

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 8 JULY, 2008 COMMENCING AT 6.30PM.**

**T56. OPENING OF MEETING**

*T56.1 Present*

**T57. WELCOME TO GALLERY**

**T58. APOLOGIES**

**T59. CONFIRMATION OF MINUTES**

*T59.1 Town Planning & Building Committee (Private Domain) – 10 June 2008*

**T60. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T61. REPORTS OF COMMITTEES**

*T61.1 Town Planning Advisory Panel – 24 June 2008*

**T62. REPORTS OF OFFICERS**

*T62.1 Receipt of Reports*

*T62.2 Order of Business*

*T62.3 Hubble Street No. 82 (Lot 280)  
Applicant: In Vogue  
Owner: Romano, Maria & Paul Filippin  
Application No. P42/08*

*T62.4 Bay Patch Street No. 26 (Lot 275)  
Applicant: Straight and True Patios  
Owner: Mr & Mrs Price  
Application No. P96/2008*

*T62.5 Dalgety Street No. 60A (Lot 2)  
Applicant & Owner: Paul & Jasmine Martin  
Application No. P106/2008*

*T62.6 East Fremantle Yacht Club  
Application No. P101/2008*

*T62.7 Gill Street No. 32A (Lot 89)  
Applicant & Owner: Robert & Judy Barkla  
Application No. P100/2008*

*T62.8 Glyde Street No. 46 (Lot 149)  
Applicant: Copraxis  
Owner: Jason & Giacinta Parish  
Application No. P102/2008*



8 July 2008

MINUTES

---

- T62.9**      *Preston Point Road No. 124 (Lot 4960)*  
*Applicant: Brian Burke Homes*  
*Owner: Dreamview Developments Pty Ltd*  
*Application No. P97/2008*
- T62.10**     *George Street No. 88 (Lots 433 & 534)*  
*Applicant: Jewelpark Pty Ltd*  
*Owner: F & M Verdi*  
*(Application No. P83/08)*
- T62.11**     *Silas Street No. 7c (Lot 583)*  
*Applicant & Owner: Anthony Brideson*  
*Application No. P92/2008*
- T62.12**     *Clayton Street No. 11 (Lot 102)*  
*Applicant: Gerard McCann Architect*  
*Owner: Kate Lepage Duncanson*  
*Application No. P93/2008*
- T62.13**     *George Street No. 141 (Lot 201)*  
*Applicant & Owner: John Henderson*  
*Application No. P95/2008*
- T62.14**     *Duke Street No. 25 (Lot 481)*  
*Applicant & Owner: Adam Karanikis*  
*Application No. P112/2008*
- T63.**        **BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**
- T63.1**       *Design Guidelines*
- T64.**        **CLOSURE OF MEETING**

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 8 JULY, 2008 COMMENCING AT 6.30PM.**

**T56. OPENING OF MEETING**

**T56.1**

***Present***

Mayor Alan Ferris  
Cr Stefanie Dobro                      Presiding Member  
Cr Barry de Jong  
Cr Richard Olson  
Cr Maria Rico  
Cr Alex Wilson                      from 7.35pm  
Mr Chris Warrener                      Consultant Town Planner  
Mrs Peta Cooper                      Minute Secretary  
Cr David Arnold                      Observer  
Cr Dean Nardi                      Observer

**T57. WELCOME TO GALLERY**

There were 14 members of the public in the gallery at the commencement of the meeting.

**T58. APOLOGIES**

An apology was submitted on behalf of Cr Alex Wilson who advised that she would be arriving late for the meeting.

**T59. CONFIRMATION OF MINUTES**

**T59.1**

***Town Planning & Building Committee (Private Domain) – 10 June 2008***

**Mayor Ferris – Cr de Jong**

**That the Town Planning & Building Committee (Private Domain) minutes dated 10 June 2008 as adopted at the Council meeting held on 17 June 2008 be confirmed. CARRIED**

**T60. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

Nil.

**T61. REPORTS OF COMMITTEES**

**T61.1**

***Town Planning Advisory Panel – 24 June 2008***

**Mayor Ferris – Cr de Jong**

**That the minutes of the Town Planning Advisory Panel meeting held on 24 June 2008 be received and each item considered when the relevant development application is being discussed. CARRIED**

**T62. REPORTS OF OFFICERS**

**T62.1**

***Receipt of Reports***

**Cr Rico – Cr Olson**

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

8 July 2008

MINUTES

**T62.2 Order of Business**

**Cr Rico – Cr Olson**

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

*Mayor Ferris made the following impartiality declaration in the matter of 82 Hubble Street: "As a consequence of the applicant being known to me due to my having worked with him approximately 15 years ago, 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.*

**T62.3 Hubble Street No. 82 (Lot 280)**

**Applicant: In Vogue**

**Owner: Romano, Maria & Paul Filippin**

**Application No. P42/08**

By Chris Warrener, Town Planner on 3 July 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 2-storey house at 82 Hubble Street comprising:

Ground floor: double garage, entry, study, master suite with en-suite, store, theatre room, kitchen, dining and living room, laundry and alfresco;

First floor: 3 bedrooms, bathroom, activity room, and balcony.

The width of the garage (door plus supporting structures) occupies 48.08% of the frontage at the setback line.

The acceptable development provision under the Residential Design Codes (Variation 1) states:

*"A8 Where a garage is located in front or within 1 m of the building, a garage door and its supporting structures (or garage wall where a garage is aligned parallel to the street) facing the primary street are not to occupy more than 50 per cent of the frontage at the setback line as viewed from the street. This may be increased to 60 per cent where an upper floor or balcony extends for the full width of the garage and the entrance to the dwelling is clearly visible from the primary street."*

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R20  
Local Planning Strategy - Plympton 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)

**Date Revised Application Received**

23 April 2008

**Additional information**

Cone of vision plan and overshadow plan date stamp received on 5 June 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

28 April 2008

8 July 2008

MINUTES

**Close of Comment Period**

12 May 2008

**No. of Days Elapsed between Lodgement of Revised Application & Meeting Date**

76 days

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

Council re-considered an application for a two storey residence at its meeting held on 17 June 2008 and resolved:

*"That the application be held over pending the arrangement of a site visit for elected members to view the existing residence."*

**CONSULTATION**

**Town Planning Advisory Panel Comments**

The original application was considered by the Town Planning Advisory Panel at its meeting held on 25 March 2008 and the following comments were made:

- very ordinary replacement of current cottage – proposal 'below average'
- prefer retention and restoration or original front cottage with development pushed back – similar to 94 Hubble Street
- unfortunate that surrounding properties have been '*botched*' with regards to original architecture
- double garage set forward of the remainder of the house should be significantly altered – applicant should be encouraged to provide a more contextually appropriate solution whereby the house addresses the street

**Public Submissions**

At the close of the comment period no submissions were received in response to the revised application.

**Site Inspection**

By Consultant Town Planner on 27 March 2008

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		508m <sup>2</sup> Existing
Open Space	50%	60% Acceptable
Zoning		R20
<b>Setbacks:</b>		
Front (west)		
<i>Ground</i> <i>Verandah</i>	6.00	3.90 <b>Discretion Required</b>
<i>Garage</i>	6.00	4.40 <b>Discretion Required</b>
<i>Upper</i> <i>Balcony</i>	6.00	5.80 <b>Discretion Required</b>
<i>Activity</i>	6.00	5.80 <b>Discretion Required</b>
Rear (east)		
<i>Ground</i> <i>Laundry &amp; Dining</i>	1.50	14.80 Acceptable
<i>Alfresco</i>	1.50	15.30 Acceptable

8 July 2008

MINUTES

	<i>Upper</i>	<i>Bedroom 3 &amp; 4</i>	4.50	23.10 Acceptable
Side (north)	<i>Ground</i>	<i>Alfresco</i>	1.50	1.70 Acceptable
		<i>Living</i>	1.50	1.70 Acceptable
		<i>Master Bedroom</i>	1.50	1.20 <b>Discretion Required</b>
		<i>Verandah</i>	1.50	1.20 <b>Discretion Required</b>
	<i>Upper</i>	<i>Bed 3 &amp; Bed 2</i>	4.50	2.20 <b>Discretion Required</b>
		<i>Balcony</i>	2m	2.20 Acceptable
Side (south)	<i>Ground</i>	<i>Garage</i>	Nil	LPP 142 Nil Acceptable
		<i>Theatre</i>	1.50	1.57 Acceptable
		<i>Kitchen</i>	1.00	LPP 142 Nil <b>Discretion Required</b>
	<i>Upper</i>	<i>Activity &amp; Bedroom 4</i>	1.50	1.50 Acceptable

**Height:**

Wall	6.00	5.60 Acceptable
Building	9.00	8.00 Acceptable
Parapet Wall Height	3.00	2.50 Acceptable

**Overshadowing:** 25.4%

**Privacy:** Bedroom (2) is set back 2.2m from the north side boundary common with 80 Hubble Street.

**REPORT  
Issues**

Boundary Walls

The application proposes a double garage, and a kitchen and laundry with 2 walls along the south side boundary common with 84 Hubble Street.

LPP 142 states:

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

The application proposes two walls ie one more than allowed under the Policy therefore Council’s discretion is required to be exercised to approve, in this case, the kitchen and laundry wall.

8 July 2008

MINUTES

---

Setbacks

*Front (West)*

A proposed verandah is set back 3.9m, a double garage is set back 4.4m, and an upper floor balcony and activity room are set back 5.8m from the front boundary.

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

*Side (North)*

A master bedroom and a verandah are set back 1.2m from the north side boundary common with 80 Hubble Street. The RDC recommend a 1.5m setback.

The cone of vision for upper floor bedroom 2, which contains a major opening, indicates a setback of 2.8m from the north side boundary common with 80 Hubble Street; the RDC recommend a 4.5m setback.

Roof Pitch

The application proposes a zincalume roof pitched at 25°38' LPP 066 states: "*dominant elements to be greater than 28°.*"

Overshadow

The proposed 2-storey house will cast a 25.4% shadow over the adjoining property at 84 Hubble Street; the RDC recommend a 25% limit on overshadow.

**Discussion**

*Council Decision*

On Wednesday 2 July 2008 as arranged by the owner in consultation with the tenant Councillors visited the property at 5:30pm.

Earlier in the day the Town Planner and Building Surveyor were able to conduct a site visit to inspect the condition of the property.

Attached to this report is a file note from the Building Surveyor, which in summary indicates that the property is in reasonable condition.

*Streetscape*

There are 84 properties which front Hubble Street.

Three properties (No's 54, and 84 & 86) contain eleven 2-storey grouped dwellings.

16 properties contain 2-storey houses. Of these 10 contain the original single storey element at the front with 2-storey additions at the rear.

There are 65 single storey houses along Hubble Street, and the vast majority are the original "worker cottage" housing stock with reduced frontages and verandahs that were built between 1890 and 1915.

Of the total 84 properties 75 contain the original housing stock or at least contain significant elements of that stock (10 contain additions at the rear).

This application proposes to demolish one of the 'old cottages' and replace it with a 2-storey brick and iron house.



8 July 2008

MINUTES

The plans submitted with the application proposed a house which was not considered to be sympathetic in its design with the local streetscape.

The revised plans for this house now propose a pitched roof verandah element in front of the double garage, and matching glaze panelled double doors to a study and entry.

The attached plan illustrates the difference between the original and now proposed/revised plans for the house.

The revised plan is considered to be a significant improvement on what was originally proposed.

**Issues**

With respect to the above-listed issues the following comments are made.

*Boundary Walls*

The proposed boundary walls abut 84 Hubble Street, which contains six 2-storey grouped dwellings. The land adjacent to the common boundary comprises a bitumen access-way and carparking area including a large carport for the use of the residents of the six grouped dwellings.

The proposed additional boundary wall will not adversely affect the amenity of 84 Hubble Street, and is supported.

