

12 August 2008

MINUTES

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 12 AUGUST, 2008 COMMENCING AT 6.30PM.**

**T65. OPENING OF MEETING**

**T65.1 Present**

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

**T66. WELCOME TO GALLERY**

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

**T67. APOLOGIES**

Nil.

**T68. CONFIRMATION OF MINUTES**

**T68.1 Town Planning & Building Committee (Private Domain) – 8 July 2008**

**Mayor Ferris - Cr de Jong**

**That the Town Planning & Building Committee (Private Domain) minutes dated 8 July 2008 as adopted at the Council meeting held on 15 July 2008 be confirmed.**

CARRIED

**T69. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T69.1 Preston Point Road No. 114 – Two Storey Residence**

Submission received from adjoining neighbour at 46 Locke Crescent making comment on the relaxation to the rear for the alfresco and location of rear balcony above the alfresco area.

**Cr Rico – Mayor Ferris**

**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T71.12).**

CARRIED

**T70. REPORTS OF COMMITTEES**

**T70.1 Town Planning Advisory Panel – 22 July 2008**

**Cr Wilson – Cr Olson**

**That the minutes of the Town Planning Advisory Panel meeting held on 22 July 2008 be received and each item considered when the relevant development application is being discussed.**

CARRIED

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**T71. REPORTS OF OFFICERS**

**T71.1 Receipt of Reports**

**Mayor Ferris – Cr Olson**  
**That the Reports of Officers be received.**

CARRIED

**T71.2 Order of Business**

**Mayor Ferris – Cr Olson**  
**The order of business be altered to allow members of the public to speak to relevant agenda items.**

CARRIED

*Cr Wilson made the following impartiality declaration in the matter of 67 Petra Street: "As a consequence of my son attending the same school and being in the same class as the applicant's child, 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.*

**T71.3 Petra Street No. 67 (Lot 365)**  
**Applicant & Owner: Antonio Cesario Lomma**  
**Application No. P86/08**  
By Chris Warrener, Town Planner on 25 July 2008

**BACKGROUND**

**Description of Proposal**

A request to Council to initiate an amendment to Town Planning Scheme No 3 to re-code 67 Petra Street from R12.5 to R20

**Statutory Considerations**

Local Planning Scheme No. 3 – Residential R12.5 (LPS 3)  
Local Planning Strategy - Woodside Precinct (LPS)

**Documentation**

Letter request from Owner date stamp received on 17 April 2008

**Date Application Received**

17 April 2008

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

116 days

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

16 March 1984	CEO grants approval for a second crossover;
19 October 1984	CEO grants approval for owner to cover verge with gravel, brick paving and ground cover natives;
17 December 1984	Council grants approval for an additional outbuilding with a maximum floor area of 69m <sup>2</sup>
6 June 1985	Building Licence 078/990 issued for outbuilding;
19 August 1996	Council refuses an application for an additional dwelling unit to the rear;
8 January 1997	Minister for Planning dismisses appeal;
27 May 1997	Council refuses an application for additions to the existing house and an additional dwelling unit;
9 October 1997	Minister upholds appeal to allow additions and an additional dwelling unit;
	Building Licence 196/2594 issued for additions and additional dwelling unit;
12 March 2007	Demolition Licence 07/74 issued for house at the front;

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- 6 November 2007 Council grants conditional approval for setback variations for a single storey house on a front strata lot;
- 17 June 2008: Council defers an application to initiate an amendment to Town Planning Scheme 3 pending a further report.

**REPORT**

**Background**

At its meeting on 6 November 2007 Council approved a single storey house on reduced setbacks, on a property identified on the applicant's Site Plan as "Front Strata Lot 434m<sup>2</sup>".

Prior to the submission of the 2007 application for this house 67 Petra Street already contained 2 single storey houses (grouped dwellings), owing to the fact that the Minister for Planning had upheld an appeal in 1997 to approve a single storey house on the rear portion of the property behind an older style single storey house at the front. In March 2007 a Demolition Licence was issued to remove the older style house at the front of the property, and in September 2007 Council received an application for a new single storey house to replace the house that had been approved for demolition.

Council granted Planning Approval for the 'replacement' single storey house at its meeting on 6 November 2007.

The owner subsequently applied for a Building Licence however the Building Surveyor was not prepared to issue the licence because the property would have contained two houses in conflict with the applicable R12.5 density code under LPS 3.

**Discussion**

In the course of considering the Building Licence "non-issue" it was discovered that the property was never formally subdivided, notwithstanding its representation as a separate lot in the Site Plan submitted with the application for which Planning Approval was granted in November 2007.

Under LPS 3 for two houses to exist on this property it would need to be at a density code of at least R20.

The owner subsequently submitted a request to Council to amend LPS 3 and re-code the property from R12.5 to R20.

At its meeting held on 17 June 2008 Council considered this request, and decided:

*"That pursuant to oral advice from the Town Planner on the matter of No. 67 (Lot 365) Petra Street, East Fremantle the application to initiate an amendment to Town Planning Scheme No. 3 by re-coding the subject lot from R12.5 to R20 be deferred pending a further report including a review of plans approved on 6 November 2007."*

The Town Planner had initially recommended that Council NOT amend LPS 3 on the grounds that it would conflict with the intention for land use in the Woodside precinct under the LPS for the maintenance of single residences on large lots.

However upon further investigation it is now evident that Council could allow the issue of a Building Licence by applying the following provision under LPS 3, which states:

**5.3.3 Existing non-complying development:**

*Where a lot contains an existing authorised development which exceeds the prescribed density coding, the local government may permit redevelopment of the lot up to the same density as the existing development, or of a different form than otherwise permitted, provided that:*

- (a) *in the opinion of the local government, the proposed development will contribute more positively to the scale and character of the streetscape,*

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- the improvement of the amenity of the area, and the objectives for the precinct than the existing building; and*
- (b) *except where proposed development comprises minor alterations to the existing development which, in the opinion of the local government, do not have a significant adverse effect on the amenity of adjoining land, advertising of the proposed development has been undertaken in accordance with the provisions of clause 9.4."*

Notwithstanding Council's stated intention for land use in the Woodside precinct pursuant to the LPS there are a number of properties along Petra Street which have been subdivided in a "battle-axe" manner and which now contain two separate dwellings.

Prior to the gazettal of LPS 3 under the Town of East Fremantle Town Planning Scheme No 2 (TPS 2) if a property comprised an area of at least 900m<sup>2</sup> approval could be obtained for a "duplex house" which allowed for the subsequent subdivision of a number of properties throughout the town.

On the west side of Petra Street between Marmion Street and Canning Highway there are 32 "duplex houses", and 29 of these are situated on battle axe lots.

**Conclusion**

The design of the proposed single storey house with a single car garage is considered to have a more positive impact on the local streetscape than the property currently has, and it is considered reasonable to apply sub-Clause 5.3.3 and, subject to the outcome of an advertising period required pursuant to sub-Clause 5.3.3 (b), permit a Building Licence to be issued.

**RECOMMENDATION**

That Council advises Antonio Cesario Lomma that it may be prepared to permit the issue of a Building Licence for the additional grouped dwelling at 67 Petra Street subject to consideration of a report on any submissions which might be received during an advertising process undertaken pursuant to Clause 9.4 under Local Planning Scheme No. 3.

