24 Osborne		A
<b>Privacy/Overlooking</b>	All windows to habitable rooms comply with R-Codes cone of vision requirements		A
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>
<b>Wall</b>	<b>6.0</b>	<b>5.7</b>	A
Wall (Concealed Roof)	7.0	N/A	N/A
Roof	9.0	7.75	A



<b>Setbacks</b>			
Southern side boundary	1.5	3.5	A
Eastern rear boundary	1.2	2.9	A

Key: A = Acceptable, D = Discretion

**ASSESSMENT**

The proposal is for a second storey addition above the existing living room at the side of the dwelling to contain 3 bedrooms and a bathroom/toilet. It is also proposed to extend the existing kitchen/ dining on the ground floor at the rear of the dwelling. The proposed extension will have a ‘colorbond’ roof to match the existing, the ground floor additions will be constructed of brickwork and textured cladding while the upper storey addition will be of grooved cladding material. It is also proposed to erect a new front fence and to replace a boundary retaining wall and fence (which is structurally deficient) by a structure of similar height.

*Streetscape*

The proposed works are to the side and rear of the existing property and accordingly at some distance from the property frontage. Although the upper storey extension will be visible from the street it is not considered to dominate or detract from the existing dwelling and will have a minimal streetscape impact. The proposed front fence is comprised of masonry columns with picket infills and a limestone base. One infill panel will be solid limestone, however the overall permeability conforms with the Policy requirements of 60% above 1.2m height. The maximum column height is 1855mm while the average fence height is 1500mm. With the exception of the column height which is 55mm above the required maximum height of the Policy, the front fence conforms with the requirements of the Fencing Policy.

*Heritage*

The existing dwelling is included on the Municipal Inventory with a Management Category B. The proposed works relate to the 1980’s addition and will not alter the heritage fabric of the principal dwelling. The proposed works do not affect the existing scale and architectural form of the original portion of the dwelling. The additions, do not mimic the form or materials of the existing dwelling and are compatible with and complementary to, the heritage significance of the existing dwelling. The Town Planning Advisory Panel supports the proposal.

*Neighbours’ Amenity*

The upper storey addition is to accommodate three bedrooms, a bathroom and a toilet. All major openings to the addition face north (internal to the site) and comply with the R-Code ‘cone of vision’ requirements. Overshadowing from the proposed addition is less than 10% of the area of the immediate southern neighbour and will largely fall across and existing shed and masonry parapet wall. Outdoor living areas and habitable rooms of the neighbours will be unaffected. Accordingly it is considered the proposal will not unreasonable impact upon neighbouring properties in terms of either visual privacy or overshadowing.

**CONCLUSION**

The proposal is an adaption to an existing heritage dwelling which will not detrimentally impact the streetscape, heritage values or neighbour amenity. The proposal is

substantially compliant except for a minor variation in respect to the height of the front fence. It is considered the proposal should be approved.

### RECOMMENDATION

That Council in granting approval for the development application for alterations and additions to an existing dwelling at 26 Osborne Road, East Fremantle in accordance with the plans date stamped received on 25 September 2012 exercise its discretion in granting approval for a variation to the maximum height requirements of the Local Planning Policy 143 Policy on Local Laws relating to Fencing to permit a 1.855m maximum height for the front fence 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. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997.
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. 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".

**Cr Nardi – Cr Rico**

That Council in granting approval for the development application for alterations and additions to an existing dwelling at 26 Osborne Road, East Fremantle in accordance with the plans date stamped received on 25 September 2012 exercise its discretion in granting approval for a variation to the maximum height requirements of the Local Planning Policy 143 Policy on Local Laws relating to Fencing to permit a 1.855m maximum height for the front fence 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. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of externally mounted air-conditioning plant, a development application is to be lodged and approved by Council which demonstrates that noise from the air-conditioner will comply with the *Environmental (Noise) Regulations 1997*.
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. 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.
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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.