*Overshadow*

The overshadow of this property at 25.4% exceeds the limit recommended under the RDC however the land, which is subject to the overshadow contains the parking and access area of this property, and its amenity is not negatively affected by this variation.

*Setbacks*

The proposed variation to the front setback, while it does not meet the recommended R20 setback standard, does accord with the predominant setback of housing along Hubble Street. This variation will not adversely affect the streetscape, in fact it will more closely match the prevailing built element setback on Hubble Street, and is supported.

The ground floor setback variations on the north side are relatively minor, they are considered not to adversely impact on the amenity of the adjoining property at 80 Hubble Street and are supported.

The upper floor privacy setback for bedroom 2 is relatively minor comprising approximately 1m<sup>2</sup>, and is not considered to unduly affect the amenity of the affected property.

*Roof Pitch*

In regard to roof pitch this particular element is variable throughout the precinct, and in Hubble Street there are 24 houses with roofs pitched lower than LPP 066 recommends.

At 25°38' the proposed roof pitch does not vary significantly from the pitch recommended in LPP 066, the roofs on the dwellings on the adjoining properties are similar, and this variation is considered not to adversely impact on local streetscape.



8 July 2008

MINUTES

**CONCLUSION**

The amended plans are considered to be an improvement on the original application, however concerns remain with respect to some issues, in particular scale, design and degree of sympathy with existing streetscape.

In light of the reasonable state of repair of the existing house, and the fact that it is situated in an area of East Fremantle that is characterised by its stock of heritage housing, it would be preferable to retain this house, and build sensitively designed additions at the rear.

Nevertheless these are somewhat subjective issues, thus it is considered appropriate to propose the following alternative recommendations.

**RECOMMENDATION**

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

- (a) variation to the front (west side) boundary setback pursuant to the Residential Design Codes from for a verandah, garage, upper floor balcony and activity room from 6m to 3.9m, 4.4m, and 5.8m respectively;
- (b) variation the north side boundary setback pursuant to the Residential Design Codes for a master bedroom and verandah on the ground floor from 1.5m to 1.2m;
- (c) variation to the south side boundary setback for a kitchen and laundry wall pursuant to Local Planning Policy 142 from 1.5m to 0m;
- (d) variation to overshadow pursuant to the Residential Design Codes from 25.4% to 25%;
- (e) variation to the cone of vision setback for upper floor bedroom 2 pursuant to the Residential Design Codes from 4.5m to 2.8m;

for the construction of a 2-storey house at No. 82 (Lot 280) Hubble Street, East Fremantle comprising:

Ground floor: double garage, entry, study, master suite with en-suite, store, theatre room, kitchen, dining and living room, laundry and alfresco;

First floor: 3 bedrooms, bathroom, activity room, and balcony;

in accordance with the revised plans date stamp received on 23 April 2008 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition 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 is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be

- removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
  9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
  10. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
  11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

**ALTERNATIVE RECOMMENDATION**

That Council refuse an application for the construction of a 2-storey house at No. 82 (Lot 280) Hubble Street, East Fremantle comprising:

Ground floor: double garage, entry, study, master suite with en-suite, store, theatre room, kitchen, dining and living room, laundry and alfresco;

First floor: 3 bedrooms, bathroom, activity room, and balcony;

on the following grounds:

1. the number of variations from Acceptable Development Standards of the R-Codes being sought.
2. non-compliance with the Local Planning Strategy as the proposed development is not small scale, nor is it sympathetic to the character (form, mass, and materials) of existing development in Hubble Street, and the Plympton precinct.
3. the detrimental impact on the local streetscape due to the style and type of house proposed to be built.
4. the proposed development is inconsistent with the objective of Clauses 10.2(a), 10.2(b), 10.2(g), 10.2(o) and 10.2(p) of TPS No. 3.

Mr Paul Filippin (applicant) addressed the meeting.

8 July 2008

MINUTES

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Dobro**

**That the application for a two storey residence at No. 82 (Lot 280) Hubble Street, East Fremantle be deferred to provide Council the opportunity to work with the applicant to explore the options relating to retaining and extending the existing residence.**

**CARRIED**

**T62.4**

***Bay Patch Street No. 26 (Lot 275)***

***Applicant: Straight and True Patios***

***Owner: Mr & Mrs Price***

***Application No. P96/2008***

By Chris Warrener, Town Planner on 23 June 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 5.8m long x 4m wide x 3.1m high gable roofed patio fixed to the northeast corner of the single storey house at 26 Bay Patch Street.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R30  
Local Planning Strategy - Raceway Precinct (LPS)  
Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy 064 – Richmond Raceway Design Guidelines (LPP 064)  
Local Planning Policy No. 142 – Residential Development (LPP 142)

**Documentation**

Plans and relevant forms date stamp received on 15 May 2008

**Date Application Received**

15 May 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

4 June 2008

**Close of Comment Period**

18 June 2008

**No. of Days Elapsed between Lodgement & Meeting Date**

53 days

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

22 December 1999 Council grants approval for setback and height variations for a 2-storey house;

19 June 2001 Council grants approval for reduced setbacks for a house with a loft;

30 July 2001 Building Licence 68/3092 approved for house with loft.

**CONSULTATION**

**Public Submissions**

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

*Submission from Stuart & Camille Dart*

- no objections to the proposal.



8 July 2008

MINUTES

**REPORT**

**Issues**

Boundary Setbacks

The proposed patio will be set back 0.5m from the east side boundary common with 28 Bay Patch Street.

The RDC recommend a 1m setback.

**Discussion**

The proposed setback variation on the east side does not affect the amenity of the potentially affected property, and the potentially affected property owner supports the application.

**RECOMMENDATION**

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

- (a) variation to the east side boundary setback pursuant to the Residential Design Codes from 1m to 0.5m

for the construction of a 5.8m long X 4m wide X 3.1m high gable roofed patio fixed to the northeast corner of the single storey house at 26 Bay Patch Street in accordance with the plans date stamp received on 15 May 2008 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

Mr Stephen Price (applicant) addressed the meeting in support of his application.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Rico**

That Council exercise its discretion in granting approval for a variation to the east side boundary setback pursuant to the Residential Design Codes from 1m to 0.5m for the construction of a 5.8m long x 4m wide x 3.1m high gable roofed patio fixed to the northeast corner of the single storey house at No. 26 (Lot 275) Bay Patch Street, East Fremantle in accordance with the plans date stamp received on 15 May 2008 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

CARRIED

**T62.5**

***Dalgety Street No. 60A (Lot 2)***

***Applicant & Owner: Paul & Jasmine Martin***

***Application No. P106/2008***

By Chris Warrener, Town Planner on 30 June 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 2-storey house on the rear (battleaxe) block at 60A Dalgety Street comprising:

Ground floor: double carport & store, bedroom & en-suite, laundry, study, living room, kitchen, & dining room;

First floor: bedroom & en-suite, balcony, retreat, and a void over the living room.

8 July 2008

MINUTES

---

Overshadow of adjoining property: 7.1%

**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 No. 142 – Residential Development (LPP 142)

**Documentation**

Plans and relevant forms date stamp received on 27 May 2008

**Date Application Received**

27 May 2008

**Additional information**

Overshadow plan and open space calculation received on 1 July 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

4 June 2008

**Close of Comment Period**

18 June 2008

**No. of Days Elapsed between Lodgement & Meeting Date**

41 days

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

18 September 1985	Council grants approval for a Home Occupation of hand made gift card production and graphic arts from the house at 60 Dalgety Street;
18 December 1990	Building Permit 1762 approved for a 30m <sup>2</sup> concrete, brick & steel bathroom & kitchen addition to the house at 60 Dalgety Street;
21 October 2003	Council decides to advise the WAPC that it does not support the battleaxe survey strata subdivision of 60 Dalgety Street into 2 lots (1 X 450m <sup>2</sup> , 1 X 562m <sup>2</sup> ), and further advised that if the WAPC is mindful to approve the subdivision then a list of conditions should apply;
12 November 2003	WAPC grants conditional subdivision approval;
5 April 2006	Demolition Licence DL06/81 issued for a shed behind house at back of lot (subject land);
1 September 2006	WAPC endorses Survey-Strata Plan 48381 for final approval.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 24 June 2008 and the following comments were made:

- Simple design
- Appropriate size development
- This is a small house that will not be seen from the street. The impact on neighbours seems to have been considered with the low profile of the upper level. Good passive solar design.
- Would like to see external colour and materials schedule

8 July 2008

MINUTES

**Public Submissions**

At the close of the comment period 3 submissions were received.

*Submission from Will & Kylie Telfer (62 Dalgety Street)*

- concern regarding zincalume custom orb roof at 30° pitch overlooking our northern boundary – seek that roof be of a non-reflective finish;

*Submission from Peter Mawson (59 Fortescue Street)*

- request that roof material be amended to a coloured finish (red, blue, green);
- request that specifications for bedroom balcony screen at the rear be visually impermeable.

*Submission from Charlie Fox and Jan Gothard*

- wish to confirm that the eastern wall of the upper balcony will be opaque

**Site Inspection**

By Town Planner on 30 Oct. 2007

STATISTICS		<i>Required</i>		<i>Proposed</i>
Land Area				562m <sup>2</sup> Existing
Open Space		55%		76.7% Acceptable
Zoning				R12.5
Heritage Listing				Not Listed
<b>Setbacks:</b>				
Front (west)				
	<i>Ground</i>	<i>Bedroom 1</i>	1.00	6.00 Acceptable
		<i>Carport</i>	Nil	<i>LPP 142</i> Nil Acceptable
	<i>Upper</i>	<i>Void</i>	1.10	10.70 Acceptable
		<i>Retreat</i>	1.20	6.00 Acceptable
Rear (east)				
	<i>Ground</i>	<i>Dining &amp; Kitchen</i>	1.50	4.28 Acceptable
	<i>Upper</i>	<i>Bedroom 2 &amp; Balcony</i>	1.20	4.28 Acceptable
Side (north)				
	<i>Ground</i>	<i>Kitchen &amp; Living</i>	1.50	10.70 Acceptable
		<i>Bedroom 1</i>	1.50	10.00 Acceptable
		<i>Carport</i>	1.00	11.40 Acceptable
	<i>Upper</i>	<i>Balcony</i>	7.50	10.70 Acceptable
		<i>Void</i>	1.10	10.70 Acceptable

8 July 2008

MINUTES

	<i>Retreat</i>	2.30	11.80 Acceptable
Side (south)			
<i>Ground</i>	<i>Store</i>	1.00	1.02 Acceptable
	<i>Laundry, Study &amp; Dining</i>	1.50	1.50 Acceptable
<i>Upper</i>	<i>Retreat</i>	1.10	2.40 Acceptable
	<i>Bedroom 2</i>	1.10	1.90 Acceptable
<b>Height:</b>			
Wall		6.00	5.60 Acceptable
Building		9.00	7.30 Acceptable
<b>Overshadowing:</b>		7.1%	
<b>Privacy/Overlooking:</b>		N/A	

**REPORT**

**Discussion**

This application proposes a 2-storey house on a rear (battleaxe) block, which does not involve any variations from the standards or performance criteria of the RDC, TPS 3, or any adopted Local Planning Policy, for which Council's discretion would be required to be exercised to allow.

The submission from the owners of 59 Fortescue Street, and 62 Dalgety Street regarding the use of zincalume is addressed by the applicant/owner who has agreed to install a non-reflective roof material, and is addressed in proposed condition 1 of the officer's recommendation to Council.

Two of the submissions state concerns regarding the upper floor balcony screen on the east side.

The submitted plans indicate that this screen will be an extension of the upper floor wall on the east elevation, however to address the concerns raised, a condition 1 requires that it be a visually impermeable screen in accordance with the RDC, and is included in the following recommendation to Council.