Mrs Maria Lomma addressed the meeting in support of their application.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

**That Council advises Antonio Cesario Lomma that it may be prepared to permit the issue of a Building Licence for the additional grouped dwelling at No. 67 (Lot 365) Petra Street subject to consideration of a report on any submissions which might be received during an advertising process undertaken pursuant to Clause 9.4 under Local Planning Scheme No. 3.** CARRIED

*Mayor Ferris made the following impartiality declaration in the matter of 49 Sewell Street: "As a consequence of Mr John Chisholm being known to me, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly.*

*Cr Dobro made the following impartiality declaration in the matter of 49 Sewell Street: "As a consequence of both Mr John Chisholm and Mr Charles Young being known to me, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly.*

**T71.4 Sewell Street No. 49 (Lot 243)**  
**Applicant: John Chisholm**  
**Owner: Charles & Catherine Young**  
**Application No. P125/2008**

By Chris Warrener, Town Planner on 4 August 2008

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**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for 2-storey additions to the rear of the single storey house at 49 Sewell Street comprising:

Ground floor: kitchen, dining & living room, laundry and a verandah;

First floor: master bedroom, en-suite, and 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 1 July 2008

**Date Application Received**

1 July 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

2 July 2008

**Close of Comment Period**

18 July 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**

14 July 1975	Property connected to Water Board's sewer;
18 September 1989	Council refuses its special approval to erect additions;
19 February 1990	Council grants special approval for the erection of additions;
15 June 2004	Council grants approval for reduced setbacks for a studio & laundry at the rear;
23 September 2004	Demolition Licence 457/2004 approved for a timber frame & steel roofed shed;
	Building Licence 76/3640 approved for isolated studio.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 July 2008 and the following comments were made:

- second story roof design sits uncomfortably with the original house.
- style of roof is creating too much height. Perhaps a skillion roof pitching away from the house would produce a different result.
- addition will look incongruous with the streetscape.
- suggest roof on the addition could be amended to a skillion pitching away from the original house to simplify the addition.
- design could be simplified to be respectful of the original cottage.
- weatherboard is appropriate differentiation from the original and an appropriate material for the extension.

**Public Submissions**

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

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**Site Inspection**

By Town Planner on 24 July 2008

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		508m <sup>2</sup> Existing
Open Space	50%	57.3% Acceptable
Zoning		R20
Heritage Listing		Not Listed

**Setbacks:**

Front (east) *N/a – Additions to Rear*

Rear (west)			
<i>Ground</i>	<i>Verandah</i>	1.50	20.20 Acceptable
<i>Upper</i>	<i>Master Bedroom</i>	4.50	22.40 Acceptable
	<i>Study</i>	1.20	22.40 Acceptable

Side (north)			
<i>Ground</i>	<i>Kitchen/Dining</i>	1.50	1.80 Acceptable
	<i>Verandah</i>	1.50	2.00 Acceptable
<i>Upper</i>	<i>Master Bedroom</i>	1.20	2.901 Acceptable

Side (south)			
<i>Ground</i>	<i>Verandah</i>	1.00	1.30 Acceptable
	<i>Living</i>	1.00	1.30 Acceptable
<i>Upper</i>	<i>Study</i>	1.20	1.30 Acceptable

**Height:**

Wall	6.00	6.50-6.60 <b>Discretion Required</b>
Building	9.00	8.90 Acceptable

**Overshadowing:** 20%

**REPORT**

**Issues**

*Wall Height*

On the north side the wall for a proposed upper floor master bedroom varies between 6.5m and 6.6m above natural ground level (NGL).

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The RDC recommend a 6m wall height limit.

*TPAP Comments* In general the panel considered that the proposed additions would detract from the appearance of the existing house.

**Discussion**

*Wall Height*

It appears that the proposed wall height variation is in response to the topographic situation at 49 Sewell Street, and to provide continuity between the original dwelling and its floor and ceiling heights at the front through to the proposed additions at the rear.

The variation does not affect the amenity of the potentially affected adjoining property at 47 Sewell Street nor does it result in any overshadow of the property to the south at 51 Sewell Street due to the existence of similarly located additions at that property.

*TPAP Comments* The applicant has provided a comprehensive response to the comments raised by the panel and has included 3D computer images to illustrate how the proposed additions will appear.

Based on the images provided by the applicant the application is supported.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to wall height on the north side pursuant to the Residential Design Codes from 6m to 6.6m for the construction of 2-storey additions to the rear of the single storey house at No. 49 (Lot 243) Sewell Street, East Fremantle comprising:

Ground floor: kitchen, dining & living room, laundry and a verandah;

First floor: master bedroom, en-suite, and study;

in accordance with the plans date stamp received on 1 July 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. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).

Mr John Chisholm (architect) and Mr Charles Young (owner) addressed the meeting in particular the comments of the Town Planning Advisory Panel.

**RECOMMENDATION TO COUNCIL**

**Cr Olson – Cr de Jong**

That Council exercise its discretion in granting approval for a variation to wall height on the north side pursuant to the Residential Design Codes from 6m to 6.6m for the construction of 2-storey additions to the rear of the single storey house at No. 49 (Lot 243) Sewell Street, East Fremantle comprising:

Ground floor: kitchen, dining & living room, laundry and a verandah;

First floor: master bedroom, en-suite, and study;

in accordance with the plans date stamp received on 1 July 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. 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*



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*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).* CARRIED

T71.5

**Fraser Street No. 23 (Lot 149)**

**Applicant: Arkitektura Architects**

**Owner: MD Paterson**

**Application No. P123/2008**

By Chris Warrener, Town Planner on 7 August 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for additions to the single storey house at 23 Fraser Street, which includes a loft bedroom with:

- Ground floor: enlarge the kitchen-living area, incorporate a pantry, a laundry, and an en-suite at the front next to bedroom 1;  
Extend the roof of the carport 2.2m to the rear (north) along the east side boundary, relocate double doors from the north side to the west and construct a 1.8m high screen wall along the north side;
- Upper floor: remove the loft bedroom and make good the existing roof line, construct additions comprising a master bedroom, built in robe, en-suite, and deck at the rear.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5 (LPS 3)

Local Planning Strategy - Richmond 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 24 June 2008

**Date Application Received**

24 June 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

4 July 2008

**Close of Comment Period**

18 July 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**

- |                  |   |
|------------------|---|
| 21 February 1983 | Council approves a concrete driveway;   |
| 22 March 1984    | Building Permit 100/853 approved for a new family room and attic accommodation; |
| 26 June 1987     | Building Permit 181 approved for a concrete swimming pool;                      |
| 16 June 1998     | Council approves reduced setbacks for additions at the rear;                    |

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24 August 1998 Building Licence 084/2715 approved for timber framed additions.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 July 2008 and the following comments were made:

- materials are compatible.
- existing house from the street is a simple roof. An accretion of roofs at the back looks very complex and messy from the street.
- roofing should be simplified to correlate better with the existing roof.
- overall placement of the development isn't sympathetic to the original house and disturbs the integrity of the original house.
- bringing the ensuite forward compromises the original façade of the house. There is a need to pay due respect to the original house.
- design could be simplified to achieve the same amenity.
- design appears to be trying to do too much.
- need to retain the integrity of the original house in the additions both on the first and second level.

**Public Submissions**

At the close of the comment period 1 submission was received, and a further submission was received after the advertising period closed.

*D Nocciolino* Objects to extension of the carport if 2<sup>nd</sup> storey additions go  
*25 Fraser Street* ahead as I will lose views.

*J Whitely* - Concerned at impact on privacy, warmth, aesthetics and  
*21 Fraser Street* my garden;  
- Objects to boundary parapet wall;  
- Upper floor windows overlook outdoor area & rear rooms of my home.

