

8 February 2011

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 8 FEBRUARY, 2011 COMMENCING AT 6.30PM.

T1. OPENING OF MEETING

T1.1 Present

Cr Alex Wilson	Presiding Member
Cr Cliff Collinson	
Cr Rob Lilleyman	
Cr Siân Martin	
Cr Dean Nardi	
Cr Maria Rico	
Mr Jamie Douglas	Manager – Planning Services
Ms Gemma Basley	Acting Town Planner
Mrs Peta Cooper	Minute Secretary

T2. 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.”

T3. WELCOME TO GALLERY

There were 6 members of the public in the gallery at the commencement of the meeting.

T4. APOLOGIES

An apology was submitted on behalf of Mayor Ferris and Cr Barry de Jong who left prior to the commencement of the meeting due to illness.

T5. CONFIRMATION OF MINUTES

T5.1 Town Planning & Building Committee (Private Domain) – 7 December 2010

Cr Martin – Cr Nardi

That the Town Planning & Building Committee (Private Domain) minutes dated 7 December 2010 as adopted at the Council meeting held on 14 December 2010 be confirmed.

CARRIED

T6. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T6.1 East Street No. 16 (Lot 42)

Submission received from applicant, Mr Rob Fittock on behalf of the owner, Mr Paul Covich, advising that although he is unable to attend the meeting he is in support of the officer's recommendation. Mr Fittock also made comment on a number of issues for the Committee's consideration and support.

Cr Martin – Cr Lilleyman

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T10.7).

CARRIED

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T7. REPORTS OF COMMITTEES

T7.1 Town Planning Advisory Panel – 25 January 2011

Cr Wilson – Cr Rico

That the minutes of the Town Planning Advisory Panel meeting held on 25 January 2011 be received and each item considered when the relevant development application is being discussed. CARRIED

T8. REPORTS OF OFFICERS – STATUTORY PLANNING/DEVELOPMENT CONTROL

T8.1 Receipt of Reports

Cr Lilleyman – Cr Collinson

That the Reports of Officers be received. CARRIED

T8.2 Order of Business

Cr Lilleyman – Cr Collinson

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

**T8.3 Wolsely Road No. 38 (Lot 5)
Applicant: S Johnston & S McKercher
Application P196/08 & P165/10**

By Jamie Douglas, Manager Planning Services on 31 January 2011

Attachments

1. 'Request for Reconsideration of Conditions of Planning Approval', Heritage and Conservation Professionals, January 2011
2. CEO letter dated 22 November 2010, to Mr S Johnston & Ms S McKercher
3. Approved Plans dated 21 February 2006

PURPOSE OF THIS REPORT

The purpose of this report is to present the applicants responses (relating to approval Conditions) contained in Council's Resolution of 16 November 2010 regarding retrospective planning approval and to seek Council's endorsement for a recommended reply to the State Administrative Appeal.

BACKGROUND

At its meeting on 16 November 2010 Council resolved that retrospective planning approval be granted for the spa, fencing and shade sails as shown on plans received 16 November 2009 (see Attachment 2) and:

4. *The tiling which has been installed on the former shop front at No. 38 (Lot 5) Wolsely Road, East Fremantle in place of the original tiles, is not approved and Council requires that wall tiles of a similar type to the original tiles, which are to be to the satisfaction of the CEO, be installed to all of the areas shown on the approved building licence drawings, consistent with Council's planning approval.*
5. *With respect to the redevelopment of No. 38 (Lot 5) Wolsely Road, East Fremantle:*
 - (a) *Council notes that the approved building licence drawings entailed the retention of the existing awning which was subsequently permitted to be temporarily removed for structural purposes in the course of other building works, subject to the awning being reinstated or replaced with another awning which was to Council's satisfaction.*
 - (b) *Council requires that the original awning be reinstated, consistent with the approved building licence drawings. In the event that awning has been destroyed, Council requires an awning which replicates the original awning and is to the*

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satisfaction of the CEO, be installed, with the method of installation also to be to the satisfaction of the CEO.

6. *This issue of approval or refusal of all or any of the landscaping which has been carried out, or replacement plantings be delegated to the CEO."*

Items 4, 5 and 6 are the subject of an appeal to the State Administrative Tribunal. Two rounds of mediation have occurred subsequent to the Council meeting however it has not been possible to achieve a settlement of the matter which would accord with the requirements of point 4 above (the reinstatement of the tiles). Accordingly the SAT has issued an Order that:

- the applicant lodge drawings illustrating the requested amendment for planning approval for alterations and additions to 49 Osborne Street,
- Council is invited to reconsider its decision,
- a further mediation is to be held on 22 February 2011.

DESCRIPTION OF PROPOSED WORKS TO SATISFY APPROVAL CONDITIONS

Heritage and Conservation Professionals (Rosemary Rosario) has submitted a report on behalf of the applicants. It was requested at mediation that this information be made available to Councillors accordingly this report forms Attachment 1. In summary the applicant's proposal to satisfy the conditions is as follows:

Awning The applicants request the requirement to restore the former awning is altered to allow the construction of a new awning to match the removed awning. Plans for the proposed awning are attached to the report. The new awning is designed to reconstruct the detail of the former awning. The awning will be approximately 2 m wide, pitched at 27 degrees and constructed of 'Colorbond' (Surfmist) to match the roof of the adjacent development. The framing will be paint finished and painted to match the adjacent wall

Wall tiles It is proposed to reinstate an area of tiling around the former entry to the shop and request that Council accept this as compliant with the planning approval requirement (identified in point 4 in 'Background'). The plans show tiling is to be limited to the truncated entry to the shop (i.e. around the doorway to an extent of 300mm and to a height of 1600mm). The tiles are to be 150x70mm Piano Black LUX. The applicants seek a variation from the colour of the original tiles, 'due to the need to integrate the shop front visually with the new development. The previous tan coloured tiles will look out of place'.

Landscaping The applicants agree to the removal of the existing landscaping and endorse the proposed works to be undertaken to reform the footpath.

CONSIDERATION

The report by 'Heritage and Conservation Professionals' has been referred to Heritage Architect, Philip Griffiths who has also been involved in the mediation process on behalf of Council, he has advised as follows;

I have reviewed the report by Heritage and Conservation Professionals entitled Lot 5 38 Wolsely Road, East Fremantle, Request for Reconsideration of Conditions of Approval, dated January 2011.

The report thoroughly rehearses the history of the development approval process and requirements, intervening events, and the matters that require confirmation by way of a Section 31 order made by SAT.

There are two planning issues and one matter that Council may endorse and action to contribute to the conservation of the place and its presentation.

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Awning

As indicated in SAT, the drawings for the new canopy are essentially a reconstruction of the canopy that was supposed to be retained. As best as can be ascertained from the evidence gathered, the canopy will be a reconstruction, though obviously contemporary engineering codes will apply to the construction. This is an acceptable outcome, as it puts the development back into the realm of the approved concept.

External Wall Tiling

The second point raised is the wall tiles to the shop. The original heritage advice was that the tiles should be retained and conserved. The approved drawings show tiles to the shop and the Wolsely Street elevation of the residence, and then indicated that they would be retained. In fact the tiling only ever applied to the walls of the shop and the remaining dark colour indicated on photographs was a paint finish.

In the request for reconsideration, the applicant is proposing to have tiles to the door reveals only in what I take to be a stretcher bond pattern in a black finish tile with a black dado bead at the top. The vertical corners, or arises are also to have corner bead tiles.

In my view that runs against the original heritage advice on which an approval was based, and the elected members understanding of the outcome.

During construction circumstances changed and all tiles were removed. In the pre-construction photographs some tiles were noted as missing. The applicant contends that all tiles had lost bond and were very easily removed. Not having seen work in progress, we are not in a position to judge the merits of the case for removal.

It is reasonably clear to me that the intent of Council was to have the shop retain its appearance as corner shop. I don't believe the fact that other corner shops have had their tiling removed or painted over has any bearing on what the outcome should be on this occasion.

I believe that a token tiling scope around the shop door on this occasion is not the required outcome and reinstating the tiling to the full extent of the shop is the best heritage outcome.

There will be an issue to do with colour so that a proper 'reconstruction' will not be possible. There are colours that are not very far removed from the original according to a website search, but would appear to be more red than brown orange. Perhaps the applicant could supply a sample for approval.

Landscaping

The present landscape around the shop is unsatisfactory on many levels. As you are aware, I prepared an alternative proposal that would restore the original relationship between shop and paving, would manage stormwater, and give pedestrian a safe and sheltered place to wait before crossing to the school.

CONCLUSIONS

To respond to the SAT Order to reconsider its determination, it is not necessary that Council re-consider the wording of the Conditions of Approval but whether it considers that the works as proposed satisfy the conditions. The wording of the conditions is such that they can accommodate the proposed works should it be determined that they are acceptable.

Awning

The proposed awning accords with the design included on the approved plans and is endorsed by Council's Heritage Architect. The proposal is considered to satisfy the condition 5 (b) of Council's determination which states; *In the event that awning has been destroyed, Council requires an awning which replicates the original awning.*

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Tiles

The proposal to tile only around the door reveals and in a colour matching the current colour scheme conflicts with the Heritage Report prepared by Rosemary Rosario for Council on 2 February 2006 (see Attachment 03 of her report of January 2011) which stated:

'The corner shop should be retained including all original or significant features to include, parapet walls, wall tiles, door opening and door with fan light to truncated corner, window openings and windows, internal finishes including ceiling and timber floorboards.'

It is noted that since this time the original tiles have been removed and lost and so an exact replication of the former tiling is not possible. However Council's Heritage Architect's opinion is that 'a token tiling scope around the shop door on this occasion is not the required outcome and reinstating the tiling to the full extent of the shop is the best heritage outcome'. He further advises that a colour not dissimilar to the original is available (however it is acknowledged that this may not blend with the current colour scheme of the painted walls). On balance it is considered that while replication of the exact colour may not be critical, the extension of tiling to at least the end of the parapet walls of the shop front on both sides to the height of the existing dado tile line is necessary to retain the building's appearance as a corner shop representative of the period and so retain it's heritage significance. The reinstatement of the tiles only to the extent of the parapet wall is a substantial reduction in the area of the tiles shown on Elevation 2 of the approved plan dated 21 February 2006 but is the minimum extent considered necessary to define the shop front. Accordingly it is considered the proposed works do not satisfy Condition 4 of the above Council determination.

Landscaping

There is general agreement that the landscape plan prepared by Philip Griffiths is acceptable. The proposal will involve Council undertaking works within the 'public domain' to address what is a current trip hazard for pedestrians and to realign and drain runoff from the footpath away from the building footings. This will also contribute to the conservation of this heritage building.

RECOMMENDATION:

It is recommended that in respect to the 'Request for Reconsideration of Conditions of Planning Approval' dated January 2011, in respect to Lot 5, 38 Wolsely Road, East Fremantle, Council determines in regard to the proposed works:

1. The proposed awning satisfies Condition 5 of its determination of 16 November 2009 and endorses the proposed variations to the approved plans, dated 21 February 2006.
2. The proposal to tile only around the door reveals does not satisfy Condition 4 of its determination of 16 November 2009 and does not endorse the proposed variations to the approved plans, dated 21 February 2006.
3. The Landscape Plan prepared by Philip Griffiths Architects, December 2010 is acceptable and satisfies Condition 6 of its determination of 16 November 2009 and endorses the proposed variations to the approved plans, dated 21 February 2006.

Please Note: In respect to 2) above Council would support an alternate proposal which incorporated the extension of the proposed tiles to at least the end of the parapet walls of the shop front on both sides to the height of the existing dado tile line.

Ms Rosemary Rosario (Heritage and Conservation Professionals) and Ms Sally McKercher (applicant) addressed the meeting.

Ms Rosario, on behalf of her clients, advised of the reinstatement of the awning and tiling to the reveal and angle of the truncated corner down to the threshold of the door to the height of the dado line with the remainder to be painted. She also stated that this course of action would have many good conservation outcomes as anything placed there would be an interpretation, therefore a different colour would be acceptable.

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Martin

It is recommended that in respect to the 'Request for Reconsideration of Conditions of Planning Approval' dated January 2011, in respect to Lot 5, 38 Wolsely Road, East Fremantle, Council determines in regard to the proposed works:

1. The proposed awning satisfies Condition 5 of its determination of 16 November 2009 and endorses the proposed variations to the approved plans, dated 21 February 2006.
2. The proposal to tile only around the door reveals does not satisfy Condition 4 of its determination of 16 November 2009 and does not endorse the proposed variations to the approved plans, dated 21 February 2006. Council would support an alternate proposal which incorporated the extension of the proposed tiles to at least the end of the parapet walls of the shop front on both sides to the height of the existing dado tile line.
3. The Landscape Plan prepared by Philip Griffiths Architects, December 2010 is acceptable and satisfies Condition 6 of its determination of 16 November 2009 and endorses the proposed variations to the approved plans, dated 21 February 2006.

CARRIED

T8.4

Fletcher Street No. 1 (Lot 500)

Applicant & Owner: Barry Toms

Application No. P148/2010

By Gemma Basley, Town Planner on 3 February 2011

BACKGROUND

Purpose of this Report

An Application for Planning Approval for redevelopment of the residence at 1 Fletcher Street, East Fremantle into 2 residences was determined by Council at its meeting of 14 December 2011. The application was supported however it was noted that it had not been advertised. It was therefore Council's resolution that the application be advertised for a period of 14 days and subject to no adverse comment being received during the advertising period then the application for redevelopment be approved as per the Committee recommendation of 7 December 2010.

The subject report provides details of the comments received from advertising and seeks Council's approval to the conditions approved as per the Committee recommendation of 7 December 2010 and the approval of an additional condition to address the neighbour submissions.

Description of Proposal

The application proposes significant alterations, additions and the demolition of portion of the existing residence at 1 Fletcher Street to create two new residences. More specifically it is proposed to create a single storey residence on the western portion of the site and a two storey dwelling on the eastern part of the site.

The 2 storey residence is proposed to have two balconies on the upper floor with one at the front of the house looking onto Fletcher Street and with a balcony at the rear of the upper floor looking north. It is the balcony element of the application that is the subject of the neighbour submissions.

Statutory Considerations

Town Planning Scheme No. 3

Local Planning Strategy – Woodside Precinct (LPS)

R20 Residential Design Codes (RDC)

Relevant Council Policies

LP Policy No. 143: Residential Development

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : No impact
- Footpath : No impact
- Streetscape : The redevelopment of the residence will alter the streetscape but not in an adverse way

Documentation

Plans and relevant forms date stamp received on 22 September 2010 and correspondence received on 1 November 2010

Date Application Received

30 August 2010

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

- 20 December 2005 Council resolves to initiate Amendment No. 3 to TPS3 which is later approved by the Minister for Planning and which rezoned the site to 'R20'.
- 14 December 2010 Council resolves to advertise the application for two dwellings and a shed at 1 Fletcher Street for a period of 14 days and subject to no adverse comments being received, the application being approved in accordance with the Committee recommendation of 7 December 2010.

CONSULTATION

Advertising

The application was advertised to the surrounding neighbours for two weeks between the 5 and the 20 January 2011. Two submissions were received during the advertising period and will be detailed and responded to below.

