

13 November 2007

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 13 NOVEMBER 2007, COMMENCING AT 6.35 PM.

T109. OPENING OF MEETING

T109.1 Present

T110. ELECTION OF PRESIDING MEMBER

T111. WELCOME TO GALLERY

T112. APOLOGIES

T113. PRESENTATIONS/DEPUTATIONS/PETITIONS

T114. PUBLIC QUESTION TIME

T115. CONFIRMATION OF MINUTES

T115.1 Town Planning & Building Committee (Private Domain) – 9 October 2007

T116. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T117. REPORTS OF COMMITTEES

T117.1 Town Planning Advisory Panel – 23 October 2007

T118. REPORTS OF OFFICERS

T118.1 Receipt of Reports

T118.2 Review of Council Policy 139 on Non-Approved Buildings

T118.3 Order of Business

T118.4 Clayton Street No. 70

T118.5 Fortescue Street No 39A

T118.6 Petra Street No 41

T118.7 Philip Street No 8

T118.8 May Street No. 22 (Lot 67)

T118.9 View Terrace No 16

T119. ADJOURNMENT

T120. RESUMPTION

T121. REPORTS OF OFFICERS (CONTINUED)

T121.1 Walter Street No 18

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T121.2 Preston Point Road No 114

T121.3 Municipal Inventory

T122. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T123 CLOSURE OF MEETING

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MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 13 NOVEMBER 2007, COMMENCING AT 6.35PM.

T109. OPENING OF MEETING

The Chief Executive Officer opened the meeting.

T109.1 Present

Mayor Alan Ferris	
Cr Stefanie Dobro	Presiding Member
Cr Barry de Jong	
Cr Alex Wilson	
Cr David Arnold	Observer
Mr Stuart Wearne	Chief Executive Officer (To 6.37pm) (From 9.45pm)
Mr Chris Warrener	Town Planner
Mr Paul Busby	Principal Building Surveyor (To 7.40pm)
Ms Janine May	Minute Secretary (To 9.56pm)

T110. ELECTION OF PRESIDING MEMBER

The Chief Executive Officer sought nominations for the position of Presiding Member

Mayor Ferris nominated Cr Dobro for the position.

Following a request from the Chief Executive Officer, Cr Dobro provided written confirmation of her acceptance of the nomination.

Given there were no further nominations, the Chief Executive Officer declared Cr Dobro elected as Presiding Member of the Town Planning & Building Committee (Private Domain) for a two year term.

Cr Dobro assumed the Chair.

The Chief Executive Officer left the meeting at 6.37pm.

T111 WELCOME TO GALLERY

There were 23 members of the public in the gallery at the commencement of the meeting.

T112. APOLOGIES

An apology was submitted on behalf of Cr Maria Rico & Cr Jennifer Harrington and it was noted Cr Olson would be arriving late for the meeting.

T113. PRESENTATIONS/DEPUTATIONS/PETITIONS

Nil.

T114. PUBLIC QUESTION TIME

Nil.

T115. CONFIRMATION OF MINUTES

T115.1 Town Planning & Building Committee (Private Domain) – 9 October 2007

Mayor Ferris – Cr de Jong

That the Town Planning & Building Committee (Private Domain) minutes dated 9 October 2007 as adopted at the Council meeting held on 16 October 2007 be confirmed.

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T116. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)
Nil

T117. REPORTS OF COMMITTEES

T117.1 Town Planning Advisory Panel – 23 October 2007

Cr Wilson – Mayor Ferris

That the minutes of the Town Planning Advisory Panel meeting held on 23 October 2007 be received and each item considered when the relevant development application is being discussed. CARRIED

T118. REPORTS OF OFFICERS

T118.1 Receipt of Reports

Mayor Ferris – Cr de Jong

That the Reports of Officers be received. CARRIED

T118.2 Review of Council Policy 139 on Non-Approved Buildings
By Paul Busby, Principal Building Surveyor, on 7 November 2007

PURPOSE

The primary purpose of this report is to recommend to Council amendments to Policy 139 and in association with this purpose, for Council to consider updated forms and documents to be applied to the Policy in the event of the Town becoming aware of unauthorised building work.

PREFACE

The purpose of this policy is to provide a mechanism for the Town to confirm that it will not instigate legal action against builders or owners in the event of:

- construction of a structure without a required building licence, or
- deviation from a building licence

when the Town is not aggrieved by the continued existence of the structure.

The underlying intent is to:

- i) create an improved means for property owners to resolve the grievance caused to the Town when there is a structure on their land for which no required building licence has been issued. In this sense the proposed amended Policy will be of considerable potential benefit to property owners who have built structures without a required licence or new owners who have purchased a property only to later discover there were unapproved structures on the property.
- ii) ensure that such structures that have been constructed or altered without a building licence comply with the Building Code of Australia. In this sense the proposed amended policy will be of potential assistance in protecting the public and in some cases, reducing Council's potential liability, for example in the case of structures bordering the public domain.
- iii) ensure that proper construction documentation is held by the Town for buildings that have been constructed or altered without a building licence.
- iv) revise fee arrangements to better reflect actual costs involved.
- v) discourage construction or alteration of structures without an appropriate licence.

BACKGROUND

Description of Proposal

Council's existing policy (attached) has been reviewed and is considered in need of updating (note reference to TPS No 2 for example). ATTACHMENT

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Under s374 of the Local Government (Miscellaneous Provisions) Act 1960 a building licence is required by any person prior to constructing or altering a structure. It is an offence against the Act to construct without a licence and the resultant building work is illegal. The term "building" is not a defined term in the Act and a building remains illegal even in the event of a change of ownership. The Act does not provide for the issue of a building licence retrospectively. s401 of the Act provides the Town with a resolution mechanism in the event that the Town is aggrieved when a structure has been constructed without a licence or when there has been a deviation from a licence. A s401 Notice requires the removal of the offending structure regardless of whether or not the current owner caused the illegal building work to occur.

The mechanism is that a s401 Notice is issued by the Town requiring the removal or alteration of the structure and then the Town supports an appeal to the Minister against that Notice. Upholding of the appeal by the Minister effectively legalises the offending structure. The Town receives no fees for this time consuming work and has no means to cause for the lodgement of design documentation of the work in place. There is no penalty or cost to the appellant under the s401 Notice system even for the value of the licence fees that would have been payable if legislation was followed.

The Department of Housing and Works has advised of its strong objection to the use of the s401 Notice as a means of resolving the legalising of structures when the Town is not aggrieved by the existence of the structure other than because it was built without approval. It is not the intention of that section of the Act. Having said this, the Department acknowledges that it is the wording of the legislation that has left local governments with little choice other than to take the course of action outlined above. After years of foreshadowing such legislation, provisions which will allow a local government to issue a "Building Approval Certificate" to the owner to approve unauthorised building works, via amendments to the Local Government (Miscellaneous Provisions) Act 1960, is due to come into force on 1 January 2008. When passed this legislation will necessitate further changes to the policy. Meanwhile, as an interim measure, this proposed policy 139 is intended to change the focus to improved means of confirming that the Town will not be taking action in the future in relation to the building without approval.

The policy and administrative documentation has been developed in accordance with legal advice.

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

Adoption of the original policy 139 on 20 April 2004

REPORT

Introduction

The policy is intended to apply to any construction that would require approval by the Town under the Local Government (Miscellaneous Provisions) Act 1960. The main elements of the policy are as follows:

1) Certificate of Acknowledgement

In the event that a structure has been erected without the required approval under s374 of the Local Government (Miscellaneous Provisions) Act 1960 the Town may issue a Certificate of Acknowledgement of Existing Structures. The certificate has the purpose of confirming that the Town will not take action under the s401 of the Act to have the structure removed only for the reason of it's having been constructed without a valid building licence. Until the issue of a Certificate the Town retains the right to take action under s401 of the Act against construction work performed without a valid licence.

In other words, where Council has no objection to the structure remaining, subject to:

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- satisfactory certification
- alterations being carried out where required
- payment of required fees etc.

a retrospective approval may be issued.

It is important to note however, that even in the event of a retrospective approval being issued, owners or builders who carry out unauthorised building work may still be prosecuted under the Act and/or the Builders' Registration Board under the Builders Registration Act 1939. It should be noted however that the offences for these breaches continue to apply only to the person who commits the offence ie the builder or original owner who commences unauthorised building work or who allows an unauthorised building to be occupied, not a person who may subsequently become the owner.

2) Limitation

A Certificate of Acknowledgement of Existing Structures will only be issued upon receipt of satisfactory design documentation as is required for a building licence application for new works and only when the existing structure complies with Council's Town Planning Scheme, Residential Design Codes, Building Regulations 1989, the Building Code of Australia and any other relevant legislation.

3) Fees

A fee will be charged for the service in accordance with the schedule of fees and charges in the annual budget. This is to be set in line with the proposed Building Regulations Amendments as referred to above which set the licence fee for unauthorised applications at 3 times the building licence fee, which means for small works the minimum fee should be set at \$300.00.

4) Relevant Documentation

- Application form Acknowledgement of Existing Structures
- Certificate - Acknowledgement of Existing Structures
- Processing Check sheet - Acknowledgement of Existing Structures
- Pro forma letter - Acknowledgement of Existing Structures

ATTACHMENTS

CONCLUSION

The Acknowledgement of Existing Structures Policy will give a means to property owners of resolving a grievance by the Town when there is a structure constructed in the district for which no building licence has been issued, when such a licence was required. The current method of resolution is by issue of a Notice under s401 of the Local Government (Miscellaneous Provisions) Act 1960 which results in no fees and generally no documentation for the Town, little discouragement to offenders, and potential hardship to any future owners who "inherit" the problem through purchase of the property. The procedure will require a level of documentation to be submitted equal to that under a valid building licence application.

Adoption of the updated policy will provide four benefits to the Town.

1. Treats the relationship with most "offenders" as a technical issue rather than as a legal infringement matter, thereby potentially improving community relationships particularly in cases where a genuine oversight has occurred or involves a new property owner who was not responsible for the unapproved structure at issue.
2. Full documentation will be received by the Town of the existing work in place whereas currently only a certificate of structural adequacy is generally received.
3. Discourage building without a licence because a higher fee will be attached to the application for Acknowledgement of Existing Structures certification.
4. Improved cost recovery for processing applications for acknowledgement of structures.

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It is concluded the amended Policy as attached should be adopted.

ATTACHMENT

Elected members are further advised that the Principal Building Surveyor is currently dealing with several non-approved building matters and the earliest possible adoption of the improved policy will be of assistance to the officer in dealing with this legally fraught and legislatively complex area.

RECOMMENDATION

That Council adopts the following amended Policy 139 including the proposed new forms and documentation:

Absolute Majority Resolution Required

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council adopts the following amended Policy 139 including proposed new forms and documentation attached to these minutes:

COUNCIL POLICY ON NON-APPROVED STRUCTURES

Adopted Council Meeting, held 20 April 2004

Amended Council Meeting held 16 October 2007

1. Council delegates to the Chief Executive Officer the authority to issue a Certificate of Acknowledgment of Existing Structures in the event that a structure has been constructed prior to the issue of a building licence as required under s374 of the *Local Government (Miscellaneous Provisions) Act 1960* subject to the following conditions:
 - a) The structure or part complies with all relevant Building, Planning and Health Legislation; including the current Town Planning Scheme, Residential Design Codes, Building Regulations 1989 and the Building Code of Australia.
 - b) Confirmation that the building or part is structurally adequate, is not a hazard and is not in breach of any other legislation;

Structural confirmation shall take the form of a certificate or letter of structural adequacy from a practising structural engineer.
 - c) Submission of adequate plans detailing the buildings construction and location;

A Certificate of Acknowledgement of Existing Structures will only be issued upon receipt of adequate design documentation as is required for a building licence application.
 - d) Payment of the required fee to be set out in the Council's Schedule of Fees and Charges.
2. Council notes the above process does not preclude access to the statutory process if parties prefer to follow it.
3. Until the issue of a Certificate of Acknowledgment of Existing Structures, the Council retains the right to take action under s401 of the *Local Government (Miscellaneous Provisions) Act 1960* against construction work performed without a valid building licence.
4. The attached forms constitute the documentation relating to the Policy.