**Site Inspection**

By Town Planner on 14 July and 23 July 2008

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		931m <sup>2</sup> Existing
Zoning		R12.5
Heritage Listing		Not Listed

**Setbacks:**

Front (south) *N/a – Additions to Sides & Rear of Existing Residence*

Rear (north)			
<i>Ground</i>	<i>Kitchen Extension</i>	6.00	21.00 Acceptable
<i>Upper</i>	<i>Ensuite</i>	6.00	24.50 Acceptable
	<i>Deck</i>	7.50	21.00 Acceptable
	<i>Master</i>	6.00	21.00 Acceptable

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Side (east)			
<i>Ground</i>	<i>No Ground Floor Development on East Side</i>		
<i>Upper</i>	<i>Ensuite</i>	1.10	4.20 Acceptable
	<i>Deck</i>	7.50	8.30 Acceptable
Side (west)			
<i>Ground</i>	<i>Kitchen/Pantry/ Laundry</i>	Zero	Zero (LPP 142) Acceptable
	<i>Ensuite</i>	1.50	3.70 Acceptable
<i>Upper</i>	<i>Master Bedroom</i>	4.50	4.50 Acceptable

**REPORT**

**Issues**

*Boundary Setbacks* The application proposes to extend a carport that runs along the east side of the house.

This carport is set back 1m from the east side boundary common with 25 Fraser Street, and its current length is 13.9m. It is proposed to extend the carport 2.2m to have an overall length of 16.1m.

The RDC recommend a 1.5m setback

*Submissions* The submission from Mr Nocciolino objects to the application because of the impact of the proposed additions on the views from 25 Fraser Street.

The submission from Jennifer Whitely objects to the parapet wall proposed along the common boundary of 21 and 23 Fraser Street, and the overlooking by the upper floor bedroom windows.

*TPAP Comments* In general the panel considered that the additions would detract from the appearance of the existing house, and their form should be simplified to reduce their impact.

**Discussion**

The carport is an open sided structure. The proposed extension to the carport is considered relatively minor and does not unduly impact on the amenity of the adjoining property considering that the immediately adjacent land comprises the driveway to the neighbour's garage.

The only outstanding issues relate to the appearance of the additions in light of the comments of TPAP, and the submissions.

The Town Planner met the owner of the adjoining property at 25 Fraser Street and conducted a site visit to photograph the views from the upper floor terrace/balcony.

This terraced area which is accessed via a double sliding glass door off an upstairs sitting/lounge room presently has views west and northwest across the Riverside precinct of East Fremantle over the river to the Indian Ocean beyond. On a clear day views of Rottneet Island are evident from the terrace.

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The proposed addition at 23 Fraser Street will eliminate the views that the upper floor terrace at 25 Fraser Street presently has to Rottne Island. Due to the presence of trees and vegetation in the northwest sector of the view chord from the terrace the impact of the proposed addition will be to eliminate the only currently visible ocean view.

The submission from the owner of 21 Fraser Street objects to the parapet wall on the common boundary, and the overlooking by the upper floor bedroom windows.

The boundary wall is along the east side boundary of 21 Fraser Street and technically pursuant to the RDC there is no overshadow. Furthermore this wall is allowable under LPP 142 because it is not longer than 9m nor higher than 3m.

In many cases overlooking by upper floor windows is largely unavoidable unless these windows are screened. The application proposes that the upper floor bedroom windows be set back to comply with the setback recommended under the RDC.

An integral part of the additions is the removal of a rather unsightly loft bedroom space that incorporates a velux roof window; its removal is considered to improve the appearance of the house, viewed from Fraser Street, and is therefore supported.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for additions to the single storey house at No. 23 (Lot 149) Fraser Street, East Fremantle which includes a loft bedroom with:

- Ground floor: enlarge the kitchen-living area, incorporate a pantry and laundry, and an en-suite at the front next to bedroom 1;
- Upper floor: remove the loft bedroom and make good the existing roof line, construct additions comprising a master bedroom, built in robe, en-suite, and deck at the rear;

in accordance with the plans date stamp received on 24 June 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 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. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.

Ms Zani Babic (architect) and Mr Mark Paterson (owner) addressed the meeting in support of the application.

**RECOMMENDATION TO COUNCIL**

**Cr de Jong – Mayor Ferris**

**That Council exercise its discretion in granting approval for additions to the single storey house at No. 23 (Lot 149) Fraser Street, East Fremantle which includes a loft bedroom with:**

**Ground floor: enlarge the kitchen-living area, incorporate a pantry and laundry, and an en-suite at the front next to bedroom 1;**

**Upper floor: remove the loft bedroom and make good the existing roof line, construct additions comprising a master bedroom, built in robe, en-suite, and deck at the rear;**

**in accordance with the plans date stamp received on 24 June 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 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. this planning approval to remain valid for a period of 24 months from date of this approval.**

**Footnote:**

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

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

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish. CARRIED

Cr Olson made the following impartiality declaration in the matter of 51A Clayton Street: "As a consequence of my having worked previously with both Mr Simon Bain, representing the adjoining neighbour at 70 View Terrace and Ms Lisa Engelbrecht, Town Planner with APG Homes, 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.

**T71.6 Clayton Street No. 51A (Lot 2)**  
**Applicant: APG Homes**  
**Owner: David & Jocelyn Boll ands**  
**Application No. P119/2008**

By Chris Warrener, Town Planner on 6 August 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 2-storey house at 51A Clayton Street, comprising:

Ground floor: double garage & store, porch, entry, verandah, activity room, study, 3 bedrooms, bathroom, laundry and stairwell;

First floor: bedroom, 2 built-in-robos, en-suite, powder room, kitchen, dining & living room, library, wine cellar, and balcony.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5, Clause 5.3.1 Density Bonus for Corner Lots

Local Planning Strategy Richmond 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 23 June 2008

**Date Application Received**

23 June 2008

**Additional information**

Amended plans date stamp received on 21 July 2008 reducing roof pitch to bring roof height < 8.1m.

**Advertising**

Adjoining landowners and sign on site

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**Date Advertised**

4 July 2008

**Close of Comment Period**

18 July 2008

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

49 days

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

- 17 June 2003 Council decides to advise the WAPC that it supports the subdivision of 70 View Terrace into 2 strata lots (1 x 617m<sup>2</sup>, 1 x 445m<sup>2</sup>);
- 22 July 2003 WAPC conditionally approves subdivision of 70 View Terrace into 2 survey strata lots;
- 19 April 2005 WAPC endorses for final approval Survey Strata Plan 47256, creating 70 View Terrace and 51A Clayton Street;
- 21 November 2006 Council approves the erection of a shed in the southwest corner.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 July 2008 and the following comment was made:

- portion of balcony on north side should be screened to protect the neighbouring property's amenity.

**Public Submissions**

At the close of the comment period 1 submission was received, a further submission was received after the advertising period closed.

- R & M Finnigan*  
*51 Clayton Street*
- Privacy considerations – balcony needs visual barrier at north end;
  - Setback contravention – front setback;
  - Area for pool too noisy;
  - Retaining walls not to encroach.
- SJB Town Planners*  
*on behalf of*  
*S Frodsham*  
*70 View Terrace*
- Roof and wall height exceeds policy limit;
  - Front setbacks do not comply with R12.5 standards;
  - Impacts on the amenity of adjoining property and interferes with river and city views from the house being built at 70 View Terrace

**Site Inspection**

By Town Planner on 21 July 2008

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<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		445m <sup>2</sup> Existing
Open Space	55%	57.3% Acceptable
Zoning		R12.5
Heritage Listing		Not Listed

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**Setbacks:**

Front (east)				
Ground	Garage	6.00	4.50	<b>Discretion Required</b>
	Porch	6.00	4.50	<b>Discretion Required</b>
	Verandah	6.00	3.06	<b>Discretion Required</b>
Upper	Balcony	6.00	3.06	<b>Discretion Required</b>
Rear (west)				
Ground	Verandah	1.50	7.70	Acceptable
	Study	1.00	4.60	Acceptable
	Bedroom 2	1.50	1.60	Acceptable
	Bedroom 3	1.50	1.60	Acceptable
	Bedroom 4	1.50	1.60	Acceptable
Upper	Balcony	7.50	7.70	Acceptable
	Dining	1.20	4.60	Acceptable
	Library	1.20	1.60	Acceptable
	Ensuite	1.10	4.60	Acceptable
Side (north)				
Ground	Verandah	1.50	4.00	Acceptable
	Study	1.50	7.50	Acceptable
	Bedroom 4	1.00	8.50	Acceptable
Upper	Balcony	2.00	4.00	Acceptable
	Dining	2.50	7.50	Acceptable
	Library	1.20	8.50	Acceptable
Side (south)				
Ground	Bedroom 2/ Bathroom/Laundry	1.00	1.585	Acceptable
	Store	Zero	Zero	(LPP 142) Acceptable
Upper	Library	1.10	9.50	Acceptable
	Bedroom 1	1.50	1.585	Acceptable
	Balcony	1.10	1.585	Acceptable



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<b>Height:</b>		
Wall	5.60	5.60 Acceptable
Building	8.10	8.10 Acceptable
<b>Overshadowing:</b>	89.4m <sup>2</sup> /14.48%	

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**REPORT  
Issues**

*Assessment*

This application proposes a 2-storey house on a property that resulted out of the subdivision of a corner lot (original 70 View Terrace property), therefore assessment of setbacks and open space has been based on the following LPS 3 provision:

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

Assessment has been based on applying the R20 density code to the property.