Submission	Planning Response
<p>Patricia and Heath Tyrell of 41 Allen Street, East Fremantle raise concerns about overlooking from the front balcony into their property.</p> <p>Concerns are also raised with regard to overlooking from the rear balcony.</p>	<p>The applicant has agreed to screen the eastern opening of the front balcony and this addresses the neighbour submission.</p> <p>The rear balcony meets the privacy setback requirements in relation to 41 Allen Street and as such the balcony does not need to be screened. The applicants however have indicated that at the time of development they may consider screening the eastern opening of the rear balcony if desirable by themselves.</p>
<p>Mrs P Minuta of 35 Allen Street, East Fremantle objects to the proposed balcony on the upper floor and the two small windows in the rear upper floor wall</p>	<p>The rear balcony is set back 20 metres plus from the rear boundary that is shared with 35 Allen Street. In accordance with the R-Codes this does not require screening. In addition it is the officer's view that no overlooking from this balcony will impact on the privacy of 35 Allen Street because of it being setback 20 metres from the boundary.</p> <p>The two small windows in the north facing upper floor are highlight windows and have a sill height of 1.6 metres and as such are not considered to be a major opening and do not require screening.</p>

The objections have been addressed above and a condition is included in the recommendation to require the screening of the eastern opening of the upper floor balcony.

STATISTICS

File	P/FLE1
Zoning	R20
Lot Area	607m ²
Heritage Listing	No

Site:	Required	Proposed	Status
Site Works on boundary/street setback	Maximum 0.5m	0.5	Acceptable
Open Space	50%	64%	Acceptable
Overshadowing	>25%	>25%	Acceptable

Height:	Required	Proposed	Status
Wall	3.0 metres	4.5 metres	Discretion
Ridge	6.0 metres	4.5 metres	Acceptable
Roof type	Skillion		

Setbacks have not been assessed on all boundaries because the application proposes to retain existing walls and setbacks to some boundaries.

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Rear (North) Upper	Balcony - Unscreened	5.4	2.3	Yes	7.5	20 m+	Acceptable
Side (East) Upper	Balcony - Screened	5.4	5.8	Yes	1.5	4.71	Acceptable

Privacy/Overlooking

The front yard of 41 Allen Street therefore a condition is included to require the eastern opening of the front balcony to be screened. Overlooking will not occur from the rear balcony because this area has a minimum setback of between 9 and 20 metres to any boundary and is compliant with the R-Codes requirements in relation to unscreened balconies. It is considered that the setback between the balcony and adjoining lots is sufficient to ensure that any overlooking would not impact on the privacy of neighbouring lots.

The eastern opening of the upper floor balcony is not screened and could overlook 41 Allen Street. A condition is therefore recommended to require the screening of the eastern balcony opening.

Given that the proposal has now been advertised and meets the majority of the relevant acceptable development provisions of TPS3 it is recommended that approval be granted.

RECOMMENDATION

That Council exercise its discretion in granting approval for:

- a variation to the open space requirements to allow a reduction in open space for the single storey residence from 50% to 40.11%;
- a variation to the building height requirements to allow a single storey wall to exceed to 3.6 metres in lieu of 3.0 metres required by the Codes;

for the re-development of No. 1 (Lot 500) Fletcher Street, East Fremantle to create two dwellings, in accordance with plans date stamp received on 26 November 2010, subject to the following conditions:

1. the eastern opening of the front upper floor balcony to be fitted with fixed permanent screening to a height of 1.65 metres in accordance with the requirements of the R-Codes 2008.
2. the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the CEO prior to the issue of a Building Licence.2
3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where

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- varied in compliance with the conditions of this planning approval or with Council's further approval.
4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 5. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That Council exercise its discretion in granting approval for:

- **a variation to the open space requirements to allow a reduction in open space for the single storey residence from 50% to 40.11%;**
- **a variation to the building height requirements to allow a single storey wall to exceed to 3.6 metres in lieu of 3.0 metres required by the Codes;**

for the re-development of No. 1 (Lot 500) Fletcher Street, East Fremantle to create two dwellings, in accordance with plans date stamp received on 26 November 2010, subject to the following conditions:

1. **the eastern opening of the front upper floor balcony to be fitted with fixed permanent screening to a height of 1.65 metres in accordance with the requirements of the R-Codes 2008.**
2. **the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the CEO prior to the issue of a Building Licence.²**
3. **the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
4. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
5. **with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
6. **all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
7. **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) 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

T8.5

Gill Street No. 26 (Lot 1)

Owner: Mr S & Mrs S Olton

Applicant: Peter Stannard Homes Pty Ltd

Application P198 2010

By Gemma Basley, Town Planner on February 2011

BACKGROUND

Purpose of this Report

An Application for Planning Approval for a new two storey residence at 26 Gill Street, East Fremantle is the subject of this report.

The report recommends that Council approve the application conditionally.

Description of subject site

The subject site:

- 409m²
- is zoned Residential R12.5 and subject to Clause 5.3.3 of TPS No. 3
- is undeveloped
- located in the Richmond Precinct

Statutory Considerations

Town Planning Scheme No. 3 (TPS3)

Local Planning Strategy – Richmond Precinct (LPS)

R12.5 Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)

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

Impact on Public Domain

Tree in verge : No Impact

Light pole : No Impact

Crossover : No Impact

Footpath : No Impact

Streetscape : The new residence will alter the streetscape but it is considered that it will be in keeping with existing developments along the street and specifically, the adjoining developments

Documentation

Plans and relevant forms date stamp received on 14 December 2010

Revised Plans date stamp received on 2 February 2011

Date Application Received

14 December 2010

No. of Days Elapsed between Lodgement & Meeting Date

55 Days

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

CONSULTATION
Advertising

The application was advertised to adjoining land owners for two weeks between the 6 and the 20 January 2011. During this period one submission was received from the adjoining neighbour of 26A Gill Street advising that services extend through the application area and require protection during the construction phase.

The house is located some metres away from the services and no interruption to these services will occur.

Town Planning Advisory Panel

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting of 25 January 2011. The Panel made the following comments:

- Query garage width in relation to house frontage.
- Query representation of double crossover.
- Materials and finishes schedule to be provided prior to determination by Council.

The garage only occupies 33.9% of the lot frontage and therefore satisfies the requirements of the R-Codes 2008 and is considered to be satisfactory. In addition, the porch element dilutes the dominance of the garage and provides some articulation to the front elevation.

Amended plans have been submitted, which remove the double crossover and only identify a single crossover.

A materials and finishes schedule has been submitted and is attached to the appendices of the report and is considered to be suitable for the area.

It is considered that the Panel's comments have been adequately responded to by the applicant.

Site Inspection

By Town Planner, 25 January 2010

STATISTICS

File	P/GIL26
Zoning	R12.5
Lot Area	409m ²
Heritage Listing	No

Site:	Required	Proposed	Status
Open Space	50%	64. %	Acceptable
Overshadowing	>25%	>25%	Acceptable

Height:	Required	Proposed	Status
Wall	5.6	5.179	Acceptable
Ridge	8.1	7.1	Acceptable
Roof type	Pitched @ 24.43°		

Setbacks:		Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Wall Orientation	Wall Type						
Front Ground	Whole	2.572	11.5	Yes	6.0	5.5	Discretion
Upper	Bed 1	5.179	6.23	Yes	6.0	5.5	Discretion

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Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Rear							
Ground	Whole	2.572	11.87	Yes	1.5	6.628	Acceptable
Upper	Whole	5.179	11.87	Yes	2.9	6.628	Acceptable
Side (south)							
Ground	Whole	2.572	11.5	Yes	1.5	1.5	Acceptable
Upper	Whole	5.179	11.7	No	1.5	1.5	Acceptable
Side (north)							
Ground	Whole	2.572	13.19	Yes	1.5	2.4	Acceptable
Upper	Whole	5.179	11.75	No	2.9	3.96	Acceptable

Overlooking

No overlooking will occur from the proposed two storey residence. The bedroom windows that face the rear are set back in accordance with the privacy requirements of the R-Codes 2008.

ASSESSMENT

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the front setback which will be discussed below.

Front Setback

The R-Codes require a minimum setback of 6.0 metres for development at the R20 density and the subject application only proposes a setback of 5.5 metres. No justification has been given for the reduced setback and the plans indicate that there is sufficient area on the site to accommodate the 6 metre front setback.

In this regard, a condition has been included to require a minimum setback of 6.0 metres to the street with the exception of the porch, which is allowed to encroach into the front setback area by 1.44 metres.

Compliance with the setback requirements will ensure that the setbacks are in keeping with the streetscape.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to allow the porch to encroach 1.44 metres into the front setback area in lieu of the R-Codes requirements to limit this encroachment to 1 metre for the construction of a two storey residence and double garage at No. 26 (Lot 1) Gill Street, East Fremantle in accordance with the plans date stamp received on the 2 February 2011 subject to the following conditions:

1. the front setback to be increased to 6.0 metres in accordance with the requirements of the R-Codes 2008.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.

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5. the proposed house is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater is to be disposed of on site and away from boundaries.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Stuart & Mrs Susan Olton (applicants) addressed the meeting in support of their proposed new residence.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Lilleyman

That Council exercise its discretion in granting approval for a variation to allow the porch to encroach 1.44 metres into the front setback area in lieu of the R-Codes requirements to limit this encroachment to 1 metre for the construction of a two storey residence and double garage at No. 26 (Lot 1) Gill Street, East Fremantle in accordance with the plans date stamp received on the 2 February 2011 subject to the following conditions:

1. **the front setback to be increased to 6.0 metres in accordance with the requirements of the R-Codes 2008.**
2. **the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
3. **the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
4. **with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
5. **the proposed house is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
6. **all stormwater is to be disposed of on site and away from boundaries.**
7. **this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

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

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

Cr Martin made the following impartiality declaration in the matter of 19 Preston Point Road: "As a consequence of the objector, Ms Penelope Johnson, being known to me due to her being my hairdresser, 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".

T8.6 **Preston Point Road No. 19 (Lot 35)**
Applicant: Allerding & Associates Pty Ltd
Owner: Gary Archer
Application P185/2010
By Gemma Basley, Town Planner on February 2011

BACKGROUND

Purpose of this Report

An Application for Planning Approval for a Change of Use from a 'Workshop/Garage/Loft' to a 'Single House' at 19 Preston Point Road, East Fremantle is the subject of this report.

The application seeks approval for major amendments to a previous Planning Approval for a 4 storey residence and a 'Workshop/Garage/Loft' on the site. The 4 level house has not been constructed and the Planning Approval has since expired resulting in an incomplete development and the need for this application.

The subject application proposes to retain the building on Preston Point Road and to utilise this for a residence in lieu of only one dwelling being permitted on the site.

The report recommends that Council approve the application subject to conditions.

Description of subject site

The subject site:

- comprises an area of 539m²
- developed with a two storey garage/loft that fronts Preston Point Road
- zoned Residential R12.5;
- located in the Riverside Precinct; and

Statutory Considerations

Town Planning Scheme No. 3 (TPS3)
Local Planning Strategy – Riverside Precinct (LPS)
R12.5 Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No Impact
Light pole : No Impact
Crossover : No Impact
Footpath : No Impact
Streetscape : The streetscape of Reynolds Street and Preston Point Road will be altered as a result of the development.

Documentation

Plans and relevant forms date stamp received on 14 January 2011

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Date Application Received

14 January 2011

No. of Days Elapsed between Lodgement & Meeting Date

24 Days

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

- 1990 Council conditionally approves an additional unit at the rear of 21 Preston Point Road (now 5 Reynolds Street) with increased building and ceiling heights;
- 23 February 1998 Council conditionally approves a 4-level house at the rear of 17 Preston Point Road (now 9 Reynolds Street) on reduced setbacks and increased building height;
- 30 March 1993 State Planning Commission certifies approval to subdivide 21 Preston Point Road into 2 strata lots (1 X 378m² - 5 Reynolds Street, 1 X 524² - 21 Preston Point Road);
- 17 April 2001 Council grants special approval for a second storey deck and parapet wall additions to the house at 5 Reynolds Street;
- 22 March 2002 WAPC certifies approval to subdivide 17 Preston Point Road into 2 strata lots (1 X 217m² - 9 Reynolds Street, 1 X 304² - 17 Preston Point Road);
- 30 May 2006 CEO under delegated authority conditionally approves an upper level deck addition to 5 Reynolds Street
- 19 December 2006 Council resolves to defer the application for a 3 level house at 19 Preston Point Road pending the submission of additional information.
- 17 July 2007 Council grants approval for a 3 storey dwelling with an undercroft fronting Reynolds Street and a workshop/garage/studio fronting Preston Point Road.
- 18 March 2008 Council grants approval for revised plans for a 3 storey dwelling with an undercroft fronting Reynolds Street and a workshop/garage/studio fronting Preston Point Road.
- 14 December 2010 Council resolved to defer the application for planning approval for a 3 level residence and the conversion of a garage/loft to a residence at No. 19 (Lot 35) Preston Point Road and 7 Reynolds Street, East Fremantle in plans date stamped 14 December 2010 subject to the submission of revised plans that comply with the statutory requirements of TPS No. 3 (including section 9.4 – advertising).

CONSULTATION

Advertising

The application was advertised to adjoining neighbours and a sign was placed on the site for a 2 week period between the 19 October and the 2 November 2011. During the advertising period three submissions were received which will be tabled and responded to by the applicant below:

Submission	Applicant Response
<p>Brian & Ruth Watson of 5 Reynolds Street, East Fremantle</p> <p>The conversion from a garage to a dwelling is a fait accompli and as the dwelling does not impact upon our house we have no objection.</p>	<p>Noted</p>

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Submission	Applicant Response
<p>Brooke Lawrence & Matthew Tideswell of 21 Preston Point Road, East Fremantle</p> <p>Consideration of how the fence of No. 19 Preston Point Road will connect with our property at No. 21 Preston Point Road</p>	<p>A condition has been included in the Recommendation to require demonstration of how the proposed fence at 19 Preston Point Road will connect with the fence at 21 Preston Point Road.</p>
<p>Penelope Johnson of 17 Preston Point Road, East Fremantle</p> <p>Unfinished works at 19 Preston Point Road that is unsightly and detrimental to my property.</p>	<p>A condition has been included to ensure the conditions of approval are met before the building is inhabited.</p>

Town Planning Advisory Panel

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting on the 28 September 2010. At this meeting comments were only made in relation to the proposed 4 storey dwelling (that formed part of earlier application) and with no comments being made in relation to the existing building that fronts Preston Point Road.

Site Inspection

By Town Planner on 1 February 2010

STATISTICS

File	P/REY7
Zoning	R12.5 but assessed as R17.5 as per Clause 5.3.3 of TPS No. 3
Lot Area	539m ²
Heritage Listing	Not listed

Site:	Required	Proposed	Status
Open Space	50%	68.84%	Acceptable
Overshadowing	>25%	No additional overshadowing	Acceptable
Site Works	Max 0.5 metres	Nil	Acceptable

Height:	Required	Proposed	Status
Wall	6 metres	5.8 metres	Acceptable
Ridge	8 metres	6.8 metres	Acceptable
Roof type	skillion		

Setbacks

Setbacks have not been assessed because the building is already constructed and no changes to the existing boundary set backs are proposed.

ASSESSMENT

The application proposes to convert the workshop/garage/loft fronting Preston Point Road to a single residence.

No changes to the workshop/garage/loft are proposed as part of this application other than it being approved as a 'Single Residence' rather than a 'Workshop/Garage/Loft'. The subject application accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies and no discretionary considerations are required.

