

8 May 2012

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 8 MAY, 2012 COMMENCING AT 6.30PM.

T35. OPENING OF MEETING

The Presiding Member opened the meeting.

T35.1 Present

Cr Alex Wilson	Presiding Member
Cr Barry de Jong	
Cr Cliff Collinson	
Cr Siân Martin	
Cr Maria Rico	
Mr Jamie Douglas	Manager Planning Services
Ms Carly Pidco	Town Planner
Ms Janine May	Minute Secretary

T36. 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.”

T37. WELCOME TO GALLERY

There were 17 members of the public in the gallery at the commencement of the meeting.

T38. APOLOGIES

Mayor Alan Ferris
Cr Dean Nardi

T39. CONFIRMATION OF MINUTES

T39.1 Town Planning & Building Committee (Private Domain) – 10 April 2012

Cr de Jong – Cr Martin

That the Town Planning & Building Committee (Private Domain) minutes dated 10 April 2012 as adopted at the Council meeting held on 17 April 2012 be confirmed.

CARRIED

T40. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T40.1 Fraser Street No. 41 (Lot 4279)

Email received from Peter Broad addressing the recommendations of the heritage consultant in relation to alterations and additions to 41 Fraser Street.

Cr de Jong - Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.14).

CARRIED

T40.2 Canning Highway No. 158 (Lot 3)

Objections from:

- G Cook
 - J Pittorini
 - C Tripi,
 - C Urry (State Swim),
 - T Moran (on behalf of Canning Highway Pty Ltd)
- in relation to proposed change of use at 158 Canning Highway.

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Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.9). CARRIED

T40.3 Canning Highway No. 158 (Lot 3)

Correspondence from Main Roads WA advising the proposal for change of use at 158 Canning Highway is acceptable subject to all vehicle access being restricted to the existing driveway.

Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.9). CARRIED

T40.4 Canning Highway No. 158 (Lot 3)

Email from J Drury supporting the proposal for change of use at 158 Canning Highway.

Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.9). CARRIED

T40.5 Canning Highway No. 158 (Lot 3)

Email from Dharmapala Buddhist Centre addressing objections to the proposal for change of use at 158 Canning Highway.

Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.9). CARRIED

T40.6 Canning Highway No. 158 (Lot 3)

Copy of correspondence from Margaret River Law addressed to applicants setting out legal position in relation to consent required from strata owners for the proposed change of use at 158 Canning Highway.

Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.9). CARRIED

T40.7 Chauncy Street No. 4 (Lot 5037)

Email from Hartree & Associates Architects attaching letter of support from adjoining owner at 6 Chauncy Street as per Recommendation item (d) of officer's report.

Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.3). CARRIED

T40.8 Oakover Street No. 80 (Lot 313)

Email from M Kenny & D McKenna addressing comments submitted by the adjoining owner to the rear of 80 Oakover Street.

Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.13). CARRIED

T40.9 Oakover Street No. 80 (Lot 313)

Subsequent email from M Kenny & D McKenna attaching a report from their designer in relation to the adjoining (rear) owner's comments and offering to lower the ground floor slab further to achieve the 2400 wall height.

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Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.13). CARRIED

T40.10 Oakover Street No. 80 (Lot 313)

Further correspondence from M Rico, adjoining owner to the rear, strongly objecting to the loss of her only view corridor should the shed at 80 Oakover Street be approved in its proposed location.

Cr de Jong – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T42.13). CARRIED

T41. REPORTS OF COMMITTEES

T41.1 Town Planning Advisory Panel – 24 April 2012

Cr Wilson – Cr de Jong

That the minutes of the Town Planning Advisory Panel meeting held on 24 April 2012 be received and each item considered when the relevant development application is being discussed. CARRIED

T42. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL

T42.1 Receipt of Reports

Cr Martin – Cr Collinson

That the Reports of Officers be received. CARRIED

T42.2 Order of Business

Cr de Jong – Cr Rico

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

Cr de Jong declared a proximity interest in the following item as his residence adjoins the subject property and left the meeting at 6.34pm.

T42.3 Chauncy Street No. 4 (Lot 5037)

Applicant: Hartree & Associates Architects

Owner: J & M Gale

Application No. P37/2012

By Carly Pidco, Town Planner, on 3 May 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of alterations and extensions at No. 4 Chauncy Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 736m² freehold lot
- zoned Residential 12.5
- located in the Richmond Hill Precinct
- improved with a two-storey single dwelling

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Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamped received on 9 March 2012

Date Application Received

9 March 2012

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

Nil

CONSULTATION

Advertising

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

Town Planning Advisory Panel Comments

The application involves minor cosmetic alterations to the existing facade (retiling, new feature screen) and the new skillion roof form will be visible from the street. The alterations have minimal impact on the streetscape, however, and referral to the TPAP is not appropriate.

Site Inspection

By Town Planner on 2 May 2012

ASSESSMENT

The proposed development is consistent with the objectives for the Residential Zone. The 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

Site:	Required	Proposed	Status
Open Space	55%	70%	A
Site Works	Less than 500mm	Less than 500mm	A
Local Planning Policies:			
Policy 142	Boundary setback and building height variations		D
Roof	Skillion, 2 degrees, trimdeck metal		D
Solar Access & Shade	Living rooms and alfresco face north		A
Drainage	To be conditioned		A
Views	Exceeds maximum height		D
Crossover	To be conditioned		A
Trees	To be conditioned		A

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Other:	Issues	Status						
Overshadowing	6% overshadowing No. 2 Chauncy	A						
Privacy/Overlooking	3.2m over North-West boundary	D						
Height:	Required	Proposed	Status					
Wall	5.6	No change	A					
Wall (concealed roof)	6.5	NW: 6.7; NE: 6.9	D					
Ridge	8.1	No change	A					
Roof type	Skillion roof							
Setbacks:								
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status	
Front (SW)								
<i>Ground</i>	Dwelling	No change						A
<i>Upper</i>	Dwelling	No change						A
Rear (NE)								
Ground	Bed 3 / Bed 4	N/A	N/A	N/A	6.0	9.8	A	
	Dwelling	No change						A
Upper	Terrace / Dining	N/A	N/A	N/A	6.0	7.7	A	
	Dwelling	No change						A
Side (NW)								
<i>Ground</i>	Dwelling	3.4	13.3	Y	1.5	3.6	A	
<i>Upper</i>	Dwelling	6.7	18.0	Y	5.0	3.2	D	
	Terrace	No change						A
Side (SE)								
<i>Ground</i>	Study / Activity	No change						A
	Dwelling	2.3	17.5	N	1.5	6.2	A	
<i>Upper</i>	Bed 1 / Bed 2	No change						A
	Dining	5.6	17.5	Y	4.5	6.2	A	

Roof Form

The proposal includes replacing the northern portion of the existing hipped roof with a skillion concealed roof form. The LPP 66 does not list skillion rooves as an acceptable dominant roof form. The intent of the policy is to ensure that development respects the heritage character of much of the Town. However, Chauncy Street is not rich in heritage dwellings, with most houses being of 1970s or modern construction. The proposed skillion roof will not detract from the character of the subject dwelling or the surrounding streetscape. It is recommended that the proposed skillion roof be supported.

Building Setbacks

The development proposes a variation to side setback requirements on the upper storey wall facing the north-west boundary. It should be noted that the development follows the existing setback line, however, the wall height is increased which in turn increases the minimum setback required under the R-Codes. Part 3 of the LPP 142 provides standards for assessing proposed boundary setback variations, detailed below.

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

The subject building wall significantly exceeds the height and length dimensions provided. However, the wall will follow the existing building line and the proposed length and setback will appear similar to the existing. Although the rear portion of the wall will be higher than what is existing, the pitched roof element is to be removed and any perception of increased bulk is negligible.

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

The wall is visible from the main building line. However, it is set behind the projecting terrace and study at the front facade, and is separated from the side

boundary by the existing vegetation and terrace. The building will appear to be setback from the boundary as viewed from the street and the reduced setback will not impact on streetscape.

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

Complies:

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

The wall follows the existing line of development and does not have an undue impact on the streetscape. Although the provided setback does not meet requirements, it is substantial and will provide adequate separation between properties. The property is located on the corner of a T-junction and the reduced setback is not located in the immediate view corridor of any dwellings.

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

The wall does not abut any existing or similar wall. However, it follows the existing building line with a minor increase in building height. It is not considered to have any greater impact on the adjoining dwelling than what is existing.

Visual Privacy

It should be noted that the existing uncovered terrace along the North-West side of the property exceeds 1m in dimension and can therefore be considered an outdoor living area for privacy purposes under the R-Codes. However, the proposed North-West building wall and pergola will give clear delineation between the new and old terraces, and it is unlikely that activity in the new terrace will significantly “spill” onto the old terrace area. Therefore, the cone of vision from the terrace has been measured from the main North-West building line and not the edge of the existing uncovered terrace. On the basis of this assessment, the cone of vision from the terrace intrudes 3.2m over the North-West boundary. At a site visit (photographs attached), the officer observed that No. 4 Chauncy sits significantly higher than its North-West neighbour and a clear view into the backyard and rear dwelling windows of this neighbour is possible from the existing terrace. The approximately 1m increase in privacy setback described above will not significantly reduce this view. The new terrace, by virtue of its easy access from habitable rooms and open design, is likely to be a highly used area and have a greater impact on the privacy of the neighbour than what currently occurs. The submitted plans do not propose any screening, planting or alternative measures to minimise the intrusion on the neighbouring property. Notwithstanding this, it is acknowledged that the existing development would not comply with current privacy requirements, and Council does not have any complaint from the owners of No. 6 Chauncy Street on record. Should the affected neighbour not object to the proposed development, the proposed privacy variations are not unsupportable. However, given the scale of the likely impact of the development on privacy, the silence of the affected neighbour during the consultation process is not considered adequate, and written confirmation of no objection should be received prior to approval of the application in its current form.

Building Height

The proposed dwelling exceeds the height requirements of LPP142 as measured from the North-West and North-East boundaries. This is due to the considerable slope of the block, with the adjoining dwellings on these boundaries sitting lower than No. 4 Chauncy. It is worth noting that the overall height of the dwelling will be lower than what is existing, with the pitched roof being replaced with a skillion roof. The overheight elements will not have an impact on the amenity of the North-West and North-East neighbours as there is no overshadowing and the main view corridor is to the North, that is, in front of the

overheight elements. It is recommended that the proposed variations to building height be approved.

CONCLUSION

The proposed development incorporates several variations to the Town's Local Planning Policies and Residential Design Codes. Variations being sought in relation to building height, building setbacks and roof form are unlikely to have an impact on the amenity of neighbouring properties or the streetscape and are supported. The proposed variation to visual privacy requirements is significant, and it is recommended that written confirmation of the affected neighbour having no objection to the proposal be received prior to issuing any approval. Should this not be obtainable, it is recommended that revised plans including privacy screening be required. It is recommended that the development application be approved on receipt of the written confirmation or revised plans, and subject to conditions.

RECOMMENDATION

That the applicant be advised that following a written submission from the owner of No 6 Chauncy Street being received by the Town stating no objection to the proposed development, or, revised plans being received by the Town demonstrating compliance with the visual privacy requirements of the Residential Design Codes of Western Australia, to the satisfaction of the Chief Executive Officer, 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 3.2m side setback from the North-West wall of the dwelling North-West boundary;
- (b) vary the building height requirements of the Local Planning Policy 142 to permit a maximum wall height (concealed roof) of RL40.72 as provided on the submitted and approved plans;
- (c) vary the requirements of the Local Planning Policy 66 to permit a skillion roof form as provided on the submitted and approved plans; and
- (d) (if consent received from owners of 6 Chauncy Street) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the terrace to intrude 3.2m over the north-west boundary.

for the construction of alterations and additions at No. 4 (Lot 5037) Chauncy Street, East Fremantle, in accordance with the plans date stamped received on 9 March 2012 subject to the following conditions:

1. The proposed swimming pool does not form part of this approval.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All 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 by Council. (*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"*

The email from Hartree & Associates Architects, referred from Correspondence (MB Ref T40.7) was tabled.

Mr Hartree (architect) addressed the meeting outlining aspects of the proposal and the consent received from the owner of 6 Chauncy Street.

Elected members commended Mr Hartree on the quality of the documentation provided.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Collinson

That the applicant be advised Council exercises its discretion in granting approval for the following:

- (a) **variation to the side setback requirements of the Residential Design Codes of Western Australia to permit a 3.2m side setback from the North-West wall of the dwelling North-West boundary;**

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- (b) variation to the building height requirements of the Local Planning Policy 142 to permit a maximum wall height (concealed roof) of RL40.72 as provided on the submitted and approved plans;
- (c) variation to the requirements of the Local Planning Policy 66 to permit a skillion roof form as provided on the submitted and approved plans; and
- (d) variation to the visual privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the terrace to intrude 3.2m over the north-west boundary.

for the construction of alterations and additions at No. 4 (Lot 5037) Chauncy Street, East Fremantle, in accordance with the plans date stamped received on 9 March 2012 subject to the following conditions:

1. The proposed swimming pool does not form part of this approval.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All 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 by Council. (*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.***

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) 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

Cr de Jong returned to the meeting at 6.40pm and it was noted he did not speak or vote on the previous item.

T42.4 Sewell Street No. 66 (Lot 646)
Applicant: J Cornish
Owner: J Cornish
Application No. P48/2012
By Carly Pidco, Town Planner, on 3 May 2012

PURPOSE OF THIS REPORT

This report recommends deferral of determination of a Development Application for construction of a single dwelling at No. 66 Sewell Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 253m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- vacant

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5 (to be assessed as R35 in accordance with clause 5.3.3)

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)

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

Impact on Public Domain

Tree in verge : To be removed – supported by Operations Manager

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Light pole : No impact
Crossover : New crossover proposed
Footpath : New crossover proposed over footpath
Streetscape : New dwelling

Documentation

Plans and relevant forms date stamped received on 28 March 2012
Amended plans date stamped received on 1 May 2012

Date Application Received

28 March 2012

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

25 March 2004 Council advises the landowner that the existing dwelling requires structural works to be completed before the dwelling can be occupied for human habitations
29 August 2005 Council issues demolition licence for existing dwelling
17 October 2006 Council resolves to approve a development application for construction of a single dwelling

CONSULTATION

Advertising

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

Town Planning Advisory Panel Comments

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

- *Panel does not support application in its current form.*
- *Panel recommends staggering development so that house presents as a single storey to the street front (Review Design Guidelines for Plympton).*
- *Highly intact streetscape that should be reflected in the scale of the design.*
- *Query overshadowing impact.*
- *Proposal appears over height.*
- *Ensure clearance of limestone wall to No 68 is conserved.*

Site Inspection

By Town Planner on 2 May 2012

ASSESSMENT

The proposed development borrows from the general design principles of the development approved in 2006. Significant changes include a reduction in overall footprint, deletion of an undercroft garage and an increase to building height as viewed from the street. As the previous approval has lapsed and the current application varies significantly from what was previously approved, the application is to be assessed on its own merit.

The proposed development is located in the Plympton Ward on a street with a generally intact heritage character. The subject site is located between two existing heritage dwellings. Any new development on this site must be assessed against its impact on the streetscape and the character of the locality (refer clause 10.2 of TPS No. 3). The Local Planning Strategy provides that new development in the Plympton precinct "is to be generally small scale and sympathetic to the character (form, mass and materials) of existing development." The proposed dwelling is of significant height, with a finished floor level higher than that of the adjacent uphill dwelling. It is acknowledged that the applicant has provided a significant setback to limit the visual impact of building height on the street, however, the setback is not consistent with the intimate urban character described in the LPS. The officer concurs with the Panel's concerns with respect to the visual impact of the development on the streetscape. Further information demonstrating this

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impact, such as a composite streetscape analysis, should be provided to aid 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	45%	58%	A				
Site Works	Less than 500mm	Less than 500mm within 3m of street alignment	A				
Local Planning Policies:							
Issues							
Policy 142	Variations to building height, boundary setbacks, streetscape		D				
Roof	Gable, 30 degrees, colorbond 'Monument'		A				
Solar Access & Shade	Limited fenestration to north. Rear yard faces north.		A				
Drainage	To be conditioned		A				
Views	Exceeds maximum height		D				
Crossover	To be conditioned		A				
Trees	Verge tree to be retained - condition		A				
Other:							
Issues							
Overshadowing	38.4% over No. 68 Sewell (max 25%)		D				
Privacy/Overlooking	Rear deck: 7.5m over northern and southern boundaries		D				
Height:							
	Required	Proposed	Status				
Wall	5.6	West: 5.7. South: 6.25; East: 6.25; North: 7.35	D				
Ridge	8.1	West: 8.9; North: 8.85	D				
Roof type	Gable						
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
Ground	Dwelling	N/A	N/A	N/A	Consistent with street	6.4, greater than surrounding	D
<i>Upper</i>	Dwelling	N/A	N/A	N/A	4.0	6.4	A
Rear (east)							
Ground	Dwelling	3.3	5.9	Y	1.5	11.1	A
<i>Upper</i>	Dwelling	6.25	5.9	Y	3.0	8.0	A
<i>Side (south)</i>							
Ground	Dwelling	3.3	26.5	Y	1.5	Nil at office/sitting/dining; 1.2 at balcony/living; 2.1 at entry	D
	Deck	3.0	26.5*	Y	1.5	Nil – 0.6	D
<i>Upper</i>	Balcony	6.25	3.2	Y	3.0	1.3	D
	Dwelling	6.25	24.0	N	2.7	Nil at Activity/Bed 3; 1.3 at Bed 1; 2.1 at hall	D

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<i>Side (north)</i>							
Ground	Balcony / Living	4.4	9.6	N	1.5	Nil	D
	Kitchen / Laundry	3.9	9.6	N	1.5	Nil	D
	Dwelling	4.4	26.5	N	1.8	1.0	D
Upper	Bed 1 / Ensuite / Balcony	7.4	9.6	N	1.5	Nil	D
	Bed 2 / Bath	6.9	9.6	N	1.5	Nil	D
	Dwelling	7.4	24.0	N	3.0	1.0	D

* Wall length as calculated for assessment purposes

It is acknowledged that No. 66 Sewell Street is a highly constrained lot (6.14m wide and sloping), and it is not unexpected that variations to requirements may be sought. A detailed assessment of each area variation sought is not included in this report, however, as the officer recommends deferral of the application pending additional information which may alter the codes based assessment.