*Setbacks*

The application proposes a garage and porch setback 4.5m, a verandah set back 3.06m, and on the upper floor a balcony set back 3.06m from the front (east side) boundary.

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

*Site Works*

The application proposes a retaining wall along the north side boundary that varies up to 1.1m above natural ground level.

The relevant acceptable development provision under the RDC states:

“A1.4 *Subject to A1.2, filling behind a street setback line and within 1 m of a common boundary not more than 0.5 m above the natural level at the boundary except where otherwise stated in a local planning policy or equivalent.*”

Being more than 0.5m above NGL this retaining wall is a variation for which Council's discretion is required to be exercised to allow.

*Roof Pitch*

The originally submitted plans were for a 2-storey house with the upper floor roof pitched at 28° 22' to accord with LPP 066, which states:

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

However this results in a house having an overall roof height of up to 9m above natural ground level (NGL), and is at odds with

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LPP 142, which limits roof height in this area of East Fremantle to 8.1m above NGL.

The applicant subsequently amended the plans and reduced roof pitch to 20° 49' which results in overall roof height being lower than 8.1m above NGL in accordance with LPP 142.

However the now-proposed roof pitch is lower than the roof pitch recommended in LPP 066.

Wall height varies up to 5.6m above NGL, which accords with LPP 142.

*Submissions*

The submission from the owner of 51 Clayton Street states concerns relating to privacy and overlooking from the north side of the upper floor of the proposed house, setbacks, pool noise and retaining works.

The submission from the owners of 70 View Terrace objects to the application on the basis of building height exceeding the policy, setbacks, and the impact of the proposal on views from the house under construction at 70 View Terrace.

**Discussion**  
*Setbacks*

While the application proposes a variation to the recommended front setback for an R20 coded property this setback does not unduly impact on the local streetscape, based on the setback of houses along this section of Clayton Street.

The property at 70 View Terrace, the corner property next to and south of the subject property, was approved for development of a 2-storey house in July 2007. The earthworks for that house have been completed, and construction was about to commence at the time of writing this report.

The approved house at 70 View Terrace is proposed to be set back 3m from Clayton Street.

The subject application proposes setbacks from Clayton Street which are similar to the setback of the house being built at 70 View Terrace.

At 73 View Terrace on the opposite corner to 70 View Terrace a recently constructed 2-storey house is setback 2m from Clayton Street.

Two-doors north of the subject property at 19 Philip Street a single storey older style home is set back less than 2m from Clayton Street.

The reduced setback to Clayton Street is supported because it correlates with the setbacks of houses on adjoining and nearby properties in keeping with LPP 142, which 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."*

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*Site Works*

In regard to the proposed retaining wall the relevant RDC performance criteria states:

*"P1 Development that retains the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property."*

The applicant states in a cover letter that the retaining wall is required to *"achieve a level building area on a smaller lot. The additional height will not impact on the adjoining site or the streetscape. The retaining to the Clayton Street frontage has been stepped to provide an area for planting vegetation, which will improve the aesthetics of the street and reduce any building bulk impacts."*

There will be a standard height boundary fence on this retaining wall which will prevent any overlooking from ground floor windows.

*Roof Pitch*

Roof pitch in the Richmond Hill area of East Fremantle is quite variable there is no one particular roof style or pitch typical of the area, and the reduced roof pitch will not detrimentally impact on the local streetscape or the area generally and is supported.

*Submissions*

In response to the concerns raised by the owner of 51 Clayton Street the applicant states:

- *Privacy from Living, Dining & Library - The plans submitted to Council indicate that the living room, dining room and library are setback sufficiently from the northern boundary to comply with the visual privacy requirements of the Codes. As such, the proposal is deemed to be Acceptable Development.*
- *Privacy from Balcony - The visual cone from the balcony extends marginally into the adjoining site, however this is considered to comply with Performance Criteria. As per the justification sent in with the application, the cone impacts on the neighbour's front garden only, which is open to the street and not considered to be a sensitive area under the Codes.*
- *Setbacks - The home is zoned Residential R20 and is compliant with the R Code setbacks. While it is recognized that the neighbour has a large front setback to their home, the subject site has been subdivided and is located on a corner, so there is not the space to set the building further back.*
- *Future Pool Area - At the appropriate time, the owner will seek a licence for a pool from Council and will comply with the necessary noise requirements.*
- *Retaining Walls - The application is for the property at No. 51A only and all building (including retaining walls), will occur on that site only.*

In response to the submission from the owners of 70 View Terrace the applicant refers to the provision in TPS 3 regarding corner lot subdivision and development, the fact that the plans have been amended to ensure that the building is limited to the heights specified in LPP 142, and refers to RDC acceptable



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development provisions regarding setbacks for properties that have been created from corner lot subdivision.

The applicant's responses to the submissions are considered valid and are supported.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to the east side (front) boundary setback pursuant to the Residential Design Codes for a garage, porch and verandah, and on the upper floor, a balcony from 6m to 4.5m and 3.06m respectively for the construction of a 2-storey house at No. 51A (Lot 2) Clayton Street, East Fremantle, comprising:

Ground floor: double garage & store, porch, entry, verandah, activity room, study, 3 bedrooms, bathroom, laundry and stairwell;

First floor: bedroom, 2 built-in-robos, en-suite, powder room, kitchen, dining & living room, library, wine cellar, and balcony;

in accordance with the plans date stamp received on 21 July 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 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. 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.
7. 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.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

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Footnote:

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

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

Mr Simon Bain (Town Planner) and his client, Mr Stefan Frodsham of 70 View Terrace, addressed the meeting on matters of assessment under density coding of R20, setbacks, loss of amenity and impact on viewing corridor.

Mr Travis Fancourt (representing APG Homes) addressed the meeting on compliance with R20 density coding and Acceptable Development requirements of the R-Codes with regard to setbacks and amenity for adjoining property.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Wilson**

**That the application for a two storey residence on Lot 2 (51A) Clayton Street, East Fremantle be deferred pending a site visit and further clarification in relation to the zoning of the property and assessment under R20 density coding. CARRIED**

**T71.7**

**Alexandra Road No. 67 (Lot 12)**

**Applicant & Owner: Dalmatia Developments Pty Ltd**

**Application No. P121/2008**

By Chris Warrener, Town Planner on 7 August 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a flat and skillion roofed 2-storey house and front fence at 67 Alexandra Road comprising:

Ground floor: double garage & store, porch, entry, office, alfresco, 2 bedrooms, bathroom, powder room, laundry, living room, stairs and a lift;

First floor: bedroom, built in robe en-suite, powder room, stairs, lift, lobby, store, kitchen, dining room & lounge, and a balcony.