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Based on the above, the subject application is acceptable and recommended for conditional approval.

RECOMMENDATION

That Council grant approval for the conversion of a garage/workshop/loft into a residence at 19 Preston Point Road in accordance with the plans date stamp received on the 14 January 2011 subject to the following conditions:

1. the applicant to demonstrate to the satisfaction of the Chief Executive Officer how the front fence will connect with the fencing at 21 Preston Point Road.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater is to be disposed of on site, clear of all buildings and boundaries.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr John Meggitt (Allerding & Associates) addressed the meeting in support of the application.

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Martin

That the application for the conversion of a garage/workshop/loft into a residence at No. 19 (Lot 35) Preston Point Road, East Fremantle in accordance with the plans date stamp received on the 14 January 2011 be deferred pending a revised officer report.

CARRIED

T8.7 Preston Point Road No. 19 (Lot 35)

Applicant / Owner: Gary Archer

Application No. P221/2010

By Gemma Basley, Town Planner on 31 January 2011

BACKGROUND

Purpose of the Report

An Application for Planning Approval to construct a front fence at No. 19 Preston Point Road, East Fremantle is the subject of this report.

The application is being referred to Council for consideration of streetscape impact and for consideration of a minor variation to the requirements of Local Planning Policy No.143 – Fencing with regard to visual permeability. The proposed fence has a maximum height of 1.8 metres with a visually permeable gate that occupies 41% of the width of the frontage and a partially visually permeable fence/wall for the remaining width of frontage.

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The application proposes a unique and contemporary fence that incorporates elements of the building and the site; being the angle of the skillion roof and the slope of Preston Point Road. More specifically, the application proposes a gate to a height of 1.8 metres that will be entirely visually permeable and that will take up in the order of 41% of the sites frontage. The gate is proposed to be a sliding gate and will slide behind and in between the grey/black and red articulated fence panels (with cut outs for visual permeability) that covers the remainder of the sites frontage. The maximum height of these panels will be 1.65 metres.

The site is also the subject of a separate application for Planning Approval which proposes to convert the existing building (garage/loft) to a single house.

It is recommended that the proposal be approved subject to conditions.

Description of site

The subject site is:

- a 539m² block
- zoned Residential R12.5
- developed with a garage/studio on-site
- located in the Riverside Precinct

Statutory Considerations

Town Planning Scheme No. 3
Local Planning Strategy - Riverside Precinct (LPS)
Residential Design Codes 2008 (RDC)

Relevant Council Policies

Local Planning Policy No. 143 : Fencing

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : The streetscape will be altered by the proposed front fencing

Documentation

Plans and relevant forms date stamped received on 31 August 2010

Date Application Received

31 August 2010

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

18 March 2008 Council grants approval for a 3 storey dwelling with an undercroft fronting Reynolds Road and a workshop/garage/studio fronting Preston Point Road.
14 December 2010 Council resolves to defer two applications for a 4 storey residence and a front fence, respectively.

CONSULTATION

Advertising

The subject application was advertised as part of the advertising for the 4 storey residence between the 19 October 2010 and the 2 November 2010.

No objections have been raised however a comment was made by the owner of 21 Preston Point Road (to the north) that consideration should be given to how the fencing will be constructed to join with the existing fencing at 21 Preston Point Road.

Town Planning Advisory Panel Comments

The Panel viewed the proposal at the meeting held on the 28 September 2010. The Panel advised that the fencing design for 19 Preston Point Road is suited to the contemporary design of the wall however increased visual permeability is recommended.

The applicant acknowledges the Panel's comments and responds by advising that less visual permeability is sought because of the impact from headlight glare from cars accessing Preston Point Road from the Alcester Street intersection opposite the site. The applicant is however prepared to increase the visual permeability by creating additional openings in the wall. This will be reflected as a condition in the Recommendation at the end of this report.

ASSESSMENT

Considerations

Approval is sought to construct a front fence along Preston Point Road that does not fully comply with the requirements of the LPP No. 143 and does not provide visual permeability by way of continuous vertical gaps. The fence does however provide for at least 60% of the aggregate of the fence being visually permeable through the gate and through the proposed openings in the wall.

LPP 143 states:

Part 3 - Fence Design

"Council requires front fences and walls above 1.2m to be visually permeable defined as:

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'

The Policy provides for special circumstances under which variations may be considered as follows:

"Part 4- Council Approval Required

Under special circumstances including those listed below Council may approve a fence to be less visually permeable and or with a maximum height greater than 1.8 m:

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

It is considered that 4.2 is applicable to the subject site and are therefore arguably appropriate grounds to vary the requirements of Part 3 of this Policy. In addition, the design of the fence is appropriate for the contemporary building behind and has been supported by the Town Planning Advisory Panel.

This aside, the building has been constructed as a garage/workshop and its conversion to a residence is dependant on the approval of an application which is being considered concurrently (Item ****) and which would ultimately determine if the Preston Point Road building is to be classified as a dwelling and as such it could then be determined if a fence is appropriate.

In light of the above, the application seeking planning approval for a front fence with marginally reduced visual permeability at 19 Preston Point Road is supported subject to

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the concurrent planning approval for a four storey dwelling and conversion of the garage/workshop to a dwelling being approved by Council.

Should this not occur, it would be recommended that the application be deferred pending the outcome of that application (Item *****)

RECOMMENDATION

Should Council approve Item *** for the four storey residence and the conversion of the garage/loft to a dwelling, then it is recommended that Council exercise its discretion in granting approval for a variation to Local Planning Policy 143 for a front fence that has greater visual permeability than permitted under Local Planning Policy No. 143 at No.19 (Lot 35) Preston Point Road, East Fremantle as shown on plans received 31 August 2010 and subject to the following conditions:

1. the visual permeability of the fence to be increased above 1.2 metres to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
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. 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).*

ALTERNATIVE RECOMMENDATION

Alternatively, should Item *** not be approved the application be deferred pending the resolution of the application for a proposed dwelling on the site.

Mr John Meggitt (Allerding & Associates) addressed the meeting in support of the application.

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Martin

That the application seeking approval for a variation to Local Planning Policy 143 for a front fence that has less visual permeability than permitted under Local Planning Policy No. 143 at No.19 (Lot 35) Preston Point Road, East Fremantle as shown on plans received 31 August 2010 be deferred pending a revised officer report.

CARRIED

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T9. REPORTS OF OFFICERS – STRATEGIC PLANNING

T9.1 *Proposed Local Planning Policies: Noise Attenuation & Guidelines for Solar Collectors*

By Jamie Douglas, Manager Planning Services, on 3 February 2011

PURPOSE OF THIS REPORT

This report considers submissions to the advertised draft policies and recommends that the proposed Local Planning Policies – Noise Attenuation and Guidelines for Solar Collectors be adopted in accordance with the procedures for ‘Making a Local Planning Policy’ specified in clause 2.4 of Town Planning Scheme No. 3.

The draft Planning Policies (with modifications shown underlined in red) form Attachments 1 and 2 to this report.

BACKGROUND

At its meeting on 14 December 2010 Council endorsed the proposed Local Planning Policies – Noise Attenuation and Guidelines for Solar Collectors. Pursuant to the requirements of TPS No 3 - Clause 2.4 – ‘Procedures for Making and Amending a Local Planning Policy’, the draft policies were advertised for a minimum of 21 days. One submission was received during this period from the Fremantle Port Authority in regard to the Noise Attenuation draft policy.

CONSIDERATION OF SUBMISSION

The submission by Fremantle Ports is summarised and responded to as follows:

- *Fremantle Ports commends the Town of East Fremantle in preparing a local planning policy that seeks to promote land use compatibility between a range of land use including sensitive land uses such as residential, with noise generating land uses such as major roads and port activities. It is also pleasing that Local Planning Policy 140 – Fremantle Port Buffer Development Guidelines is referred to and given precedence by this policy”.* Noted
- *Include a reference to State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Planning (SPP 5.4) with regard to outdoor living areas.*

Agreed The draft Planning Policy is consistent with the provisions of the SPP 5.4 in respect to internal noise performance standards for buildings. While the SPP5.4 is designed for more general application including consideration of rezoning applications, subdivisions, structure planning etc. it is a relevant resource document which contains standards applicable to outdoor living areas associated with residential developments. Accordingly it is proposed to amend point (d) under the Planning & Design Considerations section of the draft policy to reference the SPP 5.4 as follows:

- (d) the location of outdoor living areas including balconies and the location of windows away from noise sources.³

Note 3 For further guidance refer to State Planning Policy 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning, section 5.3 Noise Criteria which apply to outdoor living areas.

- *Identify major roads such as Stirling Highway and Canning Highway in the Ambient Environmental Noise Section.*

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Agreed Amend note 2 as follows:

Note 2 A major road shall have the same meaning as the definition contained in the Environmental Protection (Noise) Regulations 1997 being "a road estimated to have an average daily traffic count of more than 15,000 vehicles". Major roads within the Town of East Fremantle are the Canning and Stirling Highways. For residential dwellings within 150m of a rail corridor, a design sound level tolerance of 5dB in excess of the above levels is acceptable.

CONCLUSION

Subject to the minor changes to the Noise Attenuation Policy recommended in this report it is considered the draft Planning Policies should be adopted.

RECOMMENDATION

It is recommended that pursuant with clause 2.4.2 of the Town of East Fremantle Town Planning Scheme No 3, Council adopt the Local Planning Policy – Noise Attenuation subject to the modifications included in this report and adopt the Local Planning Policy – Guidelines for Solar Collectors without modification.

RECOMMENDATION TO COUNCIL

Cr Lilleyman – Cr Martin

That:

1. Pursuant with clause 2.4.2 of the Town of East Fremantle Town Planning Scheme No 3, Council adopt the Local Planning Policy – Noise Attenuation subject to the modifications included in this report and adopt the Local Planning Policy – Guidelines for Solar Collectors without modification.
2. The Policy 'Guidelines for Solar Collectors' be circulated to solar panel installers located in the metropolitan area. CARRIED

T10. REPORTS OF OFFICERS – STATUTORY PLANNING/DEVELOPMENT CONTROL (Cont)

T10.1 Glyde Street No. 21 (Lot 28)
Applicant & Owner: Anna Benes & Rainer Heigl
(Application No. P249/2006)
By Gemma Basley, Town Planner, on 4 February 2011

BACKGROUND

Description of Proposal

A request for an extension of the term of Planning Approval for additions to the rear of the house at 21 Glyde Street comprising a new ground level laundry and bathroom, and upper level study.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Clause 10.5, Residential R20
Local Planning Strategy - Plympton Precinct (LPS)
Residential Design Codes (RDC)

Date Application Received

20 December 2006

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

13 May 1988 Building Licence issued for a 2-storey brick extension at the rear;
20 November 2001 Council conditionally approves the removal of 2 Jacaranda trees from the front verge;
20 February 2007 Council grants conditional approval for a variation to the height of a boundary wall for additions.

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- 17 February 2009 Council grants approval for a 12-month extension to the term of planning approval.
- 16 February 2010 Council grants approval for a 12-month extension to the term of planning approval.

REPORT

Issues

Term of Planning Approval

On 20 February 2007 Council granted approval for additions at the rear of the 2-level house at 21 Glyde Street. This approval was granted for a period of 2 years.

In February 2009 and again in February 2010 Council granted further 12-Month extensions as the owners advised they were not in a position to carry out the approved works at that time.

The owners have now submitted a further request to extend the term of the subject planning approval and state in their letter:

"...we are not in a position to carry out the works at present due to the demands of raising two little children, as well as financial constraints."

TPS 3 includes the following provision:

"10.5 Term of Planning Approval

10.5.1 Where the local government grants planning approval for the development of land —

- (a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and*
- (b) the approval lapses if the development has not substantially commenced before the expiration of that period.*

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

Of note also is that a building licence has been issued for alterations/additions to the adjoining residence at No. 19 Glyde Street comprising a kitchen extension, alfresco area and carport. Council is also currently considering an application for alterations/additions to No. 16 East Street, the property to the rear.

Discussion

The planning approval has been extended on two previous occasions to now expire February 2011. A building licence was issued on 9 September 2009 for alterations/additions to the residence at 19 Glyde Street and Council is currently considering an application for alterations/additions to the residence at 16 East Street being the property to the rear.

As there has been no legislative changes which might otherwise affect the development approved by Council in February 2007, such as an amendment to TPS 3 or changes to the relevant local planning policy, it is considered reasonable to grant a further 12-month extension to the term of the planning approval.

RECOMMENDATION

That Council grant a 12-month extension to the term of the planning approval pursuant to Town Planning Scheme No 3, sub-clause 10.5.2, for the construction of additions to the rear of the house at No. 21 (Lot 28) Glyde Street, East Fremantle comprising a new ground level laundry and bathroom, and upper level study in accordance with the plans date stamp received on 20 December 2006 and approved by Council on 20 February 2007 subject to the following conditions:

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1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. 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.
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 to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. this planning approval to remain valid for a period of 12 months from date of this approval.

Footnote:

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

- (a) *this decision of Council 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) *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.*

RECOMMENDATION TO COUNCIL

Cr Lilleyman – Cr Rico

That Council grant a 12-month extension to the term of the planning approval pursuant to Town Planning Scheme No 3, sub-clause 10.5.2, for the construction of additions to the rear of the house at No. 21 (Lot 28) Glyde Street, East Fremantle comprising a new ground level laundry and bathroom, and upper level study in accordance with the plans date stamp received on 20 December 2006 and approved by Council on 20 February 2007 subject to the following conditions:

- 1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. 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.**
- 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**

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- 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 to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 6. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
 7. this planning approval to remain valid for a period of 12 months from date of this approval.

Footnote:

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

- (a) *this decision of Council 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) *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.*
- CARRIED

Cr Collinson having declared an interest in the following item as he is the owner/occupier of No. 48 King Street being one of the four units that comprises the 'King Street Mews', left the meeting at 8.30pm.

T10.2 **King Street No. 52 (Lot 4)**
Applicant: Gerard McCann Architect
Owner: Ellie McGann
(Application No. P192/2008)

By Gemma Basley, Town Planner, on 4 February 2011

BACKGROUND

Description of Proposal

A request for an extension of the term of Planning Approval for alterations/additions to an existing residence and new gallery/store/garage on Lot 4 (No. 52) King Street, East Fremantle.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Clause 10.5

Zoning - Mixed Use

Local Planning Strategy - Plympton Precinct (LPS)

Residential Design Codes (RDC)

Date Application Received

21 October 2008

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

- 18 December 1995 Council grants approval for additions incorporating a boundary wall to the south comprising a new bathroom, kitchen extension up to the George Street boundary line, and an increased dining room and a north facing court at 52 King Street.
- 9 December 2008 Council grants planning approval for alterations/additions to an existing residence and new gallery/store/garage.

REPORT

Issues

Term of Planning Approval

On 9 December 2008 Council granted approval for alterations/additions to an existing residence at No. 52 King Street and a new gallery/store/garage. This approval was granted for a period of 2 years.

The applicant has now submitted a request to extend the term of the subject planning approval and state in his letter:

"...problems with getting the row houses to be re-surveyed for correct strata titling has delayed the project. The title issues are being resolved at the moment, but it has delayed the project..."