CARRIED
ABSOLUTE MAJORITY REQUIRED

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T118.3 Order of Business
Cr Wilson – Mayor Ferris
The order of business be altered to allow members of the public to speak to relevant agenda items. **CARRIED**

T118.4 Clayton Street No. 70
Applicant & Owner: Mark & Susan Gadsby
Application No. P183/2007
By Chris Warrener, Consultant Town Planner on 30 October 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 70 Clayton Street with a double garage and store, laundry, bathroom, porch, foyer, office, activity room, 9.2m long X 3m wide below ground swimming pool, 2 bedrooms and a bathroom at ground level, and on the upper floor a freeform living room, balcony, kitchen, master bedroom and en-suite, dressing room, and a guest room and en-suite.

Roof pitch is at 2.5°

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy 066 – Roofing (LPP 066)
Local Planning Policy No. 142 – Residential Development (LPP 142)
Local Planning Policy No. 143 – Fencing (LPP 143)
Council Policy No. 023 – Use of Reflective Metal Roofing Material (CP 023)

Documentation

Plans and relevant forms date stamp received on 20 September 2007

Date Application Received

20 September 2007

Additional information

Over-shadow diagram received on 5 October 2007

Advertising

Adjoining land owners only

Date Advertised

10 October 2007

Close of Comment Period

24 October 2007

No. of Days Elapsed between Lodgement & Meeting Date

54 days

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

12 Aug. 1987: Building Licence 15/1306 issued for a double garage at 182 Preston Point Road;
21 Oct. 1991: Council resolves to advise the applicant that the section of fence facing Clayton Street is approved, however the solid sections facing Preston Point Road are not approved;

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- 17 Sept. 2002: Council decides to advise the WAPC that it supports the subdivision of 182 Preston Point Road into 2 survey strata lots (1 X 445m², 1 X 524m²) creating 70 Clayton Street;
- 10 Oct. 2002: WAPC grants conditional approval to the subdivision;
- 3 Dec. 2002: Demolition Licence 414/2002 issued for removal of an isolated back garage, workshop store & verandah;
- 24 Feb. 2004: Demolition Licence 440/2004 issued for removal of a verandah, and isolated brick garage;
- 24 Feb. 2004: Building Licence 27/3545 issued for new boundary wall to south end of existing residence;
- 7 Oct. 2005: WAPC endorses for Final Approval Survey Strata Plan 45140 to create 70 Clayton Street (1 X 445m²), and 182 Preston Point Road (1 X 523m²);

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 23 October 2007 and the following comments were made:

- interesting design

Public Submissions

At the close of the comment period 1 submission was received.

Site Inspection

By Consultant Town Planner on 9 October 2007

Submission from 182 Preston Point Road

1. Concerned about balcony on north side;
2. Concerned about cost of supporting a pool, and about potential noise & vibration.

STATISTICS	Required	Proposed
Land Area		445m ² Existing
Open Space	50%	54.55% Acceptable
Zoning		R12.5

Setbacks:

Front (west)		Required	Proposed
<i>Ground</i>	<i>Office</i>	6.00	5.70 Discretion Required
	<i>Porch</i>	6.00	5.70 Discretion Required
	<i>Bedroom (2)</i>	6.00	5.70 Discretion Required
	<i>Garage</i>	6.00	6.25 Acceptable
<i>Upper</i>	<i>Balcony (1)</i>	6.00	4.80 Discretion Required
	<i>Kitchen</i>	6.00	5.60 Discretion Required
	<i>Balcony (2)</i>	6.00	5.00 Discretion Required

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Rear (east)				
Ground	Store	1.00		1.30
				Acceptable
	Laundry	1.00		1.30
				Acceptable
	Bedroom (3)	1.50		1.80
				Acceptable
	Activity & Alfresco	Nil	LPP 142	Nil
				Acceptable
Upper	Guest	1.60		1.80
				Acceptable
	Living	1.60		2.20
				Acceptable
	Balcony	1.50		2.40
				Acceptable
Side (north)				
Ground	Alfresco	1.50		1.342
				Discretion Required
	Office	1.50		5.00
				Acceptable
Upper	Balcony	7.50		4.04
				Discretion Required
Side (south)				
Ground	Garage	1.00		1.00
				Acceptable
	Store	1.00		Nil
				Discretion Required
Upper	Balcony	1.00		1.80
				Acceptable
	Master	1.50		1.80
				Acceptable
Height:				
Wall		5.60	5.60 to 6.80 & 6.80 to 7.10	
				Discretion Required
Building		8.10		7.40
				Complies
Parapet Wall Height		3.00	3.40 to 4.00	
				Acceptable
Overshadowing:		12.2%		

REPORT

Assessment

This application is for development of a property that was once a portion of a corner lot (182 Preston Point Road), and subdivided in 2005.

TPS 3, sub-clause 5.3.1 states:

Density Bonus for Corner Lots: In areas with a density coding of R12.5, the local government may approve development up to a density of R20 on corner lots where the dwellings are designed to face each of the two street frontages, and in the opinion of local government, there will be an improvement in the overall amenity of the streets as a result of the development.

This application has been assessed having regard to this provision, and setbacks have been based on the R20 density code.

Issues

Boundary Setbacks

Front (west side) boundary

On the ground floor a wall for an office, porch and bedroom 2 is set back 5.7m from the front boundary.

On the upper floor a balcony on the north side is set back 4.8m, a kitchen wall is set back 5.6m, and a balcony on the south side is set back 5 m from the front boundary.

The RDC recommend a 6m front setback for R20 coded property.

North side boundary common with 182 Preston Point Road

A roofed alfresco area is set back 1.342m from the north side boundary.

The RDC recommend a 1.5m setback.

An upper floor balcony is set back 4.04m from the north side boundary.

The RDC recommend a 7.5m setback for unscreened balconies.

South side boundary common with 68 Clayton Street

A parapet wall for a store is set back 0m from the south side boundary.

This would be acceptable if it was the only wall on the boundary however there is another parapet boundary wall on the east side boundary (LPP 142 allows a boundary wall along one side boundary only).

The RDC recommend a 1m setback.

Wall height

Front (west side)

A wall for an upper floor kitchen varies up to 6.1m above natural ground level (NGL).

LPP 142 recommends a 5.6m wall height limit.

Rear (east side)

Wall height for an upper floor guest room varies from 5.6m to 6.8m above NGL.

Wall height for a living room varies from 6.9m to 7.1m above NGL.

Discussion

Boundary Setbacks

The front setback variation is relatively minor at 0.3m, and the upper floor balcony on the north side overlooks the roof of the adjoining house at 182 Preston Point Road not impacting in any way on the privacy of that property.

The landowner potentially affected by the boundary wall on the south side has not objected to this variation, which will ultimately result in improved privacy between the properties.

This variation has no impact on local streetscape and can be supported.

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Wall height

The subject land is a sloping block with a level difference of approximately 3m between the south and north side boundaries.

The proposed wall height variations are necessary to maintain floor and ceiling levels on the upper floor, the variations are considered relatively minor not impacting on any adjoining or surrounding property views, and can be supported.

Overall building height is well within the recommended height limit of 8.1m.

Submission concerns

Construction of the swimming pool is controlled at the Building Licence stage, and is subject to stringent structural engineering specifications and construction works, to ensure there is no impact on an adjoining property.

A portion of the upper floor balcony on the north side overlooks the public domain, and does not therefore impact on the privacy of 182 Preston Point Road however the portion of this balcony behind the front setback might, depending on how 182 Preston Point Road is redeveloped, overlook its rear, and potentially impact on its privacy.

However there is no overlooking or impacts on privacy of the existing house. The balcony overlooks a parapet wall on the boundary and the roof of this house.

The response to the submission suggests that the redevelopment of 182 Preston Point Road will likely be for a design that places outdoor living areas and habitable rooms on the north side with the river views.

While this is a likely scenario, in the interim it is recommended that the portion of the balcony which would overlook the rear of 182 Preston Point Road be screened, with the ability of the applicant to seek an amendment to the planning approval if plans for the new house at the affected property indicate that overlooking will not be an issue.

RECOMMENDATION

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

- (a) variation to the west side (front boundary) setback pursuant to the Residential Design Codes for a office a porch and bedroom 2 from 6m to 5.7m;
- (b) variation to the west side (front boundary) setback pursuant to the Residential Design Codes for an upper floor balcony on the north side, a kitchen wall, and a balcony from 6m to 4.8m, 5.6m, and 5 m respectively;
- (c) variation to the north side boundary setback pursuant to the Residential Design Codes for a ground floor alfresco area from 1.5m to 1.342m;
- (d) variation to the south side boundary setback pursuant to Local Planning Policy 142 for a store from 1m to 0m;
- (e) variation to wall height on the west side for an upper floor kitchen wall pursuant to Local Planning Policy 142 from 5.6m to 6.1m;
- (f) variation to wall height on the east side for an upper floor guest room and living room pursuant to Local Planning Policy 142 from 5.6m to 6.8m and 7.1;

for the construction of a 2-storey house at 70 Clayton Street with a double garage and store, laundry, bathroom, porch, foyer, office, activity room, 9.2m long X 3m wide below ground swimming pool, 2 bedrooms and a bathroom at ground level, and on the upper floor a freeform living room, balcony, kitchen, master bedroom and en-suite, dressing room, and a guest room and en-suite in accordance with the plans date stamp received on 20 September 2007 subject to the following conditions:

1. the upper floor balcony proposed on the north side is to be screened to a height of 1.6m above finished floor level behind the 7.5m front setback;
2. 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.

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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 dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. the proposed works for the swimming pool are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
7. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
8. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
9. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
10. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
11. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
12. 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.
13. 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.
14. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
15. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
16. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
17. 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) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.
- (g) in regard to condition 1 subject to the design of the redevelopment of the adjoining property at 182 Preston Point Road Council may be prepared to amend this planning approval to remove this condition.

Mr Gadsby (owner) addressed the meeting requesting the Committee not to impose screening to the upper floor balcony to the north as recommended in the officer's report.