**RECOMMENDATION**

That Council grants approval for the construction of a 2-storey house on the rear (battleaxe) block at 60A Dalgety Street comprising:

Ground floor: double carport & store, bedroom & en-suite, laundry, study, living room, kitchen, & dining room;

First floor: bedroom & en-suite, balcony, retreat, and a void over the living room in accordance with the plans date stamp received on 27 May 2008 subject to the following conditions:

1. prior to the issue of a Building Licence plans are to be submitted specifying that the upper floor balcony screen on the east side will be a visually impermeable structure 1.65m above finished floor level, and specifications for the roof to be a non-reflective finish;
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where



8 July 2008

MINUTES

- 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 is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
  6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
  7. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
  8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
  9. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
  10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
  11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



8 July 2008

MINUTES

(g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

Mr Paul Martin (applicant) addressed the meeting in support of his application.

**RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Olson**

**That Council grants approval for the construction of a 2-storey house on the rear (battleaxe) block at No. 60A (Lot 2) Dalgety Street, East Fremantle comprising:**

**Ground floor: double carport & store, bedroom & en-suite, laundry, study, living room, kitchen, & dining room;**

**First floor: bedroom & en-suite, balcony, retreat, and a void over the living room**

**in accordance with the plans date stamp received on 27 May 2008 subject to the following conditions:**

- 1. prior to the issue of a Building Licence plans are to be submitted specifying that the upper floor balcony screen on the east side will be a visually impermeable structure 1.65m above finished floor level, and specifications for the roof to be a non-reflective finish;**
- 2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 4. the proposed 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 is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 6. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 7. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
- 8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
- 9. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.**
- 10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the**

crossover to remain is obtained.

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

**Footnote:**

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected 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) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

**CARRIED**

Mayor Ferris and Crs Dobro, de Jong, Olson & Rico made the following impartiality declaration in the matter of the East Fremantle Yacht Club: "As a consequence of our honorary membership of the yacht club, there may be a perception that our impartiality on the matter may be affected. We declare that we will consider this matter on its merits in terms of the benefit to the Town and vote accordingly.

**T62.6 East Fremantle Yacht Club  
Application No. P101/2008**

By Chris Warrener, Town Planner on 23 June 2008

**BACKGROUND**

**Description of Proposal**

A referral from the Swan River Trust of an Application for Approval of Development (Form 1) pursuant to the Swan and Canning Rivers Management Act 2006 – Part 5 – section 72(1) for alterations to the East Fremantle Yacht Club's clubhouse building comprising:

- relocate and upgrade the kitchen;
- relocate and upgrade the ablutions;
- rationalise the existing circulation;
- provide additional storage areas;
- provide a new entry to the members lounge from the members carpark;
- upgrade service infrastructure.

**Statutory Considerations**

Town Planning Scheme No. 3 – Metropolitan Region Scheme Reserve for Parks and Recreation

**Documentation**

Plans and relevant forms date stamp received on 5 June 2008

**Date Application Received**

5 June 2008



8 July 2008

MINUTES

**No. of Days Elapsed between Lodgement & Meeting Date**

48 days

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

13 June 2008: Lease signed by the Mayor, Town of East Fremantle

**CONSULTATION**

**Other agency/authority**

Swan River Trust

**Site Inspection**

By Town Planner and Building Surveyor on 5 May 2008

**REPORT**

**Discussion**

The proposed alterations to the clubhouse will improve the appearance, and practical use of the existing building, and are supported.

**RECOMMENDATION**

That Council advise the Swan River Trust that it raises no objections to the proposed alterations to the East Fremantle Yacht Club's clubhouse building comprising:

- relocate and upgrade the kitchen;
- relocate and upgrade the ablutions;
- rationalise the existing circulation;
- provide additional storage areas;
- provide a new entry to the members lounge from the members carpark;
- upgrade service infrastructure.

in accordance with the plans date stamp received on 5 June 2008 subject to the following conditions:

1. the proposed works are not to be commenced until Council has received an application for and issued a building licence.
2. all stormwater is to be disposed of on site, an interceptor channel installed if required, and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.

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) *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 John Tissott (Club Manager) and Mr Mike Slade (Executive Chairman) addressed the meeting.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Olson**

**That Council advise the Swan River Trust that it raises no objections to the proposed alterations to the East Fremantle Yacht Club's clubhouse building comprising:**

- **relocate and upgrade the kitchen;**
- **relocate and upgrade the ablutions;**
- **rationalise the existing circulation;**
- **provide additional storage areas;**
- **provide a new entry to the members lounge from the members carpark;**
- **upgrade service infrastructure;**

**in accordance with the plans date stamp received on 5 June 2008 subject to the**

**following conditions:**

1. the proposed works are not to be commenced until Council has received an application for and issued a building licence.
2. all stormwater is to be disposed of on site, an interceptor channel installed if required, and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.

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

**CARRIED**

**T62.7**

**Gill Street No. 32A (Lot 89)**

**Applicant & Owner: Robert & Judy Barkla**

**Application No. P100/2008**

By Chris Warrener, Town Planner on 30 June 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 2-storey house at 32A Gill Street comprising:

Ground floor: Double garage & store, porch, entry, laundry, powder room, hall, activity room, Kitchen, dining room, family room, and alfresco;

First floor: Balcony, master suite & en-suite, void, activity room, 2 bedrooms, 2 built-in robes and a bathroom.

The garage door and its supporting structures occupy 59% of the width 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 20 May 2008

**Date Application Received**

20 May 2008

**Additional information**

Shadow plan received on 10 June 2008

Open space calculation received on 11 June 2008

Amended plans date stamp received on 20 June 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

4 June 2008

8 July 2008

MINUTES

**Close of Comment Period**

14 June 2008

**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 February 2003 Council decides to advise the WAPC that it does not support a 2-lot side by side subdivision of 32 Gill Street;  
Council grants approval for the demolition of the existing house at 32 Gill Street;
- 22 April 2003 WAPC grants conditional approval to subdivide 32 Gill Street into 2 lots;
- 10 November 2004 Demolition Licence issued for single residence at 32 Gill Street;
- 15 November 2005 Council grants Planning Approval for a 2-storey house at 30B Gill Street;
- 15 August 2006 Council approves setback and wall height variations for a 2-storey house at 32A Gill Street.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 24 June 2008 and the following comments were made:

- Concern about the positioning of the building on the land. Would prefer something along the lines of the adjoining neighbor's development at 30A Gill St
- Totally inappropriate in bulk and scale
- Veranda over garage is dominating
- Garage is too dominant
- Whole house is too dominant
- Very ordinary
- Tuscan tower is not appropriate
- 27A and 29 Clayton St ought to be seen as examples of what can be achieved with a good marriage of building materials and enabling the inclusion of a double car garage without domination of garage
- As is usual with these long houses the double garage is ascribed more importance than the entrance. This should be challenged. The design does appear to acknowledge solar orientation with a north facing courtyard centrally located. The roof pitch of 25° is lower than has been required previously, but seems acceptable here.

**Public Submissions**

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

*Submission from Frank Arangio (30B Gill Street)*

- Objection;
- Impact on northern light into primary internal & external living area by the height of the building on the south side;
- Error in plans with respect to floor level of 30B Gill Street.

**Site Inspection**

By Town Planner on 3 June 2008.

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		456m <sup>2</sup> Existing
Open Space	55%	59.56% Acceptable

8 July 2008

MINUTES

Zoning			R12.5
Heritage Listing			Not Listed
<b>Setbacks:</b>			
Front (west)			
<i>Ground</i>	<i>Entry</i>	7.50	11.60 Acceptable
	<i>Garage</i>	7.50	7.60 Acceptable
<i>Upper</i>	<i>Void</i>	7.50	11.60 Acceptable
	<i>Balcony</i>	7.50	7.50 Acceptable
Rear (east)			
<i>Ground</i>	<i>Alfresco</i>	6.00	5.56 Discretion Required
<i>Upper</i>	<i>Bedroom 2 &amp; 3</i>	6.00	13.16 Acceptable
Side (north)			
<i>Ground</i>	<i>Alfresco</i>	1.50	1.67 Acceptable
	<i>Family</i>	1.50	1.67 Acceptable
	<i>Dining</i>	1.00	1.67 Acceptable
	<i>Hall</i>	1.00	4.00 Acceptable
	<i>Entry</i>	1.00	1.87 Acceptable
<i>Upper</i>	<i>Bedroom 3</i>	1.20	2.17 Acceptable
	<i>Hall</i>	1.20	4.00 Acceptable
	<i>Void</i>	1.20	1.87 Acceptable
Side (south)			
<i>Ground</i>	<i>Garage</i>	1.00	<i>LPP 142</i> Nil Acceptable
	<i>Laundry</i>	1.00	1.70 Acceptable
	<i>Activity</i>	1.50	2.00 Acceptable
	<i>Kitchen</i>	1.50	1.50 Acceptable
	<i>Family</i>	1.00	2.00 Acceptable
	<i>Alfresco</i>	1.00	1.50 Acceptable
<i>Upper</i>	<i>Balcony/Master Bedroom</i>	1.20	1.70 Acceptable
	<i>Activity/Bedroom 2</i>	1.70	2.00 Acceptable

8 July 2008

MINUTES

---

<b>Height:</b>		
Wall	6.00	Up to 6.90
		<b>Discretion Required</b>
Building	9.00	8.80
		Acceptable
<b>Overshadowing:</b>	28.9% <sup>m</sup> <sup>2</sup>	
<b>Privacy/Overlooking:</b>	N/a	

---

**REPORT**

**Issues**

Streetscape

The garage door and its supporting structures occupy 59% of the width of the property frontage, and are considered to dominate the appearance of the proposed house in conflict with the objectives for the maintenance of the local streetscape.

The RDC acceptable development provision with respect to Design Element 6.2 Streetscape requirements, specifically garage doors, states:

*“6.2.8 Garage doors*

*A8 Where a garage is located in front or within 1 m of the building, a garage door and its supporting structures (or garage wall where a garage is aligned parallel to the street) facing the primary street are not to occupy more than 50 per cent of the frontage at the setback line as viewed from the street. This may be increased to 60 per cent where an upper floor or balcony extends for the full width of the garage and the entrance to the dwelling is clearly visible from the primary street.”*

The application proposes a double garage door and supporting structures with a combined width of 6.29m.

The balcony above the garage extends for a width of 5.09m.

The entrance to the proposed dwelling is clearly visible to the street however the balcony does not extend for the full width of the garage (shortfall of 1.2m) therefore Council's discretion is required to be exercised to allow the garage.

Boundary Setbacks

*Rear (East Side) Boundary*

A ground floor alfresco is set back 5.56m from the rear boundary common with 23 Walter Street.

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

Building Height

An upper floor wall on the north side for bedroom 3 varies up to 6.4m above natural ground level (NGL), and a wall for the void varies up to 6.6m above NGL.

On the south side an upper floor wall for an activity area and bedroom 2 varies up to 6.6m above NGL.

The RDC specify a 6m wall height limit for a 2-storey house.

Boundary Walls

A boundary wall for a double garage and store on the south side is 8.39m long and it varies in height from 3m to 3.6m above NGL.





8 July 2008

MINUTES

LPP 142 states:

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

Council’s discretion is required to be exercised pursuant to LPP 142 in regard to the height of the proposed boundary wall for the double garage and store.

Solar Access (Overshadow)

The proposed 2-storey house will cast a shadow over the north side of 30B Gill Street that comprises 28.95% of the total area of that property.

The relevant acceptable development provision in the RDC state:

*“A1 Notwithstanding the boundary setbacks in design element 6.3, development in climatic zones 4, 5 and 6 of the state shall be so designed that its shadow only cast at midday 21 June onto any other adjoining property does not exceed the following limits:  
on adjoining properties coded R25 and lower – 25 per cent of the site area;”*

Roof Pitch

The application proposes a tiled roof with a 25° pitch.