**T113.12 Allen Street No. 28 (Lot 1 on Survey Strata Plan 47255)**

**Applicant: Dale Alcock Homes**

**Owner: I G Handcock**

**Application No. P146/12**

By Carly Pidco, Senior Planning Officer, on 31 October 2012

**PURPOSE OF THIS REPORT**

This report recommends refusal of a Development Application for demolition of an existing dwelling and construction of a new dwelling at No. 28 Allen Street, East Fremantle.

**BACKGROUND****Description of Proposal**

The proposed development involves demolition of an existing dwelling and construction of a new dwelling. The existing dwelling was built during the interwar period and is of brick and tile construction. The dwelling is included on the Town's Municipal Heritage Inventory under the C^ Management Category.

The proposed new dwelling is single-storey in height and of brick and colorbond construction. The dwelling comprises four bedrooms; home theatre; open plan living, dining and kitchen; alfresco; two bathrooms; laundry and double garage with store.

**Description of Site**

The subject site is:

- a 524.7m<sup>2</sup> survey strata lot
- zoned Residential 12.5
- located in the Woodside Precinct
- improved with a single-storey single dwelling
- assigned C^ Management Category in the MHI

**Statutory Considerations**

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

**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : To be retained  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : Demolition of existing dwelling and construction of new dwelling

**Documentation**

Plans and relevant forms date stamped received on 10 September 2012  
Heritage Impact Statement date stamped received on 31 October 2012

**Date Application Received**

10 September 2012

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours from 19 September 2012 to 4 October 2012. No submissions were received during this period.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 9 October 2012. The Panel made the following comments:

- *Panel doesn't support the application in terms of front setback presented to the street.*
- *Faux heritage building design is not supported.*
- *Demolition is not supported due to the need to preserve current heritage streetscape rhythm.*
- *Preservation of existing residence is preferred, a second storey is suggested.*

The Panel's comments can be broadly categorised into comment on demolition of the existing residence (third and fourth dot points) and comment on the proposed new dwelling (first and second dot points). In relation to demolition of the existing residence, the applicant has provided a Heritage Impact Statement (requested by Town staff on 18 September 2012 but not submitted until after the Panel meeting). The Heritage Impact Statement, prepared by Phillip Griffiths Architects, notes that the dwelling has been substantially altered, including:

- Eaves have been extended and boxed in;
- Original verandah removed and replaced with concrete and steel verandah;
- Original windows have been enlarged and altered;
- Removal of some original internal walls and construction new internal walls;
- Many original fireplaces, skirtings and doors removed;
- Plaster ceilings removed and replaced with plasterboard; and
- Kitchen, bathroom and bedroom fittings replaced.

The extent of renovation work impacts on the authenticity and integrity of the dwelling. While the report confirms that its condition is generally good, the extensive alterations have diminished its heritage value. It sits harmoniously in its setting by virtue of its scale and traditional appearance, but its contribution to the streetscape is not as significant as high value neighbouring dwellings on Allen Street. Having regard for the extensive alterations to the dwelling; the limited value of the dwelling to its setting; and the C Management Category of the Municipal Heritage Inventory, it is recommended that the proposal to demolish the dwelling should be supported.

In relation to the proposed new dwelling, the applicant's Heritage Impact Statement is congruous with the Panel's comment in relation to "faux heritage", noting that Federation-style details are "unnecessary". The treatment of the façade could be altered to address this issue with relative ease. However, the Panel's first comment regarding the front setback to the dwelling is not so easily accommodated given the depth of the block in relation to its neighbours. The applicant's Heritage Impact Statement generally observes that the proposed new dwelling is compatible with the existing streetscape but makes no specific comment relating to the front setback. The front setback is discussed in greater detail in the assessment section of this report.