Mayor Ferris – Cr Dobro

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

- (g) variation to the west side (front boundary) setback pursuant to the Residential Design Codes for a office a porch and bedroom 2 from 6m to 5.7m;
- (h) variation to the west side (front boundary) setback pursuant to the Residential Design Codes for an upper floor balcony on the north side, a kitchen wall, and a balcony from 6m to 4.8m, 5.6m, and 5 m respectively;
- (i) variation to the north side boundary setback pursuant to the Residential Design Codes for a ground floor alfresco area from 1.5m to 1.342m;
- (j) variation to the south side boundary setback pursuant to Local Planning Policy 142 for a store from 1m to 0m;
- (k) variation to wall height on the west side for an upper floor kitchen wall pursuant to Local Planning Policy 142 from 5.6m to 6.1m;
- (l) variation to wall height on the east side for an upper floor guest room and living room pursuant to Local Planning Policy 142 from 5.6m to 6.8m and 7.1;

for the construction of a 2-storey house at 70 Clayton Street with a double garage and store, laundry, bathroom, porch, foyer, office, activity room, 9.2m long X 3m wide below ground swimming pool, 2 bedrooms and a bathroom at ground level, and on the upper floor a freeform living room, balcony, kitchen, master bedroom and en-suite, dressing room, and a guest room and en-suite in accordance with the plans date stamp received on 20 September 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. 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.
4. the proposed works for the swimming pool are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

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5. *protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.*
6. *pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.*
7. *pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.*
8. *swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.*
9. *prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.*
10. *pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.*
11. *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.*
12. *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.*
13. *where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.*
14. *any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.*
15. *in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.*
16. *this planning approval to remain valid for a period of 24 months from date of this approval.*

Footnote:

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

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

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- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *in regard to condition 1 subject to the design of the redevelopment of the adjoining property at 182 Preston Point Road Council may be prepared to amend this planning approval to remove this condition.*

LOST

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Wilson

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

- (a) **variation to the west side (front boundary) setback pursuant to the Residential Design Codes for a office a porch and bedroom 2 from 6m to 5.7m;**
 - (b) **variation to the west side (front boundary) setback pursuant to the Residential Design Codes for an upper floor balcony on the north side, a kitchen wall, and a balcony from 6m to 4.8m, 5.6m, and 5 m respectively;**
 - (c) **variation to the north side boundary setback pursuant to the Residential Design Codes for a ground floor alfresco area from 1.5m to 1.342m;**
 - (d) **variation to the south side boundary setback pursuant to Local Planning Policy 142 for a store from 1m to 0m;**
 - (e) **variation to wall height on the west side for an upper floor kitchen wall pursuant to Local Planning Policy 142 from 5.6m to 6.1m;**
 - (f) **variation to wall height on the east side for an upper floor guest room and living room pursuant to Local Planning Policy 142 from 5.6m to 6.8m and 7.1;**
- for the construction of a 2-storey house at 70 Clayton Street with a double garage and store, laundry, bathroom, porch, foyer, office, activity room, 9.2m long X 3m wide below ground swimming pool, 2 bedrooms and a bathroom at ground level, and on the upper floor a freeform living room, balcony, kitchen, master bedroom and en-suite, dressing room, and a guest room and en-suite in accordance with the plans date stamp received on 20 September 2007 subject to the following conditions:**
1. **the upper floor balcony proposed on the north side is to be screened to a height of 1.6m above finished floor level behind the 7.5m front setback;**
 2. **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.**
 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 dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
 5. **the proposed works for the swimming pool are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
 6. **protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.**
 7. **pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.**

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8. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
9. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
10. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
11. pool contractor/builder is required to notify Council's Building Surveyor ***immediately upon completion of all works*** including fencing.
12. 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.
13. 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.
14. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
15. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
16. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
17. 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) ***with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.***

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- (g) *in regard to condition 1 subject to the design of the redevelopment of the adjoining property at 182 Preston Point Road Council may be prepared to amend this planning approval to remove this condition.* **CARRIED**

Mayor Ferris made the following impartiality declaration in the matter of 39A Fortescue Street: "As a consequence of the neighbours at 36 Dalgety Street being friends, 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.

T118.5 Fortescue Street No 39A
Applicant & Owner: Ronaldo Lomma
Application No. P186/2007

By Chris Warrener, Consultant Town Planner on 8 November 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house on the rear/battle-axe block at 39A Fortescue Street with a double garage, theatre, laundry, powder room, kitchen, dining, living room, master bedroom with en-suite, store, entry and portico on the ground floor, with 3 bedrooms, a bathroom and a study on the upper floor.

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 26 September 2007

Date Application Received

26 September 2007

Additional information

8 November 2007: Amended plans received in response to Town Planning Advisory Panel and neighbour at 36 Dalgety Street concerns reducing the upper floor area and increasing setbacks.

Advertising

Adjoining land owners only

Date Advertised

10 October 2007

Close of Comment Period

24 October 2007

No. of Days Elapsed between Lodgement & Meeting Date

48 days

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

18 March 2003

At its Ordinary Meeting Council considered an application for a survey strata subdivision of the land at 39 Fortescue Street. Two plan options had been referred by the Western Australian Planning Commission (WAPC) for comment. Council advised the WAPC it did not support Strata Subdivision No 96-03,

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which was for 2 lots with frontage to Fortescue Street, and in response to the alternative Strata Subdivision No 95-03 for a battle-axe lot configuration also resolved not to support this option, however it further advised the WAPC that if it *"is mindful to approve this survey strata subdivision against the recommendation of Council"* Council provided a list of conditions to apply.

- 22 April 2003 The WAPC conditionally approved both plan options.
- 20 July 2004 Council granted conditional Planning approval for a Demolition Licence for removal of a brick and tile residence from the property.
- 19 April 2005 At its Ordinary Meeting Council resolved to not approve an Application for Planning Approval for a two-storey residence at 39B Fortescue Street.
- 13 October 2005 The owner appealed and the State Administrative Tribunal ordered: *"The application is refused."*
- 21 November 2005 The WAPC endorsed final approval for a revised strata plan for a battle-axe lot subdivision.
- 21 March 2006 Council grants conditional approval for a 2-storey house on the front block at 39 Fortescue Street with setback variations.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 23 October 2007 and the following comments were made:

- northern orientation could have been utilised better
- concerns over setback for upper floor
- large house - bulky

Public Submissions

At the close of the comment period 1 submission was received.

Submission from 36 Dalgety Street

1. Combined with the import of fill the new house will be very imposing and see directly into back yard & living space;
2. More appropriate for new house to be single storey;
3. Block is going to be taken up with all house, and no open space.

Site Inspection

By Consultant Town Planner on 12 October 2007

STATISTICS	Required	Proposed
Land Area		510m ² Existing
Open Space	55%	57.3% Acceptable
Zoning		R12.5

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Setbacks:

Side (north)				
Ground	Garage	1.00		6.30
				Acceptable
	Portico	1.50		3.40
				Acceptable
	Master	1.00		1.20
				Acceptable
Upper	Sitting	2.50		6.32
				Acceptable
	Study	4.0	LPP 142	3.50
				Discretion required
	Bedroom (2)	4.0	LPP 142	1.70
				Discretion required
	Bathroom	4.0	LPP 142	3.10
				Discretion required
Side (south)				
Ground	Alfresco	1.50		1.20
				Discretion Required
	Kitchen	1.00		1.70
				Acceptable
	Theatre	1.00		1.20
				Acceptable
	Laundry	1.00		2.20
				Acceptable
Upper	Bedroom (4)	4.00	LPP 142	3.84
				Discretion Required
	Void	4.00		7.15
				Acceptable
	Sitting	4.00		9.20
				Acceptable
Side (east)				
Ground	Laundry	1.00		1.10
				Acceptable
	Garage	Nil	LPP 142	Nil
				Acceptable
Upper	Bedroom (4)	4.00		7.60
				Acceptable
	Void	4.00		6.01
				Acceptable
	Sitting	4.00		1.90
				Discretion Required
Side (west)				
Ground	Spa	1.00		1.70
				Acceptable
	Living	1.50		2.00
				Acceptable
	Alfresco	1.50		2.00
				Acceptable
Upper	Bathroom	4.00	LPP 142	3.185
				Discretion Required
	Bedroom (3)	4.00		5.12
				Acceptable
	Bedroom (4)	4.00		6.0
				Acceptable
Height:				
Wall		6.00		5.60
				Acceptable

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Building

9.00

8.50
Acceptable

**REPORT
Issues**

Assessment

This application is for a 2-storey house on a rear/battle-axe block, and is therefore subject to the following constraints under LPP 142:

(iii) Category 'A' provisions as set out within Table 3 – Maximum Building Heights of the Residential Design Codes are applicable as the 'Acceptable Development' standards for development on battleaxe lots.

Where upper level portions are nonetheless applied for, Council shall only give consideration to relaxation of height Category 'A' scheme where the following are strictly observed:

- *The proposal demonstrates design, bulk and scale that responds to the established character or other site specific circumstances;*
- *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped;*
- *Subject to the provisions of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy;*
- *A maximum of 30% of the ground floor area (including garages and roofed areas enclosed on three sides) being contained in all upper level portions of the dwelling; and*
- *Setbacks to the second storey being a minimum of 4m from all boundaries unless it is demonstrated to Council's satisfaction that a lesser setback will not adversely impact on amenity.*

To minimise the impact of 2-storey development of battle-axe lots on surrounding residential property LPP 142 limits the size of the upper floor.

Amended Plans

The plans submitted with the original application proposed a number of upper floor setback variations, which the Town Planning Advisory Panel considered were unacceptable. In addition the landowner most affected at 36 Dalgety Street objected.

The applicant and owner were advised that the plans would need to be modified to increase the upper floor setbacks otherwise it was unlikely that Council would support the application.

The following report is based on an assessment of the amended plans.

The owner of 36 Dalgety Street had not seen the new plans at the time this report was prepared.

Boundary Setbacks

North side boundary common with 37 Fortescue Street

A proposed upper floor study is set back 3.5m, bedroom 2 is set back 1.7m, and a bathroom is set back 3.1m from the north side boundary.

LPP recommends a 4m upper floor setback for development on a battleaxe lot.

South side boundary common with 41 Fortescue Street

A proposed alfresco area at the rear is set back 1.2m from the south side boundary.

The RDC recommend a 1.5m setback.

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Proposed upper floor bedroom 4 is set back 3.84 m from the south side boundary.

LPP recommends a 4m upper floor setback for development on a battleaxe lot.

East side boundary common with 39 Fortescue Street (the front lot)

A proposed upper floor sitting room is set back 1.9m from the east side boundary.

LPP recommends a 4m upper floor setback for development on a battleaxe lot.

West side boundary common with 36 Dalgety Street

A proposed upper floor bathroom and powder room are set back 3.185m from the west side boundary.

LPP recommends a 4m upper floor setback for development on a battleaxe lot.

Discussion

The proposed setback variations apply to the upper floor component of the development, and a minor variation to a ground floor alfresco area, which is not considered to impact on the adjoining property at 41 Fortescue Street.

TPAP were of the view that the building would be bulky in appearance, and this is largely as a result of the size of the upper floor, and the setbacks.

The submission from 36 Dalgety Street is similarly concerned at the impact of the development on its outdoor living space/back yard.

The applicant has amended the plans in response to these concerns, and the amendments are considered significant in terms of their addressing the upper floor setbacks, and impact on the neighbour.

In relation to the impact on the neighbour at 36 Dalgety Street, in the original plans the west side upper floor setbacks were 1.7m for a bathroom, 4m for bedroom 3, and 5.3m for bedroom 4.

The amended plans reduce the size of the upper floor bedrooms and a study, and the setbacks on the west side have been increased to 3.185m for the bathroom, 5.12m for bedroom 3, and 6m for bedroom 4.

This is considered to eliminate the impact of the development on 36 Dalgety Street.

The modifications have reduced the bulk of the development so that the impact on the affected neighbour, in particular back yard privacy, is no longer considered an issue, and the application is supported.