CONCLUSION

The proposed development incorporates several variations to the Town's Local Planning Policies and Residential Design Codes. The development is not consistent with the existing streetscape and character of the locality, as provided for in the Local Planning Strategy and Town Planning Scheme No. 3. Further information may assist in better understanding the full impact of the development on the streetscape and this should be sought prior to making a determination. It is recommended that the application be deferred to allow for further consultation between the applicant and planning officer in relation to streetscape issues.

RECOMMENDATION

That Council defer determination of the development application for the construction of single dwelling at No. 66 (Lot 646) Sewell Street, East Fremantle, in accordance with the plans date stamped received on 1 May 2012, subject to resolution of the following issues:

1. Further information and/or revised plans addressing the impact of the proposed dwelling on the streetscape and character of the locality;
2. Further information and/or revised plans responding to the concerns raised by the Town Planning Advisory Panel; and
3. Revised plans addressing compliance with the BCA fire rating standards along the side deck.

Mr Bylund (architect) addressed the meeting advising of an error in the height dimensions shown on the submitted plans and which would be rectified in revised plans.

Elected members expressed some concern with the impact of the two storey element to the street and requested that consideration be given in the revised proposal to the front of the residence being single storey.

Mr Bylund advised that moving the two storey element back would reduce the outdoor space at the rear of the property proposed for the applicant's children and increase the overshadowing to the neighbour's outdoor area.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That Council defer determination of the development application for the construction of single dwelling at No. 66 (Lot 646) Sewell Street, East Fremantle, in accordance with the plans date stamped received on 1 May 2012, subject to resolution of the following issues:

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1. Further information and/or revised plans addressing the impact of the proposed dwelling on the streetscape and character of the locality;
2. Further information and/or revised plans responding to the concerns raised by the Town Planning Advisory Panel; and
3. Revised plans addressing compliance with the BCA fire rating standards along the side deck. CARRIED

T42.5

George Street No. 88 (Lot 433 & 534)

Applicant: Peter Broad: In House Building Design

Owner: Puresea Investments Pty Ltd

Application No.: P46/2012

By Jamie Douglas, Manager Planning Services on 30 April 2012

PURPOSE OF THIS REPORT

This report considers an application for the addition of a verandah over the footpath fronting the commercial tenancies at 88 George Street and recommends approval.

BACKGROUND

Description of subject Site

The subject site is:

- zoned Mixed Use;
- located in the Plympton Precinct
- 794m² in area;
- developed with three storey mixed use building that has a façade which is included on the Town's Municipal Inventory (management category B[^]); and
- located within the George Street Heritage Precinct. The George Street Precinct is listed in the Town Planning Scheme 3 Heritage List.

Description of Proposal

The subject site has been previously approved as two shops and two residences. It is proposed to establish a 'bull nosed verandah' over the footpath in front of the commercial tenancies. The veranda would be of wood and custom orb construction attached to the building façade and supported at its extremities by four chamfered timber posts.

Statutory Considerations

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy

Date Application Received

27 March 2012

Date Advertised

Not advertised due to minor nature of the works.

Site Inspection

By Manager Planning Services on 10 April 2012

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

- | | |
|------------------|---|
| 15 July 2008 | Council approves a planning application for a three-storey mixed-use development at the subject site. |
| 15 December 2009 | Council approves an amended planning approval for a three storey development, by approving additional floor space. |
| 14 July 2010 | Council defers determination of an application to replace the façade and return walls of 88 George Street |
| 10 February 2011 | CEO determines under delegation not to approve replacement of façade and return walls, these to be retained and incorporated within the development |

CONSULTATION

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting on 24 April 2012. The Panel commented as follows:

- *Panel supports addition of bullnose verandah.*
- *Reconsider collars to chamfered verandah posts as no evidence for these on existing building.*
- *Ply infill signage area is too overbearing for the frontage of the building, and distorts the aesthetic values of the facade.*
- *Signage should be subject to a separate application.*

Public Submissions

No submissions received.

ASSESSMENT

Considerable effort has been expended to conserve the façade of the subject building, accordingly specialist architectural advice was sought in regard to the appropriateness of the proposed veranda. Phillip Griffiths Architect advised as follows:

Firstly and if at all possible, the verandah should be at least 2.4 wide if it has posts. I can see that there is a street light in the way, but the following could occur as it did historically. The lamp post could penetrate the verandah, the light post could be moved to accommodate the verandah, or the streetlight could be located on the building.

The stop chamfered posts are fine, the post capitals look about right, foundation on a low concrete stub column is not correct, but given the conditions is acceptable, the bottom of the sign board panels should line with the door head, the ply should be marine grade, or CFC, the skillion gables were generally vertically boarded rather than horizontal and the roof could be an ordinary skillion or the bull nose that is shown.

In terms of getting the details right, it would be good if the jointing could make use of bolts rather than gang-nail plates.

This project has come a long way since it was first mooted.

In summary, I think the most important thing to try to achieve is getting the width correct so that the posts won't be a nuisance to pedestrians and all the proportions will then be correct.

These comments are generally supported by the Town Planning Advisory Panel.

The proposed changes were discussed with the applicant's architect who has submitted amended plans which address these design details and increase the width of the verandah. However the ply infill signage areas have not been deleted on the amended plans and it is proposed that these signage elements should be subject to a separate application. The applicants' architect has responded to the Panel's comments stating that the height of the ply panels will not limit the appreciation of the façade and that the chamfered verandah posts are consistent with original joinery associated with the building. The comments in respect to the verandah posts are supported.

Given the structure is to be established above the footpath, the application was also referred to the Manager – Operations, Ken Dyer who supported the increase in width of the verandah which would reduce restriction to pedestrian movement. He further considered that the verandah posts would offer only minor obstruction to opening car doors.

The proposed verandah as amended is consistent with similar structures in George Street and will provide shade and shelter to pedestrians.

CONCLUSION

The proposed veranda as amended is considered to merit approval subject to the deletion of the ply infill signage areas and that the building signage should be the subject of a separate application.

RECOMMENDATION

That the application at No. 88 (Lot 433 & 534) George Street, East Fremantle for a 'bull nosed verandah' over the footpath in front of the commercial tenancies as designated in the amended proposal plans date stamp received 30 April 2012, be approved subject to the following conditions:

1. The 'ply infill signage area' indicated on the amended proposal plans is not approved and shall be deleted from any plans submitted for a subsequent building licence.
2. 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.
3. Any proposed signage to be the subject of a separate application for planning approval.
4. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Riccardi (owner) addressed the meeting in support of the proposal.

Elected members remarked on the excellent work being carried out to 88 George Street.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Rico

That the application at No. 88 (Lot 433 & 534) George Street, East Fremantle for a 'bull nosed verandah' over the footpath in front of the commercial tenancies as designated in the amended proposal plans date stamp received 30 April 2012, be approved subject to the following conditions:

1. The 'ply infill signage area' indicated on the amended proposal plans is not approved and shall be deleted from any plans submitted for a subsequent building licence.
2. 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.
3. Any proposed signage to be the subject of a separate application for planning approval.
4. 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.*

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

T42.6

George Street No. 88 (Lot 433 & 534)

Applicant: Peter Broad: In House Building Design

Owner: Puresea Investments Pty Ltd

Application No.: P45/2012

By Jamie Douglas, Manager Planning Services on 3 May 2012

PURPOSE OF THIS REPORT

This report considers an application for a change of use from shop to café and retail at 88 George Street and recommends approval.

BACKGROUND

Description of subject Site

The subject site is:

- zoned Mixed Use;
- located in the Plympton Precinct
- 794m² in area;
- developed with three storey mixed use building that has a façade which is included on the Town's Municipal Inventory (management category B[^]); and
- located within the George Street Heritage Precinct. The George Street Precinct is listed in the Town Planning Scheme 3 Heritage List.

Description of Proposal

The subject site has been previously approved as two shops and two residences. It is proposed to change the use of Shop A to a café and retail to accommodate a business called 'cookie dough store'. The business will retail biscuits manufactured on site and provide seating for 20 patrons to consume beverages and biscuits.

The proposal also includes internal works comprising kitchen and retail counter on the ground floor and an additional toilet on the mezzanine floor. Seating is to be provided for four patrons on the ground floor and sixteen patrons on the mezzanine floor.

No external changes to the building or to the on-site car parking provisions are proposed.

Statutory Considerations

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy

Relevant Council Policies

Local Planning Policy - George Street Precinct New Development Contribution to the Management of Access and Parking

Date Application Received

27 March 2012

Date Advertised

16 April 2012

Close of Comment Period

4 May 2012

Site Inspection

By Manager Planning Services on 10 April 2012

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

15 July 2008

Council approves a planning application for a three-storey mixed-use development at the subject site.

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15 December 2009	Council approves an amended planning approval for a three storey development, by approving additional floor space.
14 July 2010	Council defers determination of an application to replace the façade and return walls of 88 George Street
10 February 2011	CEO determines under delegation not to approve replacement of façade and return walls, these to be retained and incorporated within the development

CONSULTATION

Town Planning Advisory Panel

This application was not considered by the Town Planning Advisory Panel since it does not incorporate external alterations to the building.

Public Submissions

One submission was received which is summarised and responded to by the Manager Planning Services below.

K Bailey & K Waters 36 Sewell Street	Response
Noise levels – Patrons at the café would be clearly audible from our garden and in our lounge room.	The proposal is for 20 seats to be contained wholly inside the building. The building has solid parapet side and rear walls. There are no openings from the proposed seating area relevant to the objector's property. It is not considered that noise transfer sufficient to cause disturbance will occur. Al fresco dining is not proposed and would require a further application to Council.
Smoking – Smoke from patrons would drift into our garden area as we are downwind from the proposed area.	Smoking is prohibited by law within the premises. Al fresco dining is not proposed.
Parking issues – Patrons driving to the café would use Sewell Street for parking. (Patrons to the existing establishments on George Street frequently park outside our house and often disturb us in both the mornings and evenings with noisy conversations, by slamming car doors etc) the proposal would exacerbate this.	The George Street Precinct is a long established commercial precinct which has been zoned 'Mixed Use' in TPS No 3 since 2004. Expectations of amenity should reasonably be based upon likely levels of activity to be anticipated in proximity to this zone. The objector's site abuts the subject site which is approved as a mixed use commercial development. Car parking issues are addressed in detail within the body of this report.
Cooking/garbage smells: There is no capacity to store the additional bins required for this type of establishment other than against the fence that borders our property.	The proposed activity involves the preparation, sale and consumption of coffee and 'cookies'. As such food waste should be minimal. However, bin storage areas are not identified on the proposal plan and it is considered therefore that any approval should be conditional upon the approval of a waste management plan.

ASSESSMENT

The internal works and the proposed change in the use of the shop to a café to allow for the sale and consumption of foodstuffs and beverages on site does not raise any substantive planning issues other than the provision of car parking.

The prior approval of the mixed use development in 2008 varied the on-site car parking requirements of TPS No 3 from 9 spaces to 4 spaces. The development therefore has an existing shortfall of 5 on site spaces. In accordance with the adopted practice in respect to commercial redevelopment proposals in the George Street Precinct, the assessment

of parking demand in respect to the current application addresses the variation in the parking requirements arising from the change in use. It does not attempt to redress the existing onsite parking shortfall.

The applicant submits there are 4 covered bays on site divided equally between the two residences and the two shops. It is further submitted that 2 jockey bays within the driveway should also be counted as onsite parking. However it is noted these bays would restrict access to all but one of the covered bays and it is therefore not considered to be a practical arrangement given the multiple tenancies proposed on site. Accordingly these jockey bays are discounted.

The onsite parking requirements under TPS No3 are as follows:

'shop' – 1 space for every 20m² NLA with a minimum of 4 spaces

'restaurant' (includes café) 1 space for every 5 seats or

.. 1 space for every 5 persons the building is designed to accommodate or

.. 1 space for every 5m² seating area, whichever is the greater, plus

.. 1 space for every staff member present at any time.

The existing shop has a floor area of 93.35m² therefore its parking requirement under TPS No.3 is 4 onsite spaces. The proposed café has 20 seats and the submission indicates that there will be a total of 3 staff on site at any one time so the parking requirement will be 7 on site spaces. Therefore the difference in the parking requirement under TPS No3 between the existing and proposed use is 3 spaces. It should be noted that if the parking standards of TPS No 3 are strictly applied, the parking generation would be more since it is proposed to retain some retail function in addition to the proposed café use. However in practice, it is not considered necessary to attribute parking to the retail function given the limited floor area available for this use.

As stated, the development is subject to the LPP - *George Street Precinct New Development Contribution to the Management of Access and Parking*

The relevant policy provisions are as follows:

- 3.1 *This policy shall apply to all new development and proposals for change of use and redevelopment within the George Street Mixed Use Precinct as defined on the Town of East Fremantle Town Planning Scheme No 3, Town Planning Scheme Map No.1.*
- 3.2 *Contributions will be required at the rate of \$9,000 per space for each space not provided on site, after onsite and immediately adjacent on-street parking spaces (where it is determined that these can be attributed to meet the parking demand of the development) have been deducted from the estimated parking space requirement. The contribution will be required as a condition of Planning Approval and payment will be required prior to the grant of a building licence.*

Under the Policy the applicant would be required to pay \$27,000 for the 3 spaces not provided on site. The application of this requirement as a condition of planning approval is consistent with the requirements applied to other recent commercial developments within the George Street Precinct. By comparison, if 'cash-in-lieu' contributions were applied pursuant to clause 5.8.8 of the Scheme the requirement would be \$67,500.

The application does not include signage details and any signage would therefore be the subject of a separate application. Similarly al fresco dining is not included within the proposal and would require the further approval of Council.

CONCLUSION

The proposal should be approved subject to a requirement to contribute \$27,000 to the cost of management of parking and access in the George Street Precinct.

RECOMMENDATION

It is recommended that the application at No. 88 (Lot 433 & 534) George Street, East Fremantle for a partial change of use from shop to restaurant (café) in Shop 'A' as designated on the proposal plans date stamp received 27 March 2012, be approved subject to the following conditions:

1. The applicant shall pay to the Town of East Fremantle (**Town**) \$27,000 representing the owner's contribution (**Contribution**) to the preparation and implementation of the George Street Precinct Access and Parking study (**the Study**). No use the subject of this approval may be commenced prior to the receipt of the Contribution by the Town.
2. The number of diners to be accommodated on the premises at any onetime shall not exceed twenty persons and they shall be contained wholly within the premises.
3. 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.
4. Any proposed signage to be the subject of a separate application for planning approval.
5. A waste management plan shall be approved to the satisfaction of the Chief Executive Officer prior to the occupation of the premises.
6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *This approval specifically excludes al fresco dining. Any such proposal will require further application to Council.*

Ms Walsh (applicant) and Mr Riccardi (owner) addressed the meeting in support of this proposal.

Mr Bailey (adjoining owner) addressed the meeting objecting to any outdoor seating for patrons and was assured all seating was contained within the building. Mr Bailey reiterated his comments in relation to patrons parking outside his residence early in the morning, given the café will open at 7am.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That the application at No. 88 (Lot 433 & 534) George Street, East Fremantle for a partial change of use from shop to restaurant (café) in Shop 'A' as designated on the proposal plans date stamp received 27 March 2012, be approved subject to the following conditions:

1. **The applicant shall pay to the Town of East Fremantle (Town) \$27,000 representing the owner's contribution (Contribution) to the preparation and implementation of the George Street Precinct Access and Parking study (the Study). No use the subject of this approval may be commenced prior to the receipt of the Contribution by the Town.**
2. **The number of diners to be accommodated on the premises at any onetime shall not exceed twenty persons and they shall be contained wholly within the premises.**
3. **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.**

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4. Any proposed signage to be the subject of a separate application for planning approval.
5. A waste management plan shall be approved to the satisfaction of the Chief Executive Officer prior to the occupation of the premises.
6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) ***This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (b) ***A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.***
- (c) ***All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).***
- (d) ***This approval specifically excludes al fresco dining. Any such proposal will require further application to Council.***

CARRIED

T42.7 **Petra Street No. 123 (Lot 23)**
Applicant: S Evans & A Richardson
Owner: S Evans & A Richardson
Application No. P35/12
By Carly Pidco, Town Planner, on 1 May 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of alterations and additions at 123 Petra Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 804m² freehold lot
- zoned Residential 12.5
- located in the Richmond Precinct
- improved with a single-storey single dwelling
- assigned B- Management Category in the Town's Heritage Survey 2006

Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Detached additions to heritage dwelling

Documentation

Plans and relevant forms date stamped received on 8 March 2012

Date Application Received

8 March 2012

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

16 September 1985	Council resolves to refuse an application for 1.8m high solid front fence
20 March 1998	Building Licence issued for construction of bathroom/laundry additions
2 September 2002	Building Licence issued for construction of rear extension to existing dwelling
7 February 2005	Building Licence issued for construction of patio addition

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 19 April 2012 to 4 May 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 27 March 2012. The Panel's comments and officer's assessment are detailed below.