**Statutory Considerations**

Local Planning Scheme No. 3 – Residential R12.5 (LPS 3)

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)

Local Planning Policy No. 143 – Fencing (LPP 143)

**Documentation**

Plans and relevant forms date stamp received on 24 June 2008

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**Date Application Received**

24 June 2008

**Additional information**

Open space and overshadow calculations provided by Owner in an email dated 7 July 2008.

**Advertising**

Adjoining landowners and sign on site

**Date Advertised**

30 June 2008

**Close of Comment Period**

18 July 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**

16 September 1985	Council by an "Absolute Majority Resolution" grants special approval for a reduced setback for a duplex addition;
16 October 2001	Council decides to advise the WAPC that it recommends refusal of an application to subdivide 67 Alexandra Road into 2 lots;
12 December 1985	Building Permit 022/1062 approved for an additional duplex unit;
18 May 2004	Council decides to advise the WAPC that it supports the subdivision of 67 Alexandra Road into 2 X 458m <sup>2</sup> lots;
1 June 2004	WAPC conditionally approves the subdivision of 67 Alexandra Road into 2 x 458m <sup>2</sup> lots;
17 November 2006	Demolition Licence 06/259 issued for brick & tile house complete with outbuildings;
1 June 2006	Town of East Fremantle endorses clearance to conditions of subdivision.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 July 2008 and the following comments were made:

- too big and bulky and represents an overdevelopment of the site.
- bulk and scale of the buildings is out of scale with the wider surrounding properties – particularly properties to the west and south.
- very concerned about the overshadowing impact on the house to the South given the solar access to the adjoining property is exclusively through its north facing windows.
- lack of light on Alexandra Rd building will be detrimental to the conservation of that building – rising damp in stone buildings is an issue, if sunlight and ventilation is not available there may be a detrimental effect on the heritage cottage.
- strict adherence to the codes in an area with heritage houses needs to be tempered with common sense.
- perception of the Wolsely Road boundary wall to pedestrians is that the wall is significant.
- at 2740mm high, impact of the wall on pedestrians is significant
- solid form of wall is too high.
- impermeable sections of the fence to comply with Council fencing policy in relation to permeability and height.
- suitable amendment would include setting the north fencing wall back further and have a garden bed in front of the wall so that the wall is not on the boundary to reduce impact of the fence on pedestrians.
- drawings don't pick up the true height of that wall.
- elevations should indicate North, South, East and West.

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- are the trees an accurate representation of what is going to be planted (eg mature Norfolk Pine).
- low pitched roof keeps the height down.
- too much bulk in terms of size of the developments.
- critical issue with these developments is that the two properties together, unless modified, will obliterate sunlight for the property on Alexandra Road.

**Public Submissions**

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

*Joan Greenough* - Severe overshadowing;  
*65 Alexandra Road* - Impact on amount of sunlight entering my middle bedroom.

*Betty McGeever* - Supports objection from owner 65 Alexandra Road  
*61 Alexandra Road* regarding overshadow;  
- Requests deferral pending outcome of adverse possession claim with Landgate.

**Site Inspection**

By Town Planner on 8 July 2008

STATISTICS	Required	Proposed
Land Area		458m <sup>2</sup> Existing
Open Space	55%	56.7% Acceptable
Zoning		R12.5
Heritage Listing		Not Listed

**Setbacks:**

Front (east)			
<i>Ground</i>	<i>Garage</i>	6.00	4.50 <b>Discretion Required</b>
	<i>Stairs</i>	6.00	4.30 <b>Discretion Required</b>
	<i>Porch</i>	6.00	4.30 <b>Discretion Required</b>
<i>Upper</i>			
	<i>Kitchen</i>	6.00	7.50 Acceptable
	<i>Stairs</i>	6.00	4.30 <b>Discretion Required</b>
	<i>Void</i>	6.00	6.80 Acceptable
Rear (west)			
<i>Ground</i>	<i>Alfresco</i>	1.50	7.50 Acceptable
	<i>Bedroom 3</i>	1.00	1.30 Acceptable
	<i>Powder Room</i>	1.00	3.10 Acceptable
<i>Upper</i>	<i>Bedroom 1</i>	1.20	1.30 Acceptable

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	<i>Balcony</i>	1.80	7.50 Acceptable
Side (north)			
<i>Ground</i>	<i>Alfresco</i>	3.00	5.10 Acceptable
	<i>Porch</i>	3.00	5.50 Acceptable
	<i>Store</i>	3.00	5.10 Acceptable
	<i>Bedroom 3</i>	3.00	8.50 Acceptable
<i>Upper</i>	<i>Bedroom 1</i>	3.00	8.00 Acceptable
	<i>Balcony</i>	3.00	5.00 Acceptable
	<i>Store</i>	3.00	5.00 Acceptable
	<i>Void</i>	3.00	5.50 Acceptable
Side (south)			
<i>Ground</i>	<i>Laundry</i>	1.00	3.908 Acceptable
	<i>Bedroom 2</i>	1.50	2.108 Acceptable
	<i>Garage</i>	1.00	2.108 Acceptable
<i>Upper</i>	<i>Ensuite</i>	1.20	2.00 Acceptable
	<i>Dining</i>	1.20	2.50 Acceptable
	<i>Kitchen</i>	1.20	2.00 Acceptable
<b><u>Height:</u></b>			
Wall		6.00 & 7.00	6.00 & 7.00 Acceptable
Building		9.0	7.30 Acceptable
<b><u>Overshadowing:</u></b>		17.1%	

**REPORT  
Issues**

*Assessment*

This property has resulted from a subdivision of a corner lot (67 Alexandra Road) that was approved by the WAPC in June 2004 (supported by Council).

Therefore assessment of this application is based on the following provision under LPS 3:

*“5.3.1 Density Bonus for Corner Lots: In areas with a density coding of R12.5, the local government may approve development up to a density of R20 on corner lots where the dwellings are designed to face each of the two street frontages, and in the opinion of local*



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*government, there will be an improvement in the overall amenity of the streets as a result of the development."*

Calculation of setbacks and the open space provision is based on the application of the R20 density code.

The front boundary for this application is taken to be Alexandra Road, with the secondary street being Wolsely Road.

*Roof Pitch*

The application proposes a 2-storey house with sections of a flat/concealed roof, and a skillion roof pitched at 9° 5'.

LPP 066 states:

*"dominant elements to be greater than 28°."*

*Setbacks*

The application proposes at ground floor level a double garage set back 4.5m, and a stairwell and porch set back 4.3m from the front (east side) boundary (Alexandra Road).

On the upper floor the wall for the stairwell is similarly set back 4.3m from the front boundary.

Pursuant to the RDC the recommended setback is 6m.

*Fencing*

The application proposes a 12.9m long section of fence along Wolsely Road, and a 5.4m long section of fence along Alexandra Road that incorporates *"selected impermeable panelling in between piers"* between 0.857m and 1.8m high.

LPP 143 states:

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

*Continuous vertical gaps of at least 50mm width occupying not less than 60% of the face in aggregate of the entire surface that is at least 60% of the length of the wall must be open.*

*(Note: This differs from the 'R' Codes)"*

Fence height is acceptable however the fence panels are not 60% visually permeable as required by LPP 143 therefore Council's discretion is required to be exercised to permit the fence panels proposed in the application.

*Submissions*

The proposed 2-storey house will overshadow the north side of the terrace house at 65 Alexandra Road.

The applicant calculates that the amount of overshadow comprises 17.1% of the adjoining property.

The RDC acceptable development provisions allow a maximum 25% overshadow of the adjoining property.

**Discussion**

*Roof Pitch*

Roof pitch throughout the Richmond precinct is quite variable, the subject property is situated directly opposite Kaleeya Hospital, and the buildings that comprise this hospital have roof pitches ranging from flat to steeply pitched.