TPS 3 includes the following provision:

"10.5 Term of Planning Approval

10.5.1 Where the local government grants planning approval for the development of land —

- (a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and*
- (b) the approval lapses if the development has not substantially commenced before the expiration of that period.*

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

Discussion

As there has been no legislative changes which might otherwise affect the development approved by Council in December 2008, such as an amendment to TPS 3 or changes to the relevant local planning policy, it is considered reasonable, given the circumstances, to grant a further 12-month extension to the term of the planning approval.

RECOMMENDATION

That Council grant a 12-month extension to the term of the planning approval pursuant to Town Planning Scheme No 3, sub-clause 10.5.2, for the following:

- (a) variation to the requirement for on-site car parking pursuant to Schedule 11, Town Planning Scheme No 3 and the Residential Design Codes from 4 spaces to 1;
- (b) variation to plot ratio for development in the George Street Mixed Use zone pursuant to Town Planning Scheme No 3 from 0.5 to 0.71;

for alterations and additions at No. 52 (Lot 4) King Street, East Fremantle comprising:

- ... convert the existing coal room or store to the south-east corner of Bedroom 2 into an ensuite toilet, convert the existing doorway into a window, and cut a new doorway into bedroom 2;
- ... convert the existing south doorway into the kitchen into a window, leaving the existing reveal and frame intact, and infilling with a timber weatherboard below bench level, and a new window above bench level, fitting into the existing frame;
- ... convert the existing kitchen east window into a doorway, with French doors onto the courtyard;
- ... renovate the existing kitchen within the existing room;

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- ... remove the existing bathroom, and convert the space to a walk-through laundry, and cut a new opening in the east wall to access a new lobby to the courtyard and a new bathroom, with a parapet wall to the north boundary;
- ... remove the existing courtyard pergola and lower the courtyard paving to below house floor level (currently 200mm above house floor level with attendant moisture problems)
- ... rebuild a new pergola and wall to the street, and new paving;
- ... remove the existing sub-standard walling to George St, and rebuild a new low wall with open aspect iron railings to the garden section of the south boundary (outside the kitchen and lounge), and then a new high courtyard wall in rendered brick or stone to RL 12.000;
- ... construct a new Gallery building facing George St, infill the empty space between the existing house and the shops at Lots 486 and 487. The Gallery to have a mezzanine storage area, and an attached storeroom and garage. A new roofed awning/verandah is proposed to overhang the George St footpath. The design of the Gallery is intended to partially reflect the domestic architecture of the house at 52 King St, but pick up the height and scale of the Council owned shop to the east on Lots 486 and 487. The gable windows in the roof of the proposed gallery are designed to reflect the gabled terrace row houses opposite in George St;
- ... install a new access doorway to the garage from the strata company rear right-of-way.

in accordance with the plans date stamp received on 21 October 2008 and south side elevation and site plan received on 4 November 2008 as approved by Council on 9 December 2008 subject to the following conditions:

1. prior to the issue of a building licence the applicant/owner is to pay for the purchase and installation of one (1) stainless steel U-rail bicycle parking rack.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. the proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. 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. 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.
8. Development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer.
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.*

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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 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) in regard to the provision of bicycle parking the applicant/owner is advised to contact Council's Works Supervisor.
- (g) In regard to the construction of the George Street wall, the applicant is requested to consider using materials in keeping with the heritage character of the existing residence.

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Lilleyman

That Council grant a 12-month extension to the term of the planning approval pursuant to Town Planning Scheme No 3, sub-clause 10.5.2, for the following:

- (a) variation to the requirement for on-site car parking pursuant to Schedule 11, Town Planning Scheme No 3 and the Residential Design Codes from 4 spaces to 1;**
- (b) variation to plot ratio for development in the George Street Mixed Use zone pursuant to Town Planning Scheme No 3 from 0.5 to 0.71;**

for alterations and additions at No. 52 (Lot 4) King Street, East Fremantle comprising:

- ... convert the existing coal room or store to the south-east corner of Bedroom 2 into an ensuite toilet, convert the existing doorway into a window, and cut a new doorway into bedroom 2;
- ... convert the existing south doorway into the kitchen into a window, leaving the existing reveal and frame intact, and infilling with a timber weatherboard below bench level, and a new window above bench level, fitting into the existing frame;
- ... convert the existing kitchen east window into a doorway, with French doors onto the courtyard;
- ... renovate the existing kitchen within the existing room;
- ... remove the existing bathroom, and convert the space to a walk-through laundry, and cut a new opening in the east wall to access a new lobby to the courtyard and a new bathroom, with a parapet wall to the north boundary;
- ... remove the existing courtyard pergola and lower the courtyard paving to below house floor level (currently 200mm above house floor level with attendant moisture problems)
- ... rebuild a new pergola and wall to the street, and new paving;
- ... remove the existing sub-standard walling to George St, and rebuild a new low wall with open aspect iron railings to the garden section of the south boundary (outside the kitchen and lounge), and then a new high courtyard wall in rendered brick or stone to RL 12.000;
- ... construct a new Gallery building facing George St, infill the empty space between the existing house and the shops at Lots 486 and 487. The Gallery to have a mezzanine storage area, and an attached storeroom and garage. A new roofed awning/verandah is proposed to overhang the George St footpath. The design of the Gallery is intended to partially reflect the domestic architecture of the house at 52 King St, but pick up the height and scale of the Council owned shop to the east on Lots 486 and 487. The gable windows in the roof of

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the proposed gallery are designed to reflect the gabled terrace row houses opposite in George St;

... install a new access doorway to the garage from the strata company rear right-of-way.

in accordance with the plans date stamp received on 21 October 2008 and south side elevation and site plan received on 4 November 2008 as approved by Council on 9 December 2008 subject to the following conditions:

1. prior to the issue of a building licence the applicant/owner is to pay for the purchase and installation of one (1) stainless steel U-rail bicycle parking rack.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. the proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. 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. 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.
8. Development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- (f) *in regard to the provision of bicycle parking the applicant/owner is advised to contact Council's Works Supervisor.*
- (g) *In regard to the construction of the George Street wall, the applicant is requested to consider using materials in keeping with the heritage character of the existing residence.* **CARRIED**

Cr Collinson returned to the meeting at 8.40pm and it should be noted that he neither spoke nor voted on the foregoing item.

T10.3 **Wolsely Road No. 24**
Applicant/Owner: The Owners of 24 Wolsely Road
(Application No. P188/08)
By Gemma Basley, Town Planner, on 4 February 2011

BACKGROUND

Description of Proposal

A request for an extension of the term of Planning Approval for the refurbishment of 12 multiple dwelling units at 24 Wolsely Road, East Fremantle.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Clause 10.5
Zoning – R12.5 (Clause 5.3.3 – Existing Non-Complying Development)
Local Planning Strategy – Richmond Precinct (LPS)
Residential Design Codes (RDC)

Date Application Received

10 October 2008

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

18 February 1977 Strata plan for Units 1-12, 24 Wolsely Road endorsed.

REPORT

Issues

Term of Planning Approval

On 9 December 2008 Council granted approval for the refurbishment of the 12 multiple dwellings at No. 24 Wolsely Road, East Fremantle comprising:

- 8 new carports
- Storeroom
- New visitor parking
- New bin and drying area
- Landscaping
- New outdoor entertainment area including a gazebo in the southeast corner
- New finishes to balconies, balustrades and building
- Open style front fence including a 5.8m long X 1.8m high rendered brick wall along the corner truncation with signage: "Wolsely Apartments No 24".

The approval was valid for a period of two years.

The applicant has now submitted a request to extend the term of the subject planning approval and state in their letter:

"...At this stage we are still in the process of confirming renovation options & styles and hope to obtain an extension on our application..."

TPS 3 includes the following provision:

"10.5 Term of Planning Approval

10.5.1 Where the local government grants planning approval for the development of land —

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- (a) *the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and*
- (b) *the approval lapses if the development has not substantially commenced before the expiration of that period.*
- 10.5.2 *A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1."*

Discussion

As there has been no legislative changes which might otherwise affect the development approved by Council in December 2008, such as an amendment to TPS 3 or changes to the relevant local planning policy, it is considered reasonable, given the circumstances, to grant a further 12-month extension to the term of the planning approval.

RECOMMENDATION

That Council grant a 12-month extension to the term of the planning approval pursuant to Town Planning Scheme No 3, sub-clause 10.5.2, for the following:

- (a) variation to the length of a boundary wall on the east side pursuant to Local Planning Policy 142 from 9m to 11.7m;
- (b) variation to the permeability of a 5.8m long section of front fence from 60% to solid up to 1.8m high;

for the refurbishment of the 12 multiple dwellings at No. 24 Wolsely Road, East Fremantle comprising:

- 8 new carports;
- Storeroom;
- New visitor parking;
- New bin and drying area;
- Landscaping;
- New outdoor entertainment area including a gazebo in the southeast corner;
- New finishes to balconies, balustrades and building;
- Open style front fence including a 5.8m long X 1.8m high rendered brick wall along the corner truncation with signage: "Wolsely Apartments No 24";

in accordance with the plans date stamp received on 10 October 2008 as approved by Council on 9 December 2008 and subject to the following conditions:

1. prior to this issue of a building licence amended plans are to be submitted specifying that the infill fence panels are to be horizontal, and a landscape plan provided to the satisfaction of the CEO in consultation with relevant officers;
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. the proposed alterations and additions are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. 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.

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

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected 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) *the gazebo may not be enclosed without the prior written consent of Council.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Martin

That Council grant a 12-month extension to the term of the planning approval pursuant to Town Planning Scheme No 3, sub-clause 10.5.2, for the following:

- (a) **variation to the length of a boundary wall on the east side pursuant to Local Planning Policy 142 from 9m to 11.7m;**
- (b) **variation to the permeability of a 5.8m long section of front fence from 60% to solid up to 1.8m high;**

for the refurbishment of the 12 multiple dwellings at No. 24 Wolsely Road, East Fremantle comprising:

- **8 new carports;**
- **Storeroom;**
- **New visitor parking;**
- **New bin and drying area;**
- **Landscaping;**
- **New outdoor entertainment area including a gazebo in the southeast corner;**
- **New finishes to balconies, balustrades and building;**
- **Open style front fence including a 5.8m long X 1.8m high rendered brick wall along the corner truncation with signage: "Wolsely Apartments No 24";**

in accordance with the plans date stamp received on 10 October 2008 as approved by Council on 9 December 2008 and subject to the following conditions:

1. **prior to this issue of a building licence amended plans are to be submitted specifying that the infill fence panels are to be horizontal, and a landscape plan provided to the satisfaction of the CEO in consultation with relevant officers;**
2. **the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
3. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**

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4. the proposed alterations and additions are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. 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. 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.
8. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected 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) *the gazebo may not be enclosed without the prior written consent of Council.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T10.4 Canning Highway No. 200 (Lot 28), East Fremantle
Applicant/Owner: Amanda Williams
Application No. P222/2010
By Gemma Basley, Town Planner on 31 January 2011

BACKGROUND

Purpose of this Report

An Application for Planning Approval for a pitch roof carport at the side of the heritage residence at No.200 Canning Highway, East Fremantle is the subject of this report.

This report recommends conditional approval.

Description of Proposal

The application proposes to construct a pitched roof double carport on the eastern boundary of the site. The application proposes to set back the carport more than 50

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metres away from the Highway and at the side of the heritage residence so that access to the house can be obtained directly from the carport.

Description of site

The subject site is:

- a 911m² block
- zoned Residential R12.5
- developed with a character residence and swimming pool
- with a rating of A-in the Municipal Heritage Inventory

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 22 December 2010

Date Application Received

2 December 2010

CONSULTATION

The subject application was advertised for a two week period to adjoining residents. During the advertising period no written submissions were received however verbal comments were made from the adjoining neighbours concerning the length of the proposed parapet wall and how this will relate to the adjoining unit lot boundaries.

More specifically, the application area adjoins 198 Canning Highway which comprises a group of units that back onto the side boundary of 200 Canning Highway. The concern is that the proposed parapet wall will not extend the full length of an individual unit site and may result in the rear fencing for the unit/s comprising portion of a parapet wall and portion of a fibro fence.

This issue has been discussed with the landowner who indicates that negotiations are occurring between the owners of 200 Canning Highway and 198 Canning Highway with regard to replacing the boundary fence with a limestone block wall. This will ensure that the proposed parapet wall will be consistent with the fencing and will present a uniform boundary for the units.

To address the matter through the subject application a condition is included in the recommendation to ensure the parapet wall is rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense. In addition the condition requires a uniform finish to the adjacent property face and may require the replacement of some boundary fencing.

Town Planning Advisory Panel

The subject application was assessed by the Town Planning advisory Panel (TPAP) at its meeting of 25 January 2011. The Panel supported the application.

STATISTICS

File	P/CAN200
Zoning	R12.5
Lot Area	911m ²
Heritage Listing	A-

Site:	Required	Proposed	Status
Site Works on boundary/street setback	Maximum 0.5m	Nil	Acceptable
Open Space	>50%	>50%	Acceptable
Overshadowing	>25%	>25%	Acceptable

Height:	Required	Proposed	Status
Wall	3.0 metres	2.3 metres	Acceptable
Ridge	6.0 metres	4.3 metres	Acceptable
Roof type	Pitch		

Privacy/Overlooking	No overlooking will occur from carport
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Setbacks	A Nil setback is proposed to the western boundary and requires a variation as per Clause 5.3.2 of the R-Codes.
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ASSESSMENT

Planning Approval is sought for a pitch roofed carport at the rear and the side of the existing residence at No. 200 Canning Highway, East Fremantle. The carport will be constructed in materials to match the existing heritage residence.

The proposed carport will be set back some 70 metres from Canning Highway and as such will not be visible and will not impact on the amenity of the surrounding residents or on the streetscape.

The application requires that a variation be granted with respect to the proposed parapet wall. More specifically, the R-Codes allow for boundary walls in R12.5 coded areas where it abuts an existing or simultaneously constructed wall of a similar or greater dimension. The proposed boundary wall at 200 Canning Highway does not abut a boundary wall. It is considered however, that the proposed boundary wall will make effective use of space and enhance the privacy of the adjoining units without impacting on the amenity of the adjoining residents. The boundary wall will be set back some 70 metres and will not be visible from the street. The proposed boundary wall is therefore considered to meet the Performance Criteria of the R-Codes in relation to boundary walls and the variation is supported.