LPP 066 states:

*“dominant elements to be greater than 28°.”*

TPAP Comments

The panel comments on this application are in general, including some specific design points, negative. The design of the proposed house is considered inappropriate, and too dominant.

**Discussion**

Streetscape

The applicant states:

*“The garage door and supporting structure occupies 59% of the width of the property frontage (<50% required).*

*We believe the garage will not dominate the streetscape as:*

- *The door itself occupies only 47%.*
- *The balcony extends for a large portion above the garage.*

*Furthermore, a garage that would comply with the 50% frontage would be only 5.33m wide. This is unacceptable for a double garage.”*

Boundary Setbacks

The proposed rear setback variation is considered relatively minor and does not impact negatively on the potentially affected property at 23 Walter Street, and the potentially affected property owner has not objected to this variation. This variation is supported.

Building Height

The applicant states in support of the wall height variations:

*“We believe this height is justified as:*

- *The wall is not continuous from ground level to eave. It is broken up with a section of roof.*
- *The wall is set back 2m from the boundary. The RDC require a 1.6m setback for a 7m x 12m long wall.”*

While the applicant’s explanation is reasonable, especially given the proposed boundary setback that is greater than specified under the RDC the increased wall height of the



8 July 2008

MINUTES

proposed development greatly contributes to the degree of overshadow of the house at 30B Gill Street, and cannot be supported.

Boundary Walls

The applicant states in regard to the height of the proposed garage wall on the boundary:

*"We believe this is justified as:*

- *The height at the neighbor's finished floor level is only 2.742."*

This would appear to be a contradictory response, as the neighbour's house being lower than the proposed house will be even further impacted on by the increased boundary wall height.

Solar Access (Overshadow)

The applicant's justification for the overshadow states:

- *As the lot is narrow certain limitations are placed on design.*
- *In terms of other performance criteria such as major openings to the north side, balconies or verandahs, solar heating devices and boundary/setback the proposed residence complies*
- *If the 25% overshadowing were to be achieved, the outdoor living areas would still be in shadow. As RDC State: a shadow may not exceed the limit but may fall over the only available outdoor living area, or living room window, of an adjoining house*
- *Therefore given the block orientation, site levels, lot sizes and lot frontages, a variation to the overshadowing requirements is considered reasonable.*

It does not necessarily follow that any overshadow would be of the neighbour's outdoor living area.

This only applies if the proposed second storey element remains in its current position, however, if the second storey element is redesigned and relocated to eliminate the overshadow of the internal and external living areas of 30B Gill Street, the application could be supported.

Roof Pitch

Roof pitch in the Richmond precinct is variable as the development of the contemporary homes next door, nearby, and in the immediate locality illustrate. This particular element of building design is considered not to have a detrimental impact on the local streetscape or general character of housing in the area, and is supported.

**Conclusion**

This application proposes a house which will have a detrimental impact on the amenity of the adjoining property, and the local streetscape and is not supported.

**RECOMMENDATION**

That Council refuses the application for a 2-storey house at No. 32A (Lot 89) Gill Street, East Fremantle comprising:

Ground floor: Double garage & store, porch, entry, laundry, powder room, hall, activity room, Kitchen, dining room, family room, and alfresco;

First floor: Balcony, master suite & en-suite, void, activity room, 2 bedrooms, 2 built-in robes and a bathroom

for the following reasons:

1. Proposed overshadow at 28.95% exceeds the maximum recommended under the Residential Design Codes and has a significant detrimental impact on the amenity of the adjoining property at 30B Gill Street;
2. The proposed development is incompatible with its setting pursuant to Town Planning Scheme 3, sub-clause 10.2 (j);

8 July 2008

MINUTES

3. The design of the proposed house is incompatible with the character of housing in the immediate locality to the detriment of the local streetscape pursuant to Town Planning Scheme 3, sub-clause 10.2 (o);
4. The proposed house by virtue of its height, bulk, scale, orientation, and appearance will have a detrimental impact on development on adjoining land pursuant to Town Planning Scheme 3, sub-clause 10.2 (p).

Mr Robert Barkla (applicant) addressed the meeting in support of his application.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

**That the application for a two storey residence at No. 32A (Lot 89) Gill Street, East Fremantle be deferred to allow the applicant the opportunity to work with Council to address issues raised in the officer's report including overshadowing, streetscape, garage element and wall height.**

**Footnote:**

***A site visit be undertaken of the vacant lot and also the neighbouring property at 30B Gill Street to ascertain the impact overshadowing will have on that residence.***

**CARRIED**

**T62.8**

***Glyde Street No. 46 (Lot 149)***

***Applicant: Copraxis***

***Owner: Jason & Giacinta Parish***

***Application No. P102/2008***

By Chris Warrener, Town Planner on 30 June 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for renovations and additions to the single storey house at 46 Glyde Street comprising:

- A skillion roof over the driveway set back 0.6m from the north side boundary;
- Demolition of a rear patio and extension of the house to accommodate a new kitchen and living area;
- Extension of the roof line to the rear and construction of a mezzanine to accommodate an upstairs bedroom, bathroom, and a study.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R20  
Local Planning Strategy - Plympton 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 22 May 2008

**Date Application Received**

22 May 2008

**Additional information**

Films depicting solar access received on 12 June 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

4 June 2008

**Close of Comment Period**

18 June 2008

**No. of Days Elapsed between Lodgement & Meeting Date**

46 days.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 24 June 2008 and the following comments were made:

- Extension is not obtrusive
- Recommend researching original façade and working to reconstruct the original facade, including checking the original pitch of the roof when re-roofing in zincalume, detached veranda from roof, eaves, sash windows, fanlight above door, turned posts etc.
- Neighbour on south side has a hipped roof with a detached verandah roof;
- Query laundry on north wall; kitchen on south wall
- Concise addition, enabling good solar access and minimal effect on neighbours

**Public Submissions**

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

*Submission from Stephen Hille & Catherine Keogh (48 Glyde Street)*

- impacts on amenity;
- setback of extension should be as specified in the code;
- shadow cast on outdoor entertaining area, and windows on north side.

**Site Inspection**

By Town Planner on 24 June 2008

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		508m <sup>2</sup> Existing
Open Space	50%	60% Acceptable
Zoning		R20
Heritage Listing		Not Listed

**Setbacks:**

Front (west)	<i>Not Applicable – Additions are at rear</i>	
Rear (east)		
<i>Ground</i>	<i>Laundry</i>	1.00
		24.80 Acceptable
	<i>Living/Dining</i>	1.50
		19.00 Acceptable
<i>Upper</i>	<i>Study</i>	3.00
		22.40 Acceptable
	<i>Master Bedroom</i>	1.20
		25.80 Acceptable
Side (north)		
<i>Ground</i>	<i>Living &amp; Dining</i>	1.50
		6.50 Acceptable

8 July 2008

MINUTES

	<i>Laundry</i>	1.00	2.30
			Acceptable
<i>Upper</i>	<i>Ensuite</i>	1.20	2.20
			Acceptable
<i>Upper</i>	<i>Study</i>	4.50	5.82
			Acceptable
Side (south)			
	<i>Living/Dining</i>	1.50	0.40
			<b>Discretion Required</b>
<i>Upper</i>	<i>Study</i>	1.20	2.70
			Acceptable
	<i>Master Bed</i>	1.20	2.70
			Acceptable
<b>Height:</b>			
	Wall	6.00	6.50
			<b>Discretion Required</b>
	Building	9.00	7.00
			Acceptable
<b>Overshadowing:</b>		24.94% <sup>m</sup> 2	
<b>Privacy/Overlooking:</b>		N/a	

**REPORT**

**Issues**

Wall Height

Under the peak of the extended roof at the rear a proposed wall for a study on the mezzanine level is 6.5m above natural ground level (NGL).

The RDC recommend a 6m wall height limit.

Boundary Setbacks

The application proposes an addition at the rear which involves extending the wall on the south side of the existing house. This wall is set back 0.4m from the south side boundary.

The existing wall on the south side is 13m long; it is proposed to extend this wall a further 6.8m to the rear therefore the total length of this wall is 19.8m.

This wall varies in height from 3.2m above NGL at the front to 4m above NGL at the rear.

The RDC recommend a 1.5m setback.

Submission

The submission from the owners of the adjoining property at 48 Glyde Street states:

*"We believe the amenity of our kitchen and rear area living with north facing windows and primary outdoor living court will be severely degraded by the considerable addition overshadowing of northern sunlight."*

While the application does not propose overshadow that exceeds the specified maximum under the RDC there is an impact by the proposed additions on the amount of overshadow of the kitchen and outdoor living court at the rear of 48 Glyde Street.

### **Discussion**

#### Wall Height

The variation to wall height at the rear for the upper level study does not detrimentally impact on the amenity of the potentially affected property at 53 Hubble Street especially as it is set back approximately 19m from the common property boundary.

The potentially affected property owner has not objected to this variation.

#### Boundary Setbacks

The setback of the existing house and patio at the rear from the south side boundary is less than recommended in the RDC.

The proposal will result in the removal of what is considered to be a rather unsightly patio structure, and its replacement with additions, which are considered to improve the appearance of the property along its south side, and the rear.

#### Submission

For the purposes of ascertaining the veracity of the neighbours' claims regarding the impact of the proposed additions on the amenity of their "primary outdoor living court", bearing in mind that the percentage of overshadow is less than the maximum recommended in the RDC, the Town Planner inspected the rear of 46 and 48 Glyde Street around 12pm on Tuesday 24 June 2008 (note the RDC state: *"Notwithstanding the boundary setbacks in design element 6.3, development in climatic zones 4, 5 and 6 of the state shall be so designed that its shadow only cast at midday 21 June onto any other adjoining property does not exceed the following limits:*

- *on adjoining properties coded R25 and lower – 25 per cent of the site area").*

The Town Planner timed the site inspection to coincide as closely as possible with the time specified in the RDC.

The outdoor living court is a very small brick paved area at the rear of the single storey house at 46 Glyde Street. This area is substantially shaded by a pergola that is covered in native wisteria.

An existing limestone block boundary wall along the common boundary puts the area next to the north side boundary of 48 Glyde Street in permanent shade.

A very small part of the outdoor living court is exposed to sunlight, and a portion of this sunny space will likely be in shade as a consequence of the proposed additions at 46 Glyde Street, however the impact of the proposed additions is considered to be very minor given the existing situation.

The applicant has advised that the shade profile of the proposed building effectively fully reverts to the same as the "as is" shadow profile by mid August, and remains this way through to late May. This 8 and a half month period also coincides with the period of year that sees the most use of outdoor spaces, and the best opportunity for "alfresco living". The proposed extensions will have no effect on these opportunities.

The property is a narrow lot and overshadowing is increasingly difficult on a narrow lot that runs east west, yet the proposed overshadow is less than the maximum permitted under the RDC, which is considered to be a relatively difficult matter given the circumstances.

Building the additions to the setback recommended in the RDC will not alter the existing situation whereby the outdoor living court at the rear of 48 Glyde Street is already largely in shade year round.

### RECOMMENDATION

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

- (a) variation to wall height for a study at the rear pursuant to the Residential Design Codes from 6m to 6.5m;
- (b) variation to the south side boundary setback for an extension to an existing boundary wall pursuant to the Residential Design Codes from 1.5m to 0.4m

for the construction of renovations and additions to the single storey house at 46 Glyde Street comprising:

- A skillion roof over the driveway set back 0.6m from the north side boundary;
- Demolition of a rear patio and extension of the house to accommodate a new kitchen and living area;
- Extension of the roof line to the rear and construction of a mezzanine to accommodate an upstairs bedroom, bathroom, and a study

in accordance with the plans date stamp received on 22 May 2008 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. 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 is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. the boundary wall extension is to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

### Footnote:

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

- (a) *The applicant/owner is encouraged to research the original appearance of the house and undertake works to reconstruct the original facade, including checking the original pitch of the roof when re-roofing in zincalume, the detached veranda from the roof, eaves, sash windows, fanlight above door, turned posts etc.*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *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.*
- (d) *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.*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the boundary wall it is recommended that the applicant consult with the neighbour to*

8 July 2008

MINUTES

*resolve a mutually agreed standard of finish.*

- (f) *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).*

*Cr Wilson entered the meeting at 7.35pm.*

Mr Stephen Hille (adjoining neighbour) addressed the meeting on the issue of overshadowing and Mr Matthew Young (Architect) addressed the meeting in support of the proposal.