Carport not to be forward of the front of the building.

The applicant has provided the following response to the Panel's comment:

- *I am pleased to say that the carport is currently in line with the existing residence, as advised by Gemma Basley during a council meeting which took place prior to drafting.*

The officer's assessment (as detailed below) addresses this matter.

- *Panel also appreciates submission of 3D rendering with the application.*

Noted.

Site Inspection

By Town Planner on 27 March 2012

ASSESSMENT

The proposed development is consistent with the objectives of the Residential Zone. A number of variations are being sought to the Town's LPP 142 Residential Development and the Residential Design Codes, as detailed below.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	70.9%	A
Site Works	Less than 500mm	Less than 500mm	A
Local Planning Policies:			
Policy 142	Issues		Status
	Setback variations		D
Roof	Steel orb, gable, 30 degrees		A
Solar Access & Shade	Retains solar access to rear		A
Drainage	To be conditioned		A
Views	Complies with maximum height requirements		A
Crossover	To be conditioned		A
Trees	To be conditioned		A
Other:	Issues		Status
Overshadowing	Contained within lot		A
Privacy/Overlooking	N/A		N/A
Height:	Required	Proposed	Status
Wall	6.0m	3.0m	A
Ridge	9.0m	4.5m	A
Roof type	Gable		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (East)							
Ground	Carport	N/A	N/A	N/A	At or behind building line	11.3m, forward of building line	D
Rear (West)							
Ground	Studio	N/A	N/A	N/A	6.0m	10.1m	A
Side (North)							
Ground	Carport	3.0m	15.6m*	N	1.5m	1.0	D
	Garage / Studio	3.0m	9.0m	N	1.0m	Nil	D
Side (South)							
Ground	Carport / Garage / Studio	N/A – behind existing dwelling					N/A

* Wall length as calculated for assessment purposes

Building Setbacks

Front Setbacks – Carport

The applicant has assessed the main building line as being the forward most portion of the building. However, the officer and TPAP consider the main building line to be that northern portion of the facade, behind the main porch. It is acknowledged that there is no set definition of main building line in the Town's policies, however, usual practice has been to designate the majority portion of the frontage behind any porch as the main building line; or alternatively to use an average setback. Given the varying setbacks of the existing dwelling, there is no clear majority building wall. If the varying setbacks were to be averaged, the average point would fall somewhere between the setbacks of the two building walls located behind porches. As the closest building wall to the average point, the northern portion is designated the main building line.

The carport opening and gable are wider than the existing porch and diminish its appearance from the streetscape. The ready identification of the main entrance to the dwelling is reduced. The existing dwelling is of significant heritage value and new development should clearly render the dwelling the dominant element as viewed from the street. It is recommended that the carport be setback at or behind the main building line. The site plan indicates that there is room to the rear of the proposed studio for the front setback to the new development to be increased without cause for major redesign or undue impact on the amenity of the existing dwelling.

Side Setbacks – Carport/Garage/Studio

The development proposes a single-storey parapet wall along the northern boundary. Part 3 of the LPP 142 provides standards for assessing proposed boundary setback variations, as follows.

- (a) *Walls are not higher than 3m and up to 9m in length up to one side boundary;*
In accordance with the R-Codes, the length of the carport wall on the northern boundary is assessed as 15.6m. However, the actual length of the parapet wall is 9m, with the balance of the building being set 1m from the boundary. The applicant has designed the development to limit the extent of the parapet wall and thus the visual impact on neighbouring properties. Further, the development that extends beyond the parapet wall is primarily the carport which is open-sided and of limited

bulk. While not strictly compliant with setback requirements, the development is not likely to have an undue impact on neighbouring properties and the streetscape.

- (b) *Walls are behind the main dwelling;*
The setback has been staggered so that the parapet wall element is located behind the main building line of the dwelling.
- (c) *Subject to the overshadow provisions of the Residential Design Codes – Element 9;*
Complies.
- (d) *In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and*
The 1m setback to the carport is considered consistent with the locality, which presents a balance between an intimate urban setting and clearly delineated properties. The parapet wall element is set well behind the main building line and will not be viewed easily from the street, minimising its impact on the streetscape. The maximum wall height is 3.0m (single-storey) and will not obscure 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, there are few major openings to the adjacent building and the visual impact will be limited. The setback has been staggered along the boundary to minimize impact on the neighbouring property.

The wall is not considered to have an undue impact on the streetscape. Its impact on the affected neighbor is limited and no objections have been received during the consultation process. It should also be noted that the reduced setback enables clear separation between the heritage dwelling and new addition, maintaining solar access to the windows of the dwelling and allowing the addition to be readily identifiable as new work. In consideration of the above, the proposed boundary setback variation is supported.

Heritage

The existing dwelling on the subject site is a heritage property assigned the B-Management Category in the Town's Heritage Survey. It receives high ratings on all assessment elements, particularly condition and integrity. The proposed addition is detached from the main dwelling and will be clearly identifiable as new work. However, the carport is set forward of the main building line and impacts upon the dominance of the heritage dwelling as viewed from the street. The carport reduces the open nature of the porch and clear identification of the front door, important design elements in a dwelling of this age. It is recommended that the carport be setback at or in line with the main building line to maintain the primacy of the heritage dwelling in the streetscape.

Land Use

A portion of the proposed addition is described as "Studio" but incorporates an ensuite bathroom and built in robe. It is noted from the applicant's covering letter that the studio may function as a guest room for visiting relatives. While not strictly considered to be "ancillary accommodation", it is recommended that the standard condition regarding occupancy of ancillary accommodation be applied to any approval for the studio.

CONCLUSION

The proposed development is generally compliant with the Town's Policies and Residential Design Codes with the exception of the proposed setback of the carport (which is not approved) and a proposed side setback variation to the northern boundary. This setback variation will not have an undue impact on the neighbouring property or streetscape, and allows for clear separation between the heritage dwelling and new work. No objections to the development have been received and the Panel's comments are generally supportive. It is recommended that the application be supported subject to the following conditions.

RECOMMENDATION

That the applicant be advised that following the submission of revised plans, which are to be to the satisfaction of the CEO, and which show the proposed carport set back in line with or behind the main building line, which is determined as being a front setback of 13.2m, that Council exercise its discretion in granting approval to:

- (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 and studio to the northern boundary,
- (b) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.0m setback from the northern wall of the carport to the northern boundary

for the construction of extensions at No. 123 (Lot 23) Petra Street, East Fremantle, in accordance with the plans date stamped received on 8 March 2012 subject to the following conditions:

1. The carport is to remain open open-faced at all times.
2. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the applicant's expense.
3. The studio addition shall not be independently leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.
4. The zincalume roofing be treated to Council's satisfaction to reduce reflectivity in the first two years following installation, at the owner's expense.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
8. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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. 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 Council. (*refer footnote (h) below*)
11. 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.
12. 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.
13. 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.
14. This planning approval to remain valid for a period of 24 months from date of this approval.

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Footnote:

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

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

Ms Richardson (owner) addressed the meeting seeking reconsideration of the officer's recommendation to set the carport back in line with the main building as it will reduce the rear outdoor space and position the doors to the studio relatively close to the outside toilet when opened.

Cr Martin queried the wording of proposed condition 3 which would restrict use of the studio for guests.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Rico

That the applicant be advised that following the submission of revised plans, which are to be to the satisfaction of the CEO, and which show the proposed carport set back in line with or behind the main building line, which is determined as being a front setback of 13.2m, that Council exercise its discretion in granting approval to:

- (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 and studio to the northern boundary,**
- (b) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.0m setback from the northern wall of the carport to the northern boundary**

for the construction of extensions at No. 123 (Lot 23) Petra Street, East Fremantle, in accordance with the plans date stamped received on 8 March 2012 subject to the following conditions:

- 1. The carport is to remain open open-faced at all times.**
- 2. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the applicant's expense.**
- 3. The studio addition shall not be independently leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family and their guests as the occupiers of the main dwelling.**

4. The zincalume roofing be treated to Council's satisfaction to reduce reflectivity in the first two years following installation, at the owner's expense.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
8. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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. 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 Council. (*refer footnote (h) below*)
11. 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.
12. 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.
13. 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.
14. 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.*

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

CARRED

Cr Wilson made the following impartiality declaration in the matter of 7 Gill Street: "As a consequence of the owners being known to me as the parents of my son's best friend, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T42.8 Gill Street No. 7 (Lot 6)
Applicant/Owner: Glenn Frewin
Application No. P7/2012

By Pina Mastrodomenico, Town Planner on 3 May 2012

PURPOSE OF THIS REPORT

This report considers an application for planning approval for alterations and additions to the residence including the construction of a garage and shed with boundary walls.

This report recommends that conditional approval be granted

BACKGROUND

Description of Proposal

The subject application proposes alterations and additions to the residence which include the following works:

- extending the existing single carport to create a double garage with a boundary wall;
- construction of a shed with a boundary wall.
- two covered alfresco areas located to the rear/side of the-site; and
- minor extensions to the existing rear rooms of the residence, including ensuite, robe and wc.

The application seeks discretions to the setback requirements of the Residential Design Codes (R-Codes) and Council's Local Planning Policies which will be discussed in the Assessment section of this report.

Additional information

Council considered this application at its meeting of 13 March 2012 and the following decision was made:

"That the matter be deferred to allow further information and discussions regarding Condition 3 of the Committee's recommendation"

Condition 3 stated the following:

"3. Prior to the issue of a building licence the proposed boundary wall to the shed shall have a maximum height of 3.5 metres from RL 8.71.

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The applicant has submitted that lowering the height of the boundary wall will not alter the overshadowing impact to the neighbouring property and hence the wall height of 4.05 metres as proposed should be approved. However as stated in the submission by adjacent owners at No.5 Gill Street, the wall will have a visual impact to the neighbouring property and the streetscape because of its relative height to the adjacent property. Accordingly, it is considered a boundary wall with a maximum height of 3.5 metres as required by proposed condition 3 will lessen the impact on the visual amenity of the neighbouring property and the streetscape.

Description of Site

The subject site is:

- a 911m² block
- zoned Residential R12.5
- developed with a single storey dwelling
- 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

Relevant Council Policies

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

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 17 January 2012

Date Application Received

17 January 2012

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

Nil

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 3 and the 20 February 2012.

At the close of advertising one submission was received from the owners of No. 5 Gill Street.

The submission has been addressed and has been outlined in the table below:

Neighbour Submission	Planning Comments
The length and height of proposed boundary wall to the shed on the southern elevation and the skillion roof to proposed shed having the highest point abutting No.5 Gill Street	The submission has been taken into consideration and it is considered that the best outcome for both parties is to reduce the height of the boundary wall from 4.05 metres to a maximum of 3.5 metres from the RL 8.71 in order to reduce the impact of the boundary wall on the neighbouring property. This will be conditioned accordingly.

Possible overshadowing of two office windows	Noted. Even if the proposed shed was set back the required 1.0 metre the overshadowing would have the same impact on the windows as the proposed boundary wall. The overshadowing proposed is 20% which complies with the R Codes.
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Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 28 February 2012 and the following comments were made:

- *Long shed on the southern elevation needs to be set back in line with principal wall (living room) in accordance with LPP 142.*
- *Finishes for garage and shed should be differentiated from existing residence-delete matching brickwork detail.*
- *Query definition of 'carport' on northern elevation as filled in on 3 sides.*
- *Query BCA requirements for ventilation to bedrooms and bathrooms on the southern elevation.*

The Panels comments are supported.

Applicant Justification

The applicant has submitted information in response to the Panels comments. This is outlined below.

Applicant comments in response to the Town Planning Advisory Panel comments	Planning Comments
<p><i>Long shed on the southern elevation needs to be set back in line with principal wall (living room) in accordance with LPP 142.</i></p> <p>The front of the lower shed was designed to match the existing shed on the north side of the house keeping with the original theme of the house.</p> <p>The north side shed protrudes out around 300m from the front face of the house.</p>	<p>Noted. The shed will be conditioned to be set back in line with the living room.</p>
<p><i>Finishes for garage and shed should be differentiated from existing residence-delete matching brickwork detail.</i></p> <p>The house is a rendered finish and it was our intention to render the front of the shed to match the shed on the north side of the house, again keeping in with the original theme.</p>	<p>Noted, however garage and shed should be differentiated from existing residence and as such the additions will be conditioned to be rendered without matching brickwork detail.</p>
<p><i>Query definition of 'carport' on northern elevation as filled in on 3 sides.</i></p> <p>I intended to have a large gate at the back end of the northern carport, this is to allow access to the back yard.</p>	<p>As the proposed "carport" abuts the neighbouring property with a boundary wall, it is defined as a garage under the r codes. The plans have been amended accordingly to depict the structure as a garage.</p>
<p><i>Query BCA requirements for ventilation to bedrooms and bathrooms on the southern elevation.</i></p> <p>No window on the southern side of the house will be obstructed by the shed.</p>	<p>Noted. Windows to the southern elevation are not obstructed by the shed.</p>

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	55%+	A				
Site Works	Less than 500mm	Less than 500mm	A				
Local Planning Policies:							
Policy 142	Two boundary walls		D				
Solar Access & Shade	No impacts		A				
Drainage	No impacts		N/A				
Views	No impacts		N/A				
Crossover	No impacts		N/A				
Trees	No impacts		N/A				
Other:							
	Issues		Status				
Overshadowing	Overshadowing is required to be less than 25% of adjoining property (20% overshadowing is proposed)		A				
Privacy/Overlooking	No impacts		A				
Height:							
	Required	Proposed	Status				
Wall – shed	3.0	3.18	D				
Wall –carport	3.0	2.89	A				
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Side (north)	Garage	2.89	6.52	No	1.0	Nil	D
Side (south)	Shed	3.18 (4.06 including retaining wall)	13.5	No	1.0	Nil	D

Site Inspection

By Town Planner on 10 February 2012

ASSESSMENT

Condition 3 of Committee's recommendation dated 21 March 2012 states as follows;

"3. Prior to the issue of a building license the proposed boundary wall to the shed shall have a maximum height of 3.5 metres from RL 8.71"

Following further assessment of the impact of the proposed shed it is recommended that this condition be retained.

The subject application proposes a garage set back at the main building line of the existing dwelling, and a shed setback forward of the main building line, with both structures proposing boundary walls. Also proposed are additions to the rear of the residence, including two covered alfresco areas and minor additions to the rear.

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the boundary walls and the location of the shed forward of the main building line.

Streetscape

Local Planning Policy No. 142 states in Part 2 – Streetscape:

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

However the proposed shed is located in alignment with bedroom 1 and in front of the main building line. Because of its location the proposed shed is considered to dominate the street frontage of the building.

The policy is not definitive in what constitutes the main building line however based on past assessments it is evident that the policy has generally been interpreted to refer to the dominant wall of the front of the house (the widest section of wall occupying the greatest part of the frontage of the dwelling). When applying this to the subject application, the main wall of the house can be considered as the living room. Accordingly it is considered the proposed shed should be conditioned to be set back to align with the main building line, as defined above, to comply with the front setback requirements of Local Planning Policy No. 142.

As Building on the Boundary

The application proposes to construct two boundary walls, with one being a shed located on the southern boundary and the other a garage on the northern boundary.

The proposal has been assessed against the quantitative provisions of TPS3, the R-Codes 2008 and the applicable Local Planning Policies, the proposal was found to meet the majority of the requirements with the exception of LPP 142 and the Clause 6.3.2 (Buildings on Boundary) of the R-Codes. A description of these variations is summarised below.

Council's Local Planning Policy No. 142 provides for the construction of residences with walls situated closer to the boundary than permitted by the R-Codes where the following can be observed:

- “(a) Walls are not higher than 3m and up to 9m in length up to one side boundary;*
(b) Walls are behind the main dwelling;
(c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;
(d) In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and
(e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.”

The proposed nil setback to the garage (northern boundary) satisfies the majority of the above criteria as demonstrated below:

- The maximum height of the boundary wall on the southern boundary is 2.89 metres which is lower than the average and maximum boundary wall height permitted;
- The maximum length of the boundary wall is less than 9 metres;
- The proposed boundary wall is at the side of the residence and is not forward of the main residence;
- The construction of a boundary wall on the southern boundary will not result in any overshadowing of the adjoining property.