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Opposite the subject land on the southeast corner of Wolsely Road and Alexandra Road is a group of multiple dwellings with a flat/concealed roof.

The roof of the proposed development will not have a detrimental impact on the local streetscape or detract from the appearance of property in the immediate locality, and is supported.

*Setbacks*

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.”*

The proposed front boundary setback variation to Alexandra Road closely matches the setback of the houses on the adjoining land at 61, 63 & 65 Alexandra Road, and given the mix of uses in the immediate locality (hospital, grouped, and multiple dwellings) is not considered to detrimentally impact on the local streetscape.

*Fencing*

The proposed variation to the permeability of a section of the front fence does not interfere with views of the main entry into the property with its exposed porch, entry door and double garage.

There is no fencing proposed near or in the corner truncation so traffic visibility is maintained.

The section of fence that is proposed to be partially visually impermeable surrounds an area of the property which is proposed to be its prime outdoor living area containing a swimming pool and a paved alfresco area, and is considered acceptable.

*Submissions*

There are three strata titled properties at 65 Alexandra Road (postal addresses comprising 61, 63 & 65 Alexandra Road). They comprise two single storey attached grouped dwellings (terrace houses at 63 & 65), and a single house at 61.

This property is the subject of a strata plan (“built strata”), with the land surrounding the two grouped dwellings and the single house comprising the common property.

The over-shadow created by the proposed 2-storey house at 67 Alexandra Road comprises 17.1% of the adjoining property, and is mainly of the north side of the attached grouped dwelling situated at 65 Alexandra Road.

Pursuant to the performance criteria under the RDC new development should meet these criteria:

*“P1 Development designed to protect solar access for neighbouring properties taking account the potential to overshadow:*

- outdoor living areas;



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- major openings to habitable rooms;
- solar collectors; or
- balconies or verandahs.”

While the proposed development satisfies the acceptable development provision for the percentage of overshadow, in being less than the 25% limit, it is considered not to satisfy the above-stated performance criteria, because it does not protect solar access for major openings to habitable rooms on the north side of the neighbour’s house.

In regard to this overshadow problem the following statements in the RDC, which describe the performance approach used, are also relevant:

*“The performance criteria are general statements of the means of achieving the objective. They are not meant to be limiting in nature. Instead, they provide applicants with an opportunity to develop a variety of design responses to address each residential design issue.*

*The acceptable development provisions illustrate one way of satisfactorily meeting the corresponding performance criterion, and are provided as examples of acceptable design outcomes. Acceptable development provisions are intended to provide a straightforward pathway to assessment and approval; compliance with an acceptable development provision automatically means compliance with the corresponding performance criterion, and thus fulfillment of the objective.”*

Based on the above statements quoted from the RDC if a proposed development satisfies the acceptable development provision, it automatically means compliance, and can be approved.

While this proposed development results in the complete overshadow of a major opening to a habitable room, because the percentage of overshadow is less than the maximum specified in the RDC it complies and can be approved.

In addition to the provisions contained in the RDC LPS 3 lists a number of matters which Council is to have due regard in considering an application for planning approval, specifically sub-clause 10.2 (p) and (z), which state:

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

The north side of the attached grouped dwelling at 65 Alexandra Road contains the only window openings which provide light into this dwelling.

The proposal as submitted has a detrimental impact on the attached grouped dwelling on the adjoining land at 65

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Alexandra Road, and is not supported because this impact is so severe.

**Conclusion**

Based on the applicant's response and amended plans submitted on 31 July 2008 the application is considered acceptable and is supported.

**RECOMMENDATION**

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

- (a) variation to the east side (front) boundary setback for a double garage, stairwell and porch on the ground floor and a stairwell on the upper floor pursuant to the Residential Design Codes from 6m to 4.5m and 4.3m respectively;
- (b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 9° 5';
- (c) variation to the visual permeability of fence panels pursuant to Local Planning Policy 143;

for the construction of a flat and skillion roofed 2-storey house and front fence at No. 67 (Lot 12) Alexandra Road, East Fremantle comprising:

Ground floor: double garage & store, porch, entry, office, alfresco, 2 bedrooms, bathroom, powder room, laundry, living room, stairs and a lift;

First floor: bedroom, built in robe en-suite, powder room, stairs, lift, lobby, store, kitchen, dining room & lounge, and a balcony;

in accordance with the plans date stamp received on 31 July 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 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. 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.
7. 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.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.

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

Footnote:

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

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

Ms Jane Kirkwood (owner of 63 Alexandra Road) and representing the body corporate of 61, 63 & 65 Alexandra Road addressed the meeting on the impact the proposed development will have on the terraced houses in particular, Mrs Greenough's home at 65 Alexandra Road.

Mr Steven Buljan (applicant and owner) addressed the meeting on issues relating to the proposed development including bulk and scale, setbacks including revised plans that show an increased rear setback taking into account the amenity of the adjoining neighbour at 65 Alexandra Road.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Olson**

**That the application for a two storey residence on Lot 12 (67) Alexandra Road, East Fremantle be deferred pending clarification on the following:**

- (a) **overshadowing to adjoining properties ie whether overshadowing is calculated on the whole of the strata lot or the individual dwellings that comprise the strata plan.**
- (b) **advice be sought from a heritage professional on any impact the proposed development may have on the terraced houses in relation to their heritage value and contribution to the streetscape.** CARRIED

**T71.8**

**Wolsely Road No. 20 (Lot 11)**

**Applicant & Owner: Dalmatia Developments Pty Ltd**

**Application No. P120/2008**

By Chris Warrener, Town Planner on 22 July 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a skillion roofed 2-storey house and front fence at 20 Wolsely Road comprising:

Ground floor: double garage & store, porch, entry, office, alfresco, 2 bedrooms, bathroom, laundry, theatre and lift;

First floor: bedroom, built in robe en-suite, lift, powder room, kitchen, pantry, dining room & lounge, and a balcony.

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**Statutory Considerations**

Local Planning Scheme No. 3 – Residential R12.5 (LPS 3)  
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)  
Local Planning Policy No. 143 – Fencing (LPP 143)

**Documentation**

Plans and relevant forms date stamp received on 24 June 2008

**Date Application Received**

24 June 2008

**Additional information**

Open space and overshadow calculations provided by Owner in an email dated 7 July 2008.

**Advertising**

Adjoining landowners and sign on site

**Date Advertised**

30 June 2008

**Close of Comment Period**

18 July 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**

16 September 1985	Council by an "Absolute Majority Resolution" grants special approval for a reduced setback for a duplex addition;
16 October 2001	Council decides to advise the WAPC that it recommends refusal of an application to subdivide 67 Alexandra Road into 2 lots;
12 December 1985	Building Permit 022/1062 approved for an additional duplex unit;
18 May 2004	Council decides to advise the WAPC that it supports the subdivision of 67 Alexandra Road into 2 X 458m <sup>2</sup> lots;
1 June 2004	WAPC conditionally approves the subdivision of 67 Alexandra Road into 2 X 458m <sup>2</sup> lots;
17 Nov. 2006	Demolition Licence 06/259 issued for brick & tile house complete with outbuildings;
1 June 2006	Town of East Fremantle endorses clearance to conditions of subdivision;

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 July 2008 and the following comments were made:

- too big and bulky and represents an overdevelopment of the site.
  - bulk and scale of the buildings is out of scale with the wider surrounding properties – particularly properties to the west and south.
  - very concerned about the overshadowing impact on the house to the South given the solar access to the adjoining property is exclusively through its north facing windows.
  - lack of light on Alexandra Rd building will be detrimental to the conservation of that building – rising damp in stone buildings is an issue, if sunlight and ventilation is not available there may be a detrimental effect on the heritage cottage.
-

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- strict adherence to the codes in an area with heritage houses needs to be tempered with common sense.
- perception of the Wolsely Road boundary wall to pedestrians is that the wall is significant.
- at 2740mm high, impact of the wall on pedestrians is significant
- solid form of wall is too high.
- impermeable sections of the fence to comply with Council fencing policy in relation to permeability and height.
- suitable amendment would include setting the north fencing wall back further and have a garden bed in front of the wall so that the wall is not on the boundary to reduce impact of the fence on pedestrians.
- drawings don't pick up the true height of that wall.
- elevations should indicate North, South, East and West.
- are the trees an accurate representation of what is going to be planted (eg mature Norfolk Pine).
- low pitched roof keeps the height down.
- too much bulk in terms of size of the developments.
- critical issue with these developments is that the two properties together, unless modified, will obliterate sunlight for the property on Alexandra Road.