**RECOMMENDATION TO COUNCIL**

**Cr Dobro – Cr Rico**

**That the application for alterations/additions to the residence at No. 46 (Lot 149) Glyde Street, East Fremantle be deferred pending additional information on the original roofscape and pitch, quantification of current wall in terms of overshadowing and the undertaking of a site visit to ascertain the impact of the extension on the adjoining neighbour at 48 Glyde Street. CARRIED**

**T62.9** ***Preston Point Road No. 124 (Lot 4960)***

***Applicant: Brian Burke Homes***

***Owner: Dreamview Developments Pty Ltd***

***Application No. P97/2008***

***By Chris Warrener, Town Planner on 30 June 2008***

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 2-storey house at 124 Preston Point Road comprising:

Ground level: Porch, entry, 3 bedrooms, 2 bathrooms, entertaining room, double garage, store, patio, deck, and swimming pool;

First floor: Bedroom, bathroom with spa, powder room, dressing room, kitchen/dining room, living room, study, alfresco area with barbeque, and 2 balconies.

**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 No. 123 – Footpaths and Crossovers (LPP 123)

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

**Documentation**

Plans and relevant forms date stamp received on 16 May 2008

**Date Application Received**

16 May 2008

**Additional information**

Amended plans date stamp received on 27 June 2008 clearly illustrating building height, and replacing the window to Bedroom 4 on the east side with a hi-light window.

**Advertising**

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

**Date Advertised**

31 May 2008



**Close of Comment Period**

13 June 2008

**No. of Days Elapsed between Lodgement & Meeting Date**

52 days.

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

17 November 1998 Council grants special approval for setback variations for a garage extension;

2 December 1998 Building Licence 179/2754 approved for garage extension;

27 May 2008 Demolition Licence B08/109 issued for single storey house.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 24 June 2008 and the following comments were made:

- Like triple gables and boat-house design
- Decorative details of the vertical posts should be deleted
- Pleased to see the impact of the garages is minimized
- Development to be height compliant
- This is an interesting design appropriate to the riverside location and is cognisant of shading required to exposed windows. It appears to be a much better design than many seen along this road previously.

**Public Submissions**

At the close of the comment period 3 submissions were received.

1. *Submission from Julie Amor (17 Habgood Street)*
  - Height and width of structure will obscure my views;
  - Roof will look dreadful;
  - Style incompatible with surrounding streets and house styles.
2. *Submission from Filomena Masella (38 Locke Crescent)*
  - Height of building will completely block river and city views;
  - Balcony impacts on views;
  - Roof likely to cause a great deal of reflection.
3. *Submission from William & Joan Tingley (36 Locke Crescent)*
  - Adhere to building height and setbacks;
  - Consider a flat roof;
  - Ask that roof colour be in keeping with surrounding housing.

**Site Inspection**

By Town Planner on 3 June 2008

---

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		718m <sup>2</sup> Existing
Open Space	55%	68% Acceptable
Zoning		R12.5
Heritage Listing		Not Listed

8 July 2008

MINUTES

**Setbacks:**

Front (north)				
Ground	Patio	10.00	13.20	Acceptable
	Entertaining	10.00	13.20	Acceptable
	Bedroom 2	10.00	14.00	Acceptable
Upper	Balcony	10.00	9.20	<b>LPP 142 Discretion Required</b>
Rear (south)				
Ground	Garage	6.00	6.00	Acceptable
	Store	6.00	4.20	<b>Discretion Required</b>
	Court	6.00	7.50	Acceptable
	Bedroom 4	6.00	10.00	Acceptable
Upper	Balcony	6.00	6.00	Acceptable
	Study	6.00	6.00	Acceptable
	Bath 1	6.00	10.00	Acceptable
Side (east)				
Ground	Bedroom 4	1.00	1.00	Acceptable
	Bedroom 3	1.00	1.60	Acceptable
	Patio	1.50	1.60	Acceptable
Upper	Bath 1	1.10	1.60	Acceptable
	Bedroom 1	1.10	1.60	Acceptable
	Alfresco	1.20	1.60	Acceptable
	Balcony	1.80	2.20	Acceptable
Side (west)				
Ground	Bedroom 2	1.50	3.80	Acceptable
	Entry	1.50	5.00	Acceptable
	Garage	1.00	3.80	Acceptable
	Store	1.00	5.50	Acceptable
Upper	Balcony	2.00	4.00	Acceptable
	Dining	2.50	4.30	Acceptable
	Kitchen	2.80	3.70	Acceptable

8 July 2008

MINUTES

---

<i>Balcony</i>	1.80	2.70 Acceptable
<b>Height:</b>		
Wall	5.60	5.60 Acceptable
Building	8.10	8.315 <b>Discretion Required</b>
<b><u>Overshadowing:</u></b>	N/a	
<b><u>Privacy/Overlooking:</u></b>	N/a	

---

**REPORT**

**Issues**

Building Height

A 2.6m long portion of the roof of the proposed house at the front (north side) varies between 8.1m and 8.315m above natural ground level (NGL).

LPP 142 limits roof height in this area of East Fremantle to 8.1m.

Boundary Setbacks

*South side (rear) setback*

A store is set back 4.2m from the rear (south side) boundary.

The RDC recommend a 6m rear setback.

*North side (front) setback*

A 6.7m long section of a balcony at the front is set back 9.2m from the front boundary.

With respect to streetscape LPP 142 states:

*"Part 2 – Streetscape*

*(i) Buildings are to be set back such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality."*

Development along this section of Preston Point Road is set back 10m or more from the front boundary, therefore at 9.3m a section of the balcony intrudes into the front setback.

Crossover Width

The application proposes a 5.4m wide paved crossover to Wauhop Road.

LPP 123 states:

*"3.1 Standard crossover width will be 3 metres."*

Submissions

Two of the submissions oppose the application because of its claimed impacts on their property views, and all of the submissions state concerns regarding the roof style and colour. The 3<sup>rd</sup> submission states that the proposed house should comply with all height regulations and setbacks.

**Discussion**

Building Height

The roof of the proposed house will be pitched at 35°, which exceeds the pitch recommended in LPP 066 of 28°.

The proposed height variation of the roof at the front is considered very minor, and makes no difference to the overall view impact of the proposed development. The roof

8 July 2008

MINUTES

design and pitch is considered to compliment the appearance of the proposed house, and is considered to make a positive impact on the local streetscape, and is supported

Boundary Setbacks

The setback variation proposed at the rear for a store room at 4.2m is similar to the setback of an existing single garage at 4m. The proposed store is 4.5m long as against the existing garage, which is 6m long, and is considered to have less of an impact if any at all than the existing situation.

This setback variation is not considered to impact on the amenity of the potentially affected property at 36 Locke Crescent. The proposed upper floor rear/south side setbacks meet (6m for a proposed study loft) or exceed (10m for a bathroom and powder room) the setbacks recommended under the RDC.

The setback variation at the front for a balcony is relatively minor, the intrusion is less than 1m, which is the intrusion allowed under the RDC. This variation is supported.

Crossover Width

In regard to the proposed crossover width of 5.4m, this is narrower than the existing 5.6m crossover to Wauhop Road, and is supported.

Submissions

In regard to the view impacts of the development unfortunately this is unavoidable in that a 2-storey house will have a bigger impact on views from other houses nearby than the impact of the existing single storey development. The proposal has been designed to be sympathetic to the increased setback of development along this section of Preston Point Road, the proposed house is considered to be an attractive design, and is supported.

**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 (rear) boundary setback pursuant to the Residential Design Codes from 6m to 4.2m;**
- (b) variation to the north side (front) boundary setback pursuant to LPP 142 for a balcony from 10m to 9.3m;**

**for the construction of a 2-storey house at No. 124 (Lot 4960) Preston Point Road, East Fremantle comprising:**

**Ground level: Porch, entry, 3 bedrooms, 2 bathrooms, entertaining room, a double garage, store, patio, deck, and swimming pool;**

**First floor: Bedroom, bathroom with spa, powder room, dressing room, kitchen/dining room, living room, study, alfresco area with barbeque, and 2 balconies.**

**in accordance with the plans date stamp received on 27 June 2008 subject to the following conditions:**

- 1. prior to the issue of a building licence amended plans be submitted showing roof height at 8.1m pursuant to Local Planning Policy 142.**
- 2. roof to be finished in a non reflective roofing material.**
- 3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 5. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief**



8 July 2008

MINUTES

Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.

7. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
15. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
16. any new crossovers which are constructed under this approval are to be a maximum width of 5.4m, 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.
17. 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.
18. 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.*

8 July 2008

MINUTES

- (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.
  - (f) the patio may not be enclosed without the prior written consent of Council.
  - (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- CARRIED

**T62.10**     **George Street No. 88 (Lots 433 & 534)**  
**Applicant: Jewelpark Pty Ltd**  
**Owner: F & M Verdi**  
**(Application No. P83/08)**  
By Chris Warrener, Town Planner on 4 July 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for the redevelopment of 88 George Street comprising the refurbishment and re-use of the 2 existing ground level shops with the addition of mezzanines, and construct a 3-level residence with:

Ground Floor: double garage and store, entry, study, lift, and wc;

Mezzanine: lift, landing, bedroom, bathroom/powder room, laundry & balcony

Upper Floor: lift, landing, main bedroom, w/c & ensuite, livingroom, diningroom, kitchen, music retreat, linen, wc, balcony & terrace

**Statutory Requirements**

Town Planning Scheme No. 3 – Mixed Use  
Local Planning Strategy – Plympton Precinct  
Residential Design Codes

**Relevant Council Policies**

Local Planning Policy No. 142 – Residential Development

**Documentation**

Plans and relevant forms

**Date Application Received**

22 April 2008

**Additional Information Received**

22 May 2008

Amended plans date stamp received on 4 July 2008

**Advertising**

Adjoining land owners, sign on site & local newspaper

**Date Advertised**

1 May 2008

8 July 2008

MINUTES

**Close of Comment Period**

16 May 2008

**No. of Days Elapsed between Lodgement & Meeting Date**

47 days

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

27 January 1981	Application received for use as craft shop selling pottery, macramé, weaving etc;
16 February 1981	Council refused application on grounds that the property is zoned single residential and group housing;
6 March 1981	Received request to change zoning to "Business";
24 April 1981	Council advises that comments in relation to TPS2 will be assessed prior to forwarding to Hon Minister;
20 September 1982	Council refuses an application for use of property as an 'art gallery as the property is zoned Residential – Area 2';
19 December 1983	Council refuse an application for use of the property as a retail shop for musical instruments as the property had lost its 'Non Conforming' use and reverted to a residential zoning;
22 February 1990	Application received for use of room facing George Street for workshop purposes;
19 March 1990	Council granted approval for use of one room of the premises as a workshop;
17 July 1990	Application received for George Street Cottage Crafts to trade from the premises;
17 December 1990	Council refused application for retail outlet to operate on a co-op basis;
19 February 1996	Council grants approval to conduct a home occupation as office for a mobile therapeutic massage service;
20 September 2007	Council advises owners that the building is showing signs of structural weakness, particularly the corner adjacent to 86 George Street.
17 June 2008	Council defers making a decision on a redevelopment " <i>pending comment on the advice from the Heritage Council, further information from the Town Planner including the height of the development opposite, reconsideration by the Town Planning Advisory Panel, further information from the applicant with respect to the discretions being sought and the undertaking of a site visit by elected members.</i> "

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was re-considered by the Town Planning Advisory Panel at its meeting held on 24 June 2008, and the following comments were made:

- Commend restoration of original shops but this is a given for this development.
- Challenge is to design a first floor development that is in harmony with the original shop fronts
- Design does not consider or complement the original shops'; not honoring original architecture of the shops
- Overdevelopment of site
- Trivialises the balance of George St Precinct
- Negative impact on George St
- Development is overpowering of restoration of 38 Sewell St
- Softening of the design required; lightening of weight of second storey
- Second storey needs to be well set back and veranda should not impose on façade of shops
- Metal balustrade is not appropriate – prefer to see frameless clear glass balustrade possibly set back further
- The scotia atop the parapet should be removed as this is totally out of context.