RECOMMENDATION

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

- (a) variation to the south side ground floor boundary setback pursuant to the Residential Design Codes for an alfresco area from 1.5m to 1.2m;
- (b) variation to the west side upper floor setback for a bathroom & powder room pursuant to Local Planning Policy 142 from 4m to 3.185m;
- (c) variation to the east side upper floor setback for a sitting room pursuant to Local Planning Policy 142 from 4m to 1.9m;
- (d) variation to the north side upper floor setback for a study, bedroom 2, and a bathroom pursuant to Local Planning Policy 142 from 4m to 3.5m, 1.7m, and 3.1m respectively;
- (e) variation to the south side upper floor setback for bedroom 4 pursuant to Local Planning Policy 142 from 4m to 3.84m;

for the construction of 2-storey house on the rear/battle-axe block at 39A Fortescue Street with a double garage, theatre, laundry, powder room, kitchen, dining, living room,

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master bedroom with en-suite, store, entry and portico on the ground floor, with 3 bedrooms, a bathroom and a study on the upper floor in accordance with the plans date stamp received on 8 November 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. 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.
4. 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.
5. 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.
6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
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.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

Mr & Mrs Lomma (owners) addressed the meeting in support of their proposal.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

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

- (a) variation to the south side ground floor boundary setback pursuant to the Residential Design Codes for an alfresco area from 1.5m to 1.2m;**
- (b) variation to the west side upper floor setback for a bathroom & powder room pursuant to Local Planning Policy 142 from 4m to 3.185m;**
- (c) variation to the east side upper floor setback for a sitting room pursuant to Local Planning Policy 142 from 4m to 1.9m;**
- (d) variation to the north side upper floor setback for a study, bedroom 2, and a bathroom pursuant to Local Planning Policy 142 from 4m to 3.5m, 1.7m, and 3.1m respectively;**
- (e) variation to the south side upper floor setback for bedroom 4 pursuant to Local Planning Policy 142 from 4m to 3.84m;**

for the construction of 2-storey house on the rear/battle-axe block at 39A Fortescue Street with a double garage, theatre, laundry, powder room, kitchen, dining, living room, master bedroom with en-suite, store, entry and portico on the ground floor, with 3 bedrooms, a bathroom and a study on the upper floor in accordance with the plans date stamp received on 8 November 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. 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.**
- 4. 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.**
- 5. 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.**
- 6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.**
- 7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.**
- 8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.**
- 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:

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- (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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- CARRIED

T118.6

Petra Street No 41

Applicant & Owner: Rosa Pirozzi

Application No. P197/2007

By Chris Warrener, Consultant Town Planner on 29 October 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a single storey house at 41 Petra Street with double garage, porch, entry, study, 3 bedrooms, 2 bathrooms, theatre, kitchen, dining room, and alfresco.

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 9 October 2007

Date Application Received

9 October 2007

Advertising

Adjoining land owners only

Date Advertised

10 October 2007

Close of Comment Period

24 October 2007

No. of Days Elapsed between Lodgement & Meeting Date

35 days

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

- 20 Dec. 1993: Council decides to advise the Department for Planning and Urban Development that it supports the subdivision of 41 Petra Street into 2 lots (1 X 468m², 1 X 522m²);
- 14 Feb 1994: Committee for Statutory Procedures grants conditional approval to the subdivision;
- 24 Nov. 1995: WAPC endorses for final approval Diagram 90068 for the subdivision creating 41 Petra Street and 20 Fletcher Street.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 23 October 2007 and the following comments were made:

- consider retaining existing dwelling
- proposed development out of character with existing houses in street
- reduces amenity of streetscap
- ordinary design

Public Submissions

At the close of the comment period no submissions were received.

Site Inspection

By Consultant Town Planner on 24 September 2007.

STATISTICS	Required	Proposed
Land Area		522m ² Existing
Open Space	50%	51% Acceptable
Zoning		R20
Setbacks:		
Front (east)		
<i>Garage</i>	6.00	6.00 Acceptable
<i>Porch</i>	6.00	6.00 Acceptable
<i>Study</i>	6.00	6.96 Acceptable
<i>Alfresco</i>	6.00	9.00 Acceptable
Rear (west)		
<i>Theatre</i>	1.00	1.50 Acceptable
<i>Bedrooms 2 & 3</i>	1.50	1.50 Acceptable
<i>Bathroom</i>	1.00	1.50 Acceptable
<i>Laundry</i>	1.00	2.70 Acceptable
Side (north)		
<i>Study</i>	1.00	6.70 Acceptable
<i>Alfresco</i>	1.50	1.80 Acceptable

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	<i>Living</i>	1.50	3.00 Acceptable
	<i>Theatre</i>	1.00	1.50 Acceptable
Side (south)			
	<i>Laundry</i>	1.00	1.50 Acceptable
	<i>Ensuite</i>	1.00	3.00 Acceptable
	<i>Bedroom 1</i>	1.50	1.50 Acceptable
	<i>Garage</i>	1.00	1.00 Acceptable
Height:			
	Wall	6.00	up to 3.50 Acceptable
	Building	9.00	6.00 Acceptable

REPORT

Assessment

This application is for redevelopment of the property at the corner of Petra Street and Fletcher Street (subdivided in 1995), and assessment of the proposal is based on the following TPS 3 provision:

"5.3.1 *Density Bonus for Corner Lots:* In areas with a density coding of R12.5, the local government may approve development up to a density of R20 on corner lots where the dwellings are designed to face each of the two street frontages, and in the opinion of local government, there will be an improvement in the overall amenity of the streets as a result of the development."

The officer's assessment applied the standards applicable under the RDC for R20 coded property.

The application complies in all respects with the standards recommended under the RDC, including LPP 142.

Issues

Roof Pitch

The application is for a single storey house with its roof pitched at 25°.

LPP 066 states:

"dominant elements to be greater than 28°."

Discussion

Roof Pitch

Between Marmion Street and Canning Highway there are 11 properties on the west side of Petra Street containing housing with roof pitch less than recommended in LPP 066.

The variation proposed in this application amounts to 3°, which is not considered to be a significant departure from LPP 066, is not considered to negatively impact on local streetscape, and can be supported.

13 November 2007

MINUTES

RECOMMENDATION

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

(a) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25° for the construction of a single storey house at 41 Petra Street with double garage, porch, entry, study, 3 bedrooms, 2 bathrooms, theatre, kitchen, dining room and alfresco. in accordance with the plans date stamp received on 9 October 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. 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.
4. 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.
5. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
6. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
7. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

Mr Pirozzi (designer) addressed the meeting in support of the proposal.

13 November 2007

MINUTES

Mayor Ferris – Cr Wilson

That the application be deferred to the Council Meeting on 20 November 2007 to allow the applicant to address the Committee's concerns in relation to the dominance of the garage on the streetscape. CARRIED

T118.7

Philip Street No 8

Applicant: Ken Acton

Owner: Chris & Kate Grieve

Application No. P146/2007

By Chris Warrener, Consultant Town Planner on 29 October 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for additions to the single storey house at 8 Philip Street comprising:

- 4.7m long X 3.5m wide X 5.1m high alfresco area at the rear;
- Convert the ground floor space containing a kitchen, bedroom, bathroom, study and sleep-out into a new kitchen, meals and sitting room, a new bathroom and a stairwell, and
- Upper floor addition containing a master bedroom, an en-suite and sitting room.

Statutory Requirements

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 – Roofing (LPP 066)

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

Documentation

Plans and relevant forms date stamp received on 26 July 2007

Date Application Received

26 July 2007

Additional Information

Amended plans date stamp received on 25 September 2007 to bring roof height into compliance.

Advertising

Adjoining land owners only

Date Advertised

10 October 2007

Close of Comment Period

24 October 2007

No. of Days Elapsed between Lodgement & Meeting Date

49 days

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

17 Dec. 1990: Council grants special approval to erect a garage on the eastern boundary;

20 June 2000: Council refuses an application for a double carport with a reduced setback;

6 Nov. 2000: Minister for Planning upholds appeal and approves the open sided carport;

13 November 2007

MINUTES

- 27 Dec. 2000: Council decides to advise the WAPC that it does not support the battleaxe subdivision of 8 Philip Street into 2 lots;
- 6 Feb. 2001: Building Licence 74/3026 issued for carport;
- 7 Feb. 2001: WAPC conditionally approves the battleaxe subdivision application;
- 17 April 2001: Council grants approval to demolish the garage;
- 27 April 2001: Demolition Licence issued for garage;
- 20 Nov. 2001: Council defers consideration of an application for 2-storey house at 8A Philip Street;
- 19 Feb. 2002: Council grants special approval for reduced north, south & west side boundary setbacks for a 2-storey house at 8A Philip Street;
- 12 July 2002: Building Licence 178/2001 issued for 2-storey house at 8A Philip Street;
- 25 Sept. 2002: WAPC endorses for final approval the survey strata plan 42375 for the battleaxe subdivision of 8 Philip Street;
- 21 Oct. 2003: Council decides to order that the windows on the upper floor east side wall of the 2-storey house at 8A Philip Street be obscure glazed;
- 19 Oct. 2004: Council approves upper level additions to the single storey house at 8 Philip Street;

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 23 October 2007 and the following comments were made:

- concern over articulation between additions and existing residence
- east elevation bland
- roof pitch should match existing

Public Submissions

At the close of the comment period 2 submissions were received.

Submission from 10 Philip Street

- No objections provided the alterations comply with all relevant codes in respect to boundary setbacks and height limits

Submission from 8A Philip Street

- No objections provided it complies with relevant regulations, in particular:
 1. complies with max ridge height
 2. complies with max wall height
 3. complies with overlooking restrictions
 4. complies with minimum setbacks

Site Inspection

By Consultant Town Planner on 23 October 2007

STATISTICS	Required	Proposed
Land Area		500m ² Existing
Open Space	55%	66% Acceptable
Zoning		R12.5

Setbacks:

Front (south)

Not Applicable – Additions to the Rear

13 November 2007

MINUTES

Rear (north)				
Ground	Sitting	6.00	7.00	
			Acceptable	
	Alfresco	6.00	5.80	
			Discretion Required	
	Kitchen	6.00	9.00	
			Acceptable	
Upper	Sitting	6.00	7.00	
			Acceptable	
	Bedroom (1) & Ensuite	6.00	9.00	
			Acceptable	
Side (east)				
Ground	Sitting	1.10	1.30	
			Acceptable	
	Alfresco	1.50	5.20	
			Acceptable	
Upper	Stairs & Sitting	1.20	1.30	
			Acceptable	
Side (west)				
Ground	Alfresco	1.10	5.60	
			Acceptable	
	Kitchen	1.10	1.50	
			Acceptable	
Upper	Ensuite & WIR	1.20	1.50	
			Acceptable	
Height:				
Wall		5.60	7.00	
			Discretion Required	
Building		8.10	8.00	
			Acceptable	

REPORT

Issues

Wall Height

North side (rear)

Wall height of the proposed additions at the rear varies between 6.7m and 7m above natural ground level (NGL)

East side

Wall height of the proposed additions along the east side (adjacent to the access driveway to the rear for 8A Philip Street), varies between 6.2m and 6.9m above NGL.

West side common with 6 Philip Street

Wall height of the proposed additions along the west side varies between 6.5m and 7m above NGL.

LPP 142 recommends a wall height limit of 5.6m in this area of East Fremantle.

Setbacks

The proposed alfresco area is set back 5.8m from the north side (rear) boundary common with 8A Philip Street.

13 November 2007

MINUTES

The RDC recommend a 6m rear setback for R12.5 coded property.

Discussion

The application is for additions, which have been designed to integrate with, and be of similar appearance to the single storey house at 8 Philip Street.

Overall building height is less than recommended in LPP 142.

The existing house proposed to be retained was built in the late 1950's with elevated timber floors, and high ceilings.

Combined with the sloping topography of the site has meant that wall height has had to be increased to maintain level floor and ceiling heights on the ground floor.

The upper floor component of the addition will be built with a standard ceiling height.

The variation to the setback for the alfresco is considered relatively minor at 0.2m, and does not impact on the amenity of the adjoining property at 8A Philip Street, because that house is oriented with all its major room and living areas on the opposite side facing north, well away from the proposed additions to 8 Philip Street.

Being separated by a driveway access from 10 Philip Street the additions are not considered to have any impact on that property.

RECOMMENDATION

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

- (a) variation to wall height on the north side pursuant to Local Planning Policy 142 from 5.6m to 7m;
- (b) variation to wall height on the east side pursuant to Local Planning Policy 142 from 5.6m to 6.9m;
- (c) variation to wall height on the west side pursuant to Local Planning Policy 142 from 5.6m to 7m;
- (d) variation to the north side boundary setback for an alfresco area pursuant to the Residential Design Codes from 6m to 5.8m

for the construction of additions to the single storey house at 8 Philip Street comprising:

- 4.7m long X 3.5m wide X 5.1m high alfresco area at the rear;
- Convert the ground floor space containing a kitchen, bedroom, bathroom, study and sleep-out into a new kitchen, meals and sitting room, a new bathroom and a stairwell, and
- Upper floor addition containing a master bedroom, an en-suite and sitting room.

in accordance with the plans date stamp received on 25 September 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. 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.
5. 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:

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MINUTES

- (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).*

Mr Acton (architect) addressed the meeting in support of the proposal.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That the matter be deferred to allow the applicant to work with Council staff, particularly in relation to wall height and bringing the building into compliance with LPP No 142.