**Public Submissions**

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

- Joan Greenough* - Severe overshadowing;  
*65 Alexandra Road* - Impact on amount of sunlight entering my middle bedroom.
- Betty McGeever* - Supports objection from owner 65 Alexandra Road  
*61 Alexandra Road* regarding overshadow;  
- Requests deferral pending outcome of adverse possession claim with Landgate.

**Site Inspection**

By Town Planner on 8 July 2008

STATISTICS	Required	Proposed
Land Area		458m <sup>2</sup> Existing
Open Space	50%	52.3% Acceptable (Under the RDC maximum is 50%)
Zoning		R12.5
Heritage Listing		Not Listed

**Setbacks:**

Front (north)		Required	Proposed
<i>Ground</i>	<i>Garage</i>	6.00	7.00 Acceptable
	<i>Porch</i>	6.00	5.80 <b>Discretion Required</b>
	<i>Office/Alfresco/ Bedroom 3</i>	6.00	6.00 Acceptable
<i>Upper</i>	<i>Bedroom 1</i>	6.00	7.00

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			Acceptable
	<i>Powder Room</i>	6.00	6.00
	<i>Balcony</i>	6.00	Acceptable
			5.20
	<i>Lounge</i>	6.00	Acceptable
			6.00
			Acceptable
Rear (south)			
Ground	<i>Bedroom 2/ Laundry/Theatre</i>	1.00	2.10
			Acceptable
	<i>Store</i>	1.00	4.00
			Acceptable
	<i>Garage</i>	1.00	6.60
			Acceptable
Upper	<i>Kitchen/Ensuite</i>	2.10	4.10
			Acceptable
Side (east)			
Ground	<i>Store</i>	1.00	3.50
			Acceptable
	<i>Porch</i>	1.50	5.50
			Acceptable
	<i>Garage</i>	1.00	Zero
			(LPP 142) Acceptable
Upper	<i>Bedroom 1/Ensuite</i>	1.20	1.60
			Acceptable
Side (west)			
Ground	<i>Bedroom 3</i>	1.00	2.20
			Acceptable
	<i>Bedroom 2</i>	1.50	2.80
			Acceptable
	<i>Powder Room</i>	1.00	2.80
			Acceptable
	<i>Bathroom</i>	1.00	2.20
			Acceptable
Upper	<i>Balcony</i>	1.80	6.80
			Acceptable
	<i>Lounge</i>	3.00	2.20
			<b>Discretion Required</b>
<b>Height:</b>			
Wall		6.00	6.00
			Acceptable
Building		9.00	7.00
			Acceptable
Parapet		3.00	3.50
			<b>Discretion Required</b>
<b>Overshadowing:</b>		11.3%	



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**REPORT  
Issues**

*Assessment*

This property has resulted from a subdivision of a corner lot (67 Alexandra Road) that was approved by the WAPC in June 2004 (supported by Council).

Therefore assessment of this application is based on the following provision under LPS 3:

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

Calculation of setbacks and open space provision is based on the application of the R20 density code.

*Boundary Wall Height*

The application proposes a double garage with a 7.2m long X 3.5m high wall along the east side boundary common with 67 Alexandra Road.

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 to allow the garage wall on the boundary to be higher than 3m.

*Roof Pitch*

The application proposes a 2-storey house with a skillion roof pitched at 9° 5’.

LPP 066 states:

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

*Setbacks*

The application proposes a lounge room wall on the upper floor that is set back 2.2m from the west side boundary common with 62 Staton Road.

The RDC recommend a 3m setback.

*Fencing*

The application proposes a 13.2m long section of front fence that incorporates *“selected impermeable panelling in between piers”* between 0.857m and 1.8m high.

LPP 143 states:

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

*Continuous vertical gaps of at least 50mm width occupying not less than 60% of the face in aggregate of the entire surface that is at least 60% of the length of the wall must be open.*

*(Note: This differs from the ‘R’ Codes)”*



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Fence height is acceptable however the fence panels are not 60% visually permeable as required by LPP 143 therefore Council's discretion is required to be exercised to permit the fence panels proposed in the application.

*Submissions*

The submissions states concerns with the amount of overshadow that will result from the application.

The amount of overshadow over the rear of 65 Alexandra Road that will be created by the proposed 2-storey house is calculated by the applicant to be 11.3%.

The RDC acceptable development provisions allow a maximum 25% overshadow of the adjoining property.

**Discussion**

*Boundary Wall Height*

The proposed double garage, with the 0.5m wall height variation along the east side boundary, is situated next to what is proposed to be bedroom 3, a laundry and an outdoor living area containing a swimming pool for the 2-storey house that is currently proposed to be built on 67 Alexandra Road.

The garage wall will assist in protecting privacy between the two properties, does not result in any overshadow and is supported.

*Roof Pitch*

Roof pitch throughout the Richmond precinct is quite variable, the subject property is situated directly opposite the Kaleeya Hospital, the buildings that comprise this hospital have roof pitches ranging from flat to steeply pitched.

Nearby on the southeast corner of Wolsely Road and Alexandra Road is a group of multiple dwellings with a flat roof. The roof of the proposed development will not have a detrimental impact on the local streetscape or detract from the appearance of property in the immediate locality, and is supported.

*Fencing*

The proposed variation to the permeability of a section of the front fence does not interfere with views of the main entry into the property with its exposed porch, entry door and double garage.

The section of fence that is proposed to be partially visually impermeable surrounds an area of the property which is proposed to be its prime outdoor living area containing a swimming pool and a paved alfresco area, and is considered acceptable.

*Submissions*

There are three strata titled properties at 65 Alexandra Road (postal addresses comprising 61, 63 & 65 Alexandra Road), which comprise two single storey attached grouped dwellings (terrace houses), and a single house.

This property is the subject of a strata plan ("built strata"), with the land surrounding the two attached grouped dwellings and the single house comprising the common property.

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The over-shadow created by the proposed 2-storey house at 20 Wolsely Road comprises 11.3% of the common property, which is the outdoor living area for the attached grouped dwelling at 65 Alexandra Road.

Pursuant to the performance criteria under the RDC new development should meet these criteria:

*“P1 Development designed to protect solar access for neighbouring properties taking account the potential to overshadow:*

- outdoor living areas;
- major openings to habitable rooms;
- solar collectors; or
- balconies or verandahs.”

While the proposed development satisfies the acceptable development provision for the percentage of overshadow, in being less than the 25% limit it is considered not to satisfy the above-stated performance criteria, because it does not protect solar access for the neighbour’s outdoor living area.

In regard to this overshadow problem the following statements in the RDC, which describe the performance approach used, are also relevant:

*“The performance criteria are general statements of the means of achieving the objective. They are not meant to be limiting in nature. Instead, they provide applicants with an opportunity to develop a variety of design responses to address each residential design issue.*

*The acceptable development provisions illustrate one way of satisfactorily meeting the corresponding performance criterion, and are provided as examples of acceptable design outcomes. Acceptable development provisions are intended to provide a straightforward pathway to assessment and approval; compliance with an acceptable development provision automatically means compliance with the corresponding performance criterion, and thus fulfillment of the objective.”*

Based on the above statements quoted from the RDC if a proposed development satisfies the acceptable development provision, it automatically means compliance, and can be approved.