### Site Inspection

By Town Planner on 16 October 2012

### ASSESSMENT

#### Town Planning Scheme No. 3

Clause 5.3.3 of the TPS No. 3 reads as follows:

*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 of 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 the 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 provision of clause 9.4.*

The subject lot is a survey-strata development that was subdivided under the previous TPS No. 2 at a greater density than permitted under the current TPS No. 3 zoning (R12.5). Being 525m<sup>2</sup> in area, the site area is consistent with a density of R17.5. However, the Scheme provides that the local government will only assess the development at this higher density where 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*". It is considered, the proposed dwelling does not meet this requirement and therefore, with the exception of minimum site area (as per the R-Codes), the development should be assessed in accordance with its actual zoning of R12.5.

For the convenience of Elected Members, where standards for the R12.5 and R17.5 zones differ, both are shown in the statutory assessment table.

### Statutory Assessment Table

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	R12.5: 55% R17.5: 50%	50.1%	R12.5: D R17.5: A
Site Works	Less than 500mm	Less than 500mm	A
<b>Local Planning Policies:</b>	<b>Issues</b>		
Policy 142	Setback variations		D
Roof	Hipped / gable, 25 degrees, colorbond		D
Solar Access & Shade	Alfresco faces north		A

6 November 2012

## MINUTES

Drainage	To be conditioned		A
Views	No impact		A
Crossover	To be conditioned		A
Trees	No impact		A
<b>Other:</b>	<b>Issues</b>	<b>Status</b>	
Overshadowing	<25%		A
Privacy/Overlooking	FFL < 500mm above NGL		A
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>
Wall	6.0	2.7	A
Wall (Concealed Roof)	7.0	N/A	N/A
Roof	9.0	~5.0	A
Roof type	Hipped / gable roof		

<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (west)</i>							
<i>Ground</i>	Garage	N/A	N/A	N/A	At or behind building line	At main building line	A
<b>Ground</b>	<b>Dwelling</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>Consistent with locality</b>	<b>4.8m; forward of neighbouring development</b>	<b>D</b>
<i>Rear (west)</i>							
<i>Ground</i>	R12.5: Dwelling	N/A	N/A	N/A	6.0m	4.2m	A
	R17.5: Master Suite	2.5	5.5	Y	1.5m	4.2m	A
<i>Side (north)</i>							
<b>Ground</b>	<b>Garage</b>	<b>2.6m</b>	<b>5.8m</b>	<b>N</b>	<b>1.0m</b>	<b>Nil</b>	<b>D</b>
	Dwelling	2.5m	22.3m	Y	1.5m	Min 2.3m	A
<i>Side (south)</i>							
<i>Ground</i>	Bed 3	2.7m	4.0m	N	1.0m	1.0m	A
	Dwelling	2,7m	22.3m	Y	1.5m	1.5m	A

**Front Setbacks**

The proposed development sits significantly forward of the main setback line of other dwellings on Allen Street. As a guide, the R-Codes require a minimum front setback of 7.5m if the development is assessed at R12.5 standards and 6.0m if the development is assessed at R17.5 standards; the proposed development has a minimum setback of 4.8m. While the majority of development on this portion of Allen Street pre-dates the R-Codes, setbacks are almost uniformly in excess of these requirements. The open character and large front yards of the Allen Street streetscape are significant contributors to its character and representative of a residential area at the time of its development. The proposed development will project significantly forward of the uniform setback line, disrupting the established character of the Allen Street streetscape. It is acknowledged that the siting of the development visibly higher than the street is a direct response to the existing retaining of the front yard. However, this will increase the prominence of the dwelling in the streetscape and exacerbate the impact of the reduced front setback.

The second objective of the LPP 142 reads "To specify the proximity of buildings to boundaries, in order to retain the character and amenity of the existing streetscape and residential areas". For the Council to exercise its discretion and depart from the Policy provisions, it must be satisfied that this objective is still being met. As noted above, the

Allen Street streetscape is characterised by generous front setbacks, landscaped front yards and a unique historical character. The front setback to the proposed development is not in keeping with this established character and is not considered to be consistent with the objectives of the LPP 142.