CARRIED

The Principal Building Surveyor left the meeting at 7.40pm.

T118.8 **May Street No. 22 (Lot 67)**
Applicant: Rodney O'Byrne Design
Owner: Andrew & Felicity Cockburn
Application No. P155/07

By Chris Warrener, Town Planner on 26 October 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for two 2-storey grouped dwellings at the rear of 22 May Street, and alterations including restoration works to the single storey house at the front.

Statutory Requirements

Town Planning Scheme No. 3 – Town Centre
Local Planning Strategy – Town Centre Precinct (LPS)
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 3 August 2007

Attachments

Extract from Draft Municipal Heritage Inventory (Draft MI)

Date Application Received

3 August 2007

Additional Information Received

4 October 2007 Amended plans received to increase the setback of the existing house additions (previously a parapet boundary wall, which was considered to affect light into 2 dental surgery rooms), and the south side setback of the grouped dwellings at the rear.

13 November 2007

MINUTES

It is now proposed to restore and conserve the front garden area including picket fencing in its existing form

Advertising

Adjoining land owners only

Date Advertised

Original application: 8 August 2007

Amended plans: 10 October 2007

Close of Comment Period

Original application: 22 August 2007

Amended plans: 24 October 2007

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

5 January 1976	Steel framed patio awning approved;
21 September 1981	Council grants conditional approval for a relaxation of standards for reduced lot area and lot frontage for a physiotherapy clinic;
17 December 2002	Council grants special approval for Office use at 22 May Street;
15 June 2004	Council grants special approval for a change of use to include Caretaker's House to the existing Office use;
10 November 2006	Referral from WAPC of an application to subdivide 22 May Street into 3 survey-strata lots comprising 1 X 145m ² , 1 X 146m ² , 1 X 301m ² , and a common property lot for access comprising 75m ² ;
20 November 2006	Acting Town Planner Beryl Foster writes to the WAPC to advise that the application for subdivision will be assessed in conjunction with a planning application given the density exceeds R40;
18 Sept. 2007:	Council defers making a decision on an application for grouped dwelling development to allow the applicant to work with Council officers to address some of the Town Planning & Building Committee's concerns.

CONSULTATION

Town Planning Advisory Panel Comments

The amended plans for this application were considered by the Town Planning Advisory Panel at its meeting on 23 October 2007 and the following comments were made:

- over development of site
- concern over amenity to neighbours
- improvements to original plans
- concerns over open space
- overpowering

Public Submissions

At the close of the comment period on the amended plans 1 submission was received.

Submission from 21 Bedford Street

- the eastern wall of the proposed building appears to be a stark monolithic surface that will reflect light and heat into our garden. The construction type and finish for this wall has not been specified;
- our outlook to the west will be largely consumed by the proposed development, to the extent that the current view of the surrounding neighbourhood from inside our house would be completely obscured;
- the building will restrict the westerly summer breezes.

Site Inspection

By Consultant Town Planner on 28 August 2007

13 November 2007

MINUTES

STATISTICS	<i>Required</i>	<i>Proposed</i>
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ALTERATIONS TO EXISTING RESIDENCE

Land Area		299m ² Existing
Open Space	45%	50.8% Acceptable
Zoning		Town Centre
Heritage Listing		Draft MI

Setbacks:

Front (west) Not applicable as additions are to the rear (east) and side (north) of existing single storey residence.

Rear (east) <i>Kitchen, Study, Atrium & Bathroom</i>	1.00	Nil Discretion Required
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Side (north) <i>Kitchen/Dining</i>	1.00	1.00 Acceptable
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Side (south) N/a

Wall / Building Height:

Parapet Wall Height	3.00	3.10 to 3.60 Discretion Required
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Wall Length:

Parapet Wall Length	9.00	7.4 Acceptable
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2 X ADDITIONAL DWELLING UNITS TO REAR

Unit 1 (Middle Unit)

Land Area		110.8m ² Existing
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Open Space	45%	36.2% Discretion Required
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Zoning		Town Centre
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Setbacks:

Front (south) <i>Ground Entry</i>	1.50	6.00 Acceptable
<i>Garage</i>	1.00	7.00 Acceptable
<i>Upper Kitchen</i>	1.20	2.2 Acceptable
<i>Laundry</i>	1.20	5.9 Acceptable

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Rear (north)			
Ground	Garage	Nil	Nil
			Acceptable
	Bedroom 1 & 2	1.50	3.00
			Acceptable
Upper	Terrace	7.50	3.00
			Discretion Required

Side (east)			
Ground	Garage	Nil	Nil
			Acceptable
Upper	Kitchen	2.8	3.0
			Acceptable
	Living & Terrace	2.8	3.0
			Acceptable
	Laundry	1.2	Nil
			Discretion Required

Side (west)			
Ground	Bedroom 2, Bathroom & Stairs	1.00	Nil
			Discretion Required
Upper	Terrace, Living, Stairs & Kitchen	1.00	Nil
			Discretion Required

Wall / Building Height:

Wall Height	7.00	6.00, 6.20 & 6.50
		Acceptable
Building	7.00	6.50
		Acceptable
Parapet Wall Height	3.00	4.40, 4.70
		Discretion Required

Wall Length:

Parapet Wall Length	9.00	9.20, 11.20 & 13.20
		Discretion Required

Unit 2 (Rear Unit)

Land Area		138.6m ² Existing
Open Space	45%	40.7%
		Discretion Required

Zoning		Town Centre
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Setbacks:

Front (south)			
Ground	Entry	1.50	6.00
			Acceptable
	Garage	Nil	LPP 142 Nil
			Acceptable
Upper	Kitchen	1.20	1.6
			Acceptable

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MINUTES

Rear (north)			
Ground	Bedroom 1 & 2	1.50	3.00
			Acceptable
Upper	Terrace	7.50	3.00
			Discretion Required
Side (east)			
Ground	Garage	Nil	Nil
			Acceptable
	Stairs, Bathroom & Bedroom 2	1.50	1.57
			Acceptable
Upper	Kitchen, Stairs, Living & Terrace	1.60	1.57
			Discretion Required
Side (west)			
Ground	Bedroom 1, Ensuite & Entry	1.00	Nil
			Discretion Required
Upper	Terrace & Living	2.5	3.0
			Acceptable
	Laundry	1.2	Nil
			Discretion Required
	Kitchen	2.5	3.0
			Acceptable

Wall / Building Height:

Wall Height	7.00	5.60
		Acceptable
Building	7.00	6.50
		Acceptable

Wall Length:

Parapet Wall Length	9.00	9.20
		Discretion Required

Overshadowing:

76.5m² of 24 May Street (663m²) = 11.538%

Overlooking / Privacy:

Overlooks rear portion of medical centre and carparking

REPORT

Background

A similar application to redevelop this property was considered by Council at its meeting in September 2007.

Council decided:

"That the matter be deferred to allow the applicant to work with Council officers to address some of the Town Planning & Building Committee's concerns."

The Town Planning & Building Committee had recommended:

"That Council refuse the application for two x two storey grouped dwellings to the rear of No. 22 (Lot 67) May Street, East Fremantle and alterations including restoration works to the single storey house to the front of the lot on the following grounds:

- 1. the proposal constitutes over development of the site;*
- 2. number of discretions sought; and*
- 3. comments of the Town Planning Advisory Panel."*

The applicant has now submitted amended plans in response to Council's decision.

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The original proposal sought 21 discretions the amended plans seek 14 discretions.

Most of the discretions relate to boundary walls common to the proposed grouped dwellings at the rear not impacting on any adjoining property, or on streetscape amenity.

The comments of TPAP on the original application were:

- concern that if commercial may have parking issues
- concern that proposed works to front will negatively impact on existing building which at present presents beautifully on the street
- like to see existing front fence and gate, steps to verandah, verandah railing and balustrading to be retained
- like to see minimum changes to front elements
- not appropriate in bulk and scale
- over development of site
- not sympathetic to original dwelling

The amended plans propose to restore and retain the front fence, gate, steps to the verandah, verandah balustrading, and garden area in the front setback. The existing appearance of the property from May Street is proposed to remain.

The additions to the existing house are now proposed to be set back from the north side boundary. This allows their design and appearance to be more appropriately integrated with the existing house, and overcomes the objections raised with the previous proposal by the dentist on the adjoining north side.

The bulk of the 2 grouped dwellings has been reduced by eliminating the upper floor laundry and WC element, which largely detracted from the appearance of the existing house, and the upper floor setback of the middle dwelling has been increased along the south side to further improve the amenity of the property to the south.

The following report addresses the amended plans.

Issues

R40 Development

This application is for two 2-storey grouped dwellings at the rear of the single storey house at 22 May Street.

22 May Street is in the Town Centre zone where residential development up to a density of R40 is supported under TPS 3.

22 May Street comprises 663m².

Under the RDC the recommended average lot size for grouped dwellings on R40 coded property is 220m² with a minimum lot size of 200m².

Theoretically, subdividing 22 May Street into 3 lots complies with the criteria for R40 sites under the RDC (663m² ÷ 3 = 221m²).

However the subdivision application to accommodate this development proposes a 299m² lot for the existing house, a 110.8m² lot for Unit 1, and a 138.6m² lot for Unit 2.

Units 1 and 2 will share a common property driveway comprising 115.33m² therefore the average lot size for the 2 rear grouped dwellings based on a total available area of 364.73m² is 182.36m².

Therefore the two grouped dwellings at the rear do not comply with the R40 code permitted in the Town Centre.

13 November 2007

MINUTES

However the development in total complies.

Subdivision Application

On 10 November 2006 Council received a referral from the WAPC for an application to subdivide 22 May Street into 3 survey-strata lots.

Council's Acting Town Planner advised the WAPC that Council would consider the application in conjunction with a planning application.

The lot boundaries proposed in the subdivision application, which is awaiting a decision by the WAPC, do not correlate with the lot boundaries proposed in this application for Planning Approval.

It is understood that following preparation and lodgement of the subdivision application the applicant proceeded to prepare plans for the grouped dwelling development, and found that it was not possible to develop based on the submitted plan of subdivision.

If Council supports this Application for Planning Approval it will also need to advise the WAPC that it would be prepared to conditionally support an amended subdivision plan based on the development plan for which planning approval is currently sought.

Existing House Additions

Heritage value

The house at 22 May Street is not on the Heritage List under TPS 3, however it is in Council's Draft MI with a B+ rating indicating that it is relatively highly valued for its heritage.

This application proposes to retain and restore the existing house.

Boundary Walls

The application proposes ground floor additions to the single storey house at 22 May Street to extend the external walls to the east side boundary.

The length of the wall proposed along this boundary common with proposed Unit 1 is 13m. Wall height is 3m.

LPP 142 allows a boundary wall no higher than 3m or longer than 9m along one side boundary therefore the length of this wall constitutes a variation.

Unit 1 (grouped dwelling unit immediately behind the existing house)

Boundary Setbacks

East Side Boundary

Common with Unit 2

An upper floor powder-room/laundry is set back 0m from the east side boundary.

The RDC recommend a 1.2m setback.

North Side Boundary

Common with 20 May Street

An unscreened upper floor terrace is set back 3m from the north side boundary.

The RDC recommend a 7.5m setback.

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MINUTES

Boundary Walls

The application proposes 3 boundary walls for Unit 1.

North Side Boundary

Common with 20 May Street

The boundary wall for a garage varies in height between 4.4m and 4.7m above natural ground level (NGL).