The proposed second boundary wall to the shed (southern boundary) does not satisfy all the criteria outlined under LPP 142 however can be supported as a variation to the policy for the following reasons:

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- The maximum height of the boundary wall on the southern boundary is 3.18 metres which is only 0.18 higher than the maximum boundary wall height permitted, however the shed proposes a height of 4.06 metres from the neighbouring property due to the existing lower ground level. As such the boundary wall has been conditioned to be a maximum height of 3.5 metres from the RL 8.71 (the existing ground level at the neighbouring property at No.5 Gill Street)
- The maximum length of the boundary wall exceeds the 9 metres by 4.05 metres, however overshadowing is compliant.
- Two office windows to the neighboring property to the south will be slightly overshadowed, however the boundary wall complies with overshadowing requirements.
- The proposed boundary wall abuts an existing carport on the adjoining property and is set back 7.34 metres from the street.
- The shed will be partially screened from the street by an existing mature tree.

The variation has also be assessed against the Performance Criteria of the R-Codes and based on the following is considered to be acceptable development:

- The reduced setback will not restrict sunlight or ventilation to the existing residence.
- The reduced setback and extension to the garage complies with the overshadowing requirements of the R Codes.
- The reduced setback will not have any significant adverse effect on the adjoining property.

It is considered there is merit in an exercise of discretion to allow two boundary walls on the subject site.

Heritage Assessment

The residence at No. 7 Gill Street is included on Council's Municipal Heritage Inventory as an 'B-' Management Category and as such is considered to have heritage significance at a local level and is a place generally considered worthy of a high level of protection, to be retained and appropriately conserved.

The additions will be set back at or behind the main building line of the dwelling and as such will not impact on the streetscape or on the way the existing residence is viewed from the street. The proposed additions are sympathetic to the original house and will not detract from the heritage significance of the place.

Conclusion

The application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the R-Codes. The application has been supported by the Town Planning Advisory Panel and all issues raised by the Panel have been addressed.

Whilst the application does seek a variation to the R-Codes and LPP No. 142 this is considered to be acceptable in this instance. The proposed additions will not impact on the heritage significance of the residence.

The application is therefore considered to be suitable for determination and is recommended for approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the requirements of LPP No. 142 to allow an additional boundary wall that is 13.50 metres long in lieu of the 9 metre restriction for the construction of additions to the residence at No. 7 (Lot 6) Gill Street in accordance with the plans date stamp received on 17 January 2012, subject to the following conditions:

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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. prior to the issue of a building licence, plans shall be submitted and approved by Council which show the proposed shed set back in line with the living room of the existing dwelling.
3. prior to the issue of a building licence the proposed boundary wall to the shed shall have a maximum height of 3.5 metres from the RL 8.71.
4. the proposed shed and garage shall be finished in render without matching brickwork detail.
5. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. 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.
8. all stormwater is to be disposed of on -site and clear of all boundaries.
9. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drain age 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. 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 Council. (*refer footnote (g) below*)
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 owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to*

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

Mr Frewin (owner) addressed the meeting requesting Council approval for the boundary wall height to the proposed shed.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

That Council exercise its discretion in granting approval for a variation to the requirements of LPP No. 142 to allow an additional boundary wall that is 13.50 metres long in lieu of the 9 metre restriction for the construction of additions to the residence at No. 7 (Lot 6) Gill Street in accordance with the plans date stamp received on 17 January 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. prior to the issue of a building licence, plans shall be submitted and approved by Council which show the proposed shed set back in line with the living room of the existing dwelling.
3. prior prior to the issue of a building licence, revised plans shall be submitted showing the maximum wall height of the southern wall of the shed to be RL12.21, to the satisfaction of the CEO.
4. the proposed shed and garage shall be finished in render without matching brickwork detail.
5. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant’s expense.
6. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. 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.
8. all stormwater is to be disposed of on -site and clear of all boundaries.
9. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drain age 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. 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 Council. *(refer footnote (g) below)*
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 owner.

- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (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

T42.9

Canning Highway No. 158 (Lot 3)

Applicant: Dharmapala Buddhist Centre

Owner: Perth Photographic Services P/L

Application No. P41/12

By Jamie Douglas, Manager Planning Services on 24 April 2012

PURPOSE OF THIS REPORT

This report assesses an application for a change of use from a dwelling to a Place of Worship and for additions at 158 Canning Highway and recommends approval.

APPLICATION DETAILS

Documentation

Plans, accompanying information and relevant forms date stamp received on 23 March 2012

Date Application Received

26 March 2012.

Site Inspection

By Manager Planning Services on 24 April 2012

DESCRIPTION OF THE PROPOSAL

The subject site is 827 m² and is the front lot of a three lot survey strata which fronts Canning Highway.

The subject site has previously operated as a photographic studio but is currently rented as residential accommodation. The proposed change of use would provide accommodation for a small residential community of ordained Buddhist nuns and monks, and would be a place of assembly for prayer services and for mediation and Buddhist study classes.

The proposed building works comprise the demolition of a rear (non original) extension and swimming pool and its replacement by a 91m² single storey addition to house a meditation room.

The existing four on site car parks are to be retained and no alterations to the principal building or its front façade are proposed.

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PREVIOUS COUNCIL DECISIONS AND/OR ISSUES RELATED TO THE SITE

- 20 February 2001 Council granted special approval for a change in use from residence to residential building (Lodging House) subject to the proposed fence being constructed in accordance with the provisions of the Council's Local Laws relating to Fencing; and the lodging house complying with the provisions of the Health Act.
- 17 April 2001 Building Licence issued for Patio & Verandah addition and the raising of the front fence height
- 13 August 2001 Building Licence issued for alterations / additions to the atrium and rear verandah.

STATUTORY PLANNING PROVISIONS

The following planning provisions are applicable to the assessment of the application:

- Town Planning Scheme No. 3 – Town Centre Mixed Use zone
- Local Planning Policy – Town Centre Redevelopment Guidelines (adopted 15 November 2011)
- Local Planning Policy No. 140 – Port Buffer Development

CONSULTATION

Advertising

Adjoining landowners, sign on site, and advertisement in local newspaper

Date Advertised

19 April 2012

Close of Comment Period

4 May 2012

Public Submissions

At the close of the comment period three submissions were received. A summary of the submissions and responses follows.

Comment	Author's Response
<p>B Christian 156 Canning Highway owner/manager of 'A Place to Be'</p>	
<p>Supports the proposed use but is concerned about the increase in height of boundary wall by 1 metre. The proposed flat roof to the extension does not conform to existing buildings; prefer wall to be moved 1 metre inside boundary to prevent the proposed wall blocking sunlight to 2 bedrooms, courtyard and back garden.</p>	<p>Given the orientation of the lots, the submitter's house will not be impacted by overshadowing from the proposal. There will be no material impact to the garden areas due to the increased wall height. The proposed parapet wall conforms to the Scheme's side boundary setback provisions for the mixed business zone.</p>
<p>Janice Clarke State Swim System 160 Canning Highway</p>	
<p>Does not object to a 'place of worship' however stipulates that our car park is not to be used by their worshippers, customers or staff.</p>	<p>The submission is supported. The swim facility car park is private property dedicated for the use of the facilities patrons. No reliance has been allowed (in the assessment of carparking provisions) for use of this car park by visitors and occupants of the proposed centre. The applicant has advised that visitors to the centre are advised of public transport options, cycle and pedestrian facilities and locations of public parking areas.</p>

C & M Ciccarelli 158B Canning Highway	
Not enough parking; entering their property might be more difficult if increased vehicles entering the front property, will gongs be used in meditation at early hours of the morning ?	Parking issues are addressed in the assessment section of this report – it is considered that parking demand will be adequately met by existing on street parking within a 250m radius of the development. Given on-site parking is not to be increased, traffic volumes at the entrance should not affect accessibility for vehicles to 158B Canning Highway. The application indicates that the activities will not generate noise affecting neighbours.

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 24 April 2012. The following comment was made:

- *Panel supports the application.*

Agency Referrals - Department of Main Roads

Main Roads WA has not responded to the letter of referral at the time of writing should a response be received prior to the meeting, it will be tabled. However it is noted the proposal does not incorporate any change to the existing access arrangements.

COMPLIANCE WITH STATUTORY PLANNING PROVISIONS

Compliance with TPS No.3

Zone Objectives

The subject site is contained within the Town Centre Zone which has the following objectives (clause 4.2):

- *To provide for a range of commercial shopping, civic and community facilities to meet the day to day needs of the community and which will contribute towards the vibrancy of the Town.*
- *To encourage the development of a consolidated Town Centre, which will provide a focus for the community and exhibit a high standard of urban design in keeping with the historical character of the Town.*
- *To enhance pedestrian connectivity to and within the Town Centre, so as to*
- *To facilitate the safe and convenient movement of local residents, and enhance the viability of Town Centre businesses.*
- *To ensure the location and design of vehicular access and parking facilities do not detract from the character or integrity of the Town Centre or the streetscapes which define the centre.*

It is considered that the proposed use meets the above Zone Objectives of the Scheme because it would contribute to the civic and community activity within the Town Centre.

Land Use

The proposal is defined as a 'Place of Worship' under the Scheme; which is a 'discretionary use' in the Town Centre zone - . Mixed Business.

Car Parking

Schedule 11 of TPS No3 establishes parking requirements for various use categories. For a 'Place of Worship' the requirement is:

1 space for 5 seats or 1 space for every 5 persons the facility is designed to accommodate, whichever is the greater.

The total parking requirement under the Scheme is assessed as 12 spaces, 4 car bays are provided on site and the proposal therefore has a theoretical shortfall of 8 spaces. The issue is addressed in detail in the assessment section of this report.

Compliance with LPP- Town Centre Redevelopment Guidelines

Council adopted the LPP Town Centre Redevelopment Guidelines to provide detailed guidance for development within the Town Centre Zone. This Policy varies the scheme standards in respect to plot ratio, height, density and car parking. The LPP also contains additional design guidelines and requirements which complement the General Provisions of the Scheme. Where the LPP is at variance with the Scheme provisions, Council may apply the provisions of the LPP pursuant with the following clauses of TPS No 3.

The proposal meets the density, height provisions of the LPP. It does not qualify for a reduction in car parking under the LPP provisions since it is not a 'mixed use' development.

Compliance with Local Planning Policy No. 140 – Port Buffer Development Guidelines

The subject site is located in Area 2 of the Fremantle Port Buffer, accordingly any new works will need to meet the relevant built form requirements of the LPP.

ASSESSMENT

Land Use

The Dharmapala Buddhist Centre has been operating in leased premises in a residential area at 160 High Street in Fremantle for the last 8 years and now wishes to purchase and operate from the subject site at 158 Canning Highway.

It is proposed to conduct prayer services and meditation classes from the subject site and to provide accommodation for up to four ordained priests and nuns. Details of the nature of the use are contained within the planning application which forms attachment 1 to this report. In summary, based on the existing activities, the Centre would operate classes of approximately 2 ½ hours duration between the hours of 9.30 am and 8 pm on Monday, Tuesday, Saturday and Sunday in addition to some half-day workshops on Saturday each month. The average attendance at the classes is stated to be 33 persons with a peak of 51 persons. In addition prayer services are held twice a day, usually at 7.00am and 5pm.

The nature of the activities are instructive and meditative and it is considered they would not produce any detrimental impacts to surrounding amenity.

As stated above it is considered the proposed use will contribute to the civic activity and vibrancy of the Town Centre and is therefore consistent with the Scheme objectives.

Car Parking and Access

As stated the proposal has an on-site parking deficiency under the Scheme of 8 spaces. The following clauses apply to any determination in respect to varying the on-site parking requirements of the Scheme.

5.8.6 Location of Car Parking:

Required car parking is to be provided on the site of the development for which it is required, or subject to the local government's approval, off-site in the immediate vicinity of the development site. In considering a proposal for off-site parking, applicants will need to demonstrate to the satisfaction of the local government that any off-site parking areas will continue to be available for use in conjunction with the development at such times as it might reasonably be required.

5.8.7 On-Street Parking:

The local government may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development, provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.

5.8.8 Cash-in-lieu of Parking:

The local government may accept or require cash-in-lieu of all or a proportion of required car parking, based on the estimated cost of providing the requisite parking, including any associated access and manoeuvre facilities. Cash-in-lieu of parking shall be paid into a trust fund and used to provide public parking in the vicinity of the development site in relation to which any cash-in-lieu contributions have been received.

The applicants have provided an access and car parking assessment which they state demonstrates that the site is well serviced by public transport and there are 218 parking bays available for public use within 250 metres of the subject site. The applicants have also submitted a survey of the usage of these bays which concluded that no less than 72 public bays were available at any one time during the survey period and on average 134 public bays were available.

Two bus routes run along Canning Highway and a bus stop is within 50 metres of the site. Two more bus routes run along nearby Preston Point Road, with bus stops 150 metres away from the site. In addition a bicycle rack is to be installed in the front garden of the property and showers will be available for use by cyclists who wish to shower before attending classes. It is the applicant's existing practice for visitors to be advised of alternative transport options and public parking locations. To this end the application states;

"Managing parking in the immediate vicinity

We currently provide information about where to park when attending the Centre both on our website and in publicity and will continue to do this when we move to the subject site. For those attending half-day or day courses, booking confirmations will provide information about where to park. These measures will help ensure that the place of worship parking does not prejudice adjacent development or adversely affect the safety or amenity of the locality."

With respect to the applicant's car parking assessment, it is noted the applicants have factored in "Town of East Fremantle Council office car park" (24 bays), "car park between Council Place and Silas Street" (76 bays), and "May Street car park" (42 bays).

However more of the above bays can be appropriately included in the applicant's calculations as none involve car parks which are available for unconditional use to the general public.

For example Council has already been approached regards assisting with restricting parking at the East Fremantle Shopping Centre to users only and the Council car park is technically, intended for members of the public on Council business.

Nevertheless it is considered there is sufficient on street car parking available in the general area in respect of the identified shortfall.

In light of the above it is considered that the waiving of the requirement for 8 on-site spaces in respect to the proposed change of use will not significantly impact upon commercial operations or residences in the vicinity and accordingly 'cash-in-lieu of parking is not considered to be appropriate or necessary.

Proposed works

The proposed works include the demolition of skillion roofed addition and the swimming pool and the redevelopment of this space for a meditation room and garden in the northern portion of the site.

The bulk of the building will be unaltered except where maintenance is required. One bathroom will be modified to provide universal access. The front of the building and the heritage significant palm trees in the front setback will be retained. Accordingly the heritage significance will be unaffected.

The proposed single storey extension will not be visible from the street and as such will not have a detrimental impact on the streetscape. The extension will have a maximum parapet wall height of 4.4 m. above natural ground level, and will add 91m² of floor area to the building. The applicant has submitted shadow diagrams which confirm the development will not overshadow neighbouring properties. The proposed parapet wall complies with the height and setback requirements for development in the Town Centre – Mixed Use Zone.

The existing plot ratio of the building is 0.4:1. The subject site is limited to 3:1 under the LPP- Town Centre Redevelopment Guidelines. The proposed plot ratio of 0.5:1 complies with the plot ratio limits of the site.

Conclusion

It is considered the proposed change of use will contribute to the civic activity and vibrancy of the Town Centre and will not impact the amenity of nearby residents. Car parking can be satisfactorily accommodated by the proposed onsite parking and management measures and by existing public car parking nearby.

The proposed works will not detrimentally impact upon the heritage significance of the principal residence or the amenity of neighbours. There will be no change to the existing streetscape presence of the property.

The property is subject to the Strata Titles Act and the written consent of owners of Lots 1 and 2 in respect to the proposed works will be a necessary precondition to their commencement. In addition any signage should be the subject of a separate application for planning approval.

Subject to the above comments, it is considered the application should be approved.

RECOMMENDATION

That Council exercise its discretion to vary the onsite car parking requirements from 12 to 4 spaces and grant approval for a change of use from a dwelling to a 'Place of Worship' and for demolition and additions at 158 Canning Highway, East Fremantle in accordance with the proposed plans and accompanying information date stamp received 23 March 2012 subject to the following conditions:

1. The design, construction and use of the buildings shall at all times conform with the requirements of the Town of East Fremantle Local Planning Policy – Noise Attenuation and the Environmental Protection (Noise) Regulations 1997.
2. Prior to the installation of any 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.
3. The works are to be constructed in conformity with the drawings date stamped 'Received 23 March 2012' and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. The development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer as detailed in the Local Planning Policy - 'Fremantle Port Buffer Area Development Guidelines'.
7. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.

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8. 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.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

Note:

1. *The property is subject to the Strata Titles Act and the written consent of owners of Lots 1 and 2 in respect to the proposed works will be a necessary precondition to their commencement.*
2. *Any proposed signage shall require a separate application for planning approval.*

Submissions from G Cook, J Pittorini, C Tripi, C Urry, T Moran (on behalf of Canning Highway Pty Ltd and Main Roads WA, referred from Correspondence (MB Ref T40.2 & T40.3), and previously circulated to elected members, were tabled.

Emails from J Drury, the Dharmapala Buddhist Centre and Margaret River Law referred from Correspondence (MB Ref T40.4, T40.5 & T40.6), were tabled.

The following additional information prepared by the Manager Planning Services and previously circulated to elected members was considered:

"The correspondence was received subsequent to the finalisation of the report and preparation of agenda papers. However, the submissions have been lodged within the statutory advertising period for the application and require consideration in any determination of the application.

I do not consider that the correspondence raises any issues not currently addressed within the assessment or that these issues justify any variation to the recommendation.