8 July 2008

MINUTES

- Western elevation should be researched (physical and documentary) and restored and conserved using appropriate materials
- Recommend, and wish to be advised of, site visit
- No concessions ought be given on this development

**Referral to Other Authorities**

Heritage Council of WA (HCWA)

**Public Submissions**

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

- B Beattie*  
*38 Sewell Street*
- I recently made application for a single storey development as parking requirements for two storey development could not be met;
  - how will 88 George Street meet the requirements of six bays as only two provided on site and two on the road;
  - the plans otherwise look very good.
- Kim Waters &*  
*Kevin Bailey*  
*36 Sewell Street*
- strongly object if this development means our morning light will be blocked;
  - strongly object to loss of backyard privacy due to overlooking from balcony.
- Janie Corke &*  
*Richard Warren*  
*87 George Street*
- register their strong support for the project;
  - the development recognises the heritage issues and seeks to preserve the portion of existing premises which are worthy of preservation;
  - these premises have long been neglected;
  - the development provides a good balance between residential and commercial;
  - the additional storey comprised in the residential portion does not dominate or overwhelm the shop façade and will preserve and enhance the streetscape;
  - we hope the development is given the 'green light'.

**Site Inspection**

By Town Planner on 20 February, 24 June, and by Councillors, and the Town Planner on 3 July 2008.

**REPORT  
Issues**

*Heritage* 88 George Street is on the Heritage List under TPS 3. The building has a B+ management category rating in the MI, which states for B rated property:

*"Category B  
Places of considerable local heritage significance  
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."*



8 July 2008

MINUTES

- The applicant obtained Heritage Advice (attached), and the application was referred to the Heritage Council for comment.
- Car Parking* The application is for 2 shops and a 2-bedroom residence.
- Pursuant to TPS 3 and the RDC a total of 9 on site car parking spaces are required (4 each for the 2 shops, and 1 for the residence).
- The application proposes the provision of 4 on site car parking spaces therefore there is a shortfall of 5 spaces.
- Building Height* The application proposes a building height of 8.7m.
- Under TPS 3 except as otherwise permitted by Council the maximum overall building height in the Mixed Use zone is 8m.
- Boundary Setbacks / Privacy* The cone of vision for a balcony on the mezzanine level (Level 2) extends into rear of the adjoining property at 36 Sewell Street by up to 1.2m. This balcony is set back 5.9m from the west side property boundary.
- The cone of vision for the balcony on Level 3 extends into the rear of 36 and 38 Sewell Street by up to 2.3m. This balcony is set back 3.1m from the west side property boundary.
- The RDC recommend that these balconies be screened where they are less than 7.5m from the property boundary.
- Plot Ratio* The plot ratio of the proposed redevelopment comprises 1.185:1.
- TPS 3 specifies that plot ratio in the Mixed Use zone should be no more than 0.5:1 therefore the proposed redevelopment exceeds the specified plot ratio by 0.685.
- Submissions* One submission, while supporting the application, states concern regarding the availability of on on-site parking.
- One submission opposes the redevelopment because of a loss of morning light and backyard privacy.
- One submission supports the redevelopment.

Town Planning Advisory Panel (TPAP)

The panel supports the restoration and retention of the existing shop-front however it has reservations about the design and appearance of the proposed development, which it considers will appear bulky and will detrimentally impact on the appearance of the existing heritage building.

**Discussion**

Council Decision

Council decided at its ordinary meeting held on 17 June 2008 to adopt the recommendation of the Town Planning and Building Committee recommendation made on 10 June 2008 as follows:

*"That Council defer making a decision on the redevelopment of No. 88 (Lots 533 & 534) George Street, East Fremantle comprising the refurbishment and re-use of the 2 existing*



8 July 2008

MINUTES

ground level shops with the addition of mezzanines, and construct a 3-level residence with:

Ground Floor: double garage and store, entry, study, lift, and wc;

Mezzanine: lift, landing, bedroom, bathroom/powder room, laundry & balcony

Upper Floor: lift, landing, main bedroom, w/c & ensuite, livingroom, diningroom, kitchen, music retreat, linen, wc, balcony & terrace

in accordance with the plans date stamp received on 5 June 2008 pending comment on the advice from the Heritage Council, further information from the Town Planner including the height of the development opposite, reconsideration by the Town Planning Advisory Panel, further information from the applicant with respect to the discretions being sought and the undertaking of a site visit by elected members."

A site visit of the property was conducted on Thursday 3 July 2008 at 4.00pm. Councillors and TPAP members were invited to attend.

It was discovered that natural ground level (NGL) at the rear was higher (approximately 0.7m) than indicated in the application due to the existence of an elevated terraced area which occupied a substantial part of the property from a point approximately 12m set back from the front boundary extending all the way to the rear boundary. The level difference was measured on site as 0.7m.

This means that the proposed height variation of the development is not as significant as initially assessed, and the 8.7m height applies only to a small section of the proposed building in the middle of the development. The remainder of the proposed development meets the height limit specified in TPS 3.

Internally the existing shop has a ceiling height of 3.67m therefore to maintain this ceiling height and build additions to accommodate residential use upstairs necessarily involves construction of a building that would involve variations to the overall height limit specified in TPS 3, and for which Council is currently being asked to exercise its discretion to approve this application.

#### Heritage

The HCWA had initially responded to Council's invitation to comment on the application requesting further information prior to providing advice, specifically details regarding the form, scale, materials and finishes of the proposed development, a roof plan drawing, and an elevation or photomontage clearly illustrating the proposal within the significant street context.

The additional information was provided by the applicant and forwarded to the HCWA.

In response the HCWA advised in a letter date stamp received on 6 June 2008 (tabled as 'late correspondence' at the Committee meeting):

*"We confirm we have no objections to the proposed development."*

#### Car Parking

In response to the parking shortfall the applicant states:

*"This calculation does not take account of street parking....It is understood that like shortfalls have been offset with the inclusion of bike racks in recent time in this precinct. Bike rack can easily be accommodated in the rear driveway area of the proposal. Alternatively it is understood Council has a cash-in-lieu program as a parking offset."*

Applications to redevelop 130 (dentist), and 130B (day spa & shop) George Street similarly involved car parking shortfalls for which Council imposed conditions requiring the provision of bicycle parking in lieu of the respective shortfalls.

It is open for Council to similarly determine this application.



8 July 2008

MINUTES

The shortfall of 5 spaces is not considered to be significant, there is adequate parking on site for two shop proprietors and the resident, and kerbside parking in George Street is available for the use of shoppers and visitors.

Building Height

In response to the proposed building height variation the applicant states:

*"The building height is to be justified against other structures in the street. A variation on the basis of a flat roof and RDC allow 9.0m is to be considered."*

In response to the Council decision the Town Planner measured the height of the buildings opposite the subject property.

The building at 89-93 George Street (King George Corner, Physiotherapy & Mediation) is 8m high to the top of the parapet next to the footpath.

The building at 77-81 George Street (Limonas Restaurant & Hairdresser) is 8.1m high to the top of the parapet next to the footpath at the corner of Sewell Street.

Boundary Setbacks/Privacy

The applicant advises that the property owners who initially objected to the proposal because of its impact on backyard privacy have withdrawn their objection.

Plot Ratio

Discretion is sought for the plot ratio to be increased from 0.5:1 to 1.185:1.

Plot ratio has generally been used as a method of gauging building bulk and scale.

The applicant states:

*"Plot ratio is to be justified against other sites/recent development in this precinct (commercial development opposite). It is apparent that recent development on 87 and 132 George Street exceed the plot ratio. A plot ratio of 0.5:1 is restrictive and will not promote appropriate development to enhance what could be described as the town centre of East Fremantle. It largely underutilises the land area in terms of the zoning description proposed. A variation based on this argument there for should be considered and the plot ratio of the area reviewed in future scheme amendments."*

Submissions

In response to the objectors the applicant states:

*"The RDC does not assess morning light. The assessment is noon June 22. The proposal has nil effect in this context. Existing vegetation is to be considered."*

And in regard to the privacy issue, states:

*"This objection has been resolved with the objector on the basis of existing vegetation."*

The applicant further states:

*"As suggested, submission relating to parking and loss of privacy were understood to be withdrawn. I question where relevance to the report."*

**Conclusion**

In response to suggestions by TPAP to improve the appearance of the proposed development the applicant has prepared amended plans to incorporate a pergola structure over the upper floor verandah/balcony with a clear balustrade.

8 July 2008

MINUTES

In general building height complies over the majority of the proposed development, and as the height variation is for a portion of the building that is set back away from the footpath does not have a significant impact on the appearance and impact of the development at street level, unlike other buildings in George Street opposite the proposed development which are built to the overall height limit right up to the footpath.

The application will if implemented result in the rejuvenation of an old shop-front on George Street, the potential re-use of this shop-front and also residential use of the property in keeping with the spirit and intent of development in the George Street Mixed Use zone under TPS 3.

The parking shortfall is not considered significant given that the proposal provides on-site parking to accommodate future shop proprietors and the resident.

The shortfall must also be considered in the context of the nature of the commercial activity that typifies businesses along George Street. They are generally of a 'boutique'/curiosity nature, and are not like the types of businesses, which might be found in a town centre or shopping precinct elsewhere, for which the parking standards specified in TPS 3 would usually apply.

Over the last 2 years Council has required new development/use in the street, where there is a shortfall, to provide bicycle parking. This is in line with State Government transport policy which seeks to promote alternative transport modes to the private motor vehicle, and is supported.

The application is supported.

**RECOMMENDATION**

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

- (a) variation to plot ratio pursuant to Town Planning Scheme No 3 from 0.5:1 to 1.185:1;
- (b) variation to the provision of on site parking pursuant to Town Planning Scheme No 3 from 9 spaces to 4 spaces;
- (c) variation to building height pursuant to Town Planning Scheme No 3 from 8m to 8.7m;
- (d) variation to the setback from the west side boundary pursuant to the Residential Design Codes for a balcony on the mezzanine level (Level 2) and a balcony on Level 3 from 7.5m to 6.3m and 5.2m respectively

for the redevelopment of 88 George Street comprising the refurbishment and re-use of the 2 existing ground level shops with the addition of mezzanines, and construct a 3-level residence with:

Ground Floor: double garage and store, entry, study, lift, and wc;

Mezzanine: lift, landing, bedroom, bathroom/powder room, laundry & balcony

Upper Floor: lift, landing, main bedroom, w/c & ensuite, living-room, dining-room, kitchen, music retreat, linen, wc, balcony & terrace

in accordance with the plans date stamp received on 5 June 2008 subject to the following conditions:

- 1. prior to the issue of a Building Licence the applicant/owner is to pay for the manufacture and installation of 5 stainless steel U-rail bicycle parking racks;
- 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 development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.