LPP 142 allows a boundary wall up to 3m high along one side boundary.

East Side Boundary

Common with Proposed Unit 2

The boundary wall for a tandem double garage on the east side is 11.2m long.

LPP 142 limits the length of boundary walls along one side boundary to 9m.

West Side Boundary

Common with Existing Single House

1. The boundary wall for a ground floor bedroom, bathroom and stairwell on the west side is 9.2m long.
2. The boundary wall for an upper floor terrace, living room, stairwell and kitchen is 13.2m long.

LPP 142 limits the length of boundary walls to 9m along one side boundary.

Open Space

The application proposes that Unit 1 be provided with 36.2% open space.

The RDC recommend 45% open space for development at a density of R40.

Unit 2 (grouped dwelling nearest the east side boundary)

Boundary Setbacks

North Side Boundary

Common with 20 May Street

An unscreened upper floor terrace is set back 3m from the north side boundary.

The RDC recommend a 7.5m setback.

East Side Boundary

Common with 21 Bedford Street

An upper floor kitchen, stairwell and living room are set back 1.57m from the east side boundary.

The RDC recommend a 1.6m setback.

Boundary Walls

The application proposes 3 boundary walls for Unit 2.

West Side Boundary

Common with Proposed Unit 1

The application proposes a 9.2m long X 2.2m high wall along the west side common with the tandem garage for Unit 1.

13 November 2007

MINUTES

LPP 142 allows a boundary wall that is no longer than 9m along one side boundary.

*East & South Side
Boundaries*

Common with 21 Bedford Street & 24 May Street
The application proposes a double garage with a 2.2m high X 6.25m long wall along the east side boundary common with 21 Bedford Street, and a wall varying in height up to 2.6m X 6m long along the south side boundary common with 24 May Street.

LPP 142 allows a boundary wall along one side boundary.

Open Space

The application proposes that Unit 2 be provided with 40.7% open space.

The RDC recommend 45% open space for development at a density of R40.

Discussion

Heritage

The application can be supported on the basis of preserving the existing house.

In discussions with the consultant town planner the applicant offered to place a "Memorial" on the title to retain the existing house.

However a memorial is simply a notation to advise that a property is affected by something, in this case it might be a notification that the property is heritage listed or is on the State Register of Heritage Places. 22 May Street is not listed therefore a memorial would not provide an appropriate level of protection.

A better method of providing protection would be the inclusion of the house on Council's Heritage List.

The house at 22 May Street has a category B+ rating in the Draft MI, which states for this type of property:

*"Category B
Places of considerable local heritage significance*

CATEGORY B

<i>State Register of Heritage Places</i>	<i>Town Planning Scheme No. 3 Heritage List</i>	<i>Heritage Survey / Municipal Inventory</i>	<i>Town Planning Scheme No. 3 Provisions</i>
No	Yes	Yes	Yes

Considerable heritage significance at a local level; places generally considered worthy of high level of protection, to be retained and appropriately conserved; provide strong encouragement to owners under the Town of East Fremantle Planning Scheme to conserve the significance of the place. A Heritage Assessment / Impact Statement to be required as corollary to any development application. Incentives to promote heritage conservation may be considered where desirable conservation outcomes may be otherwise difficult to achieve." (Draft MI pages 3, 4 & 5)

While it is not Heritage Listed clause 7.5 under TPS 3 allows Council to 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, which states:

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- "5.6.2 *In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —*
- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and*
 - (b) have regard to any expressed views prior to making its determination to grant the variation."*

Given its inclusion as a relatively highly rated property in the Draft MI it is considered reasonable to support this application based on preserving the existing house and subject to its inclusion on the Heritage List under TPS 3.

R40 Development

The RDC allow for variations to the minimum site area required for a grouped dwelling based on the application/development satisfying the following performance criteria:

- "3.1.3 *Variation to the Minimum Site Area Required*
- The Commission may approve the creation of a lot of a lesser area and the Commission or a Council may approve a minimum site area of a Grouped Dwelling on a site area less than that specified on Table 1 provided that the proposed variation would meet the following criteria:*
- be no more than 5 per cent less in area than that specified on Table 1; and*
 - facilitate the protection of an environmental or heritage feature; or*
 - facilitate the development of lots with separate and sufficient frontage to more than one public street; or*
 - overcome a special or unusual limitation on the development of the land imposed by its size, shape or other feature; or*
 - allow land to be developed with housing of the same type and form as land in the vicinity and which would not otherwise be able to be developed; or*
 - achieve specific objectives of the local government Scheme and, where applicable, the Local Planning Strategy." (RDC, page 45)*

The proposed minimum site area of each of the lots on which the 2 rear units will sit comprises 182.36m² (Unit 1 at 110.8m² + Unit 2 at 138.6m² + Common Property at 115.33m² = 364.75m², divided by 2 = 182.36m²).

This represents an 8.82% departure from the minimum prescribed under the RDC, 3.82% more than dot point 1 above states.

However it is contended that the size, shape and location of the existing house on the site limits the ability of the property from strictly complying with the RDC in terms of providing minimum site areas for 2 grouped dwellings at the rear.

The application proposes the retention and restoration of the existing house therefore the variation can be supported under dot point 2 above.

Additionally TPS 3, sub-clauses 5.3.4 and 5.3.5 state:

- "5.3.4 *Residential Development in Non-Residential Zones:*
- Subject to clause 5.3.5, where residential development is provided for in non-residential zones, a maximum density of R40 shall apply, although the local government may vary the requirements relating to bulk, form and setbacks so as to facilitate coordinated development, having regard to the local government's objectives for the Precinct.*

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5.3.5 *Residential Development in the Town Centre Zone:*

Notwithstanding the provisions of clause 5.3.4, the local government may approve residential development at a density in excess of R40 in the Town Centre Zone, where it is satisfied that the resultant design and mix of development will be consistent with the planning proposals contained in the Local Planning Strategy and accord with any approved development plan for the centre."

There is no approved development plan for the town centre however the Local Planning Strategy states with regard to land use and design:

"Land Use

It is the Council's intention to achieve consolidated attractive development, which includes retail, office, community and residential uses around a central square. Shops and businesses would be encouraged at ground level and offices and residential development at upper levels except on the perimeter of the precinct where residential would be appropriate on all levels.

- *Medium density housing (about R40-R80) including aged persons' accommodation may be appropriate where it does not impact upon neighbouring residential amenity.*
- *The design of buildings needs to be of high quality and in keeping and a link with the heritage qualities of the Town."*

The proposed development is on the fringe of the town centre along the east side of May Street, and backs onto a residential area (Residential R20 property along Bedford Street).

The submitted design indicates that the proposed buildings will be of high quality, and built so as not to dominate surrounding buildings by being constructed in cut, 1m lower in height than would otherwise be allowed, and on this basis the land use is considered appropriate to the context of the immediate locality in keeping with the intent for development in the Town Centre under the LPS.

Boundary Setbacks

The proposed setback variations relate to boundary walls common to the new units and the existing house and do not impact on the amenity of any adjoining property.

The overlooking by the upper floor terraces from Units 1 and 2 into 20 May Street is of a double carport and parking area at its rear.

Therefore the overlooking does not impact on privacy, and the terraces need not be screened.

Boundary Walls

The proposed boundary walls are required to make effective use of limited space at the rear of the existing house, and to provide privacy and amenity for the development, and neighbouring property.

A number of these boundary walls abut each other, and the existing house, and therefore do not impact on the amenity of adjoining property.

Open Space

The application results in the provision of 50.8% open space for the existing house, and provision of 36.2% and 40.7% for Units 1 and 2 respectively.

If the common property is included in the calculation (its purpose is as an open area for vehicle access), then the percentage of open space for the grouped dwellings more than complies with the recommended standard.

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The shortfall for the two grouped dwellings is not considered significant, and has no impact on the local streetscape.

TPAP comments

The panel members who commented did not define/clarify what they meant by "overdevelopment".

Council's consultant town planner contacted other industry professionals to discuss this matter, and the general consensus is that overdevelopment occurs if a development does not provide the requisite parking, or is over-height, or proposes more dwelling units than the prevailing density code permits, or substantially deviates from any of the standards recommended in the RDC.

In this particular application none of these matters apply, and therefore the application is not considered to result in overdevelopment of the site.

Only one submission has been received, from the neighbour to the east. The main concern is the appearance of the development however this might equally apply to a single residential development, which could in fact have more impact by complying with the recommended height limits.

The application proposes that the rear grouped dwelling be constructed in cut with its maximum height being 5.2m at the rear facing the submission property. The RDC allow a 7m height limit for a concealed/flat roofed building, which would have a much greater impact on the submission property than is proposed in this application.

The proposed grouped dwellings at the rear do not dominate the appearance of the property, and the single house at the front is considered to be the dominant element.

The grouped dwellings are proposed to be lower in height than recommended in the RDC to further reduce their impact on streetscape.

Conclusion

If the house at 22 May Street is demolished the property would have sufficient "uninterrupted" land space to accommodate 3 grouped dwellings, which could comply in all respects with the recommended standards for an R40 development.

The house at 22 May Street is not on Council's Heritage List under TPS 3 therefore there is no protection of it in the longer term.

This is unfortunate given its relatively high heritage rating in the Draft MI, and its contribution to the streetscape of the Town Centre zone.

The applicant stated in a telephone discussion with Council's consultant town planner that the owner would be prepared to agree to the old house being included on the Heritage List.

While the application involves a number of variations it is supported because it results in the retention of the old house, and the maintenance of an attractive streetscape, and being on the edge of the Town Centre zone the application is in keeping with the spirit and intent for development under the Local Planning Strategy.

Construction of the proposed new dwellings at the rear will involve earthworks, which significantly reduces their impact on surrounding property, and not be readily visible from May Street. The single house at the front will continue to be the dominant streetscape element.

By being quite different in design the grouped dwellings highlight the historic difference and architecture of the existing house.

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The amended plans are considered to be an improvement on the original application, and are supported.

RECOMMENDATION

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

Existing Residence

- (a) variation to the length of a boundary wall along the east side boundary for a kitchen, study, atrium and bathroom pursuant to Local Planning Policy 142 from 9m to 13m;

Unit (1) – Middle Unit

- (b) variation to percentage of open space pursuant to Residential Design Codes from 45% to 36.2%;
- (c) variation to wall height for a garage on the north side pursuant to Local Planning Policy 142 from 3m to 4.7m;
- (d) variation to the north side boundary setback for an upper floor terrace pursuant to Residential Design Codes from 7.5m to 3m;
- (e) variation to the length of a boundary wall on the east side for a garage pursuant to Local Planning Policy 142 from 9m to 11.2m;
- (f) variation to the length of a boundary wall on the west side for bedroom 2, a bathroom and stairwell pursuant to Local Planning Policy 142 from 9m to 9.2m;
- (g) variation to the length of an upper floor boundary wall on the west side for a terrace, living room, stairwell and kitchen pursuant to Local Planning Policy 142 from 9m to 13.2m;
- (h) variation to the upper floor setback on the east side for a laundry pursuant to the Residential Design Codes from 1.2m to 0m;
- (i) variation to the boundary setback on the west side for bedroom 2, a bathroom and stairwell pursuant to Local Planning Policy 142 from 1m to 0m;
- (j) variation to upper floor setback on the west side for a terrace, living room, stairwell and kitchen pursuant to Local Planning Policy 142 from 1.6m to 0m;

Unit (2) – Rear Unit

- (k) variation to percentage of open space recommended pursuant to Residential Design Codes from 45% to 40.7%;
- (l) variation to the upper floor setback on the east side for a kitchen, stairwell, living room and terrace pursuant to the Residential Design Codes from 1.6m to 1.57m;
- (m) variation to the boundary setback on the west side for bedroom 1, an en-suite and entry pursuant to Local Planning Policy 142 from 1m to 0m;
- (n) variation to the length of a boundary wall on the upper east side for a kitchen, stairwell, living room and terrace pursuant to Local Planning Policy 142 from 9m to 14.2m;
- (o) variation to the length of a boundary wall on the west side for bedroom 1, an en-suite and entry pursuant to Local Planning Policy 142 from 9m to 9.2m;

for the construction of two 2-storey grouped dwellings at the rear of No. 22 (Lot 67) May Street, East Fremantle and alterations including restoration works to the single storey house at the front in accordance with the plans date stamp received on 4 October 2007 subject to the following conditions:

1. prior to the issue of a Building Licence the owner is to provide an agreement in writing to have the single storey weatherboard and iron house at 22 May Street included on the Heritage List under the Town of East Fremantle Town Planning Scheme No. 3;
2. 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.
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 grouped dwellings including the single house at the front 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. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
8. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Ms Pearse and Mr Thorogood (adjoining owners) answered questions raised by the Presiding Member in relation to this development and future plans for their own property.