To this end I note the following:

- *The subject site is zoned 'Mixed Use' Town Centre which allows for a range of commercial uses which would potentially have significantly more impact upon neighbours. The following uses are permitted 'as of right' under the Scheme:*
 - .. *Child Care Premises*
 - .. *Civic Use*
 - .. *Consulting Rooms*
 - .. *Exhibition Centre*
 - .. *Medical Centre*
 - .. *Office*
 - .. *Shop*
- *The maximum plot ratio allowable under the LPP – Town Centre Redevelopment Guidelines is 3 : 1. The proposed development is for a plot ratio of only 0.5 : 1 and as such, it cannot be considered as over-development.*
- *The property is subject to the Strata Titles Act and the consent of the other strata owners in respect to the proposed works is required, notwithstanding any Council approval.*
- *Given the scale of residential occupation (4 adults), the residential use of the property will be substantially less than the potential maximum for the existing dwelling of 345m². The proposed works will increase the floor area to approximately 432m².*

However, it is open to elected members to seek deferral of the determination of this application should it be considered that the inclusion of the additional submissions within the body of the report will impact upon the determination."

Mr Moran (planning consultant for owner of 160 Canning Highway) and Mr Urry (State Swim) addressed the meeting expressing concern regarding the omission of submissions

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to this proposal, which had been received prior to the closing of the comment period, within the Manager Planning Service's report and strongly objecting to the proposal on the grounds it was considered the private parking area at 160 Canning Highway would be utilised by attendees.

Ms Hodgson (planning consultant) and Ani (applicant) addressed the meeting in support of the proposal and detailing the following aspects of the proposal:

- Vehicle access and egress from the property
- Public parking in the vicinity of the property
- Instructions for patrons regarding parking
- Patron access through the front door, with disabled access from the rear
- Requirements for approval of other strata owners
- Centre activities and opening hours

The applicants' attention was drawn to the inaccuracies in their submission relating to public car parking areas, which were in fact private car parking areas.

Elected members stressed their concerns regarding the parking issue and sought further assurances from the applicants in this regard.

Ani advised that the contract of sale on the property would lapse if the application was deferred.

The Presiding Member advised that Council may be in a position to make a determination on this proposal at next week's Council meeting if satisfactory documentation was received in time for the agenda preparation.

Cr Wilson – Cr de Jong

That the application be deferred to allow:

1. Council staff to have due regard to all submission received in relation to this development
2. the applicants to make a further submission for potential management options to restrict parking overflow on to non public parking areas, particularly that belonging to State Swim. CARRIED

T42.10 Glyde Street No. 50 (Lot 23)

Applicant: J Stirling

Owner: J Stirling

Application No. P50/12

By Carly Pidco, Town Planner, on 1 May 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of alterations and front fencing at 50 Glyde Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 508m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- improved with a single-storey single dwelling
- assigned B-^ Management Category in the Town's Heritage Survey 2006

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes of Western Australia (RDC)

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Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Alterations to existing heritage dwelling

Documentation

Plans and relevant forms date stamped received on 3 April 2012
Additional plans date stamped received on 13 April 2012

Date Application Received

3 April 2012

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

Nil

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 19 April 2012 to 4 May 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 27 March 2012. The Panel made the following comments:

- *Panel doesn't support custom orb cladding to the front of the cottage, front elevations should be weatherboard.*
- *Consider reroofing in zincalume.*

The applicant has provided the following response to the Panel's comments:

The front of the cottage is not proposed to be replaced. The weather boards are to be retained. The drawing submitted showed only the colour scheme to the front. There is no note about replacement here (The asbestos wall cladding to be replaced with colorbond is on the north, south and east elevations).

The roof section facing the street (west) is not being replaced but retained as indicated on drawing. The leaking skillion to the rear (not visible from the street) is being replaced with zincalume. New gutters and downpipes are to be installed.

The information provided by the applicant clarifies the extent of the re-cladding and reroofing and confirms that it will not affect the front of the property. The Panel's concerns lie primarily in protecting the integrity of the facade of the dwelling and the proposed development is not considered to undermine this.

Site Inspection

By Town Planner on 2 May 2012

ASSESSMENT

The proposed development is consistent with the objectives of the Residential Zone. Variations to side setback and privacy requirements are being sought, as detailed below. Note that setback requirements have been measured based on an assumed wall height as provided for in the Residential Design Codes.

Key: A = Acceptable, D = Discretion

<u>Site:</u>	Required	Proposed	Status
Open Space	50%	No change	A
Site Works	Less than 500mm	Less than 500mm	A
<u>Local Planning Policies:</u>	Issues		
Policy 142	Boundary setback variation		D
Roof	Hip and skillion		A
Solar Access & Shade	Rear deck faces north. Proposed openings will improve access to sun and breeze.		A
Drainage	To be conditioned		A
Views	No impact		A
Crossover	No impact		A
Trees	No impact		A
<u>Other:</u>	Issues		Status
Overshadowing	No change		A
Privacy/Overlooking	Rear deck: cone of vision intrudes 4.5m over northern boundary		D
<u>Height:</u>	Required	Proposed	Status
Wall	5.6	No change	A
Ridge	8.1	No change	A
Roof type	Hip and skillion (no change)		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
Ground	Dwelling	No change					A
Rear (east)							
Ground	Side Deck	<10.0	4.8	Y	4.8	6.9	A
Side (south)							
Ground	Side Deck	<3.5	2.7	Y	1.5	1.0	D
	Rear Deck	<9.5	4.8	Y	4.6	4.6	A
	Dwelling	No change					A
Side (north)							
Ground	Dwelling	No change					A
	Rear Deck	<6.5	4.8	Y	3.0	3.0	A

* Wall length as calculated for assessment purposes

Building Setbacks

Side Setbacks – Deck

The development proposes a decked area leading from the Bedroom 2, set 1.0m from the southern boundary. Based on the assumed wall height (as the deck is unroofed and unenclosed), a minimum 1.5m setback should be provided. Part 3 of the LPP 142 provides standards for assessing proposed boundary setback variations. The variation complies with criteria a, b and c (relating to height, length, overshadowing and location relative to main dwelling) and is consistent with the intent of criteria d (relating to impact on amenity and views). Criteria e states “where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions”. The deck abuts the neighbouring property’s driveway. Although not a building wall, the underlying principle of the criteria is considered to be upheld as the driveway is not a sensitive area and the unroofed, unenclosed deck will not be visible from the adjoining property.

Visual Privacy

The submitted plans do not provide spot heights for the proposed rear deck in relation to neighbouring properties. At a site visit it can be observed that the subject property sits

lower than southern neighbour and significantly higher than its northern neighbour. Given that the rear deck will have a FFL 300mm above NGL, it is likely that the FFL of the deck will be greater than 500mm above the northern neighbour and therefore subject to privacy requirements. The requirements provide a 7.5m privacy setback for outdoor living areas. The rear deck is located 3.0m from the northern boundary. The variation is supported as the deck is significantly separated from the house and minimally developed, and is unlikely to be used at the same intensity as an attached and covered alfresco area. The separation from the dwelling also applies to neighbouring properties, and any overlooking or noise from the deck will be set well away from sensitive living areas of affected neighbours. Further, no objections have been received during the public consultation period.

Heritage

The existing dwelling on the subject site is a heritage property assigned the B-[^] Management Category in the Town's Heritage Survey. It receives generally high ratings on all assessment elements. The proposed new doors and window and reroofing of the skillion roof element affect only the rear of the dwelling, and are not considered to undermine its heritage values or impact on the streetscape. The re-cladding of the external walls will not occur to the front facade; the original weatherboard facade is being retained and only the asbestos cladding removed. Those side walls to be reclad are located behind the existing veranda and visibility from the street will be minimal. The variation in materials will allow for the new cladding to be identified as new work while the consistent colour scheme will ensure a harmonious external facade. Other than the front fence (see below) the works are not considered to have an undue impact on the heritage value of the dwelling.

Front Fencing

The proposed front fencing consists of steel posts supporting galvanised mesh trellis. Whilst the proposed fencing complies with Local Planning Policy 143 this does not mandate approval of the fence. Besides the fact a Local Planning Policy does not bind the local government in respect of an application for planning approval, in the event of any inconsistency with the Scheme, the Scheme prevails (Clause 2.3 refers).

In this case the proposed fence is considered to be inconsistent with the intent of the streetscape and heritage criteria of the Scheme, essentially because the materials and design of the proposed fence are considered unsympathetic to the character of the area and streetscape and would have the effect of adversely impacting on the recognised heritage value of the dwelling.

Properties in Glyde Street generally have either no fences, or picket fences or low masonry/brick fences. The materials proposed in this case are inconsistent with fences in the area.

With respect to the above the following clauses of TPS3 are considered to apply:

1.6 Aims of the Scheme

The aims of the Scheme are —

- (a) *To recognise the historical development of East Fremantle and to preserve the existing character of the Town;*
- (c) *To promote the conservation of buildings and places of heritage significance, and to protect and enhance the existing heritage values of the Town;*

4.2 Objectives of the zones

The objectives of the zones are —

General

- *To recognise and respect the desired future character of each precinct, and to ensure future development is sympathetic with that character.*

- To recognise the historical development of East Fremantle and its contribution to the identity of the Town.
- To conserve significant places of heritage value, and to preserve the existing character of the Town.
- To promote the integration of transport and land use, and to encourage the use of low energy transport modes, such as walking, cycling and public transport.
- To facilitate and encourage effective public involvement in planning issues and processes.

Residential Zone

- To provide for a range and variety of housing to meet the social and economic needs of the community, while recognising the limitations on re-development necessary to protect local character.
- 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.
- To encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation, water sensitive design and provision of 'greenspace'.
- To protect residential areas from encroachment of inappropriate land uses which are likely to detract from residential amenities, but to provide for a limited range of home-based activities compatible with the locality.
- To recognise the importance of design elements such as the 'front yard' and the 'back yard' to the character, amenity and historical development of the Town and to the community.

10.2 Matters to be Considered by Local Government

The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application —

- (a) the aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);
- (p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;

Accordingly it is recommended the proposed fencing not be approved, as reflected in proposed Condition 1.

CONCLUSION

The proposed development is generally compliant with the Town's Policies and Residential Design Codes with the exception of a proposed side setback variation and visual privacy variation. The proposed variations will not have an undue impact on the neighbouring properties or streetscape, and are not considered to undermine the heritage value of the existing dwelling. No objections to the development have been received and written clarification provided by the applicant addresses the Panel's concerns. It is recommended that the application be supported subject to conditions.

RECOMMENDATION

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

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.0m side setback from the southern side of the side deck to the southern boundary.
- (b) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit a 3.0m side setback from the northern side of the rear deck to the northern boundary.

for the construction of alterations at No. 50 (Lot 23) Glyde Street, East Fremantle, in accordance with the plans date stamped received on 3 April 2012 and additional plans date stamped received on 13 April 2012 subject to the following conditions:

1. This approval specifically excludes the proposed front fencing. Any such proposal will require amended plans, which must be to the satisfaction of the CEO in order to be approved.
2. The decks are to remain open-faced and uncovered at all times.
3. The zincalume roofing be treated to Council's satisfaction to reduce reflectivity in the first two years following installation, at the owner's expense.
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. 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 any 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 Council.
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).*

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

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

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

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 1.0m side setback from the southern side of the side deck to the southern boundary.
- (b) vary the visual privacy requirements of the Residential Design Codes of Western Australia to permit a 3.0m side setback from the northern side of the rear deck to the northern boundary.

for the construction of alterations at No. 50 (Lot 23) Glyde Street, East Fremantle, in accordance with the plans date stamped received on 3 April 2012 and additional plans date stamped received on 13 April 2012 subject to the following conditions:

1. This approval specifically excludes the proposed front fencing. Any such proposal will require amended plans, which must be to the satisfaction of the CEO in order to be approved.
2. The decks are to remain open-faced and uncovered at all times.
3. The zincalume roofing be treated to Council's satisfaction to reduce reflectivity in the first two years following installation, at the owner's expense.
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. 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 any 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 Council.
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.

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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.
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- (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".*

CARRIED

Cr Wilson made the following impartiality declaration in the matter of 3 Walter Street: "As a consequence of my brother being a potential owner of 3A Walter Street, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T42.11 Walter Street No. 3 (Lot 1 on Survey Strata Plan 44581)

Applicant: Mark Baldwin

Owner: Mark Baldwin

Application No. P51/2012

By Carly Pidco, Town Planner, on 27 April 2012

PURPOSE OF THIS REPORT

This report recommends refusal of a Development Application for construction of a front fence at 3 Walter Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 463m² survey strata lot
- zoned Residential 12.5
- located in the Richmond Precinct
- improved with a single-storey single dwelling
- assigned B Management Category in the Town's Heritage Survey 2006

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy No. 143 : Policy on Local Laws Relating to Fencing (LPP143)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Variations to front fencing requirements

Documentation

Plans and relevant forms date stamped received on 8 March 2012
Amended plans and written submission from applicant's architect received on 27 March 2012

Date Application Received

8 March 2012

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

21 August 2001	Council resolves to advise the WAPC to refuse an application for survey strata subdivision of No. 3 Walter Street
28 September 2001	WAPC advises Council that survey strata subdivision of No. 3 Walter Street has been approved subject to conditions
20 August 2002	Council resolves to approve a Development Application for alterations and additions to existing dwelling at No. 3 Walter Street
20 May 2003	Council considers application for reconsideration of a condition of previous approval in relation to proposed garage. Council resolves to give in-principle support to a proposed carport and delegation to the CEO to issue an approval
26 September 2003	Council advises WAPC that conditions of survey strata subdivision approval have been satisfied
2 April 2008	Council advises owner that a parapet wall enclosing the existing carport is unauthorised. Owner ordered to cease further work.
20 May 2008	Council resolves to approve a Development Application for additions to the existing dwelling. Council resolves to defer a separate Development Application for approval of unauthorised enclosing of carport.
17 June 2008	Council resolves to approve Development Application for unauthorised enclosing of carport.

CONSULTATION

Advertising

The application was not advertised for public comment as it does not incorporate variations to requirements that impact upon the amenity of adjoining properties.

Town Planning Advisory Panel Comments

The application is for minor nature development and referral to the TPAP is not appropriate.

Site Inspection

By Town Planner on 27 April 2012.

ASSESSMENT

The proposed development is a brick and tubular infill front fence. There is an existing solid brick fence on the subject property that has not been approved by Council. The current application has been submitted in response to conversations between Council staff, the owners of No. 3 and the owners of No. 3A in relation to the development being unauthorised. There are two basic design concerns with the existing unauthorised development:

- *The existing unauthorised fence is of solid masonry construction, and does not comply with the Town's LPP 143 in relation to visual permeability; and*
- *The existing unauthorised fence intrudes over the truncation to the south-east corner of the lot (ie over the battleaxe driveway to No. 3A Walter Street).*

The applicant proposes to address these issues by partially demolishing the brick and installing tubular infill, and removing the fencing that intrudes on the truncation. The submitted plans demonstrate the proposed finished works and not the unauthorised fencing as it currently exists.

The following table outlines the requirements of LPP 143 and assesses these against the current proposal.

LPP 143 Requirement	Proposed Development
Maximum height of any part of the fence is 1.8m	Maximum height is 2.1m (piers at south-east and north-east corners)
Front fences and walls above 1.2m to be visually permeable defined as <i>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 length of the wall must be open</i>	Vertical gaps ~100mm wide. Eastern wall: 62% open. Southern wall: 14% open. Northern wall: 0% open.

Fence Height

The applicant has justified the height variations as they result from a desire to create an even top fence line over uneven topography. The piers range in height from 1.5m to 2.1m, with the highest points being located over low spots. Part 4.3 of the LPP 143 contemplates approval of a higher fence in response to varying levels and it is appropriate to consider this part in relation to the current approval. Note that Part 5.3 of the LPP 143 requires that fences that exceed 1.8m in height must be designed by a structural engineer and approved by the Building Surveyor.

Visual Permeability

The design of the proposed infill complies with the requirements of the LPP 143 and the applicant's comment that it complements the heritage dwelling is agreed. However, the overall visual permeability of the fence and extent of the infill does not comply with the Policy. The LPP 143 applies "to all fences/walls forward of the building line of a property or forward of the facade (or facades for a corner lot) of the main residence". Therefore it is not only the fencing located at the boundary of the property and the street that must comply, but also the fencing running perpendicular to the street up to the front of the dwelling. The proposed fencing achieves the 60% visual permeability along the front/east boundary, but not on the side/north/south boundaries. The applicant has provided a written justification in favour of a variation to permit solid fencing, outlined below alongside the officer's responses.