Given that the proposal the majority of the acceptable development provisions of TPS3, the R-Codes and applicable Local Planning Policies and only one minor discretionary decision is required by Council, the proposal is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for a boundary wall in the R12.5 coded area that does not abut an existing or simultaneously constructed wall for the construction of a pitch roofed carport at the side of 200 Canning Highway, East Fremantle, in accordance with plans date stamp received on 2 December 2010 subject to the following conditions:

1. the parapet wall is to be fair faced brick or cement rendered to the adjacent property faces of each unit boundary it abuts. The parapet wall and boundary fencing of each boundary it abuts requires a uniform finish and may require the replacement of some boundary fencing. This is to occur by way of agreement between the affected property owners and at the applicant's expense.
2. all stormwater to be disposed of on site, clear of all buildings and boundaries.
3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning

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- approval, without those changes being specifically marked for Council's attention.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That Council exercise its discretion in granting approval for a boundary wall in the R12.5 coded area that does not abut an existing or simultaneously constructed wall for the construction of a pitch roofed carport at the side of 200 Canning Highway, East Fremantle, in accordance with plans date stamp received on 2 December 2010 subject to the following conditions:

1. **the parapet wall is to be fair faced brick or cement rendered to the adjacent property faces of each unit boundary it abuts. The parapet wall and boundary fencing of each boundary it abuts requires a uniform finish and may require the replacement of some boundary fencing. This is to occur by way of agreement between the affected property owners and at the applicant's expense.**
2. **all stormwater to be disposed of on site, clear of all buildings and boundaries.**
3. **the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
4. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
5. **With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
6. **this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

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

CARRIED

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T10.5 **Canning Highway No. 138 (Lot 1), East Fremantle
Proposed Subdivision Left Bank Apartments Site
Applicant: Kim Stirling Architects
Owner: Sarah Jane Patricia Murphy
WAPC Reference: 143533**
By Gemma Basley, Town Planner on 30 January 2011

BACKGROUND

Purpose of this Report

An application to subdivide No. 138 Canning Highway, East Fremantle into 3 green titles has been referred to Council by the Western Australian Planning Commission for comment. An assessment of the Subdivision Application against the requirements of Council's Town Planning Scheme No. 3 is the subject of this report.

This report recommends that Council not support the subdivision of 138 Canning Highway into 3 lots and advise the Western Australian Planning Commission (WAPC) accordingly.

Description of subject site

The subject site is:

- 1424m² in area;
- zoned Residential R12.5/40;
- located in the Riverside Precinct;
- dual road frontage to Canning Highway and Hillside Road; and
- developed with a two-storey residential building – Left Bank Apartments and a single storey heritage residence which is listed in the Municipal Inventory (Management Category C).

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) Clause 5.3.2 Highway Frontage Dual Coding
Local Planning Strategy – Riverside Precinct

Relevant Council Policies

Nil

Impact on Public Domain

Tree in verge : No Impact
Light pole : No Impact
Crossover : No Impact
Footpath : No Impact
Streetscape : Subdivision will facilitate additional development which will be visible from Canning Highway and surrounds.

Documentation

Plans and relevant forms date stamp received on 20 January 2011

Date Application Received

20 January 2011

No. of Days Elapsed between Lodgement & Meeting Date

20 Days

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

Nil

Site Inspection

By Town Planner, on 30 January 2011

STATISTICS

File	P/CAN138
Zoning	R12.5/40 Clause 5.3.2 of TPS No. 3
Lot Area	1424m ²
Heritage Listing	C Management Category under Municipal Heritage Inventory

Lot Size	Average	Proposed	Status
Lot A	220 m ²	457 m ²	Compliant
Lot B	220 m ²	565 m ²	Compliant
Lot C	220 m ²	402 m ²	Compliant

Frontage/Access	Required	Proposed	Status
Lot A	Hillside Road	Canning Highway	Non Compliant
Lot B	Hillside Road	Canning Highway	Non Compliant
Lot C	Hillside Road	Hillside Road	Compliant

Dwelling Density	Required	Proposed	Status
Lot A – 4 Units	880 m ²	457 m ²	Non Compliant
Lot B – 2 Units	440 m ²	565 m ²	Compliant
Lot C - Vacant	220 m ²	402 m ²	Compliant

ASSESSMENT

Subdivision Proposal

The subject report refers to an application to subdivide 138 Canning Highway into 3 green title lots with access to both Canning Highway and Hillside Road. The application is based on the existing pattern of development on the site as follows:

- Lot A contains the Left Bank Apartment building (two storey comprising 6 multiple dwellings and an associated car park comprising 3 parking bays;
- Lot B contains a single storey heritage residence which contains a further two units and associated car parking at the rear comprising 7 parking bays; and
- Lot C is undeveloped with the exception of the parking area and contains a steep limestone hill which extends to Hillside Road.

The applicant also proposes to demolish the existing heritage residence on proposed Lot B.

Statutory Considerations

Town Planning Scheme No. 3

138 Canning Highway is zoned 'Residential R12.5/40' and is subject to the provisions of Clause 5.3.2 of TPS No. 3 as follows:

"5.3.2 Highway frontage dual coding: In the case of those sites with frontage on to Canning Highway and which are designated with a dual density coding, development above the lower density coding is subject to the following requirements:

- Sole vehicular access to the site is to be via a street other than Canning Highway;*
- Noise attenuation measures are to be included in all dwellings, which will in the opinion of the local government, reduce traffic noise to an acceptable level within all habitable rooms;*
- Development is to be designed to face the frontage to Canning Highway, and any other street to which the site has frontage; and*
- The heritage value of any place included on the heritage list under clause 7.1 of the Scheme, is to be maintained, to the satisfaction of the local government."*

The subject application does not satisfy the following requirements of Clause 5.3.2 as follows:

- sole vehicular access for Lots A and B is from Canning Highway;

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- the application does not include details of noise attenuation measures for the existing dwellings;
- the application does not identify how development will address Hillside Road; and if approved, the subdivision would facilitate additional development on proposed Lot B that would generate additional vehicle movements which would be solely reliant on access to Canning Highway. This situation is undesirable.

Residential Design Codes 2008

As detailed above, the site does not meet the minimum requirements for consideration of development at the R40 density. Therefore the R12.5 coding is applicable to the subject subdivision application. The minimum site area requirements per dwelling in an area coded R12.5 (pursuant to the Residential Design Codes) is 700m² and the average site area requirement is 800m².

The proposal involves the creation of three lots with areas of 457m², 565m² and 402m², respectively. The proposed lot sizes are considerably smaller than that permitted under the R12.5 coding and therefore contravene the requirements of TPS No. 3 for land zoned R12.5.

Heritage Considerations

Whilst 138 Canning Highway is not on the TPS No. 3 Heritage List, it is included in Municipal Heritage Inventory as a 'C' Management Category. Such listing indicates heritage significance of the property at a local level. Further, under Council's Municipal Heritage Inventory the heritage conservation objectives of Category C properties are that, ideally, the properties are:

"...retained and conserved...a Heritage Assessment / Impact Statement may be required as corollary to a development application, particularly in considering demolition of the place..."

In short, approval of the application would not be in accord with the above objective.

Site Considerations

The subject site slopes upwards from Canning Highway and rises from 16 metres AHD to 28 metres AHD and increases in steepness toward Hillside Road. The site currently only has access from Canning Highway. The steepness of the site suggests that it would be necessary to demonstrate that access to Hillside Road is physically achievable and in such a way that it would not have an adverse impact on the amenity of the area. This has not been demonstrated in the subject application.

Proposed Lot C has an average site level of 24 metres AHD and if cleared and developed will be highly visible from the surrounding and wider area and could impact upon the views of surrounding residences. Development on proposed Lot C should not be considered until it can be demonstrated that the whole site can be accessed from Hillside Road and that future development of proposed Lot C does not prejudice the amenity of the area or impact on existing views.

CONCLUSION

The proposed subdivision of 138 Canning Highway, East Fremantle does not meet the intention nor the provisions of Clause 5.3.2 of TPS3 and is therefore not considered acceptable.

138 Canning Highway is already developed to a density of R40 and to its maximum potential. Finally, the site is not considered suitable for additional development and prior to further development or subdivision being considered, access to Hillside Road would need to be demonstrated.

RECOMMENDATION

1. That Council advise the Western Australian Planning Commission that the subdivision of Lot 1 (138) Canning Highway, East Fremantle, in accordance with the plans received 20th January 2011 is not supported on the following grounds:
 - (a) the proposal is contrary to the requirements of Town Planning Scheme No. 3, (TPS3) specifically Clause 1.6 and Clause 1.6.2 which Council is required to take into consideration during its decision making process; and
 - (b) the proposed lot sizes contravene Council's TPS3 for land zoned Residential with an R-Code of R12.5; and
 - (c) the application proposes the demolition of a heritage residence that is included in Council's Municipal Heritage Inventory, which is contrary to Clause 1.6(c) of the Aims of TPS3 and thus also Clause 10.2(a) of TPS3.
 - (d) the application contravenes the objectives of Council's Local Planning Strategy (Clause 10.2(b) of TPS3 refers) in relation to medium density development which is identified as being suitable on sites fronting Canning Highway where traffic conflicts are reduced by the use of off-highway access. The application proposes access to Canning Highway, which will increase traffic conflicts.
 - (e) the application does not demonstrate how access from Hillside Road will be achieved.
 - (f) the application does not accord with Clauses 10.2(j), 10.2(o) and 10.2(q) of TPS3.
2. However, if the Western Australian Planning Commission is mindful to approve this subdivision against the recommendation of Council, then the following conditions should be attached to any approval:
 - (a) no vehicle access to be obtained from Canning Highway;
 - (b) a 0.1m Pedestrian Access Way to be included on the Deposited Plan to restrict vehicle access onto Canning Highway.
 - (c) all buildings have the necessary building clearance to comply with the requirements of the Scheme.
 - (d) support of the subdivision is not to be construed as support of the demolition of the existing building(s) and/or any development on the proposed lots.
 - (e) if any portion of the existing building(s) is to be demolished to facilitate the proposed subdivision, planning approval and/or demolition licence is to be obtained from the Town for the demolition of the existing building(s) prior to the clearance of the Diagram or Plan of Survey by the Town.
 - (f) the land being filled and/or drained at the subdivider's cost to the satisfaction of the Town and any easements and/or reserves necessary for the implementation thereof, being provided free of cost.
 - (g) all buildings and effluent disposal systems, having the necessary clearance from the new boundaries as required under the relevant legislation.

RECOMMENDATION TO COUNCIL

Cr Collinson – Cr Nardi

1. That Council advise the Western Australian Planning Commission that the subdivision of Lot 1 (138) Canning Highway, East Fremantle, in accordance with the plans received 20th January 2011 is not supported on the following grounds:
 - (a) the proposal is contrary to the requirements of Town Planning Scheme No. 3, (TPS3) specifically Clause 1.6 and Clause 1.6.2 which Council is required to take into consideration during its decision making process; and
 - (b) whilst the proposed site has a dual density coding of R12.5/R40 it does not meet the criteria for development above the lower density coding; and
 - (c) the application contravenes the objectives of Council's Local Planning Strategy (Clause 10.2(b) of TPS3 refers) in relation to medium density development which is identified as being suitable on sites fronting Canning Highway where traffic conflicts are reduced by the use of off-highway access. The application proposes access to Canning Highway, which will increase traffic conflicts.

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- (d) the application proposes the demolition of a heritage residence that is included in Council's Municipal Heritage Inventory, which is contrary to Clause 1.6(c) of the Aims of TPS3 and thus also Clause 10.2(a) of TPS3.
 - (e) the application does not demonstrate how access from Hillside Road will be achieved.
 - (f) the application does not accord with Clauses 10.2(j), 10.2(o) and 10.2(q) of TPS3.
2. However, if the Western Australian Planning Commission is mindful to approve this subdivision against the recommendation of Council, then the following conditions should be attached to any approval:
- (a) no vehicle access to be obtained from Canning Highway;
 - (b) a 0.1m Pedestrian Access Way to be included on the Deposited Plan to restrict vehicle access onto Canning Highway.
 - (c) all buildings have the necessary building clearance to comply with the requirements of the Scheme.
 - (d) support of the subdivision is not to be construed as support of the demolition of the existing building(s) and/or any development on the proposed lots.
 - (e) if any portion of the existing building(s) is to be demolished to facilitate the proposed subdivision, planning approval and/or demolition licence is to be obtained from the Town for the demolition of the existing building(s) prior to the clearance of the Diagram or Plan of Survey by the Town.
 - (f) the land being filled and/or drained at the subdivider's cost to the satisfaction of the Town and any easements and/or reserves necessary for the implementation thereof, being provided free of cost.
 - (g) all buildings and effluent disposal systems, having the necessary clearance from the new boundaries as required under the relevant legislation. CARRIED

T10.6 ***Preston Point Road No. 182 (Lot 1)***
Owner: Mr AP & Mrs MJ Reeves
Applicant: Merv Dudley
Application P124/2010
By Gemma Basley, Town Planner on 3 February 2011

BACKGROUND

Purpose of this Report

An Application for Planning Approval for a new two storey residence at No. 182 Preston Point Road, East Fremantle is the subject of this report. More specifically, the application proposes the following:

- a contemporary design incorporating significant north facing openings to maximise the river v views;
- a feature designed, low pitched and concealed flat roof which is intended to resemble a wave;
- to front the residence to both Preston Point Road and to Clayton Street with vehicle access being obtained only from Clayton Street.
- A light and natural finish including river sand rendered masonry work, feature stone cladding in individual walls and a light coloured non reflective material.

The report recommends that Council approve the application conditionally.

Description of subject site

The subject site:

- 523m²
- is zoned Residential R12.5 but subject to Clause 5.3.3 of TPS No. 3
- is developed with a heritage residence that has been approved for demolition following subdivision approval being granted by the Western Australian Planning Commission (WAPC)
- located in the Richmond Hill Precinct

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Statutory Considerations

Town Planning Scheme No. 3 (TPS3)
Local Planning Strategy – Richmond Hill Precinct (LPS)
R12.5 Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No Impact
Light pole : No Impact
Crossover : No Impact
Footpath : No Impact
Streetscape : The new residence will alter the streetscape but it is considered that it will be in keeping with existing development

Documentation

Plans and relevant forms date stamp received on 22 December 2010

Date Application Received

26 July 2010

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

17 September 2002 Council resolved to advise the Western Australian Planning Commission that the survey strata on Lot 14 (182) Preston Point Road is supported subject to conditions.
3 December 2002 Demolition Licence Approved (Part of building – rear of residence, rear verandah and brick garage).
24 February 2004 Building Licence No. 3545 for a boundary wall to the rear of the dwelling to a value of \$6,000.

CONSULTATION

Advertising

The application was advertised to adjoining land owners for two weeks between the 10th August and the 26th August 2010. During this period one submission was received from the adjoining neighbour of 70 Clayton Street which objected to the proposed building heights being above the Local Planning Policy No. 142 - Residential Development maximum height requirements of 8.1 metres to the top of the roof; to the overshadowing of their outdoor living area and to the lack of regard to preserving the views of others.

Revised plans have since been submitted by the applicant which reduces the building height considerably and which takes into consideration the comments received from the owners of 70 Clayton Street. These plans have been further referred to the owners of 70 Clayton Street who have raised the same objections with regard to overshadowing, roof pitch and retaining walls.

The impacts of overshadowing, the roof pitch and the retaining wall at the front of the lot and the impact on the neighbouring property will be addressed in the Assessment section of this report.

Town Planning Advisory Panel

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting on 24 August 2010 and the 10 November 2010. The Panel made the following comments:

- Prominent corner that deserves a proposal with more architectural merit.
- Architecturally inappropriate to existing streetscape.
- Non-compliant roof pitch.
- Query site cover.

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- Query wall heights meeting requirements of LPP 142.
- Ensure retention of verge tree.

- Panel reiterates comments regarding roof line, streetscape, and prominent location.
- Application still lacks architectural merit particularly given it is a replacement for a Category B heritage house.
- Query height compliance
- Front elevation should work with topography and split levels.
- a member did not support the demolition of the house.

As detailed above, the applicant has submitted revised plans which were considered by the Town Planning Advisory Panel at its meeting of 25 January 2011 wherein the following comments were made:

- Panel supports revised plans.
- Full materials and finishes schedule is required to be provided prior to a Council determination.

Taking into consideration the supportive comments received from the Panel, the report is considered suitable for Council consideration.