Mr O'Byrne (architect) & Mr McGee (applicant) addressed the meeting in support of the proposal.

Mayor Ferris – Cr de Jong

That the application be deferred to the Council Meeting on 20 November 2007 pending a site inspection by elected members on 19 November 2007 at 6.00pm.

CARRIED

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T118.9 View Terrace No 16
Applicant: Greg Rowe & Associates
Owner: Mark Trupp & Jennifer McDonald
Application No. P201/2007
By Chris Warrener, Consultant Town Planner on 5 November 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for additions to the rear of the single house at 16 View Terrace comprising a master bedroom, en-suite, library, living area, and balcony, and minor alterations and additions to the existing ground floor plan and entry.

The new extension creates a 3-storey elevation at the rear of the house.

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 12 October 2007

Date Application Received

12 October 2007

Advertising

Adjoining land owners only

Date Advertised

15 October 2007

Close of Comment Period

29 October 2007

No. of Days Elapsed between Lodgement & Meeting Date

32 days

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

19 June 1976: Below ground concrete swimming pool registered;
19 Nov. 2002: Council decides to advise the WAPC that it supports the subdivision of 14 & 16 View Terrace for the purposes of adjusting the common property boundary;
13 Dec. 2002: WAPC conditionally approves the boundary adjustment subdivision;

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 23 October 2007 and the following comments were made:

- interesting design
- confirmation of materials to be provided
- some concern about height
- slot windows complement style of house

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Public Submissions

At the close of the comment period 14 submissions were received, 10 objections and 4 letters of support.

4 of the 10 objections subsequently withdrew their objections, and now support the application.

Therefore there are now 6 objections and 8 letters of support.

1. *Submission from 19 View Terrace*

- Our property will lose significant amount of amenity by loss of view
- Precedent will be set whereby those on the north side of View Terrace can exceed height rules.

2. *Submission from 21B View Terrace*

- Proposal will affect amenity by obstructing views;
- Change to streetscape, sets a precedent for residents on north side to exceed height limits;
- Unfair to other residents who have had to build to comply with height limits;

3. *Submission from 23A View Terrace*

- Objects to height limit being exceeded by 2200mm;
- Application has no impact on my property but it sets a precedent;

4. *Submission from 23 View Terrace*

- Objection;
- Affects view from front of my property;
- Development must comply with the building regulations as we had to when we built some 10 years ago;

5. *Submission from 25 View Terrace (now supports)*

- Concerned at addition which exceeds allowable height;
- Precedent set;
- Effect on property values

6. *Submission from 25a View Terrace*

- Objection;
- Precedent;
- Should be modified to be in keeping with present house heights;

7. *Submission from 29 View Terrace (now supports)*

- Opposed to any approval to exceed maximum wall height by 2200mm

8. *Submission from 9 View Terrace*

- Objection;
- Unacceptable as it would set a precedent

9. *Submission from 11a View Terrace (now supports)*

- Objection;
- Existing rules should stand

10. *Submission from part owner of 27 View Terrace*

- If allowed any variation will contribute to a lack of continuity, security and expectation along the escarpment for residents living beside and across the road on natural high ground.

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11. *Submission from 15 View Terrace*

- Supports proposal in current form as it will have less impact on reduced views and has a common sense approach to renovation, the family's needs and sympathetic to existing properties.

12. *Submission from 18 View Terrace*

- No objection to proposed additions

13. *Submission from 14 View Terrace*

- No objection to proposed additions including the variations sought.

14. *Submission from 11 View Terrace*

- No objection, extensions do not affect me

Site Inspection

By Consultant Town Planner on 23 and 26 October 2007

STATISTICS	<i>Required</i>	<i>Proposed</i>
Land Area		850m ² Existing
Zoning		R12.5
Heritage Listing		Not Listed

Setbacks:

Front (south)

Not Applicable – Additions to the Rear

Rear (north)

<i>Ground</i>	<i>Kitchen & Dining</i>	6.00	15.40 Acceptable
<i>Upper</i>	<i>Balcony</i>	7.50	12.70 Acceptable
	<i>Master Bedroom</i>	6.00	15.30 Acceptable

Side (east)

<i>Living</i>	1.40	3.50 Acceptable
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Side (west)

<i>Upper</i>	<i>Master Bedroom & Ensuite</i>	4.50	8.20 Acceptable
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Height:

Wall	6.50	<i>LPP142</i>	7.90 to 8.70 Discretion Required
Building	Not applicable – Flat Roof		

REPORT

Assessment

The application is for extensions to a house built on a sloping site. The site was excavated to build an extensive basement area for the house, which appears as a single storey development (1950's "Art Deco" style) from View Terrace.

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The RDC allow for a "deemed natural ground level" (DNGL) in lieu of natural ground level (NGL) where the terrain is irregular, in this case the irregularity is a combination of the sloping site and the excavation works for the basement.

The applicant has therefore based building height on the application of DNGL or as the applicant's plans notate: "average ground line".

This is an acceptable method for determining building height and was the method applied to the assessment of heights for the adjoining property at 18 View Terrace (a similar sloping block, with excavation for a basement), for which Council conditionally approved in October 2006 (following SAT mediation) extensions to the rear with wall height increased from 5.6m to 7.6m and building height increased from 8.1m to 8.86m.

Issues

Building Height

At the rear (north side) the wall for a proposed master bedroom is 8.5m above DNGL.

On the east side the wall for a living room varies between 8.1m and 8.7m above DNGL, and on the west side the wall for the master bedroom and an en-suite varies between 7.9m and 8.7m above DNGL.

LPP 142 recommends a wall height limit of 6.5m for a concealed/flat roof building.

Precedent

This issue was raised by the applicant, specifically with reference to 18 View Terrace.

It must be stated that every application is treated on its merits, and decisions made about applications, which may be subject to entirely different circumstances, do not set a precedent for other applications.

The applicant refers to the example of the approved additions to the adjoining property at 18 View Terrace, and the height variations, which were permitted by Council.

In that example at its meeting on 18 July 2006 Council conditioned the application on it being in compliance with the height limits of LPP 142.

The applicant applied to the State Administrative Tribunal (SAT) for a review in response to the condition of planning approval, which required that the application comply with the height limits under LPP 142.

Following mediation the application was conditionally approved with variations to wall and roof height.

Submissions

14 submissions were received, 6 object to the application, and 8 support it.

All of the objections are from owners of properties on the south side of View Terrace, and the letters of support are from the two immediate neighbours on the north side, and six from the south side (15 View Terrace).

Discussion

Building Height

The Consultant Town Planner met a number of the objectors on site, and undertook evaluations of the potential impact of the application on property views.

Photographs were taken from the north side upper floor balconies of 19 and 21B View Terrace.

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It is evident that the application will have an impact on the north and north-north west views from these two properties.

However the view that will be obscured is not considered the major view from these properties. The major view is considered to be northeast up river to the city, and the view northwest and west down river to the ocean. These main views are unaffected by the application.

LPP 142 states with respect to views:

“Part 4 – Views

Where Council is requested to exercise discretion under its Policies or the Performance Criteria of the Residential Design Codes, Sections 3.2 – Streetscape, 3.3 – Boundary Setbacks and 3.7 – Building Height, the Council will have regard for the impact a proposed building may have on views that owners of adjoining property(s) may enjoy.”

Most of the objections are from properties, views from which are not affected by the application.

The owners of the adjoining properties support the application with variations.

Conclusion

The application includes an elevation which illustrates how “complying height” additions with a pitched roof might appear. This elevation indicates that the impact on views by this approach would be far greater than what is proposed.

The existing single storey house is considered to make a positive contribution to local streetscape.

The application proposes to retain this house with additions to the rear which are considered to compliment the house and not detract from its appearance.

LPP 142’s objective in regard to height limits states:

3. *To consider the amenity of adjoining properties with regard to access to views.*

The objections are from property owners the majority of whose views are not affected, and of the small number of those that are the impacts are considered very minor. None of the objections are from ‘adjoining’ properties.

Based on retaining the existing house and the low key nature of the additions viewed from the street, the application is supported.

RECOMMENDATION

That Council grant approval for

- (a) variation to wall height on the north side pursuant to Local Planning Policy 142 from 6.5m to 8.5m;
- (b) variation to wall height on the east side pursuant to Local Planning Policy 142 from 6.5m to 8.7m;
- (a) variation to wall height on the west side pursuant to Local Planning Policy 142 from 6.5m to 8.7m;

for the construction of additions to the rear of the single house at 16 View Terrace comprising a master bedroom, en-suite, library, living area, and balcony, and minor alterations and additions to the existing ground floor plan and entry in accordance with the plans date stamp received on 12 October 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.

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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. the proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. 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.
5. 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) *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.*
- (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).*

Ms Nagle, Mr Lowenhoff, Ms Tuba, Mr Melvin, Mr French and Mrs Seminara (neighbours) addressed the meeting stringing objecting to the proposal.

Ms Thomson (neighbour) addressed the meeting in support of the proposal.

Mr Brown (neighbour) addressed the meeting regarding aspects of the proposal.

Mr Trupp (owner), Mr Veccia-Scavalli (architect) and Mr Lohman (town planner) addressed the meeting in support of the proposal.

Cr de Jong – Cr Wilson

That the application be deferred pending a site visit and the applicants be requested to erect temporary framing to illustrate the proposed wall height of the additions prior to this inspection. CARRIED

T119. ADJOURNMENT

Mayor Ferris – Cr Wilson

That the meeting be adjourned at 9.40pm for a short break.

CARRIED

T120. RESUMPTION

Mayor Ferris – Cr de Jong

That the meeting be resumed at 9.45pm with all those present prior to the adjournment and the Chief Executive Officer, in attendance.

CARRIED

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T121 REPORTS OF OFFICERS (CONTINUED)

T121.1 *Walter Street No 18*
Applicant: APG Homes
Owner: Beth McCrae Dungey
Application No. P/2007

By Chris Warrener, Consultant Town Planner on 30 October 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey skillion-roofed house at 18 Walter Street with double garage, study, entry, theatre room, library, powder room, laundry, kitchen, living and dining room, and verandah at rear on the ground floor, with 4 bedrooms and 2 bathrooms on the upper floor.

The garage door occupies 46.9% of the property frontage.

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 18 October 2007

Date Application Received

18 October 2007

Advertising

Adjoining land owners only

Date Advertised

19 October 2007

Close of Comment Period

2 November 2007

No. of Days Elapsed between Lodgement & Meeting Date

26 days

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

4 Nov. 1977: Building Licence issued for a patio attached to the front;
22 Dec. 2004: Council advises the WAPC that it does not support the subdivision of 18 Walter Street into two 455m² lots;
15 Jan. 2005: WAPC conditionally approves the subdivision to create 2 “long tom” lots;

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 23 October 2007 and the following comments were made:

- incompatible to streetscape
- pleasing contemporary design rather than faux historicism
- pitch plate to be higher

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Public Submissions

At the close of the comment period no submissions were received.