8 July 2008

MINUTES

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. compliance with all relevant engineering, building and health requirements.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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

**RECOMMENDATION TO COUNCIL**

**Cr Dobro - Cr Olson**

**That Council defer making a decision on the redevelopment of No. 88 (Lots 533 & 534) George Street, East Fremantle pending further advice/clarification in relation to adaptation and development options as contained in the Heritage Consultant's report and whether the current design meets those requirements. CARRIED**

8 July 2008

MINUTES

**T62.11**     **Silas Street No. 7c (Lot 583)**  
**Applicant & Owner: Anthony Brideson**  
**Application No. P92/2008**  
By Chris Warrener, Town Planner on 30 June 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a change of use of the premises at 7c Silas Street from 'Office' to 'Recreation – Private' for use as a fitness studio.

**Statutory Considerations**

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

**Documentation**

Plans and relevant forms date stamp received on 12 May 2008

**Date Application Received**

12 May 2008

**Advertising**

Adjoining landowners and sign on site

**Date Advertised**

31 May 2008

**Close of Comment Period**

13 June 2008

**No. of Days Elapsed between Lodgement & Meeting Date**

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

19 April 2005	Council grants approval for the construction of a mixed use development (8 residential dwellings and ground floor office space) at 5-7 Silas Street;
2 June 2005	CEO approves relocation of Dental Surgery to 5-7 Silas Street;
15 February 2006	WAPC conditionally approves the amalgamation of 5 & 7 Silas Street;
21 August 2007	Council grants approval for a reduction in on-site car parking for a change of use of the premises at 7b Silas Street from 'Office' to 'Consulting Rooms'.

**CONSULTATION**

**Public Submissions**

At the close of the comment period 4 submissions were received.

- Submission from Dr Nat Lenzo (7b Silas Street)*
  - Inappropriate use of an office as a recreation facility;
  - Parking & personal traffic;
  - Potential injury to clients of the fitness studio and to patients of 7b Silas Street due to activities of those using the fitness studio;
  - Sound issues related to the use of fitness studio equipment.
- Submission from Mrs D. Huntley (owner, Unit 6, 5-7 Silas Street)*
  - Noise issues & behaviour of gym patrons.
- Submission from Ms R. Lenzo (28 Dalgety Street)*
  - Parking shortfall issue;
  - Potential hazards created by the activities of the fitness studio clients;

- Noise issues especially with the use of a 'speed ball'.
4. *Submission from Eddy Lutze*
- Supports continuation of the gym business.

### Site Inspection

By Town Planner on 11 April 2008

### REPORT

#### Issues

##### Land Use

On 19 April 2005 Council granted conditional approval for the construction of a mixed use development (8 residential dwellings and ground floor office space) on Lots 583 & 584 (Nos. 5 & 7) Silas Street.

The property is zoned "Town Centre" under TPS 3.

The use of 7c Silas Street as a fitness studio is a use that is determined as falling within the use class "Recreation – Private", which is defined as follows:

*"recreation - private" means premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge;*

Under the Zoning Table in TPS 3 the use "Recreation – Private" is an "A" use in the Town Centre zone.

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

The business "Definitive Fitness" has been operating at 7c Silas Street without Council approval therefore this application is an application for unauthorised existing use, and is assessed in accordance with the following TPS 3 provisions:

#### *"8.4. Unauthorised existing developments*

*8.4.1. The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.*

*8.4.2. Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.*

- Note:*
- 1. Applications for approval to an existing development are made under Part 9.*
  - 2. The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval."*

#### Parking

TPS 3 Schedule 11 Car Parking Standards prescribes the following parking standard for the use Indoor Recreation:

Indoor Recreation	
- Gymnasium	1 space for every 10m <sup>2</sup> net floor area
- Health Studio	1 space for every 10m <sup>2</sup> net floor area
- Staff	1 space for every staff member present during peak operation



8 July 2008

MINUTES

7c Silas Street contains a net floor area of 134m<sup>2</sup>, and one staff member (the owner) is employed by the business therefore a total of 14 car spaces is required.

The premises has exclusive access to 2 car spaces in the rear undercover car-park of the building at 5-7 Silas Street therefore there is a shortfall of 12 car spaces (the parking at the front of the building is for the exclusive use of 7a and 7b Silas Street).

Amenity

Some of the fitness and rehabilitation activities undertaken at 7c Silas Street are noisy, and these activities have a detrimental impact on the amenity of the residential use of the property.

Under TPS 3 Part 10 includes a provision, which lists the matters which in the opinion of the local government, are relevant to the use or development, the subject of the application, and go towards establishing whether the impact of a proposed development or use would have a detrimental impact on amenity.

In regard to this application the following matters are considered relevant:

- (j) the compatibility of a use or development with its setting;*
- (k) any social issues that have an effect on the amenity of the locality;*
- (o) the preservation of the amenity of the locality;*
- (p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
- (z) any relevant submissions received on the application;"*

**Discussion**

For the purposes of determining this application each of the above-referred matters are discussed below.

- (j) the compatibility of a use or development with its setting;*

7c Silas Street is in the Town Centre zone, and Recreation – Private is a use that is listed in the Zoning Table as being a potentially appropriate land use ('A'), subject to an advertising process.

Definitive Fitness is a business that promotes a healthy lifestyle, and provides an activity base conducive to the well being of a local community.

The building at 5-7 Silas Street has been approved and developed for residential use on an upper floor, and offices and consulting rooms on the ground floor. It is a mixed use development.

While a fitness studio is considered to be a compatible community use in a general sense, depending on the nature of the activities undertaken at the studio, it does have the potential to have a detrimental impact on the residential and consulting room uses in the building.

The residential use above will continue in the longer term because the premises above are purpose built, have been sold and are now occupied for this use.



8 July 2008

MINUTES

Based on the complaints from other tenants in the building that have been received by Council over a protracted period regarding the fitness studio (particularly the owners and a resident above), the use is considered to be incompatible with the prevailing use of the building.

*(o) the preservation of the amenity of the locality;*

Some of the Definitive Fitness activities are noisy (esp. a speed ball) and detrimentally impact on the amenity of the other uses of the building therefore the use of 7c as a fitness studio is not compatible with "preserving the amenity" of the property at 5-7 Silas Street.

*(q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*

This application involves a shortfall of 12 car spaces, which is considered significant, and has led to other tenants' and owners' allocated car spaces having been occupied by clients of the fitness studio (specifically the parking spaces at the front).

There is insufficient car parking for the use of 7c Silas Street as a fitness studio. In the past Council has been prepared to exercise discretion for a parking shortfall, and has required the payment of cash-in-lieu, or alternatively the provision of bicycle parking.

However this discretion has only ever been exercised where the shortfall is not significant, that is, less than 5 car spaces.

In any event even if Council accepted cash-in-lieu or required some other option such as bicycle parking in lieu of the shortfall the parking problems being experienced by other building tenants and owners will likely continue.

*(u) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*

The premises at 7c Silas Street contains a toilet capable of use by the disabled, but does not include shower facilities or end of trip storage facilities for clients and/or cyclists.

*(z) any relevant submissions received on the application;*

The one submission of support is from a client of the business Definitive Fitness, the other submissions, which oppose the application are from other owners and occupiers of the building who have, and continue to experience, ongoing problems in relation to the operation of the business.

### Conclusion

The use of 7c Silas Street as a fitness studio is a use that is not considered to be compatible with the general use of the building for residential, office and consulting room use, and this application is therefore not supported.

At a meeting with the owner/applicant on Friday 27 June 2008 the owner advised the Town Planner and CEO that he had recently met with the adjoining property owner Mr Russell Quinn, who had offered to lease space under the "Royal George Tavern" (previously used as a food hall) for the fitness studio. Definitive Fitness proposes to relocate to this space (subject to Council approval of its use for "Recreation-Private").

The owner advised that the move would take effect within 90 days.

### RECOMMENDATION

That Council refuse to grant planning approval for the unauthorised existing use of 7c Silas Street for the purposes of Recreation – Private (Definitive Fitness) in accordance with the application date stamp received on 12 May 2008 for the following reasons:

1. the use is not compatible with the approved use of the building at 5-7 Silas Street for offices, consulting rooms, and residential.
2. the use involves a parking shortfall, which is significant, and has a detrimental impact on the existing parking arrangement for the use of the other owners and occupiers of the building.
3. the use is a noisy activity which has a detrimental impact on the amenity of the residential use of the property.

Footnote:

*The applicant is advised that this decision of the Council is herein issued as a notice pursuant to s. 214 of the Planning and Development Act 2005 constituting a direction to cease the current use of the premises within 90 days of the date of the Council decision.*

Mr Anthony Brideson (applicant) addressed the meeting advising that he has had discussions regarding the use of an alternative property in which to relocate his business.

### RECOMMENDATION TO COUNCIL

**Mayor Ferris – Cr Wilson**

**That Council refuse to grant planning approval for the unauthorised existing use of No. 7c (Lot 583) Silas Street, East Fremantle for the purposes of Recreation – Private (Definitive Fitness) in accordance with the application date stamp received on 12 May 2008 for the following reasons:**

1. the use is not compatible with the approved use of the building at 5-7 Silas Street for offices, consulting rooms, and residential.
2. the use involves a parking shortfall, which is significant, and has a detrimental impact on the existing parking arrangement for the use of the other owners and occupiers of the building.
3. the use is a noisy activity which has a detrimental impact on the amenity of the residential use of the property.

Footnote:

*The applicant is advised that this decision of the Council is herein issued as a notice pursuant to s. 214 of the Planning and Development Act 2005 constituting a direction to cease the current use of the premises within 90 days of the date of the Council decision.*

COUNCIL

**T62.12**

**Clayton Street No. 11 (Lot 102)**

**Applicant: Gerard McCann Architect**

**Owner: Kate Lepage Duncanson**

**Application No. P93/2008**

By Chris Warrener, Town Planner on 27 June 2008

### BACKGROUND

#### Description of Proposal

An Application for Planning Approval for ground floor additions to the single storey house at 11 Clayton Street comprising:

- removal of a single garage and lean-to carport and construction of a double garage;
- new bedroom and en-suite;
- extension of a covered deck at the rear

#### Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)

8 July 2008

MINUTES

**Relevant Council Policies**

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

**Documentation**

Plans and relevant forms date stamp received on 13 May 2008

**Date Application Received**

13 May 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

4 June 2008

**Close of Comment Period**

18 June 2008

**No. of Days Elapsed between Lodgement & Meeting Date**

55 days.

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

20 Sept 1993: Council approves additions comprising a dining room & kitchen extension, and an outdoor deck;

15 Oct 1993: Building Permit 117/2095 approved for additions;

20 July 1999: Council approves setback variations for alterations & additions comprising a garage with a parapet wall on the south side;

17 Aug 1999: Council revokes condition 8 of the July 1999 approval.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 24 June 2008 and the following comments were made:

- Fine
- Sympathetic and appropriate and complementary design
- Retention of trees
- This application proposes a garage aligning with the front wall of the porch, but due to the width of the house this does not dominate the façade, therefore I believe is acceptable

**Public Submissions**

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

**Site Inspection**

By Town Planner on 30 October 2007

---

<b>STATISTICS</b>	<b><i>Required</i></b>	<b><i>Proposed</i></b>
Land Area		911m <sup>2</sup> Existing
Open Space Zoning	55%	Acceptable R12.5
Heritage Listing		Not Listed

8 July 2008

MINUTES

**Setbacks:**

Front (east)				
<i>Ground</i>	<i>Garage</i>	7.50		8.20 Acceptable
Rear (west)				
<i>Ground</i>	<i>Alfresco</i>	6.00		17.6 Acceptable
	<i>Bedroom1</i>	6.00		15.20 Acceptable
Side (north)	<i>Not Applicable – Additions are on South side</i>			
Side (south)				
<i>Ground</i>	<i>Bedroom 1</i>	1.00		1.00 Acceptable
	<i>Ensuite/Garage</i>	1.00	<i>Policy 142</i>	Nil Acceptable
<b><u>Height:</u></b>				
Wall		6.00		2.40-3.90 Acceptable
Building		9.00		
Boundary Wall Length		9.00		13.20 <b>Discretion Required</b>
<b><u>Overshadowing:</u></b>		N/a		
<b><u>Privacy/Overlooking:</u></b>		N/a		

**REPORT**

**Issues**

Boundary Wall

The application involves the removal of a single garage and lean-to carport, and their replacement with a double garage with a boundary wall along the south side. This boundary wall is further extended to enclose a new en-suite. The total length of this boundary wall is 13.2m and it varies up to 3m above natural ground level (NGL).