The proposed front setback is also considered to be inconsistent with the objectives of the Residential Zone as contained in TPS No. 3. Specifically, the development is not sympathetic to the desired character of the precinct. It will project awkwardly forward of heritage dwellings on Allen Street and disrupt the uniform setback line.

It is therefore recommended that the development not be supported due to the unacceptable impact of the proposed front setback variation on the streetscape.

### **Open Space**

Please note that the applicant has provided two site plans which are not consistent – one site plan indicates that the battleaxe leg of the development is common property, another indicates that the battleaxe leg forms part of strata lot 2. The officer has confirmed with Landgate that the battleaxe leg forms part of Survey Strata Lot 2 with the subject lot having the benefit of a vehicle access easement over this land. This means that the battleaxe leg is not common property and can therefore not be counted towards the open space calculation of Lot 1.

In view of the preceding discussion on the proposed front setback, the proposed development is not considered to “contribute more positively to the scale and character of the streetscape” and therefore does not benefit from clause 5.3.3 of the TPS No. 3. Therefore, the open space requirement is assessed at the R12.5 standard of minimum 55%. The development achieves a total of 50.1% open space. Given the development does not comply with the Table 1 (Acceptable Development) provisions, open space can be assessed in consideration of the performance criteria as follows:

- P1 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 site cover has a direct impact on the encroachment of the proposed dwelling on the front setback area and front yard. This detracts from the open nature of the Allen Street streetscape. The reduced open space will contribute to the dwelling appearing inappropriately sited in relation to other dwelling in this street. For these reasons the development is not considered to meet the first two dot points of the performance criteria and is therefore not supported.

### **Other Variations to Requirements**

The development proposes several other variations to development requirements. These are not addressed fully in this report as, while there is a case for supporting these variations in isolation, the development is not recommended to be approved in view of the proposed front setback and open space variations.

### **CONCLUSION**

The demolition of the existing property will have limited impact on heritage as the existing dwelling has been significantly altered and is of limited heritage value in its current state. The proposed development incorporates several variations to the requirements of the Town's LPP 142 and the R-Codes. The proposed variations in relation to front setback requirements and open space will have a detrimental impact on the highly intact Allen Street streetscape, undermining its open character and uniform building setbacks. The proposed front setback variation is not considered to be consistent with the objectives of the LPP 142 and is therefore not supported. It is recommended that the proposal be refused.



**RECOMMENDATION**

That Council refuse the application for demolition of existing dwelling and construction of new dwelling at No. 28 (Lot 1 on Survey Strata Plan 47255) Allen Street, East Fremantle, as depicted on the plans date stamped received on 10 September 2012 for the following reasons:

1. The proposed development is not consistent with Part 2 – Streetscape of the Local Planning Policy 142 (clause 10.2(g) of Town Planning Scheme No. 3 refers);
2. The proposed development is not consistent with Design Element 6.4 Open Space requirements of the Residential Design Codes of Western Australia (clause 10.2(f) of Town Planning Scheme No. 3 refers);
3. The proposed development is not consistent with the objectives of the Residential Zone (clause 10.2(a) of the Town Planning Scheme No. 3 refers);
4. The proposed development is not compatible with its setting (clause 10.2(j) of the Town Planning Scheme No. 3 refers); and
5. The proposed development is not consistent with the preservation of the amenity of the locality by virtue of its front setback and orientation (clause 10.2(o) and 10.2(p) of Town Planning Scheme No. 3 refer).

The letter from Dale Alcock Homes, referred from Correspondence (MB Ref T109.3) was tabled.

**Cr de Jong – Cr Nardi**

**That the development application for 28 Allen Street be deferred to the December meeting, as per the applicant’s request.** CARRIED 5:0

**Note:**

As 5 Committee members voted for the amended recommendation which was supported by the Manager Planning Services, 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.

**T114. CONFIDENTIAL BUSINESS**

Nil.

**T115. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

Nil.

**T116. CLOSURE OF MEETING**

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

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **6 November 2012**, Minute Book reference **T104. to T116.** were confirmed at the meeting of the Committee on*

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**Presiding Member**