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Applicant's Justification	Officer's Response
The open frontage outcome is interrupted by the solid timber fence on the southern/opposite side of the access driveway	The solid fencing to No. 1 Walter Street is of older construction and predates the adoption of the LPP 143. Nearby properties with front fencing generally comply with the visual permeability requirements of the Policy and the adjacent property is considered to be an anomaly rather than an established pattern of development. The TPS No. 3 provides that development should complement the character of the locality, which for fencing is open and visually permeable.
Provides privacy to frontage yard space and residence of 3 Walter to the incoming and existing pedestrian and vehicle traffic to 3A Walter	As the applicant states in the written submission, the front yard is not the only or primary outdoor living space for the residents of No. 3 Walter Street. Further, the visually permeable eastern/front wall largely negates any privacy that may be achieved through solid fencing the north/south/side walls. Walter Street is a residential street and the subject property abuts residential development. The surrounding land use is not likely to generate visitation numbers, noise or overlooking at an unacceptable level that might justify a solid front fence. No. 3 Walter Street is the front lot of a battleaxe subdivision in an urban area, and some passing visitors are to be expected. Fencing that complies with the visual permeability requirements of the Policy can achieve clear delineation between and individual sense of address for Nos 3 and 3A.
Shield the frontage of 3 Walter from headlight of vehicles entering 3A Walter	Clause 4.2 of LPP 143 provides that Council may consider a solid fence where headlight glare is a problem. It is accepted that a solid wall adjacent to the driveway to the rear lot at 3A Walter Street would shield the subject property from headlight glare when the rear neighbours used the driveway at night.
Preserves the amenity of 3 Walter Street	A compliant visually permeable fence is not considered likely to contribute to any loss of amenity at No. 3 Walter Street in relation to the issues raised above.

Vehicle Access Over Truncation

The proposed development includes a gate to allow vehicle access over the truncation for a caravan. The applicant consulted informally with the Town's planning staff on this matter prior to submission, at which time he was advised:

Council would be prepared to support the relocation of the gate subject to the development providing appropriate sightlines to allow vehicles from each property to see each other prior to converging. This can most probably be achieved through redesigning the fencing to be visually permeable. Support for the gate would be subject to conditions to (a) ensure the right of access covers the entire portion of No. 3A that is travelled over, and (b) prohibit vehicles from driving over and potentially damaging the Council verge/kerb.

The submitted plans do not address the critical issue of safe ingress/egress, either through visually permeable fencing as recommended by the officer or an alternative solution. In the absence of confirmation that access through this gate will be safe, approval of this aspect of the development cannot be recommended.

CONCLUSION

The proposed development does not comply with the Town's Local Planning Policy in relation to fencing and does not provide adequate detail to confirm that vehicles can ingress/egress from the proposed gate safely. The applicant has provided a written submission seeking to justify the proposed variation on the grounds of residential amenity issues, however, the matters raised are not considered compelling enough to warrant Council exercising its discretion. Walter Street is a local residential street characterised by a number of heritage properties with low or open fencing, creating an open and appealing streetscape. The LPP 143 aims to preserve this character through minimum visual permeability requirements and these should be upheld. It is recommended that the application be refused.

RECOMMENDATION

That Council refuse the application for the construction of front fence at No. 3 (Lot 1 on Survey Strata Plan 44581) Walter Street, East Fremantle, as described on the plans date stamped received 8 March 2012 for the following reasons:

1. The proposed development does not comply with Local Planning Policy 143 Policy on Local Laws Relating to Fencing (Clause 10.2(g) of the TPS No. 3 refers).
2. The proposed development is inconsistent 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 TPS No. 3 refers).
3. The proposed development is inconsistent with Clause 1.6(b) of the Town Planning Scheme No. 3 (Clause 10.2(a) of the TPS No. 3 refers).
4. The proposed development is in conflict with Clause 10.2(q) of the Town Planning Scheme No. 3.
5. The proposed development is inconsistent with Clause 10.2(p) of the Town Planning Scheme No. 3.

The following additional information provided by Council's Town Planner, Carly Pidco, was considered.

"Further to the officer's recommendation for refusal of the proposed front fence, the applicant has prepared revised plans. Following is an assessment of the revised plans in relation to the key issues raised in the officer's report.

Visual Permeability

The elevations on the revised plans propose the solid portion of the fence being a maximum height of 1.2m in the front setback area with visually permeable infill, in accordance with the LPP 143. The proposed changes are considered to adequately address the officer's concerns in relation to the impact of the fence on streetscape and safe vehicle ingress/egress. The front fence will allow for a clear view between the dwelling and the street and is consistent with the existing character of the Walter Street streetscape.

Note that the site plan on the revised plans describes the fence as "solid brick infill between piers". It is recommended that further revised plans addressing this inconsistency and demonstrating compliance with visual permeability requirements be required.

Fence Height

The revised plans show the fence to be the same height as proposed in the original submitted plans, which exceeds the maximum provided in the LPP 143. The officer's recommendation for support of the fence height remains unchanged, as detailed in the report.

Vehicle Access

The visually permeable fencing addresses the matter of safe vehicle access through the proposed gate, as it will allow vehicles from No. 3 and No. 3A to see each other prior to converging at the truncation. As noted in the officer's report, initial advice was given to

the applicant that any approval of the gate would likely be subject to conditions to protect the Council verge/kerb. It is recommended that a condition to this effect be applied.

Conclusion

The revised plans demonstrate compliance with the visual permeability requirements of the LPP 143. The variation to maximum fence height is supported and outstanding concerns in relation to vehicle access can be addressed through conditions of approval. It is recommended that the revised plans be approved subject to conditions.

Alternative Recommendation

That the applicant be advised that following the submission of revised plans demonstrating that the "Fence Plan" complies with the visual permeability requirements of the Local Planning Policy No. 143 Policy on Local Laws Relating to Fencing to the satisfaction of the CEO, that Council exercise its discretion in granting approval to vary the front fencing requirements of the Local Planning Policy 143 Policy on Local Laws Relating to Fencing to permit a maximum overall fence height of 2.126m for the construction of front fencing at No. 3 (Lot 1 on Survey Strata Plan 44581) Walter Street, East Fremantle, in accordance with the revised plans date stamped received on 3 May 2012 subject to the following conditions:

- 1. Vehicles are not to traverse the Council verge to access the southern gate.*
- 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 fence 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. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.*
- 8. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.*
- 9. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.*
- 10. This planning approval to remain valid for a period of 24 months from date of this approval.*

Footnote:

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

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

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) 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."

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That the applicant be advised that following the submission of revised plans demonstrating that the "Fence Plan" complies with the visual permeability requirements of the Local Planning Policy No. 143 Policy on Local Laws Relating to Fencing to the satisfaction of the CEO, that Council exercise its discretion in granting approval to vary the front fencing requirements of the Local Planning Policy 143 Policy on Local Laws Relating to Fencing to permit a maximum overall fence height of 2.126m for the construction of front fencing at No. 3 (Lot 1 on Survey Strata Plan 44581) Walter Street, East Fremantle, in accordance with the revised plans date stamped received on 3 May 2012 subject to the following conditions:

1. Vehicles are not to traverse the Council verge to access the southern gate.
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 fence 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. 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.

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8. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
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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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- (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.*

CARRIED

Cr de Jong declared an interest in the following item as he is the owner of 126 Preston Point Road located in close proximity to this reserve and left the meeting at 9.15pm

T42.12 Wauhop Park (Reserve 2 2365) - Preston Point Road - East Fremantle Soccer Club – Lighting of Soccer Pitches

Applicant: East Fremantle Soccer Club

Owner: Vested in Town of East Fremantle

Application No. P3/2012 (File Ref. R/RSC1)

By Jamie Douglas, Manager Planning Services on 3 May 2012

PURPOSE OF THIS REPORT

This report considers an application to upgrade the existing flood lights and install three new light poles to upgrade the illumination of the East Fremantle Soccer Club's soccer pitches at Wauhop Park. The site is designated as a 'Reserve' on the Metropolitan Region Scheme, accordingly the Western Australian Planning Commission is the determining Planning Authority. It is recommended that Council advise the WAPC that it supports the application.

BACKGROUND

Description of Proposal

The East Fremantle Soccer Club has obtained funding from the Department of Sport and Recreation and from Council to upgrade the existing lights to light the six soccer pitches at Wauhop Reserve. It is proposed to erect three new 12metre high galvanised single profile light towers each with two floodlights and to replace the existing floodlights on the three existing towers.

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Description of Site

The subject site is:

- zoned Reserve under the Metropolitan Region Scheme
- developed with the East Fremantle Soccer Club
- located in the Preston Point Precinct

Statutory Considerations

Town Planning Scheme No. 3 – Parks & Recreation Reserve

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : No impact
- Footpath : No impact
- Streetscape : The light poles and lights will be visible from the street and the soccer pitches will be flood lit at night

Documentation

Plans and relevant forms date stamp received on 22 December 2011
 Application for Approval to Commence Development – Metropolitan Region Scheme Form 1 – signed 8 February 2012-03-06
 Additional Plans and information received 6 February 2011.

Date Application Received

22 December 2011

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

- 3 June 2008 Council agrees in principal to Fremantle Soccer Club proposal for ground use for balance of 2008
- 11 November 2011 CEO confirms Council ‘in principle’ support for proposal for Western Knights to join East Fremantle Tricolore and Fremantle Spirit Soccer Clubs to share Wauhop Park facilities subject to conditions.
- 17 November 2011 Minister for Sport and Recreation confirms grant funding of \$34,545 for lighting upgrade.
- 13 December 2011 Council approves expenditure of \$38,000 for lights at Wauhop Park subject to an appropriate budget allocation.

CONSULTATION

Advertising

The application was advertised between 19 April and 4 May 2012 following the submission of additional information which was requested from the applicant. The three submissions which were received are attached in full to this report and summarized below along with the applicant’s response. The issues raised in the submissions are also addressed within the Assessment section of this report.

Submission	Applicant Response – Nick Jones, Secretary East Fremantle Soccer Club
<p>Christine Roberts 52 Locke Crescent</p> <p>My concerns are:</p> <ol style="list-style-type: none"> 1. The towers would greatly devalue my property. 2. The towers would Impact very negatively on the beautiful vista and views from my 	<p>The light spill plan for upper Wauhop shows that the light spill will comfortably comply with the relevant Australian Standard. The Club has endeavoured to minimise visual impacts on local residents while providing a safe playing environment for many of our 800 members who play at Wauhop Park. I have provided responses to the 2 residents who have raised concerns.</p>

Submission	Applicant Response – Nick Jones, Secretary East Fremantle Soccer Club
<p>home as they would stand out as ugly man-made structures in what is a natural vista facing north and north east.</p> <p>3. The towers would Impact by increasing the amount of ambient light thus reducing the night Perth Skyline as viewed from my home.</p> <p>Since the completion of the home in 1964-5 subsequent external parties have seen fit to built Yacht Clubs, high rise accommodation units, planted large stands of trees and spanned the river with massive electricity cabling support structures. All of which have had a serious negative impact on everything to do with the river most of which is to reduce the view of the river and the lovely ambience of the environment.</p> <p>I ask all parties to consider my concerns and not construct the towers.</p>	<p>Mr and Mrs Boase</p> <p>The club is only aiming to provide lighting to the standard required for training purposes on upper Wauhop rather than the higher level for competition matches. There will be 3 new poles, 12m high located on the river side of upper Wauhop. The light spill has been modelled by the lighting consultant and will comfortably comply with the Australian Standard to ensure that there is no nuisance glare.</p> <p>Lights will be upgraded on all existing poles on lower Wauhop and the consultant indicated that once again light spill will easily comply with the standards.</p>
<p>P Bartolomei & M Daluz 48 Locke Crescent</p>	<p>Mr Bartolomei & Ms Daluz</p> <p>The current lights on upper Wauhop are well below the safe lighting level for training purposes and are considered dangerous and expose the club to the risk of an insurance claim if a player was seriously injured. The club will install new lights on the 3 existing poles adjacent to the road which are only 8m high. The 3 new poles will be only 12m high located on the river side of upper Wauhop. Note that the new light poles on the nearby Football Oval are 25m high which is more than twice the height of our new poles.</p>
<p>Oppose yet more lighting towers – note 4 extra towers erected recently on adjacent football ground- impacts precious skyline – light from additional towers will shine indirectly into our residence – current lights occasionally left on all night – currently installed lights are adequate – limit construction of more ugly towers that only serve a few who, in the main do not live in the general vicinity.</p>	<p>East Fremantle Tricolore has been one of the many clubs using the riverside reserve for sporting purposes for several decades. The installation of lights to allow training is critical for the use of the soccer pitches in order to comply with the relevant Australian Standard to ensure the safety of the players. The use of the reserve for sporting purposes has existed for more than 50 years, long before many of the nearby houses were built. The club has endeavoured to minimise our impacts on the nearby residents by only upgrading the lights on upper Wauhop to comply with the standard necessary for training purposes rather than the higher standard for competitive matches. This has allowed us to use existing poles and to only need 3 new relatively short poles at 12m high. The club has 800 playing members many of whom are under 10 years old. We play a significant role in providing an excellent opportunity for both boys and girls from East Fremantle, Fremantle and Melville to participate in competitive team sports.</p>
<p>K & C Boase 118 Preston Point Road</p>	<p>Requested application information be forwarded electronically – object based on failure of applicant to demonstrate there will be no affect on their premises.</p>
	<p>Please note the following statistics which reflect the current crisis of preventable disease in WA:</p> <ul style="list-style-type: none"> - Nearly two-thirds of all deaths in WA aged under 75 in 2006 could potentially have been avoided. The majority of these deaths were due to chronic disease or injury. - Fewer than half (49%) of children aged 5-15 met the recommended guidelines for physical activity in 2010. - Two-thirds of adults (66%) were overweight or obese in 2010. <p>Clearly the State Government has recognised the need to support sporting clubs by providing funding for new and upgraded lighting and the Club has received funding for</p>

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Submission	Applicant Response – Nick Jones, Secretary East Fremantle Soccer Club
	these lights. The club hopes that the Council will also recognise that the Club provides a critical service to the local community that will be enhanced by the improved lighting at Wauhop Park.

Town Planning Advisory Panel Comments

This application was not forwarded to the Town Planning Advisory Panel for comment because of its minor impact on the streetscape.

Site Inspection

By Manager Planning Services on 2 March 2012

ASSESSMENT

The proposal is to upgrade the existing flood lights and install new three new twelve metre high light poles to provide adequate illumination at the East Fremantle Soccer Club's soccer pitches at Wauhop Park. The proposed new lights poles will be centrally located within the reserve along the northern perimeter of the upper pitch.

The plans accompanying the initial application noted *"No assessment to AS4282 1997 "Control of the obtrusive effects of outdoor lighting" has been undertaken for this lighting calculation"*. The control of light spill outside the target area is important not only for residential amenity but also for vehicle safety in surrounding streets. This information was required by the Department of Planning in the recent determination by the Western Australian Planning Commission for flood lights for the Croquet Club. Accordingly further information was requested of the applicant as well as the relevant Development Application form for development that is to be determined by the WAPC.

The necessary further information and application form was received on 6 February 2012. The Lighting Engineers reported that light spill would meet the Australian Standard for "Control of the obtrusive effects of outdoor lighting".

Careful consideration has been given to the objections received. It is apparent that the new light poles will be visible from the objectors properties and in reaching any determination in respect to the application it is relevant to consider if the visual impact will create an unreasonable visual intrusion. To this end the following are relevant considerations:

- The viewscape from the objectors houses is a 'developed' rather than a 'natural' setting. The playing fields adjacent to and below Preston Point Road form a major element in this viewscape. There are numerous structures supporting recreational activities on these playing fields. The proposed light poles will be additional elements within this development context.
- Wauhop Park falls away from Preston Point Road and the opposing residences therefore overview rather than 'look at' the playing fields and associated structures. While the light poles will be visible from the adjacent residences they will not intrude into the skyline nor will they be physically intrusive given the distance and level separation from the residences.
- The scale of the light poles (12metre high) are considerably less than the 25metre high poles erected on the nearby football ground. Given their location against existing mature vegetation which separates the two pitch levels in the Reserves they will be indeterminate for the majority of their height (against this vegetation) when viewed at distance from the residences. Their visual impact will also lessen as the galvanising 'ages'.
- The light poles will not obscure views (and as such are dissimilar to buildings) they will however be seen much as power and light poles within road reserves are seen.
- The applicant has provided a light shed analysis which confirms light spill would meet the Australian Standard for "Control of the obtrusive effects of outdoor lighting". Given the distance of residences to the proposed poles it is not accepted that light shed will be an impact.

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The contention put by one objector that the proposal will 'greatly devalue my property' is not supported by any empirical valuation evidence or opinion. Indeed it is difficult to imagine that the erection of three 12 metre high poles at a distance in excess of 200 metres from the subject site would be a material consideration for any genuine purchaser.

It is also relevant to consider the arguments put by the applicant that the proposal is for the 'community good'. Wauhop Park has a long established history of active recreational use; indeed attendance at the ground in past years would have far outweighed current attendances. Flood lighting is an integral part of this active recreational use. This land use existed prior to the current occupation by most nearby residents.

CONCLUSION

The development proposal will assist a community sporting club and facilitate an important recreational activity. The proposed new lighting towers are centrally located within the Reserve at considerable distance from the street boundaries. While they will be visible from nearby residences this visibility is not considered to be unreasonable taking into account the distance and level separation of the towers from neighbouring residents and having regard to the established use and development context of the Reserve. The application includes a light shed analysis which confirms that light spill will be contained within the Reserve boundaries and will have no material impacts on the amenity of surrounding residential properties or impact upon surrounding streets.

RECOMMENDATION

It is recommended that Council advise the Western Australian Planning Commission that it supports the application by the East Fremantle Soccer Club for the erection of flood lighting to illuminate the upper and lower soccer pitches at Wauhop Reserve, Preston Point Road, East Fremantle in accordance with application plans date stamp received 8 & 16 March and 10 April 2012.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Collinson

Council advise the Western Australian Planning Commission that it supports the application by the East Fremantle Soccer Club for the erection of flood lighting to illuminate the upper and lower soccer pitches at Wauhop Reserve, Preston Point Road, East Fremantle in accordance with application plans date stamp received 8 & 16 March and 10 April 2012.