Site Inspection

By Town Planner, 16 December 2010

STATISTICS

File	P/PPT182
Zoning	R12.5
Lot Area	523m ²
Heritage Listing	B- ^A on Municipal Heritage Inventory – Demolition approved

Site:	Required	Proposed	Status
Open Space	50%	51.7%%	Acceptable
Overshadowing	>25%	19.35%	Acceptable

Height:	Required	Proposed	Status
Wall	5.6	6.7 (retaining incl)	Discretion Required
Ridge	8.1	7.5	Acceptable
Roof type	Pitched and skillion		

Setbacks:		Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Wall Orientation	Wall Type						
Front Ground	Alfresco	2.914	13.0	Yes	6.0	5.57	Discretion
Upper	Balcony	7.0	13	Yes	6.0	4.6	Discretion
Rear Ground	Garage	2.55 (from NGL)	10.8	No	Nil (existing boundary wall)	Nil	Acceptable
Upper	Whole	4.7	10.2	No	1.5	1.5	Acceptable
Side (west) Ground	Whole	4.7	22.5	Yes	1.5	2.3	Acceptable
Upper	Whole	7.5	21.8	Yes	1.5	2.9	Acceptable
Side (east) Ground	Alfresco/Bed2	4.4	8.5	No	1.1	1.5	Acceptable
	Bed3/Laundry	3.7	5.2	No	1.1	1.5	Acceptable

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	Store	3.0	5.2	No	1.0	1.0	Acceptable
	Upper Whole	7.2	9.4	No	1.2	1.5	Acceptable

ASSESSMENT

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the following elements which will be assessed below.

Building Height and Site Works

The site has a 3.0 metre fall from south to north and the application proposes retaining at the front of the site to address this. The proposed retaining in this section will result in the wall height exceeding the 5.6 metre height limit and requiring a variation to allow a 6.7 metre maximum wall height.

A variation to the site works/fill requirements is also required to allow 1.6 metres of fill in lieu of the 0.5 metres permitted under the R-Codes.

The proposed variation to the building height and the site works are supported because it responds to the natural topography of the site. The retaining at the front of the site will not impact on the view corridors of surrounding properties because it will not be any higher than the rear area of the proposed house. The application also proposes to cut into the rear of the site to reduce the extent of retaining required at the front and to reduce the overall height of the development.

Impact on Views

No. 70 Clayton Road, which adjoins the subject site, is higher than 182 Preston Point Road and has a finished floor level of 29.786 as opposed to 182 Preston Point Road, which has a finished floor level of 27.82. In addition to the differing finished floor levels, the residence at No. 70 Clayton Street is considerably higher with wall heights of 6.636 metres as opposed to the wall heights of 5.606 proposed for 182 Preston Point Road.

It is assessed that the difference in site levels (1.966 metres) combined with the increased building height of No. 70 Clayton Street (1.03 metres higher) will ensure that views to the river and to the city are retained from No. 70 Clayton Street.

The design of the proposed residence at 182 Preston Point Road has taken into consideration potential impacts on views. In this regard, the roof has been designed to include a pitch on the western side and this provides for a wider view corridor for 70 Clayton Street. The pitch was originally proposed for the eastern side however, comments from the owners of 70 Clayton Street requested that this be relocated to the western side because of their views to the river and the city.

Front Setback

A front setback variation is sought to provide for a 5.3 to 5.5 metre front setback to Preston Point Road. This variation is not supported on the basis of the existing street setbacks in the immediate locality being consistent with the R12.5 coding and exceeding 6 metres.

To retain a consistent streetscape (with regard to the setback of buildings) it is recommended that the front setback be increased to provide a minimum setback of 6 metres. This setback requirement will provide for a more consistent setback with the adjoining residence at 184 Preston Point Road.

Overshadowing

The proposed two storey house will result in some overshadowing impact on No. 70 Clayton Street however the extent of overshadowing is less than 25% of the site area and meets the requirements of the R-Codes. In response to the neighbour's submission

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it should be pointed out that the property at No. 70 Clayton Street is already subject to overshadowing from the existing boundary wall and fence and that the additional overshadowing that will occur is minor and will predominantly impact covered outdoor living areas. The overshadowing does not impact on the whole site and provides ample outdoor areas and habitable rooms that will not be impacted.

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 Residential Design Codes 2008. The application has taken into consideration all of the comments made by the Town Planning Advisory Panel and has undertaken significant changes to the original design and has subsequently reduced the extent of discretions being sought. Whilst the application does seek some minor variations to the R-Codes these are considered minor in nature and to be acceptable. In order to meet the criteria for approval under Clause 5.3.3 of TPS No. 3, which was referred to above, the Local Government is required to be in the opinion that the proposed development will contribute more positively to the scale and character of the streetscape, the improvement of the amenity of the area and the objectives for the precinct than the existing building.

In the officer's view, the application does accord with the above criteria and is therefore considered to be suitable for determination and is recommended for approval.

RECOMMENDATION

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

- (a) a variation to the site works requirements to allow cut and fill exceeding 0.5 metres and up to 1.6 metres at the front of the site;
- (a) a variation to the building height requirements of LPP No. 142 to allow a maximum wall height of 6.7 metres (retaining included);

for the construction of a two storey residence and swimming pool at No. 182 (Lot 1) Preston Point Road, East Fremantle in accordance with the plans date stamp received on the 22 December 2010 subject to the following conditions:

1. Prior to the issue of a Building Licence, revised plans are to be submitted to the satisfaction of the CEO, which demonstrate a minimum front setback of 6.0 metres.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. The proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. 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. 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.
8. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be submitted as part of a building licence.
9. 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) 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.*

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Lilleyman

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

- (a) a variation to the site works requirements to allow cut and fill exceeding 0.5 metres and up to 1.6 metres at the front of the site;**
- (a) a variation to the building height requirements of LPP No. 142 to allow a maximum wall height of 6.7 metres (retaining included);**

for the construction of a two storey residence and swimming pool at No. 182 (Lot 1) Preston Point Road, East Fremantle in accordance with the plans date stamp received on the 22 December 2010 subject to the following conditions:

- 1. Prior to the issue of a Building Licence, revised plans are to be submitted to the satisfaction of the CEO, which demonstrate a minimum front setback of 6.0 metres.**
- 2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 3. The proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 5. 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. 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.**
- 8. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be submitted as part of a building licence.**
- 9. 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) 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.***

CARRIED

Cr Collinson made the following impartiality declaration in the matter of 16 East Street: "As a consequence of the applicant, Mr Robert Fittock, being known to me due to our serving together on the South Metropolitan Zone Committee, 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".

T10.7 East Street No. 16 (Lot 42)

Applicant: Robert Fittock

Owner: PW Covich

Application No. P126/2010

By Gemma Basley, Town Planner on 3 February 2011

BACKGROUND

Purpose of this report

An Application for Planning Approval for substantial renovations and a second storey addition to the existing single storey house located at 16 East Street is the subject of this report.

Council considered an earlier proposal for alterations and additions to the premises at its meeting of 19 October 2010 where it was resolved:

"That the application for alterations/additions be deferred pending the submission of revised plans showing a significant reduction in overshadowing and compliance with the open space requirements of the R-Codes."

The applicant has submitted revised plans in response to Council's resolution and the revised plans are the subject of this application.

Description of Proposal

The revised plans propose to retain the original cottage with the exception of the northern wall which will be removed and reconstructed. All lean to additions at the rear of the house are proposed to be demolished and this area will accommodate the proposed additions at the ground floor and an upper floor extension.

The existing house at 16 East Street is included in Council's Municipal Inventory and included in the 'B-' Management Category.

Description of site

The subject site is:

- a 509m² block
- zoned Residential R20
- developed with a single storey heritage dwelling on-site
- located in the Plympton Precinct
- included in the Municipal Inventory (B- Management Category)

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Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 2 February 2011.

Date Application Received

28 July 2010

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

19 October 2010 *Council resolved that the application for alterations/additions be deferred pending the submission of revised plans showing a significant reduction in overshadowing and compliance with the open space requirements of the R-Codes.*

Advertising

The revised plans were advertised to the adjoining landowners for a 1 week period ending 27 January 2011. Both neighbours contacted the Council to discuss the application and the applicant also went through the revised plans with the neighbours. At the end of the advertising period no submissions were received and it is understood that the earlier objections/concerns have been alleviated.

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel Comments

The Panel viewed the revised plans at its meeting of 25 January 2011 and made the following comments:

- Panel supports revised plans.
- Elevations do not clearly distinguish the existing structure from the proposed- particularly ground floor.
- Panel requests a Materials and Finishes schedule to be provided prior to consideration by Council.

In response to the Panel's comments the applicant has submitted revised plans which clearly distinguish the existing structure from the proposed structure. The applicant has also submitted a schedule of materials and finishes which are included in the appendices and which are considered to be acceptable and in keeping with the heritage character of the area.

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STATISTICS

File	P/EAT16
Zoning	R20
Lot Area	509m ²
Heritage Listing	C

Site:	Required	Proposed	Status
Open Space	Minimum of 50%	54%	Acceptable
Overshadowing	Less than 25%	27%	Discretion

Height:	Required	Proposed	Status
Wall	6.5 m	6.0m	Acceptable
Ridge	7.0 m	6.5m	Acceptable
Roof type	Flat		

Setbacks:		Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status	
Orientation	Wall Type							
Front (west)								
	<i>Ground</i>	House	3.15m	9.4m	Yes	2.0m	2.0m	Acceptable
	<i>Upper</i>	House	6.0m	4.2m	No	2.0m	12.0m	Acceptable
Rear (east)								
	<i>Ground</i>	Family	3.0m	4.5m	Yes	1.5m	15m+	Acceptable
	<i>Upper</i>	Bath 2 & Walkway	6.0m	5.9m	Yes	2.8m	15m+	Acceptable
Side (north)								
	<i>Ground</i>	Whole	3.0m	18.9m	Yes	1.5m	3.0m	Acceptable
	<i>Upper</i>	Walkway	6.0m	11.0m	No (Privacy Screens)	1.5m	3.0m Minimum	Acceptable
Side (south)								
	<i>Ground</i>	Library - Kitchen	3.0m	17.0m	No	1.5m	Nil	Discretion
		Family	3.0m	5.8m	No	1.0m	1.2m	Acceptable
	<i>Upper</i>	Whole	6.0m	11.2m	No	3.1m	1.4m to 4.2m	Discretion

ASSESSMENT

Approval is sought for revised plans which propose alterations and additions to the existing residence located at 16 East Street, East Fremantle. The revised plans have responded to Council's requirements for open space provision to be compliant and the application proposes that 54% of the site be retained as open space. This exceeds the minimum requirements of the R-Codes 2008.

The revised plans respond to the Panel's earlier comments about the bulk and scale of the proposed upper floor addition and the upper floor element is now considerably reduced. The revised plans propose a conservative addition to accommodate one additional bathroom, bedroom and a study. The upper floor addition is now contemporary in its design and stands out as being a new addition to the existing heritage cottage. This meets the principles of the Burra Charter.

The revised plans respond also to Council's resolution in relation to reducing the overshadowing impacts and the extent of overshadowing on the adjoining No. 18 East Street considerably. The earlier plans indicated 41% of the adjoining lot being overshadowed by the existing residence, fencing and the proposed additions. The revised plans indicate that only 137.55m² (27%) of the adjoining lot will be

overshadowed. This is a significant reduction. The extent of overshadowing exceeds the maximum requirements of the R-Codes 2008 and as such a variation is still required for the surplus overshadowing.

The R-Codes (Explanatory Guidelines) acknowledge that site conditions can have a significant impact on climate sensitive design. The R-Codes gives an obvious example being “a narrow east-west oriented lot on the south side of a development site...is highly vulnerable to being overshadowed, even by a relatively low building setback from the common boundary.” 18 East Street, which adjoins the application area to the south, is exactly this, a narrow east-west lot on the south side of a development site and as such overshadowing is considered to be caused primarily as a result of the lot orientation.

The application proposes a north facing walkway on the upper floor and proposes to install bi-fold screens on the opening of this walkway however also proposes to install fixed vertical screening on the north western end of the balcony too prevent overlooking into the habitable rooms of No. 14 East Street. The position of this walkway results in the 7.5 metre cone of vision encroaching minimally onto the adjoining lot, although this will be further reduced because of the boundary wall proposed.

The proposal accords with the provisions of TPS3, the R-Codes and the Town’s Planning Policies with the exception of the above which is responded to in the table below:

Requirements	Proposed	Planning Comment
<u>Front Setback</u> R20 – 4 metres	1.8 metres	Supported – No change is proposed to the setback. East Street is characterised by smaller street setbacks and the retention of the current setback is considered appropriate.
<u>Buildings on Boundary</u> R20 walls not higher than 3 metres with an average of 2.7 metres up to 9 metres in length up to one side boundary only	Existing boundary wall to be reduced in length from 12 metres to 6.0 metres and replaced by: New boundary wall for kitchen 5.8 metres long and a height of 2.7 metres. New boundary wall for garage on the northern boundary 6.5 metres long and 2.7 metres high (retaining excluded).	Supported – There were no neighbour objections regarding the proposed boundary walls. The proposed boundary walls are softened by keeping the length of walls as short as possible. The existing boundary wall and that proposed for the kitchen do not exceed the length of the existing boundary wall and the retention of this length, in two separate sections is supported. The boundary walls meet the Performance Criteria of the Codes and make effective use of space on a narrow lot, enhance privacy and doesn’t affect the amenity of the adjoining neighbour in terms of overshadowing or loss of ventilation.
<u>Site Works</u> Not to exceed 0.5 metres of fill within 1 metre of a common boundary and 3 metres from the street boundary.	Fill to exceed 0.5 metres on the northern boundary to a maximum fill height of 0.6 metres	Supported Based on the half a metre difference between the levels of 14 and 16 East Street, this retaining is necessary and supported. In addition, the development will retain the visual impression of the natural level of the site as seen from the street thereby satisfying the performance criteria of the R-Codes.

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Requirements	Proposed	Planning Comment
<p><u>Solar Access for Adjoining Sites</u> On adjoining properties coded R25 and lower – 25% of the site area can be subject to overshadowing from the adjoining development.</p>	<p>The proposed additions at 16 East Street will result in 27% of 18 East Street being overshadowed</p>	<p>Supported The adjoining property is already subject to overshadowing from the existing residence and the boundary fencing.</p> <p>The increase in overshadowing will not further impact upon any habitable rooms as they are already overshadowed by the dividing fence and residence.</p> <p>The increase in overshadowing will not further impact upon any habitable rooms as they are already overshadowed by the dividing fence and the existing residence. The additional overshadowing over and above that which already occurs, is considered to be minor and only marginally above the requirements of the R-Codes 2008. In addition, the existing house is being retained, which already results in some overshadowing.</p>
<p><u>Overlooking and Privacy</u> Unscreened balconies (Fixed permanent screening) to be setback a minimum of 7.5 metres from the boundary</p>	<p>Portion of the upper floor walkway has unfixed bi-fold screens which can be opened to allow for better ventilation.</p>	<p>Supported The dimensions of the walkway (900 mm wide) is such that it is not a useable area and will not be utilised as an outdoor living area but rather a walkway. As such a variation to the screening requirement to allow portion of the screening to be able to be opened, is supported because any overlooking will only occur over a very small section of the adjoining garden and does not impact any habitable room windows or formal outdoor living areas.</p>

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 Residential Design Codes 2008. The application has taken into consideration Council's earlier resolution and has submitted revised plans, which reduce the extent of the development and significantly reduce the extent of discretions being sought. Whilst the application does seek some minor variations to the R-Codes these are considered minor in nature and to be acceptable.