LPP 142 states:

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

As the proposed boundary wall is longer than 9m Council’s discretion is required to be exercised to allow it.

**Discussion**

This application is for works which are considered to improve the appearance and amenity of the single storey house at 11 Clayton Street.

The proposed boundary wall variation is considered relatively minor, it does not detrimentally affect the amenity of the potentially affected property at 9 Clayton Street, the potentially affected property owner has not objected, the application is supported.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to the length of a boundary wall along the south side pursuant to Local Planning Policy 142 from 9m to 13.2m for the construction of ground floor additions to the single storey house at 11 Clayton Street comprising:

8 July 2008

MINUTES

- removal of a single garage and lean-to carport and construction of a double garage;
  - new bedroom and en-suite;
  - extension of a covered deck at the rear;
- in accordance with the plans date stamp received on 13 May 2008 subject to the following conditions:
1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
  2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
  3. the proposed additions are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
  4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
  5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
  6. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
  7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
  8. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
  9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
  10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



8 July 2008

MINUTES

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

**RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Wilson**

**That Council exercise its discretion in granting approval for a variation to the length of a boundary wall along the south side pursuant to Local Planning Policy 142 from 9m to 13.2m for the construction of ground floor additions to the single storey house at No. 11 (Lot 102) Clayton Street, East Fremantle comprising:**

- **removal of a single garage and lean-to carport and construction of a double garage;**
- **new bedroom and en-suite;**
- **extension of a covered deck at the rear;**

**in accordance with the plans date stamp received on 13 May 2008 subject to the following conditions:**

1. **the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
2. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **the proposed additions are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
4. **all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
5. **all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
6. **all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
7. **where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
8. **any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.**

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

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

**T62.13**

**George Street No. 141 (Lot 201)**

**Applicant & Owner: John Henderson**

**Application No. P95/2008**

By Chris Warrener, Town Planner on 19 June 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for additions to the single storey house at 141 George Street comprising:

- a 7.8m long x 5.5m wide x 2.838m high polycarbonate roof sheeted patio between the house and the garage, and
- an L-shaped veranda fixed to the east and south sides of the existing garage and store.

**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 No. 142 – Residential Development (LPP 142)

**Documentation**

Plans and relevant forms date stamp received on 14 May 2008

**Date Application Received**

14 May 2008

**No. of Days Elapsed between Lodgement & Meeting Date**

54 days.



8 July 2008

MINUTES

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

19 August 1996	Council approves reduced front, south, east and west side setback variations for a single storey house;
19 October 1996	Building Permit 103/96 approved for single storey house;
6 August 2002	Council delegates authority to the CEO to determine the width of a proposed crossover.

**CONSULTATION**

**Public Submissions**

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

**REPORT**

**Issues**

Boundary Setbacks

The proposed verandah attached to the east and south sides of the store and garage will be set back 0.25m from the south side boundary common with 40 Silas Street.

The RDC recommend a 1m setback.

**Discussion**

The proposed verandah while setback less than the recommended setback will not have any impact on the amenity of the potentially affected property, the potentially affected property owner has not objected to this variation, and it is 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 1.0m to 0.25m for the construction of additions to the single storey house at 141 George Street comprising:

- a 7.8m long X 5.5m wide X 2.838m high polycarbonate roof sheeted patio between the house and the garage, and
- an L-shaped veranda fixed to the east and south sides of the existing garage and store.

in accordance with the plans date stamp received on 14 May 2008 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed additions are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. this planning approval to remain valid for a period of 24 months from date of this approval.



8 July 2008

MINUTES

Footnote:

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

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

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Olson**

**That Council exercise its discretion in granting approval a variation to the south side boundary setback pursuant to the Residential Design Codes from 1.0m to 0.25m for the construction of additions to the single storey house at No. 141 (Lot 201) George Street, East Fremantle comprising:**

- a 7.8m long x 5.5m wide x 2.838m high polycarbonate roof sheeted patio between the house and the garage, and
- an L-shaped veranda fixed to the east and south sides of the existing garage and store;

**in accordance with the plans date stamp received on 14 May 2008 subject to the following conditions:**

- 1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. the proposed additions are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 6. this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

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

CARRIED



8 July 2008

MINUTES

**T62.14 Duke Street No. 25 (Lot 481)**  
**Applicant & Owner: Adam Karanikis**  
**Application No. P112/2008**  
By Chris Warrener, Town Planner on 4 July 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for unauthorised existing development comprising modifications to window openings in an addition at the rear, modifications to the front façade of the existing house, including two windows and veranda post additions, and the installation of windows to the north and south side walls of the single storey house at the front, plus a 3.1m wide X 10.4m long X 3.8m high carport fixed to the north side of the existing house.

**Statutory Considerations**

Town Planning Scheme No. 3 – Clause 8.4 Unauthorised existing developments  
Local Planning Strategy – Plympton 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 4 June 2008

**Date Application Received**

4 June 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

23 June 2008

**Close of Comment Period**

7 July 2008

**No. of Days Elapsed between Lodgement & Meeting Date**

33 days.

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

19 June 2007 Council grants approval for setback and height variations for alterations and additions to the house at 25 Duke Street;  
27 September 2007 Building Licence B07/129 issued for alterations and additions.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 24 June 2008 and the following comments were made:

- Multi mullions on front façade of house are not authentic or appropriate to this house. Should be simple in form as per the original house
- Too much decorative detail for the original style of house
- Windows out of balance on north and south sides of house
- Original elevations, including east, north and south, to be reinstated as per original plans
- Windows in the addition should be as per the plans date stamp approved on 19 June 2007
- New development is alien to the original cottage and development approval dated 19 June 2007



8 July 2008

MINUTES

**Public Submissions**

At the time of preparing this report no submissions had been received.

**Site Inspection**

By Town Planner on 23 April 2008

**REPORT**

**Issues**

Unauthorised Existing Development

On 19 June 2007 Council approved alterations and additions to the existing house.

On 23 April 2008 the Town Planner observed that the works largely complete differ from the works proposed in the approved plans, specifically the number, size, and position of the window openings in the new addition at the rear, the presence of new window openings in the north and south side walls of the existing house, and changes to the appearance of the front façade including different windows and balcony post additions.

The owner/applicant was notified in writing that this constituted a breach of TPS 3, and was ordered to cease all work (copy of letter attached).

The owner/applicant subsequently applied pursuant to TPS 3, CI 8.4, and remitted the fee for undertaking unauthorised work, and in addition has applied for a carport on the north side of the property.

Boundary Setbacks

This application proposes a 3.1m wide X 10.4m long X 3.8m high skillion roofed carport fixed to the north side of the existing house, and built up to the north side boundary on a 0m setback.

LPP 142 allows a boundary wall provided it is no longer than 9m or higher than 3m.

The RDC recommend a 1m setback.

Therefore Council discretion is required to be exercised in regard to the length, height and setback of the proposed carport.

TPAP Comments

The panel were quite critical of the unauthorised works, which are considered to have a detrimental impact on the appearance of the original house. The owner/applicant should be required to reinstate the appearance of the original house.

Submission

A fax received from the owner of 23 Duke Street advises that a portion of the land on which it is proposed to build the carport is affected by an easement burden for a right of carriageway.

The submission does not object to the unauthorised installation of the windows at the front north and rear north sides of the house.

**Discussion**

The changes to the windows in the addition at the rear are relatively minor, and do not have any significant impact on the appearance of the addition compared with the approved works, and can be supported.

However the new window openings in the walls of the existing house at the front, and the modifications to the front façade, have a significant impact on the appearance of the house, and these changes were therefore tabled for comment by the Town Planning Advisory Panel.



8 July 2008

MINUTES

These modifications are not supported and the applicant/owner should be ordered to reinstate the appearance of the house at the front.

The carport on the north side is an open sided structure proposed to be set back behind the main building line of the existing house, and is not considered to detrimentally impact on the appearance of the property, and is supported.

However, the application for this carport cannot be approved unless with the signature of the affected landowner who has a registered interest in the form of an easement for a right of carriageway over a portion of the affected land.

**Conclusion**

The additional window openings in the rear additions do not detrimentally impact on or significantly alter the appearance of these approved additions, however the window which were installed in the north and south sides of the original house at the front are considered to have a detrimental impact on the appearance of the property and are not supported.

The carport cannot be considered unless with the written authority of the adjoining landowner who has a registered interest in the affected property

**RECOMMENDATION**

That Council

1. refuses to grant approval for the construction of a 3.1m wide X 10.4m long X 3.8m high carport fixed to the north side of the house at 25 Duke Street in accordance with the plans date stamp received on 4 June 2008 because the subject land is affected by an easement for which the adjoining landowner's consent is required.
2. grants approval to the unauthorised existing development pursuant to Town Planning Scheme 3 Clause 8.4 for the additional window openings in the additions at the rear subject to the applicant/owner applying for and obtaining a Building Approval Certificate to the satisfaction of the Town of East Fremantle.

Footnote 1:

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

- (a) *in regard to the requirement to obtain a Building Approval Certificate pursuant to 2. above, you are advised to contact Council's Building Surveyor.*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *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.*
- (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).*

3. refuses the unauthorised existing development comprising additional windows to the north and south sides of the existing house because the works have a detrimental impact on the appearance of the property in conflict with Town Planning Scheme 3, Clause 10.2(j), and Clause 10.2(o), and the applicant/owner is requested to reinstate the appearance of the original house by removing the newly installed windows.

Footnote 2:

*In regard to 3.above, you are advised that this decision constitutes a direction pursuant to s214 of the Planning and Development Act 2005, and you are herein advised to comply with this direction within 60days of the date of this decision.*



8 July 2008

MINUTES

**RECOMMENDATION TO COUNCIL**

Cr de Jong – Mayor Ferris

That Council

1. refuses to grant approval for the construction of a 3.1m wide X 10.4m long X 3.8m high carport fixed to the north side of the house at 25 Duke Street in accordance with the plans date stamp received on 4 June 2008 because the subject land is affected by an easement for which the adjoining landowner's consent is required.
2. grants approval to the unauthorised existing development pursuant to Town Planning Scheme 3 Clause 8.4 for the additional window openings in the additions at the rear subject to the applicant/owner applying for and obtaining a Building Approval Certificate to the satisfaction of the Town of East Fremantle.

**Footnote 1:**

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

- (a) *in regard to the requirement to obtain a Building Approval Certificate pursuant to 2. above, you are advised to contact Council's Building Surveyor.*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *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.*
- (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).*

3. refuses the unauthorised existing development comprising additional windows to the north and south sides of the existing house because the works have a detrimental impact on the appearance of the property in conflict with Town Planning Scheme 3, Clause 10.2(j), and Clause 10.2(o), and the applicant/owner is requested to re-instate the appearance of the original house by removing the newly installed windows.

**Footnote 2:**

*In regard to 3.above, you are advised that this decision constitutes a direction pursuant to s214 of the Planning and Development Act 2005, and you are herein advised to comply with this direction within 60 days of the date of this decision.*

CARRIED

**T63. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

**T63.1 Design Guidelines**

Cr Wilson – Cr Dobro

That the Design Guidelines for both George Street and the Town Centre be progressed.

CARRIED

**T64. CLOSURE OF MEETING**

There being no further business the meeting closed at 9.45pm.

8 July 2008

MINUTES

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **8 July 2008**, Minute Book reference **T56 to T64**, were confirmed at the meeting of the Committee on*

.....

\_\_\_\_\_  
**Presiding Member**