Cr de Jong returned to the meeting at 9.25pm and it was noted he did not speak or vote on the previous item.

Cr Rico declared a proximity interest in the following item as the rear of her property adjoins the subject property and left the meeting at 9.26pm.

Cr Wilson made the following impartiality declaration in the matter of 80 Oakover Street: "As a consequence of the applicant being known to me, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T42.13 Oakover Street No. 80 (Lot 313)
Applicant and Owner: Domenic McKenna & Mary Anne Kenny
Application No. P47/2012
By Pina Mastrodomenico, Town Planner on 3 May 2012

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for a proposed outbuilding to be located to the rear of the existing dwelling at 80 Oakover Street.

This report recommends that conditional approval be granted.

BACKGROUND

Description of Proposal

The subject application proposes an outbuilding constructed of brick render with a colorbond roof measuring 10 metres x 6 metres x 4.06 metres. The outbuilding proposes a 1.0 metre setback to the rear (east elevation) and a nil setback to the side (southern elevation). A verandah is also proposed to the western elevation with a depth of 1.55 metres.

The application seeks discretions to the setback and outbuilding wall height requirements of the Residential Design Codes (R-Codes) and the setback requirements of Council's Local Planning Policies which will be discussed in the Assessment section of this report.

Description of Site

The subject site is:

- a 981m² block
- zoned Residential R12.5
- developed with a single storey heritage dwelling
- located in the Woodside Precinct (LPS)

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Local Planning Strategy – Woodside Precinct (LPS)
Residential Design Codes (RDC)
C+ Management Category - Municipal Heritage Inventory

Relevant Council Policies

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

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 27 March 2012

Date Application Received

27 March 2012

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

18 August 2009 Council resolved to defer an application for a colorbond shed measuring 11 metres x 6 metres x 4.06 metres. The resolution stated as follows;

“That the application for an 11m long x 8m wide x 4.472m high colorbond shed in the southeast corner of No. 80 (Lot 313) Oakover Street, East Fremantle be deferred pending a site visit and prior to the site visit, the applicants to erect a temporary structure that complies with the acceptable development provisions and relevant performance criteria of the Residential Design Codes to enable elected members to gauge the impact of a compliant outbuilding on surrounding properties.”

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period with advertising closing on 3 May 2012.

At the close of advertising one submission was received from the owners of No. 11 Petra Street.

The submission has been addressed and has been outlined in the table below;

Neighbour Submission	Planning Comments
The size of the outbuilding exceeds the maximum acceptable standards allowed for outbuildings in the R Codes: - Maximum area of 60m ² ; - Maximum wall height of 2.4 metres; - Maximum ridge height of 2.4 4.2 metres.	The outbuilding fully complies with the requirements of the residential design codes in terms of area and ridge height. A slight variation is sought for the wall height however this is considered minimal at 0.34 metre.
The setbacks do not comply.	The setback of 1.0 metre to the eastern elevation (adjoining 11 Petra Street) fully complies with the 1.0 metre requirement. A setback variation is sought for the southern elevation however this does not impact on the property at 11 Petra Street.
The shed does not comply with the performance criteria of the R Codes in terms of visual amenity, size, open space and setbacks.	The outbuilding fully complies with the performance criteria of the R Codes.
Previous application was submitted in 2009 (which was deferred) and I visited the applicant to request other possible options in relation to the location of the outbuilding	This application proposes an outbuilding that measures 10 metres x 6 metres x 4.06 metres, which is a reduction from the previous application measuring 11 metres x 8 metres x 4.47 metres. The rear setback of 1.0 metre remains unchanged. The shed has been moved closer to the southern boundary (from 0.5 metre to nil) in order to preserve the large olive tree on the applicants property.
Why is such a large storage shed needed?	The applicant has advised that the storage shed is for storage of tools and household items, it is not intended for human habitation.
Impact of visual amenity and corridor of open space (views).	The views experienced by the owner at 11 Petra Street are not considered to be significant. The main views are of the rear yard of 80 Oakover Street due to the existing low boundary fence.

Town Planning Advisory Panel Comments

This application was not considered by the Town Planning Advisory Panel as it is considered to be minor in nature.

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	55%	55%+	A
Site Works	Less than 500mm	Less than 500mm	A
Local Planning Policies:	Issues		
Policy 142	Two boundary walls		D
Solar Access & Shade	No impacts		A
Drainage	No impacts		N/A
Views	No impacts		N/A
Crossover	No impacts		N/A
Trees	No impacts		N/A
Outbuilding Requirements:	Proposed		Status
Maximum area 60m ²	60 m ²		A
Maximum wall height 2.4m	2.5 -2.7 m		D
Maximum ridge height 4.2m	4.06 m		A

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Outbuilding not attached to a dwelling	Not attached to a dwelling	A					
Non habitable	Non habitable	A					
Does not reduce open space as required under table 1	Open space complies (above 55%)	A					
Comply with siting and design requirements for the dwelling, but do not need to meet rear setback requirements of Table 1	1.0 m rear setback	A					
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Rear (east)	Shed	2.74	6.0	No	1.0	1.0	A
Side (south)	Shed	2.50-2.74	10.0	No	1.0	Nil	D

Site Inspection

By Town Planner on 3 May 2012

ASSESSMENT

The subject application proposes an outbuilding to the rear of the existing dwelling, the outbuilding generally complies with the acceptable development requirements of the R Codes and Local Planning Policy 142 as outlined in the table above with the exception of a minor variation which is sought for the wall height of the outbuilding and the nil setback to the southern boundary.

Outbuilding - Wall height

Clause 6.10.1 of the R Codes stipulates a maximum wall height of 2.4 metres under the acceptable development requirements. The outbuilding proposes a wall height of 2.50 to 2.74 metres, however this variation to wall height is considered minimal (0.34 metre) and is not considered to impact on the overall bulk of the outbuilding, furthermore the outbuilding complies with the overall maximum height requirement of 4.2 metres.

Building on the Boundary

The application proposes to construct the southern elevation of the shed on the boundary.

The proposal has been assessed against the R-Codes and the applicable Local Planning Policies, the proposal was found to meet the majority of the requirements with the exception of LPP 142 which is summarised below.

Council's Local Planning Policy No. 142 provides for the construction of residences with walls situated closer to the boundary than permitted by the R-Codes where the following can be observed:

- "(a) Walls are not higher than 3m and up to 9m in length up to one side boundary;*
- (b) Walls are behind the main dwelling;*
- (c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;*
- (d) In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and*
- (e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions."*

The proposed nil setback to the outbuilding (southern boundary) satisfies the majority of the above criteria as demonstrated below:

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- The maximum height of the boundary wall on the southern boundary is 2.743 metres which is lower than the average and maximum boundary wall height permitted;
- The maximum length of the boundary wall is 10.0 metres which is a minor variation from the 9.0 metre requirement;
- The proposed boundary wall is at the rear of the residence;
- The construction of a boundary wall on the southern boundary will only create minimal overshadowing of the adjoining property (garden and shed area).

Furthermore the neighboring property at 82 Oakover Street has no objection to the outbuilding being located on the boundary. It is considered there is merit in an exercise of discretion to allow for an outbuilding with a nil setback to the southern boundary.

Heritage Assessment

The residence at No. 80 Oakover Street is included on Council's Municipal Heritage Inventory as a 'C+' Management Category. The outbuilding will be located to the rear of the existing dwelling and as such will not impact on the streetscape or on the way the existing residence is viewed from the street. The proposed outbuilding is sympathetic to the original house and will not detract from the heritage significance of the place.

Conclusion

The application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the R-Codes.

Whilst the application does seek a variation to the R-Codes and LPP No. 142 this is considered to be acceptable in this instance as the variations are considered to be minor in nature. The proposed outbuilding will not impact on the heritage significance of the residence.

The application is therefore considered to be suitable for determination and is recommended for approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for:

- (a) a boundary wall of 10.0 metres which exceeds a length of 9.0 as required under Local Planning Policy 142; and
- (b) an increased wall height of 2.74 metres in lieu of the requirement for a 2.4 metres for outbuilding wall height requirements under the R Codes;

for the outbuilding to the residence at No. 80 (Lot 313) Oakover Street in accordance with the plans date stamp received on 27 March 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. prior to the issue of a building licence, plans shall be submitted and approved by Council which show the proposed shed set back in line with the living room of the existing dwelling.
3. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
4. the outbuilding shall not be used for habitable purposes.
5. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. all stormwater is to be disposed of on -site and clear of all boundaries.

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8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drain age point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *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".*

Emails from M Kenny & D McKenna and correspondence from M Rico, referred from Correspondence (MB Ref T40.8, T40.9 & T40.10) were tabled.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

That Council exercise its discretion in granting approval for a boundary wall of 10.0 metres which exceeds a length of 9.0 as required under Local Planning Policy 142 for the outbuilding to the residence at No. 80 (Lot 313) Oakover Street in accordance with the plans date stamp received on 27 March 2012 and email dated 8 May (lowering ground floor slab to achieve 2400 wall height), 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. prior to the issue of a building licence, plans shall be submitted and approved by Council which show the proposed shed set back in line with the living room of the existing dwelling.**
- 3. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
- 4. the outbuilding shall not be used for habitable purposes.**
- 5. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 6. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have**

received planning approval, without those changes being specifically marked for Council's attention.

7. all stormwater is to be disposed of on -site and clear of all boundaries.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drain age point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

CARRIED

Cr Rico returned to the meeting at 9.37pm and it was noted she did not speak or vote on the previous motion.

T42.14 **Fraser Street No. 41 (Lot 4279)**
Applicant: Inhouse Building Design
Owner: R Dorrington & N Devlyn
Application No. P145/2011
By Carly Pidco, Town Planner, on 3 May 2012

PURPOSE OF THIS REPORT

This report recommends deferral of a Development Application for construction of alterations and extensions at No. 41 Fraser Street, East Fremantle.

BACKGROUND

Description of site

The subject site is:

- a 931m² freehold lot
- zoned Residential 12.5
- located in the Richmond Precinct
- improved with a single-storey single dwelling
- rated B- on the Town's Heritage Survey 2006

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Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Alterations to existing heritage dwelling

Documentation

Plans and relevant forms date stamped received on 27 September 2011
Heritage Impact Assessment date stamped received on 5 April 2012

Date Application Received

27 September 2011

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

16 June 2010 Building Licence issued for swimming pool
2 June 2011 Development approval issued for construction of shed under delegated authority

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 6 October 2011 to 20 October 2011. No submissions were received during this period.

Town Planning Advisory Panel Comments

The application was referred to the TPAP at its meeting of 25 October 2011. The Panel's comments and applicant's responses are attached to this report. Significantly, a number of concerns were raised with regards to the impact of the development on the heritage value of the property, and the applicant has communicated a willingness to review several elements of the design. Following from the TPAP meeting, the applicant provided a Heritage Assessment to provide further insight as to the impact of the alterations and extensions. This was referred to the TPAP at its meeting of 27 March 2012, during which the Panel recorded the following comments:

- *Panel finds it difficult to comment on alterations proposed without accompanying plans providing detail of changes.*
- *Panel commends the clarity of the Heritage Report submitted.*

It is understood that the Panel's comments stem from the inconsistency between the recommendations of the heritage consultant and the submitted plans, which is discussed in greater detail in the assessment section of this report.

Site Inspection

By Town Planner on 2 May 2012

ASSESSMENT

Heritage

The proposed alterations and additions will be visible from the street and significantly alter the facade of the heritage dwelling. It is acknowledged that additions of this nature can occur in a sympathetic manner that does not have an undue impact on the heritage values of a building. The heritage consultant has made several recommendations for

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amendments to the submitted plans or additional information required to ensure a sound heritage outcome. The officer generally supports the recommendations of the heritage consultant, detailed as follows:

- *Care should be taken to ensure that the detail of the garage and bedroom extension is simplified and does not mimic the original house.*
- *Consideration could be given to continuing the upper section of the extension in rendered brick rather than weatherboard (or alternatively choosing a different cladding material).*
- *Whilst the proportions of the windows could be the same as the original, the material or detail could differ.*
- *If the garage is not intended to accommodate two cars then the garage door could be reduced in width.*

A detailed schedule of materials and finishes that demonstrates clear delineation of old and new work should be submitted to and approved by Council. Excessive detailing that may be interpreted as mimicry should be minimised except where it can be easily interpreted as new work.

- *A verandah along the side of the building could be supported, however the current proposal will affect the understanding of the original house in the streetscape. It is suggested that the verandah is setback and is separate to the front verandah.*

The verandah is an important design element for residential buildings from this period. It provides a communication point between the public and private realms and adds articulation to a modest weatherboard facade. The original verandah and its role in the design of the dwelling should be protected. It is recommended that the proposal be amended to provide clear delineation between old and new verandah elements and protect the primacy of the original verandah.

While the applicant has previously expressed a willingness to accommodate some of these changes, further information has not been provided and it is not considered appropriate to approve the application in the absence of such details. Accordingly, a detailed assessment of the proposal in relation to the Residential Design Codes and Local Planning Policies has not been provided at this stage.

CONCLUSION

The proposed development will impact upon the appearance of the heritage dwelling and its interpretation from the street. While the proposed alterations and additions are generally supported, it is recommended that the applicant provide further information addressing the recommendations of the heritage consultant as detailed in the Heritage Assessment prior to determining the application.

RECOMMENDATION

That the development application for alterations and extensions at No. 41 (Lot 4279) Fraser Street, East Fremantle, in accordance with the submitted plans date stamped received on 27 September 2011, be deferred pending further information being submitted to and approved by Council addressing the recommendations of the Heritage Assessment.

The email from Mr Broad, referred from Correspondence (MB Ref T40.1) was tabled.

The following additional information prepared by Council's Town Planner, Carly Pidco, was considered:

"Further to concerns raised in the officer's report in relation to recommendations of the heritage consultant, the applicant has provided a written response to the heritage consultant's comments.

The applicant has expressed a willingness to make some alterations to address the comments of the heritage consultant in relation to the garage door and external appearance of the extensions. The applicant does not wish to alter the proposed side verandah as this may compromise the functionality of the verandah space.

The submission does not provide detail of the alterations to be made. It is recommended that these be finalised prior to Council determining the application. Further negotiation in relation to the proposed side verandah may also be required. Accordingly, the officer's recommendation for deferral of determination remains unchanged."

RECOMMENDATION TO COUNCIL

Cr Rico – Cr de Jong

That the development application for alterations and extensions at No. 41 (Lot 4279) Fraser Street, East Fremantle, in accordance with the submitted plans date stamped received on 27 September 2011, be deferred pending further information being submitted to and approved by Council addressing the recommendations of the Heritage Assessment.

CARRIED

T42.15 Duke Street No. 21 (Lot 12)

Applicant: G & G Petit

Owner: G & G Petit

Application No. P24/2011

By Carly Pidco, Town Planner, on 1 May 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of amended plans to a current Development Approval for construction of a grouped dwelling at 21 Duke Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 1006m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- vacant

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)

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

Local Planning Policy No. 143 : Policy on Local Laws Relating to Fencing (LPP 143)

Impact on Public Domain

Tree in verge : To be retained

Light pole : No impact

Crossover : New crossover to be constructed

Footpath : New crossover to be constructed

Streetscape : New dwelling

Documentation

Plans and relevant forms date stamped received on 29 February 2012

Amended plans and relevant forms date stamped received on 1 May 2012

Date Application Received

29 February 2012

8 May 2012

MINUTES

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

7 September 2007	Western Australian Planning Commission grants approval for the subdivision and amalgamation
15 March 2010	Demolition Approval granted for the removal of the single storey residence formerly on the site
21 June 2011	Council resolves to approve an application for construction of two grouped dwellings

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 27 March 2012 to 10 April 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 27 March 2012. The Panel supports the revised application.