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

Correspondence referred from MB Ref. T6.1 was tabled.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Lilleyman

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

- (a) variation to the overshadowing requirements of the R-Codes to allow 27% of the adjoining lot to be overshadowed;**
- (b) variation to allow 2 additional boundary walls;**
- (c) variation to allow site works to exceed 0.5 metre and to a total of 0.6 metres as per the requirements of the R-Codes;**
- (d) variation to the front setback requirements to allow the retention of the 1.8 metre setback in lieu of the 4 metre setback required under the R-Codes; and**

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- (e) variation to the privacy requirements to allow portion of the upper floor walkway to be screened with non fixed louvers;
for renovations and additions, including a basement, a second storey addition and a garage at 16 East Street in accordance with the plans date stamp received on 2 February 2011 subject to the following conditions:
1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be submitted as part of a building licence.
 2. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
 3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 4. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

That the applicant be advised of the following:

- (a) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (b) *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).*
- (c) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T10.8

George Street No. 76B (Lot 602)

Applicant: Tim Petherbridge

Owner: Christopher Tolcan

Application No. P 213/2010

By Gemma Basley Town Planner on 1 February 2011

BACKGROUND

Purpose of this Report

This report considers an application to change the use of 76B George Street, East Fremantle from 'Shop' to 'Shop' and 'Industry-Service'.

This report recommends conditional approval.

Description of Proposal

The subject application proposes to use the premises at 76B George Street for a new business 'Ethos Eco-Market' which will sell organic provisions, fruit and vegetables, hand made organic bakery products, juices and organic coffee. The major focus will be the selling of organic convenience goods and take away coffees or juices. The applicant also proposes to provide table seating for 4 persons for coffee service.

To accommodate the proposed shop and bakery, the applicant proposes to undertake some modifications to the building to increase the useable area of the premises. More specifically, the application proposes to extend the building to accommodate a new accessible unisex toilet facility and a larger coolroom area. The works also include the

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removal of some east facing windows, which look directly into the adjoining lodging house rooms and replacement with an obscure glazed highlight window. The application also includes internal modifications and improvements to the building.

The applicant has operated a similar business in Melbourne for 20 years and it is proposed to model the business on this. A brochure is included in the appendices.

Description of the site

The subject site is:

- 706m² in area comprising 3 separate land uses and respective tenants
- 74.5 m² tenancy area
- Zoned 'Mixed Use'
- Developed with a shop, consulting rooms and a residence at the rear of the site;
- Included on Council's TPS3 Heritage List by virtue of being located in the George Street Precinct.
- Included on the Municipal Heritage Inventory with a B^A rating.

Statutory Considerations

Town Planning Scheme No. 3 – George Street Mixed Use zone
Local Planning Strategy - Plympton Precinct (LPS)

Relevant Council Policies

Nil

CONSULTATION

The application was advertised to adjoining property owners for a period of 14 days. No comments or objections were received during the advertising period.

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

1963-1971	The front of the premises at 76 George Street/cnr Sewell Street used as an Office, and the rear/new section used for meat cutting and preparation;
17 November 1975	Council advises the Owner that notwithstanding the residential zoning of the property the present occupation of Pastry Cook Establishment is permitted to continue as a non conforming use;
20 July 1981	Council refuses approval for additional use as office for the premises at cnr Sewell Street/George Street;
20 February 1984	Council decides to advise Owner that it does not wish to see a continuance of the residential use of the detached building, and to ensure that it will not be reoccupied for residential use when the current occupiers vacate the premises;
15 September 1986	Council grants approval for a change of use from "Capri Caterers" and "Marie's Fashions" to a Real Estate Office (R Gauci);
20 October 1986	Council agrees to change the non-conforming use of 76A George Street from Meat Brokers to Architect's Office", subject to 2 sealed parking bays, signage, painting & landscaping;
19 October 1992	Council grants approval for the change of use from real estate agent to retail shop for the sale of herbal and associated products from the premises at the corner of Sewell Street & George Street;
14 December 1992	Council grants approval for the change to 76B George Street from Architect's Office to Retail Shop (gourmet seafood);
10 May 1994	Council notifies Owner that the corner shop formerly used as a real estate office is now being utilised as a Doctor's Surgery" and its approval is required for the change of use;
18 July 1994	Council grants special approval for a Bakery at 76B George Street, and to defer consideration of the Doctor's Surgery;
5 September 1994	Applicant for Bakery appeals against conditions of approval;
21 December 1994	Council advises an applicant for a Hairdressing Salon at 76B George Street that the proposal would exacerbate the parking shortfall, but would reassess the proposal when the issues

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	regarding the unapproved Doctor's Surgery, existing Lodging House, and existing Residence are resolved, as well as the provision of a Drainage Plan;
22 February 1995	Council grants special approval for a Professional Office at 76B George Street;
23 August 1996	Council grants special approval for a Shiatsu Centre from 76B George Street; and
23 July 2007	Delegated Approval granted for a Change of Use from 'Shiatsu Centre' to 'Shop'.

ASSESSMENT

Change of Use

Under TPS No. 3 "shop" is defined as:

"shop" means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet;"

In terms of permissibility a 'shop' is listed as an 'A' use in the zoning table meaning:

'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4.

The definition for 'industry-service' (which includes bakery) under TPS No. 3 is:

"industry - service" means —

- (a) an industry – light carried out from premises which may have a retail shop front and from which goods manufactured on the premises may be sold; or
- (b) premises having a retail shop front and used as a depot for receiving goods to be serviced;

In terms of permissibility an 'industry-service' is listed as a 'D' use in the zoning table, which means:

'D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

Mixed Use Zone

The objectives of the 'Mixed Use' zone are listed below:

- To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which will not prejudice the amenities of the neighbourhood;
- To ensure future development within each of the Mixed Use Zones is sympathetic with the desired future character of each area, and that a significant residential component is retained as part of any new development;
- To promote the coordination of development within each of the Mixed Use zones and to facilitate the safe and convenient movement of pedestrians to and within the area;
- To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the streetscape.

The subject site contains a heritage building which fronts both George Street and Sewell Street. The portion of heritage building that fronts Sewell Streets houses a chiropractic consulting room. The portion of the heritage building that fronts George Street is currently vacant and it is this part of the building that is the subject of this application.

The proposal to change the use of portion of the building from 'shop' to 'shop' and 'industry-service' is consistent with the objectives of the 'Mixed Use' zone as demonstrated below:

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- the proposed land use will offer organic and biodynamic convenience products for sale to the community and will not prejudice the amenity of this mixed use area;
- the desired future character of the George Street 'Mixed Use' zone is to provide a vibrant area which provides a range of land use activities which compliment the surrounding residential area and the proposed use will contribute to this; and
- the development has on-site car parking which is being upgraded and expanded as part of the application.

Hours of Operation

The application proposes that the hours of operation for the bakery will be from 5am until 11am Monday to Saturdays and that the shop will open from 8am to 6 pm Mondays to Saturdays.

It is assessed that the proposed hours of operation could potentially impact the amenity of the adjoining residences as a result of the arrival and departure of the baker. To address this matter a condition is included in the recommendation to restrict parking in the rear car park until 7am.

Noise

The applicant advises that the bakery will not operate as a commercial bakery and will only be baking bread for sale on the premises (hence the reduced baking hours). The only noise that will occur during baking is the dough mixer at about half hour intervals. The mixer is the size of the small mixers used in pizza and will not be audible outside. Other equipment will be a standard domestic size cake mixer and usual refrigeration motors.

To ensure there is no noise impacts on the nearby residences a further condition also recommends that the proposed doorway on the western side of the building and the proposed east facing highlight windows remain closed until 7 am to prevent light and noise spill.

Car Parking

76 George Street comprises a mixed use development which is serviced by on street parking on George and Sewell Streets and a four bay parking area at the rear of the building. The existing parking area is not designed to meet the car parking and manoeuvring specifications listed in Schedule 12 of TPS No. 3 however it has been approved by Council previously at its meeting of 18th July 1994 when it approved a bakery as part of the mixed use development on the site.

Schedule 11 to TPS 3 specifies the following parking standards:

Shop	1 space for every 20m ² net lettable area (5 spaces per 100m ² NLA) Minimum 4 spaces
Industry-Service	1 space per 50m ² floor area and 1 space per employee Minimum 4 spaces
Consulting Rooms	2 Spaces for every consulting room, plus one bay for every staff member

The net lettable area of the shop is 47m² and the area for the bakery is 16.6 m². The applicant advises that the bakery will only employ one person who will also work in the shop after baking hours thereby reducing the staff parking requirements. Taking into consideration the limited operation of the bakery (industry-service) and the reduced retail floor area than has previously been approved on the site, it is reasonable to only apply the parking requirements associated with the shop.

The current parking requirements for the approved and the proposed uses are tabled below:

EXISTING USE			PROPOSED USE		
Use Class	Bays Required	Bays Provided	Use Class	Bays Required	Bays Provided
Shop	4 bays	4 bays on-site	Shop – As Existing	4 bays	4 bays
Consulting Room	4 bays	1 bay on-street	Consulting Room	1 bay on-street	1 bay on-street
Lodging House	6 bays	2 on-street bays	Lodging House	2 on-street bays	2 on-street bays
			Industry-Service (bakery)	Nil	Nil
Total	14 bays	7 bays	Total	7 bays	7 bays
Existing Dispensation	7 bays		Shortfall	Nil	

It is demonstrated above that in respect to car parking, the subject application will not increase the parking requirements but rather decrease these. Having assessed the application against the Scheme requirements there is no net parking shortfall when the existing dispensation is applied.

Heritage

76 Sewell Street is on the Heritage List under TPS 3, and has a 'B^' rating in Council's Municipal Heritage Inventory. The property is also included in the George Street precinct which is included on Council's Heritage List in the Scheme. Being on Council's Heritage List the property is also able to be assessed having regard to clause 7.5, which states:

- "7.5. Variations to Scheme provisions for a heritage place or heritage area where desirable to —
- facilitate the conservation of a heritage place entered in the Register of Places under the Heritage of Western Australia Act 1990 or listed in the Heritage List under clause 7.1.1; or
 - enhance or preserve heritage values in a heritage area designated under clause 7.2.1, the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.6.2.

Clause 5.6.2 of TPS No. 3 requires the Local Government to consult with affected parties by way of advertising and to have regard to any expressed views before making a determination to grant the variation. The subject application was advertised comprehensively and no submissions or objections were received.

The application proposes to retain the heritage building with the exception of the rear wall which will be replaced to accommodate a small extension at the rear. The façade of the building will not be altered other than being repainted. It is considered that the application has due regard to the heritage requirements of the Scheme.

Conclusion

The subject application has been assessed against the Scheme requirements and it is determined that the proposed change of use at 76B George Street to accommodate a bakery and a shop, is acceptable.

The proposed change of use does not require the provision of any additional parking bays and continues to provide for parking at the rear of the site. The applicant however,

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is encouraged to consider providing a bike parking facility in proximity to his premises. A footnote has been included in the recommendation to address this.

Given that the proposal meets all of the relevant acceptable development provisions of TPS3 it is recommended that approval to the change of use be granted.

RECOMMENDATION

That Council grant approval for a change of use at 76B George Street from 'shop' to 'shop' and 'industry-service', in accordance with the application date stamp received on 22 November 2010 and 2 February 2011, subject to the following conditions:

1. Signage to be installed to the satisfaction of the CEO on the west side wall of the premises to clearly identify the parking available at the rear of the premises;
2. Parking associated with the bakery not to utilise the on-site parking until after 7am.
3. The door which opens onto the access way to remain closed until 7am;
4. The east facing highlight windows to be obscure glazed and to remain closed until 7am to avoid light and noise impacting on the adjoining lodging house;
5. The proposed 'shop' is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. The Town of East Fremantle requires all food businesses to complete a mandatory notification form in accordance with the Food Act 2008; and to notify the Town of any changes to the food business.
7. The food business is to comply with the Food Act 2008 at all times.
8. The proprietor of the food business is to ensure that the premises and practices comply with Chapter 3 of the Australia New Zealand Food Standards Code including Standard 3.1.1, Standard 3.2.2 and Standard 3.2.3. (Copy attached)
9. The food business will be subject to annual inspections conducted by Council's Principal Environmental Health Officer.
10. The food business will be subject to a final inspection prior to the commencement of operations.
11. The works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
12. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
13. Any proposed signage shall be the subject of a separate application and shall comply with the provisions of Council's Draft Local Planning Policy – Design Guidelines Signage; and
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) *should the applicant want to install a bike parking rack near the premises you are advised to liaise with Council's Planning Department to discuss the appropriate style and location.*

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That Council grant approval for a change of use at 76B George Street from 'shop' to 'shop' and 'industry-service', in accordance with the application date stamp received on 22 November 2010 and 2 February 2011, subject to the following conditions:

- 1. Signage to be installed to the satisfaction of the CEO on the west side wall of the premises to clearly identify the parking available at the rear of the premises.**

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2. The door which opens onto the access way to remain closed until 7am.
3. The east facing highlight windows to be obscure glazed and to remain closed until 7am to avoid light and noise impacting on the adjoining lodging house.
4. The proposed 'shop 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. The Town of East Fremantle requires all food businesses to complete a mandatory notification form in accordance with the Food Act 2008; and to notify the Town of any changes to the food business.
6. The food business is to comply with the Food Act 2008 at all times.
7. The proprietor of the food business is to ensure that the premises and practices comply with Chapter 3 of the Australia New Zealand Food Standards Code including Standard 3.1.1, Standard 3.2.2 and Standard 3.2.3. (Copy attached)
8. The food business will be subject to annual inspections conducted by Council's Principal Environmental Health Officer.
9. The food business will be subject to a final inspection prior to the commencement of operations.
10. The works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
11. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
12. Any proposed signage shall be the subject of a separate application and shall comply with the provisions of Council's Draft Local Planning Policy – Design Guidelines Signage; and
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) *should the applicant want to install a bike parking rack near the premises you are advised to liaise with Council's Planning Department to discuss the appropriate style and location.*

CARRIED

T10.9

Staton Road No. 57 (Lot 2)

Application No. P91/09

Owner: W & C Zalewski

Applicant: Kim Stirling Architects

By Gemma Basley, Acting Town Planner, 3 February 2011

BACKGROUND

Description of Proposal

An application has been lodged to modify a recent planning approval granted by Council for alterations and additions to 57 Staton Road, East Fremantle. The modifications being sought are listed below:

- reduction in north facing ground floor windows with the introduction of columns;
- house pulled westwards to avoid the sewer main, which traverses the lot;
- inclusion of an additional bedroom on the upper floor;
- inclusion of an upper floor doorway opening onto the roof;
- reorientation of roof pitches;
- inclusion of north facing windows in the stair/void; and
- new materials and finishes.

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The report does not support all of the above modifications and in particular the upper floor doorway onto the roof and only recommends conditional approval for some of the above changes.