Site Inspection

By Consultant Town Planner on 30 October 2007.

STATISTICS	Required	Proposed
Land Area		455m ² Existing
Open Space	55%	52% Discretion Required
Zoning		R12.5
Setbacks:		
Front (west)		
<i>Ground</i> <i>Study</i>	7.50	6.50 Discretion Required
<i>Garage</i>	7.50	7.50 Acceptable
<i>Upper</i> <i>Bedroom (1)</i>	7.50	9.60 Acceptable
<i>WIR</i>	7.50	8.30 Acceptable
Rear (east)		
<i>Ground</i> <i>Verandah</i>	6.00	5.15 Discretion Required
<i>Upper</i> <i>Bedrooms 3 & 4</i>	6.00	18.50 Acceptable
Side (north)		
<i>Ground</i> <i>Verandah</i>	1.50	2.11 Acceptable
<i>Dining</i>	1.50	1.50 Acceptable
<i>Kitchen</i>	1.50	4.10 Acceptable
<i>Library</i>	1.50	1.50 Acceptable
<i>Stairs</i>	1.00	1.27 Acceptable
<i>Entry</i>	1.50	2.10 Acceptable
<i>Study</i>	1.00	1.51 Acceptable
<i>Upper</i> <i>Bedroom (4)</i>	1.30	1.51 Acceptable
<i>Stairs</i>	1.30	1.20 Discretion Required
<i>Bedroom (1)</i>	1.30	2.10 Acceptable

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Side (south)				
Ground	Garage	Nil	Policy 142	Nil
	Theatre	1.50		Acceptable 1.60
	Kitchen	1.00		Acceptable 1.00
	Living	1.00		Acceptable 1.00
	Verandah	1.50		Acceptable 1.60
Upper	Ensuite	1.20		Acceptable 2.20
	Bedrooms 2 & 3	1.50		Acceptable 1.60
				Acceptable
Height:				
	Wall	6.00		7.20
	Building	9.00	Discretion Required	7.50
				Acceptable
Overshadowing:		16.45%		

REPORT
Background

In January 2005 the WAPC approved the subdivision of 18 Walter Street into two 455m² lots.

This application is for development of the southern lot, which when titles issue will be addressed as 18A Walter Street.

Issues

Setbacks

West side (front)

A proposed study is set back 6.54m from the west side (front) boundary.

The RDC recommend a 7.5m front setback for R12.5 coded property.

East side (rear)

A proposed verandah is set back 5.15m from the rear boundary common with 17 Stratford Street.

The RDC recommend a 6m rear setback.

Wall Height & Roof Pitch

The application is for a 2-storey house with a skillion roof pitched at 7°58'.

LPP 066 states:

"dominant elements to be greater than 28°"

Wall height on the north side of the house varies up to 7.2m above natural ground level.

The RDC recommend a 6m wall height limit.

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Open Space

The application proposes the provision of 52% open space.

The RDC recommend the provision of 55% open space for R12.5 coded property.

Discussion

Setbacks

The applicant has not explained the necessity for the front setback variation, and given that housing on adjoining properties, and along both sides of Walter Street, is at or greater than the recommended setback, this variation is not supported, because it is considered to negatively impact on the streetscape.

The rear setback variation is not considered to impact on the amenity of the adjoining property at 17 Stratford Street. It only relates to an open sided verandah at ground level; the main house wall of the ground floor (dining & living rooms) at the rear is set back 6.7m. The upper floor element (bedrooms 3 & 4) is set back 18.5m from the rear.

There is a small shed and store-room with a TV aerial on it abutting the common boundary fence at the rear of 17 Stratford Street, built elements that provide a "buffer" between the proposed development and the house at this property. The potentially affected property owner has not objected to this variation.

Wall Height & Roof Pitch

The application is for a contemporary designed, skillion roofed 2-storey house.

Due to the roof design a portion of the 2-storey element incorporates wall height in excess of the recommended height. This portion of the house is adjacent to the other 'new' vacant lot (18B Walter Street) created as a result of the subdivision approved in 2005. This variation does not negatively impact on any existing developed property, and design of the development at 18B Walter Street would no doubt take the proposed house design into consideration.

Overall building height at 7.5m is well below the maximum of 9m.

The variation to wall height is considered acceptable in terms of it not having any impact on any adjoining property, or on local streetscape.

Open Space

At 3% the variation in the provision of open space is not considered to negatively impact on the amenity of the property, and if the recommended front setback is provided does not impact negatively on the local streetscape, and can be supported.

Conclusion

Requiring the development to be set back to the 7.5m line will result in a further variation to the rear setback.

The house will need to be moved 0.96m back from its current position therefore the new rear setback assuming no other design changes are made will be at 4.18m, and is considered not to impact on the amenity of the adjoining property.

RECOMMENDATION

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

- (a) variation to the east side (rear) boundary setback pursuant to the Residential Design Codes for a verandah from 6m to 4.18m;
- (b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 7°58';
- (c) variation to wall height on the north side pursuant to the Residential Design Codes from 6m to 7.2m;

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- (d) variation to wall height on the east side pursuant to the Residential Design Codes from 6m to 6.9m;
- (e) variation to wall height on the west side pursuant to the Residential Design Codes from 6m to 6.3m;
- (f) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 7°58' for the construction of a 2-storey skillion-roofed house at 18 Walter Street with double garage, study, entry, theatre room, library, powder room, laundry, kitchen, living and dining room, and verandah at rear on the ground floor, with 4 bedrooms and 2 bathrooms on the upper floor in accordance with the plans date stamp received on 18 October 2007 subject to the following conditions:
1. prior to the issue of a Building Licence the applicant is to submit amended plans for the house to be at the recommended 7.5m front setback pursuant to the Residential Design Codes;
 2. 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.
 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 dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 5. all 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. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
 8. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
 9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
 10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr de Jong

That the application be deferred pending a revised proposal which addresses:

- impact and interaction with streetscape
- wall height
- open space requirements.

CARRIED

Cr Wilson declared an interest in the following item as the subject lot abuts her property and left the meeting at 9.51pm.

Given there was not a quorum in Cr Wilson's absence, consideration on the following matter could not take place. The application would be considered at the Council Meeting on 20 November 2007.

T121.2

Preston Point Road No 114

Applicant: Building Corporation WA Pty Ltd

Owner: LM Morris

Application No. P177/2007

By Chris Warrener, Consultant Town Planner on 25 October 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 114 Preston Point Road with double garage at the rear, on the ground floor entry, hallway, alfresco, family room, study, 2 bedrooms and a bathroom, and on the upper floor a balcony, living room, dining room, kitchen, larder, bedroom 1, en-suite, built in robe, theatre and laundry.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 – Roofing (LPP 066)

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

Documentation

Plans and relevant forms date stamp received on 13 September 2007

Date Application Received

13 September 2007

Advertising

Adjoining land owners only

Date Advertised

10 October 2007

13 November 2007

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Close of Comment Period

24 October 2007

No. of Days Elapsed between Lodgement & Meeting Date

61 days

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

- 19 Nov. 2002: Council approves demolition of single storey house, and defers a 2-storey house pending building height clarification;
- 17 Dec. 2002: Council approves a 2-storey house;
- 21 Jan 2003: Demolition Licence 418/2003 issued for single storey house;
- 25 March 2003: CEO grants approval under delegated authority for a below ground swimming pool;
- 2 April 2003: Building Licence 41/3394 issued for swimming pool;
- 14 May 2003: Building Licence 89/3419 issued for limestone retaining walls;
- 6 April 2004: Building Licence 41/3394 for swimming pool cancelled;

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 23 October 2007 and the following comments were made:

- glass panels for pools
- appropriate design
- simple design
- elegant

Public Submissions

At the close of the comment period no submissions were received.

Site Inspection

By Consultant Town Planner on 15 October 2007.

STATISTICS	Required	Proposed
Land Area		744m ² Existing
Open Space	55%	77.0% Acceptable
Zoning		R12.5
Setbacks:		
Front (north)		
<i>Ground Alfresco</i>	7.50	10.00 Acceptable
<i>Upper Living</i>	7.50	14.80 Acceptable
<i>Balcony</i>	7.50	10.20 Acceptable
Rear (south)		
<i>Ground Theatre</i>	6.00	4.30 Discretion Required
<i>Store</i>	Nil	<i>LPP 142</i> Nil Acceptable

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Side (east)			
Ground	Garage	1.00	7.50
			Acceptable
	Study	1.50	6.20
			Acceptable
	Entry	1.50	6.70
			Acceptable
	Family	1.00	5.90
			Acceptable
Upper	Ensuite	1.10	6.20
			Acceptable
	Bedroom (1)	1.10	4.60
			Acceptable
	Living	2.50	6.10
			Acceptable
	Balcony	7.50	12.40
			Acceptable
Side (west)			
Ground	Alfresco	1.00	1.50
			Acceptable
	Bedroom (3)	1.00	1.50
			Acceptable
	Bathroom	1.00	1.00
			Acceptable
	Study	1.00	8.30
			Acceptable
Upper	Balcony	1.20	1.60
			Acceptable
	Dining	1.50	1.50
			Acceptable
	Laundry	1.10	1.50
			Acceptable
	Theatre	1.10	1.10
			Acceptable
Height:			
Wall		5.60	5.60
			Acceptable
Building		8.10	7.60
			Acceptable
Policies:			
Roof		28°	15°
			Discretion Required

**REPORT
Issues**

Boundary Setbacks

A proposed theatre room is set back 4.3m from the south side (rear) boundary common with 46 Locke Crescent.

The RDC recommend a 6m rear setback for R12.5 coded property.

Roof Pitch

The application proposes a colour-bond roof pitched at 15°39'.

LPP 066 recommends a 28° roof pitch.

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Discussion

The landowner potentially affected by the proposed variation to the rear setback for the theatre room has not objected, and due to the difference in levels between the two properties (46 Locke Crescent overlooks 114 Preston Point Road) this setback variation is considered not to have any impact on the property at the rear, and can be supported.

Roof pitch is not considered to be a critical design element in the Richmond Hill precinct of East Fremantle, and this variation is also supported.

RECOMMENDATION

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

(a) variation to the south side boundary setback pursuant to the Residential Design Codes from 6m to 4.3m;

(b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 15°39' for the construction of a 2-storey house at 114 Preston Point Road with double garage at the rear, on the ground floor entry, hallway, alfresco, family room, study, 2 bedrooms and a bathroom, and on the upper floor a balcony, living room, dining room, kitchen, larder, bedroom 1, en-suite, built in robe, theatre and laundry in accordance with the plans date stamp received on 13 September 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. 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.
4. 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.
5. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
6. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
7. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
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*

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- 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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

Cr Wilson returned to the meeting at 9.52pm.

In accordance with Section 5.70 of the Local Government Act the Chief Executive Officer disclosed a financial interest in the following matter on the basis that the Chief Executive Officer's place of residence, in respect of which he is a part owner, is included in the Heritage Survey 2006, ie the Draft Municipal Inventory which is the subject of the report.

T121.3 *Municipal Inventory*

The Chief Executive Officer briefed elected members on the history, statutory requirements and relevant issues in respect of the review of Council's Municipal Inventory and the related topic of the inclusion on the Heritage List such of the entries on the Municipal Inventory that Council deems appropriate.

The Minute Secretary left the meeting at 9.56pm

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr de Jong

That the report be received and the Chief Executive Officer continue to progress the finalisation of the Municipal Inventory and to further consider the issue of the inclusion on the Heritage List such of the entries on the Municipal Inventory that Council deems appropriate. CARRIED

T122. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T123 CLOSURE OF MEETING

There being no further business, the meeting closed at 10.33pm.

*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 13 November 2007, Minute Book reference **T109. to T123.** were confirmed at the meeting of the Committee on*

.....

Presiding Member