Site Inspection

By Town Planner on 27 March 2012

ASSESSMENT

The amended plans are for a grouped dwelling of similar scale to that previously approved by Council. Revisions have been necessary as excavations undertaken during the site works stage have revealed cap rock that cannot be cut. The applicant is now seeking approval for a revised design that responds to this constraint, resulting in a higher finished floor level and overall building height to what was previously approved. Although the site is technically one property, the assessment considers the impact of the proposed unit 1 on the previously approved but unconstructed unit 2 in relation to planning requirements in anticipation of likely future subdivision. The amended 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

Site:	Required	Proposed	Status
Open Space	50%	51.6% (54.4% proposed Unit 1)	A
Site Works	Less than 500mm	1.52m in front setback	D
Local Planning Policies: Issues			
Policy 142	Setback and height variations		D
Roof	Hip, 30 degrees, colorbond		A
Solar Access & Shade	Living rooms and swimming pool face north		A
Drainage	To be conditioned		A
Views	Height variations		
Crossover	To be conditioned		A
Trees	To be conditioned		A
Other: Issues			
Overshadowing	<25%		A
Privacy/Overlooking	Alfresco – 1.8m over northern boundary		D
Height:	Required	Proposed	Status
Wall	5.6	North: 6.8; East: 9.0	D
Ridge	8.1	North: 9.3; East: 6.5	D
Roof type	Hip		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
Ground	Dwelling	N/A	N/A	N/A	Consistent with adjoining	1.2m; Staggered between adjoining	A
Upper	Dwelling	N/A	N/A	N/A	6.0	5.0	D
Rear (west)							
Ground	Alfresco	1.5	10.4	Y	1.5	7.9	A
	Guest	2.0	14.6	N	1.5	14.4	A
Upper	Bed 3	4.3	4.8	Y	2.0	14.3	A
	Dwelling	4.3	11.9	N	2.6	14.3	A
Side (north)							
Ground	Games/Guest	4.5	10.3	Y	2.4	1.6	D
	Dwelling	4.0	23.4	Y	4.5	5.6	A
Upper	Robe / Ensuite	6.8	6.5	N	1.2	1.6	A
	Retreat	6.8	9.0	N	1.2	5.0	A
	Theatre	6.8	11.2	N	1.6	8.2	A
Side (south)							
Ground	Garage	2.6	9.0	N	1.0	Nil	D
	Dwelling	3.0	20.4	Y	1.5	1.5	A
Upper	Dwelling	5.75	11.1	N	1.5	4.0	A

Site Works

The development includes filling in the front setback area to a maximum of 1.52m above natural ground level. The fill is proposed to achieve a level FFL that sits above the cap rock. The applicant has attempted to minimise the impact of the filling on the street through a staggered retaining wall with a built in planter and low, visually permeable fencing. The varied materials and articulated retaining wall will provide visual interest at the street level and is an expression of the slope of the land. The elevated frontage is similar to many character houses in the area that are also elevated above street level. The proposed filling is not considered to have an undue impact on streetscape and it is recommended that the variation be supported.

Building Setbacks

Side Setbacks

The development proposes a single-storey parapet wall along the southern boundary and a reduced setback to the upper storey along the proposed northern boundary to unit 2. Part 3 of the LPP 142 provides standards for assessing proposed 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.

Upper Storey: The wall significantly exceeds the 3m height limit but only marginally exceeds the 9m length. The wall abuts the front setback area and driveway/garage for the proposed Unit 2. These are not sensitive living areas and the reduced setback is unlikely to have an impact on residential amenity. The wall will not result in any overshadowing of the neighbouring property nor will it obscure views.

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

Garage: The wall is located at the front of the dwelling. The Plympton precinct is characterised by intimate urban streetscapes however the prominence of the

parapet wall will not have an undue impact on streetscape because the wall is located significantly behind the adjoining dwelling, limiting its visual impact.

Upper Storey: Although visible from the street, the wall is set behind the main building line of the dwelling.

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

Garage: Complies.

Upper Storey: Complies.

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

The proposed grouped dwelling sits lower than its southern neighbour, the only property to access significant views over the subject site. Neither the garage or upper storey walls are likely to obscure views. The Plympton precinct is characterised by intimate urban streetscapes and the reduced boundary setbacks are not out of place in this locality.

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

Garage: Abuts an existing retaining wall, limiting visual impact.

Upper Storey: Abuts proposed driveway and garage where impact on amenity is limited. The upper storey has been setback from the street further than the lower storey, reducing its visual impact.

Front Setback

The proposed upper storey is located 5.0m from the front boundary. This is a variation of 1.0m, which is unlikely to be perceptible at street level due to the elevated nature of the development. The front facade is staggered over several levels (multi-tiered retaining wall, paved area, ground storey, second storey) giving the impression of depth. Further, the second storey is set behind the main building line and is partially obscured by the ground storey roof elements. This will provide further visual separation and create the illusion of a significant setback. It is recommended that the variation be approved.

Visual Privacy

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

Building Height

The proposed dwelling exceeds the height requirements of LPP142 as measured from the street and the proposed northern boundary to unit 2. At the front facade, this is due to the considerable slope of the block and need for the finished floor level to sit above the cap rock. However it is considered the building height will not have an undue impact on the streetscape, however, as it is consistent with the pattern of development along Duke Street. The dwelling will sit lower than its southern neighbour, continuing the existing slope, and the elevated frontage is similar to neighbouring properties. The upper storey is set back from the lower storey and is partially obscured by the lower storey roof, minimising the perception of height from street level.

The overheight building wall on the proposed northern boundary results from the significant level difference between the units. The overheight element faces the proposed driveway and garage to unit 2, which are not sensitive living areas and are unlikely to suffer a negative impact on amenity. The overheight wall is located to the south of unit 2, and will not cause overshadowing or obscure views.

It is recommended that the proposed variations to building height be approved.

Front Fencing

The proposed retaining wall will have a height of approximately 1.8m from the street and can be interpreted as a front fence. It is recommended that the retaining wall be approved due to its sympathetic design and necessity in achieving a level building site. Fencing will be required above the retaining wall to comply with BCA requirements, however, further solid fencing should not be encouraged as this may have a negative impact on the streetscape. The applicant has indicated a low metal infill fence above the retaining wall which would add visual interest to the retaining wall and maintain the viewing corridor between the dwelling and the street. It is recommended that a condition be applied to any approval to ensure the low and open design of this fencing.

CONCLUSION

The proposed development incorporates several variations to the Town's requirements in relation to building height, building setbacks, visual privacy and site fill. The variations largely stem from the significant slope and cap rock on site, making it difficult to excavate the site and achieve a consistent FFL. The variations where they relate to neighbouring properties are unlikely to result in any loss of residential amenity due to building bulk, overshadowing or obstruction of views, and the proposed privacy variation is minor in nature and unlikely to have a practical impact at ground level. The applicant has worked to minimise the impact of the variations on the streetscape through setting the second storey behind the main building line and providing a staggered, feature retaining wall for visual interest. The Panel has advised that it supports the application and no objections have been received from neighbours. It is recommended that the amended plans be approved subject to conditions.

RECOMMENDATION

That the applicant be advised that following the submission of a detailed schedule of external materials, finishings (including paint colours) and landscaping for the proposed metal infill fence, retaining walls and planters in the front setback area to the satisfaction of the CEO, 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 southern wall of the garage northern boundary, and 1.6m setback from the northern wall of the Games Room and Guest Room to the proposed northern boundary;
- (b) Vary the Part 2 – Streetscape requirements of the Local Planning Policy 142 in relation to front setbacks to permit a 5.0m setback from the upper storey to the front boundary;
- (c) Vary the Site Works requirements of the Residential Design Codes of Western Australia to permit filling in the front setback to 1.52m to achieve a ground floor Finished Floor Level of RL14.72;
- (d) Vary the building height requirements of the Local Planning Policy 142 to permit a maximum wall height of RL20.10 and maximum ridge height of RL22.12 as provided on the submitted and approved plans; and
- (e) Vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the alfresco to intrude 1.8m over the proposed northern boundary.

for the construction of a dwelling at No. 21 (Lot 12) Duke Street, East Fremantle, in accordance with the plans date stamped received on 1 May 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 applicant's expense.
2. The jacaranda tree to the front of the development is to be retained.

3. The proposed swimming pool does not form part of this approval.
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. All 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 by Council. (*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.*

8 May 2012

MINUTES

- (g) matters relating to dividing fences are subject to the *Dividing Fences Act 1961*.
- (h) under the *Environmental Protection (Noise) Regulations 1997*, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The *Environmental Protection Act 1986* sets penalties for non-compliance with the *Regulations* and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That the applicant be advised that following the submission of a detailed schedule of external materials, finishings (including paint colours) and landscaping for the proposed metal infill fence, retaining walls and planters in the front setback area to the satisfaction of the CEO, that Council exercise its discretion in granting approval for the following:

- (a) variation to the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback from the southern wall of the garage northern boundary, and 1.6m setback from the northern wall of the Games Room and Guest Room to the proposed northern boundary;
- (b) variation to the Part 2 – Streetscape requirements of the Local Planning Policy 142 in relation to front setbacks to permit a 5.0m setback from the upper storey to the front boundary;
- (c) variation to the site works requirements of the Residential Design Codes of Western Australia to permit filling in the front setback to 1.52m to achieve a ground floor Finished Floor Level of RL14.72;
- (d) variation to the building height requirements of the Local Planning Policy 142 to permit a maximum wall height of RL20.10 and maximum ridge height of RL22.12 as provided on the submitted and approved plans; and
- (e) variation to the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the alfresco to intrude 1.8m over the proposed northern boundary.

for the construction of a dwelling at No. 21 (Lot 12) Duke Street, East Fremantle, in accordance with the plans date stamped received on 1 May 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 applicant's expense.
2. The jacaranda tree to the front of the development is to be retained.
3. The proposed swimming pool does not form part of this approval.
4. Plans to meet requirements of Council's Local Planning Policy regarding Noise Attenuation.
5. Development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer.
6. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
7. 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.
8. 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.
9. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the

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

11. 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 Council. (*refer footnote (h) below*)
12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
13. 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.
14. 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.
15. 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

T43. REPORTS OF OFFICERS – STRATEGIC PLANNING

T43.1 *Town Planning Scheme No. 3 and Local Planning Strategy Review* *By Jamie Douglas, Manager Planning Services on 3 May 2012*

Purpose of this Report

This report advises of the progress in the review of the Local Planning Strategy and Town Planning Scheme No 3 and seeks endorsement for the progression of the draft strategy and Scheme review.

Presentation of Analysis and Proposed Strategy

The project consultant Eugene Ferraro has completed a survey of the existing housing density and development pattern throughout the Town and a population analysis to inform revisions to the Planning Strategy and Scheme. A draft Local Planning Strategy has been prepared to replace the existing 2003 Town of East Fremantle Planning Strategy (the draft was circulated to Elected Members in April).

The Manager Planning Services will present an overview of the findings of the analysis and the proposed Local Planning Strategy at the committee meeting.

Town Planning Advisory Panel

The project consultant made a presentation to the TPAP at its meeting on 24 April 2012.

The Panel commented as follows:

- *The Committee recognises the consultant's sensitive consideration of existing heritage housing stock.*
- *Higher density development to be located near public transport routes.*
- *Consideration of housing density that responds to Population growth trends.*
- *The Draft LP strategy highlights the need for further analysis and reappraisal of the veracity of the Town's Municipal and Heritage lists in order to establish where significant properties need to be moved from the Municipal Inventory to the Heritage list.*
- *Important that any future assessment of options for the old Woodside hospital site shall have regard to the need for the retention of its heritage significance.*
- *Council needs to consider developing a distinct 'Open Space' strategy to integrate with the Local Planning strategy.*

Discussion

The draft Strategy proposes that potential infill development locations would be rezoned as dual R-coded areas where subdivision and development could be considered at the higher indicated density providing the proposals meet certain performance criteria. This approach will encourage housing diversity since not all lots in an area will be able to satisfy the criteria necessary for redevelopment and will protect heritage and streetscape values.

The TPAP was very supportive of the approach taken but indicated the need to formalise the Municipal Listings into a Heritage List under the Scheme provisions as a necessary precursor to the implementation of the Strategy and Scheme Amendments. These comments are accepted and this work has accordingly been incorporated within the Strategic Planning Program to commence in the coming month.

RECOMMENDATION

It is recommended that the report be received and the Draft Local Planning Strategy 2012 be endorsed for further development as the basis for the review of Town Planning Scheme No.3.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Wilson

That the report be received and the project consultant Eugene Ferraro address Council at a date to be arranged.

CARRIED

T43.2

Planning & Development Services – Status Report

By Jamie Douglas, Manager Planning Services on 3 May 2012

Purpose of This Report

This report provides Elected Members with information on the progress of the various Strategic Planning and Development Projects currently identified within the Planning Program.

STRATEGIC PLANNING

1. Residential Design Guidelines

The following program of public consultation for the release of the draft Design Guidelines has been prepared by 'bluebottle' consulting who will be project managing the consultation program.

Activity	Responsibility	Date
Bluebottle to meet with consultants	Bluebottle/ToEF/Consultants	30 March
Prepare draft: - fact sheets - summary sheets - website information - media release - advertising Approval of material	Bluebottle/ToEF ToEF	2–16 April
Distribution of media release to local newspapers	Bluebottle	23 April
Advertising of RDG commences for two week period	ToEF	23 April–7 May
Preparation of information session material: PowerPoint presentation	ToEF/Consultants	7–10 May
Review of information session material for branding, tone and style	Bluebottle	10–11 May
Information Session	ToEF/Consultants	16 May 4pm–7pm
Submission period	ToEF	16 May–6 June
Submissions received and report prepared by manager planning services to present at Council	ToEF	25 June
Council adopts policy (incorporating submission feedback)	ToEF	3 July
Advertising announcing council adoption of policy	ToEF	10 July
Information session (if required) to advise residents and professionals of the outcome of the consultation and the amendments to the policy and what they mean	ToEF/Consultants	12 July

2. Review of Local Planning Strategy and TPS No. 3

The draft Local Planning Strategy is the subject of a separate report in this agenda. Copy of the draft Strategy was distributed to Elected Members with the April agenda.

The draft Strategy was presented to the Town Planning Advisory Panel at its meeting on 24 April 2012. A presentation on the draft Strategy will be presented to the Committee and Council in the May round of meetings.

3. Access and Parking Management Plan – George Street Precinct

Work on the project commenced 2 April 2012 and is due for completion in 13 weeks. The first of two Community Working Group meetings was facilitated by the consultants GHD on the 24 April 2012 in the Council Chambers. Prior to the meeting 18 people registered to attend the event, however 20 people in total attended on the day (attendees are identified below).

The structure of GHD's presentation to the CWG involved the following:

- the purpose of the study and the role of the CWG
- an aerial study of the study area
- an initial review of the local planning scheme (current) - assessment of access and connectivity to the precinct
- initial observed issues
- preliminary survey feedback
- initial ideas

The CWG attendees were involved in the following tasks:

- all attendees undertook a survey
- key opportunities and constraints exercise
- each group presented to the CWG their key issues and opportunities

CWG Attendees

Name	Street	Detail	Attendance CWG 1
Mark de Kluver	12 East Street East Fremantle		Yes
Brian Caulfield	49 Hubble Street East Fremantle		Yes
Pam tickner			Yes
Deborah House	10 Hubble Street	Resident	Yes
Cindy Innes	37 Hubble Street	Resident	Yes
Gillian Stevens		Residents	Yes
Sian Martin	16 Sewell Street	Councillor	Yes
Robert Hardie		Senior Architect Hassel	Yes
Paul Filippin	140 William Street Perth	Department of Transport	Yes
Craig Harding		Rio Tinto	Yes
Alison Pete	Business Ower		Yes
Rob Bates-Smith	Wine Store		Yes
Mr Franis	36 Hubble Street		Yes
Ms Franis	36 Hubble Street		No
Murray Pickering			Yes
Frances Honig			Yes
Alan Guy			Yes
Jono Farmer			Yes
Gary Pratentich			Yes
Paddy Glasgow			Yes
Jan Machin			Yes
Tony Jones			Not Applicable

4. Amendment No. 9 – Demolitions and Exemptions

Draft Scheme Amendment 9 will make textural changes to the Scheme to require an application for planning approval for all demolitions and also to increase the extent of minor non-consequential works which are exempt from the need for planning approval.

8 May 2012

MINUTES

The Department of Planning has advised that it will submit the draft amendment to the Minister for Final Approval on 8 May 2012. However Department officer's have advised they have not supported the application of development control provisions for all demolitions but have supported an alternate where by development approval will be required for properties listed on the Municipal Inventory. This is considered a reasonable outcome should the Minister grant his Final Approval to the Amendment.

5. Heritage List

It is proposed to commence the translation of properties from the Municipal List onto an expanded Heritage List under TPS No3 in June.

TOWN PLANNING COMPLIANCE

38 Wolsely Road

The works required to satisfy the conditions of Planning Approval as upheld by the SAT have finally been completed (construction of awning and tiling to the dado line on the external façade). A picture of the completed works is attached.

APPEALS

20 Allen Street

An appeal has been lodged with the SAT in respect to Council's refusal to allow a carport in front of the building line of 20 Allen Street. The Manager Planning Services attended a Directions Hearing on 2 May 2012 at which time an on-site mediation hearing was set for 22 May 2012.

PROJECT MANAGEMENT

1. Conservation Works Former Police Station

Roof Replacement and Ancillary Works

The preferred contractor, the 'Roof and Wall Doctor' will commence the works on 18 May 2012. The works are expected to take 2 to 3 weeks to complete. It is intended that additional works will take place after roof installation. These works will include preparation treatment and painting of all external exposed timbers.

2. Conservation Works Town Hall

(a) *Repair/Replace Fire Escape Stairs*

The preferred contractor for these works, 'Living Iron Pty Ltd' will fit the new stairs in approximately 6 weeks.

(b) *Survey of Air-conditioning Loads*

The survey will be undertaken in approximately two weeks.

(c) *Rising Damp*

'Anti-Damp' has completed the remedial works to address the rising damp.

(d) *Internal Decoration*

Internal painting of the Town Hall will commence on 10 May 2012.

RECOMMENDATION

That the report be received.

RECOMMENDATION TO COUNCIL

Cr Rico – Cr de Jong

That the report be received.

CARRIED

T44. CONFIDENTIAL BUSINESS

Nil.

8 May 2012

MINUTES

T45. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T46. 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 (Private Domain)** of the Town of East Fremantle, held on **8 May 2012**, Minute Book reference **T35. to T46.** were confirmed at the meeting of the Committee on*

.....

Presiding Member