Description of subject site

The subject site is:

- zoned Residential R12.5;
- located in the Richmond Precinct;
- 794m² in area; and
- development site – original residence demolished 2010

Statutory Considerations

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)
- Local Planning Policy – Rainwater Tanks (LPP144)

Date Application Received

26 October 2010

Final Plans submitted 18 January 2011

CONSULTATION

Advertising

Adjoining landowners were advised of the subject application and were given a two week period in which to lodge any submissions on the application. One submission was submitted by the neighbours that adjoin to the north and will be detailed below:

Submission	Response
Kathy and Greg Powell of 59 Staton Road. East Fremantle	
1. Request roof to be non-reflective colour and material.	1. A condition is included to require a non-reflective roofing material.
2. Privacy Screens to be applied to the upper floor deck facing north.	2. The deck is set back more than 7.5 metres from the northern boundary and meets the acceptable development requirements of the R-Codes and does not require screening.
3. Pool pump to be located away from the northern boundary.	3. A condition is included to require the appropriate location for the pool pump.
4. Consideration to be given to the location of air-conditioning plants.	4. A condition is included to require the appropriate location of future air-conditioning equipment.
5. Access to the roof from the stairwell or any other upper floor room not be permitted	5. The approved plans delete the doorway from the stairwell. The reason for this is that retention of the doorway could result in full access to the roof and would have significant privacy impacts on the adjoining residences.

It is assessed that the neighbour submission has been responded to appropriately.

Town Planning Advisory Panel

The revised plans were not considered by the Town Planning Advisory Panel (TPAP) because of the minor nature of the amendments.

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

15 December 2009 Council approves a two storey addition and extension to an existing single house.

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20 July 2010 Council approved the demolition of the existing residence and the development of a two-storey residence, garage, swimming pool and boundary fencing.

REPORT

As detailed above Council has recently exercised its discretion in granting approval for a two storey addition and extension to an existing single house as well as a rear double garage, pool, and boundary fencing at No. 57 (Lot 2) Staton Road subject to the following variations:

- *the height of the northern wall to the upper floor addition being 6.8m in lieu of the 6.0m wall-height-limit as set out in the Residential Development Policy (LPP142);*
- *roof pitch being between 0° and 6° in lieu of the minimum 28° roof pitch as set out in the Roofing Policy (LPP066);*
- *outbuilding wall height being 2.9m in lieu of the 2.4m height-limit set out in the Acceptable Development provisions of Residential Design Codes of WA; and*
- *water tanks being located adjacent to the northern boundary in lieu of the 1.0m setback as set out in the Rainwater Tanks Policy (LPP144);*

It is considered that the proposed modifications to the existing planning approval are acceptable since they will not materially impact upon neighbour amenity and the streetscape. This assessment is predicated upon the proposed door opening onto the roof area being deleted since this element would potentially impact upon the visual privacy of neighbours. In this regard, the plans refer to the doorway not forming part of the approval.

RECOMMENDATION

Council grants approval for modifications to the existing approval for a two storey residence, garage, swimming pool and boundary fencing at No. 57 Staton Road, East Fremantle, as shown on plans date stamped 18 January 2011 and subject to the following conditions, which are in addition to the requirements of the Planning Approval dated 26 November 2009 and 20 July 2010:

1. Prior to the issue of a Building Licence, revised plans are to be submitted which delete the upper floor door opening onto the roof and to provide no access from the upper floor to the roof area.
2. Prior to the issue of a building licence and to the satisfaction of the CEO, plans are to be submitted that identify the location of proposed air-conditioning units so as to minimise noise impacts on neighbouring properties.
3. Non-reflective roofing material to be used only.
4. Pool filter and pump equipment to be located away from the boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
5. This planning approval to remain valid for a period of 24 months from date of this approval.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

Council grants approval for modifications to the existing approval for a two storey residence, garage, swimming pool and boundary fencing at No. 57 Staton Road, East Fremantle, as shown on plans date stamped 18 January 2011 and subject to the following conditions, which are in addition to the requirements of the Planning Approval dated 26 November 2009 and 20 July 2010:

- 1. Prior to the issue of a Building Licence, revised plans are to be submitted which delete the upper floor door opening onto the roof and to provide no access from the upper floor to the roof area.**
- 2. Prior to the issue of a building licence and to the satisfaction of the CEO, plans are to be submitted that identify the location of proposed air-conditioning units so as to minimise noise impacts on neighbouring properties.**
- 3. Non-reflective roofing material to be used only.**

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4. Pool filter and pump equipment to be located away from the boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
5. This planning approval to remain valid for a period of 24 months from date of this approval. CARRIED

T10.10 Fraser Street No. 10 (Units 4, 7 & 9)
Applicant/Owner: H Brown; J Taylor & M Stewart
Application No. P158/2010; 210/2010 & 232/2010
By Gemma Basley, Town Planner on 7 February 2011

BACKGROUND

Purpose of Report

A number of applications for Retrospective Planning Approval have been received for individual units within the complex at No. 10 Fraser Street. The unit owners are seeking retrospective planning approval for works that have been carried out by previous owners, with the exception of Unit 2.

The approvals are being sought to obtain the necessary Council approvals and for insurance purposes and in order for them to be able to sell their property without the encumbrance of unauthorised works.

Description of the Proposal

Several landowners from the 10 Fraser Units have approached Council to obtain Retrospective Planning Approval for various unauthorised works that have occurred over time. In an effort to facilitate appropriate insurance cover for the units, approvals are required for all works that have occurred at the units. A summary of the unauthorised works are as follows:

Unit No.	Owner	Unauthorised Works
Unit 4	Hugh Brown	Construction of pergola at the rear of the unit (Fraser Street side). Works were undertaken by a previous owner in approximately 1985.
Unit 7	Julian Taylor	Formalisation of a sunroom at the rear of the unit. Additional works were undertaken by a previous owner post 2004.
Unit 9	Marion Stewart	Construction of pergola at the rear of the unit. Works were undertaken by previous owner in approximately 1990.

This report recommends conditional approval for all of the unauthorised works tabled above.

Statutory Considerations

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

Relevant Council Policies

LP Policy No. 142: Policy on Residential Development

Impact on Public Domain

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

Date Application Received and Documentation

Plans and relevant forms date stamp received on 29 October 2010 (Unit 7), 18 November 2010 (Units 4) and 22 December (Unit 9).

ADVERTISING

The application was considered by the Council of Owners with no objections received.

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

14 July 1982	Building Licence 014/1733 approved for partial enclosure of balcony for Unit 1;
5 January 1984	Building Licence 077/836 approved for a timber framed pergola at Unit 10;
15 January 1987	Building Licence 102/1229 approved for a patio for Unit 6;
21 September 1987	Council grants conditional approval for a small addition to the ground floor living area of Unit 10;
14 October 1987	Building Licence 028/1336 approved for a small addition to the ground floor living area of Unit 10;
12 April 1988	Building Licence 182/1410 approved for a carport addition to Unit 6;
18 October 1990	Town Clerk endorses Strata Plan for 10 grouped dwelling units;
13 June 1991	Building Licence 77/1836 approved for additions to Unit 10;
29 September 1992	Building Licence 131/1989 approved for conversion of a balcony between Units 7 & 8 from an open area to a sunroom;
17 October 1994	CEO grants conditional approval under delegated authority for enclosing a balcony to for a sunroom at Unit 3;
20 March 2001	Building Licence 201/2243 approved for sunroom;
30 May 2001	Council grants conditional approval for the erection of a bedroom extension at the upper level and for a patio at Unit 7;
21 August 2001	Building Licence 192/3066 approved for bedroom extension & patio at Unit 7;
21 August 2001	Council grants conditional approval; for an upper floor bedroom and en-suite addition to Unit 4;
11 November 2001	Building Licence 129/3115 issued for bedroom & en-suite addition to Unit 4;
11 March 2003	Building Licence 33/3376 approved for the addition of a bedroom and en-suite by enclosing the second storey balcony at Unit 6;
15 March 2004	Building Licence 45/3557 approved for a new brick wall to the sunroom at Unit 7.

Site Inspection

By Town Planner on 10 August 2010

STATISTICS

File	P/FRA10
	Units 4, 7 and 9 (Pergolas and Sunroom)
Zoning	R12.5
Lot Area	3432m ²
Heritage Listing	No

Site:	Required	Proposed	Status
Site Works	Maximum 0.5m	n/a	n/a
Open Space	n/a	n/a	n/a
Overshadowing	n/a	n/a	n/a

Height:	Required	Proposed	Status
Wall	3.0	>3.0	Acceptable Development
Ridge	4.0	>4.0	Acceptable Development
Roof type	Unit 4 - Wooden open slat structure Unit 7 - Pitched Sunroom Roof Unit 9 - Flat roof with shade cloth cover		

Privacy/Overlooking	No overlooking will occur from the pergolas or the sunroom because the development is at ground level (and not raised above ground level) and will therefore be screened by the dividing fences.
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Setbacks

Boundary setbacks not been assessed as they relate to internal strata boundaries.

ASSESSMENT

Retrospective Planning Approval is sought for various works to Units No 4, 7 and 9 of 10 Fraser Street, East Fremantle. The assessment of these works will be dealt with in 2 groups being pergolas and the sunroom.

Pergolas at Rear of Unit 4 and Unit 9

2 wooden [pergolas have been built at the rear of Unit 4 and Unit 9, respectively. Each pergola is a free standing structure constructed of jarrah and with a shade cloth cover over timber slats.

The structures do not exceed a wall height of 3 metres and are well within the acceptable heights permitted under the R-Codes. As indicated above, both pergolas are constructed at ground level and do not have a raised finished floor level. This means that the pergolas are screened by the dividing fences and there are no impacts of overlooking on the privacy of adjoining units.

The pergolas have been constructed in the rear courtyard area which was paved as part of the original unit development and the pergolas simply provide a shaded and semi covered outdoor living area. The pergolas do not impact on the open space requirements of the R-Codes. The construction and location of the pergolas at Unit 4 and Unit 9 of 10 Fraser Street are compliant with the requirements of the R-Codes 2008 and are therefore supported for retrospective planning approval.

Sunroom at Rear of Unit 7

A fully enclosed sunroom has been constructed at the rear of the unit and is accessible from the Living Room. Council previously approved a roofed and screened room in this location (15th March 2004 BL 045/3557) and over time this has been upgraded and the formerly approved aluminium screen walls have been replaced with windows. The sunroom has been finished to match the existing unit and is attractive and appropriate for the unit.

The sunroom does not exceed a wall height of 3 metres or a roof height of 4.0 metres and is well within the acceptable heights permitted under the R-Codes. The sunroom has been constructed at ground level and does not have a raised finished floor level. This means that the sunroom area is screened by the dividing fence and there are no impacts of overlooking on the privacy of adjoining units.

As detailed above the sunroom has previously been approved but additional works undertaken to the sunroom are the subject of this approval.

The sunroom construction is compliant with the R-Codes 2008 and is supported for retrospective planning approval.

Given that the unauthorised works meets all relevant acceptable development provisions and no discretionary decisions are required by Council, the applications for retrospective planning approval are supported and recommended for approval.

RECOMMENDATION

That retrospective planning approval be granted for the following:

- (a) construction of a pergola in the rear of Unit No. 4 of 10 Fraser Street, East Fremantle in accordance with plans and photos date stamped 18 November 2010;
- (b) construction of a pergola in the rear of Unit No. 9 of 10 Fraser Street, East Fremantle in accordance with plans and photos date stamped 18 November 2010;
- (c) construction of a sunroom at the rear of Unit No. 7 of 10 Fraser Street in accordance with the plans and photos date stamped 22 December 2010;

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subject to this planning approval remaining 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 additional unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*

RECOMMENDATION TO COUNCIL

Cr Collinson – Cr Nardi

That retrospective planning approval be granted for the following:

- (a) construction of a pergola in the rear of Unit No. 4 of 10 Fraser Street, East Fremantle in accordance with plans and photos date stamped 18 November 2010;**
- (b) construction of a pergola in the rear of Unit No. 9 of 10 Fraser Street, East Fremantle in accordance with plans and photos date stamped 18 November 2010;**
- (c) construction of a sunroom at the rear of Unit No. 7 of 10 Fraser Street in accordance with the plans and photos date stamped 22 December 2010;**

subject to this planning approval remaining 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 additional unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*

CARRIED

T10.11

Parry Avenue No. 1 (Lot 1)

Applicant/Owner: A Crowe, R & C Broadhurst

Application No. P222/2010

By Gemma Basley, Town Planner 7 February 2011

BACKGROUND

Purpose of this Report

An Application for Planning Approval to replace an existing retaining wall is the subject of this report. More specifically, a retaining wall is constructed on the southern boundary of No. 1 Parry Avenue and borders the northern boundary of No. 46A Staton Road. The retaining wall has partially failed over time and requires replacement with a structurally sound retaining wall. The retaining wall will be replaced like for like and will have a boundary fence installed on top of the retaining wall.

This report recommends conditional approval.

Description of Proposal

The application proposes to replace an 800mm retaining wall with a similar retaining wall and to install 1.8 metre high boundary fencing on top of this. The retaining wall is proposed on the southern boundary of No. 1 Parry Avenue.

Description of Site

The subject site is:

- a 548m² block
- zoned Residential R12.5
- developed with a unit in a triplex complex

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Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received 20 December 2010

Date Application Received

20 December 2010

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

Nil

CONSULTATION

The subject application was not advertised because correspondence was submitted with the application from the affected neighbour, granting support for the application.

STATISTICS

File	P/PAR1
Zoning	R12.5
Lot Area	548m ²
Heritage Listing	Nil

<u>Site</u>	<u>Required</u>	<u>Proposed</u>	<u>Status</u>
Site Works on boundary/ setback	Maximum 0.5m	0.8 metres	Discretion

ASSESSMENT

Planning Approval is sought to replace a 0.8 metre high retaining wall along the southern boundary of 1 Parry Street, East Fremantle. The retaining wall is required to retain 1 Parry Street, which is higher than 46A Staton Road, which adjoins to the south.

The application requires that a variation be granted with respect to the height of the proposed retaining wall being greater than 0.5 metres as permitted under the R-Codes 2008. Whilst the subject application only relates to the maintenance and replacement of a retaining wall, discretionary approval is still required.

The replacement of the retaining wall at 1 Parry Avenue is supported because it will restore the structural integrity of the retaining wall and provide safety for the developments at 1 Parry Avenue and 46A Staton Road. The replacement of the retaining wall will ensure that the developments retain the visual impression of the natural level of the site as seen from the roads and adjoining properties. As such the replacement of the retaining wall meets the performance criteria of the R-Codes 2008 and is recommended for approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for site works that exceeds the 0.5 metre high limit by 0.3 metres for the construction of 0.8 metre high retaining wall at No. 1 (Lot 1) Parry Avenue, East Fremantle in accordance with plans date stamp received on 20 December 2010 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where

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varied in compliance with the conditions of this planning approval or with Council's further approval.

2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Collinson

That Council exercise its discretion in granting approval for site works that exceeds the 0.5 metre high limit by 0.3 metres for the construction of 0.8 metre high retaining wall at No. 1 (Lot 1) Parry Avenue, East Fremantle in accordance with plans date stamp received on 20 December 2010 subject to the following conditions:

1. **the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
2. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
4. **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).*

T11. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T12. CLOSURE OF MEETING

There being no further business the meeting closed at 10.06pm.

*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 February 2011**, Minute Book reference **T1. to T12.** were confirmed at the meeting of the Committee on*

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Presiding Member