While this proposed development results in the almost complete overshadow of the outdoor living area for the attached grouped dwelling at 65 Alexandra Road, because the percentage of overshadow is less than the maximum specified in the RDC it complies and can be approved.

In addition to the provisions contained in the RDC LPS 3 lists a number of matters which Council is to have due regard in considering an application for planning approval, specifically sub-clause 10.2 (p) and (z), which state:

- (q) *the relationship of the proposal to development on adjoining land or on other land in the locality including but*

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*not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*

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

The proposal as submitted has a detrimental impact on the attached grouped dwelling on the adjoining land at 65 Alexandra Road, because of the overshadow of its sole outdoor living area, and is not supported because this impact is so severe.

**Conclusion**

Based on the applicant's response the application is considered acceptable and is supported.

**RECOMMENDATION**

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

- (a) variation to the west side boundary setback pursuant to the Residential Design Codes from 3m to 2.2m;
- (b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 9° 5';
- (c) variation to the height of the garage wall along the east side boundary pursuant to Local Planning Policy 142 from 3m to 3.5m;
- (d) variation to the visual permeability of fence panels pursuant to Local Planning Policy 143;

for the construction of a skillion roofed 2-storey house and front fence at No. 20 (Lot 11) Wolsely Road, East Fremantle comprising:

Ground floor: double garage & store, porch, entry, office, alfresco, 2 bedrooms, bathroom, laundry, theatre and lift;

First floor: bedroom, built in robe en-suite, lift, powder room, kitchen, pantry, dining room & lounge, and a balcony.

in accordance with the plans date stamp received on 24 June 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 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

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- 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) *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.*

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr Wilson**

**That the application for a two storey residence on Lot 11 (20) Wolsely Road, East Fremantle be deferred pending clarification on the following:**

- (a) **overshadowing to adjoining properties ie whether overshadowing is calculated on the whole of the strata lot or the individual dwellings that comprise the strata plan.**
  - (b) **advice be sought from a heritage professional on any impact the proposed development may have on the terraced houses in relation to their heritage value and contribution to the streetscape.**
- CARRIED

**T71.9**

**Gill Street No. 5 (Lot 5)**

**Applicant: Greg Rowe & Associates**

**Owner: The Commissioners of the Presbyterian Church in Western Australia**

**Application No. P136/2008**

By Chris Warrener, Town Planner on 11 August 2008

**BACKGROUND**

**Description of Proposal**

A request to Council to initiate an amendment to Local Planning Scheme No 3 to permit 5 Gill Street to be used as an office in association with the Braemar Homes for the Aged.

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**Statutory Considerations**

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

**Documentation**

Request and draft documentation date stamp received on 26 June 2008.

**Date Application Received**

26 June 2008

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

38 days

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

18 October 2005 Council decides to undertake a (21) day public submission period including letters to local residents, notice in a local newspaper and a sign on site to use 5 Gill Street as offices for the administration of the Braemar Homes activities with the results being referred back to Council for further consideration;

21 February 2006 Council decides to refuse an application for planning approval to use the building at 5 (Lot 5) Gill Street, East Fremantle for administration purposes associated with Braemar Homes.

**CONSULTATION**

**Site Inspection**

By Town Planner on 17 July 2008

**REPORT**

**Issues**

Following a 21 day public submission period on 21 February 2006 Council considered submissions on an application to use 5 Gill Street for administrative purposes associated with the adjoining nursing home.

One submission had been received from the owner of 26b Gill Street.

Council resolved as follows:

*"That Council refuse an application for planning approval to use the existing building at 5 (Lot 5) Gill Street, East Fremantle for administration purposes associated with Braemar Homes for the following reason:*

*The proposed use is classified an "Office", which is classified an "X" use in the Residential zone in the Zoning Table under the Town of East Fremantle Town Planning Scheme No 3 (TPS 3). Therefore it is a use that is not permitted by the Scheme."*

Land Use

5 Gill Street is zoned "Residential" under LPS 3.

The proposed use of the property at 5 Gill Street is as an "Office".

An Office is a use listed in the Zoning Table in LPS 3 as "X", *"which means a use that is not permitted by the Scheme"*.

Therefore for an office use to be conducted at 5 Gill Street LPS 3 has to be amended to allow it.

Notwithstanding the decision Council made in February 2006 to refuse the use of 5 Gill Street for administration purposes associated with Braemar Homes the applicant has submitted documentation seeking Council's support to initiate an amendment to LPS 3.

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Amendment Documentation

The amendment documentation submitted by the applicant includes a Transport Statement (see Appendix 2), Scheme Text amendment changes, and a Scheme Map, which if the amendment is granted final approval, will rectify a drafting anomaly with the Scheme Map that was published when LPS 3 came into force in December 2004.

The anomaly relates to the boundary of Additional Use Site No 14, which the map currently identifies as 10, 12 and 14 Windsor Road, and 5 and 7 Gill Street.

The development that comprises the Braemar Homes for the Aged is situated at 10 Windsor Road. The owner is also the registered proprietor of 5 Gill Street, but does not have any registered interest in the properties at 12 and 14 Windsor Road and 7 Gill Street.

These properties contain privately owned single houses which are in use as residences, and should not therefore be included on the Scheme Map in Additional Use Site No 14 (A14) as they currently are.

**Discussion**

It is intended to retain the building at 5 Gill Street which was once used as a single house, refurbish its interior for use as an office, and develop on-site parking facilities in conjunction with the nursing home next door.

The proposal retains the existing building, which is considered to have heritage significance based on its "B" management category under the MI.

Consulting Civil and Traffic Engineers, Risk Managers "Shawmac" provided the Transport Statement for the proposed development. This report is included as Appendix 2 in the Scheme Amendment document.

Traffic impacts associated with the proposed use of 5 Gill Street as an office are estimated to be an additional 30 vehicles per day (vpd). Currently, based on surveys and research conducted by Shawmac, there are up to 800 vpd travelling on Gill Street.

Gill Street is designed to accommodate 1,500 vpd therefore the increase in traffic volume is considered negligible, and as it is concentrated at the southern end of the street near its intersection with Canning Highway would not appear to have any impact on the rest of the street.

**Conclusion**

While an "Office" is a use that is not permitted in the Residential zone in this particular case the use of the house at 5 Gill Street as an office for administrative purposes associated with the adjoining Braemar Homes for the Aged could be considered to be a reasonable use of the building, one which is considered not to have any significant detrimental impact on the amenity of the adjoining residential area, bearing in mind its location close to Canning Highway.

On the other hand, there is an alternative argument that allowing Braemar to expand their activities into the residential zone for any reason is inappropriate and sets an undesirable precedent. An example of such a situation is Kaleeya Hospital which has expanded by increments over the last twenty years, buying up a number of properties for carparks, expansion of the hospital, offices etc and causing much community contention in the process.

Either way, *if* advertising is to occur, it would be open to Council to consider recommending, or not recommending, final approval to this amendment following the formal advertising period, and consideration of any submissions received.

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**RECOMMENDATION**

That Council advises Greg Rowe & Associates that it is prepared to initiate Amendment No. 5 to Local Planning Scheme No 3.

**ALTERNATIVE RECOMMENDATION**

That Council advises Greg Rowe & Associates that it is not prepared to initiate Amendment No. 5 to Local Planning Scheme No 3.

Ms Fatima Ramirez (Greg Rowe & Associates) addressed the meeting in support of the proposed amendment to Town Planning Scheme No. 3.

**RECOMMENDATION TO COUNCIL**

**Cr Olson – Cr de Jong**

**That Council advises Greg Rowe & Associates that it is prepared to initiate Amendment No. 5 to Town Planning Scheme No 3. CARRIED**

**T71.10**

***Glyde Street No. 38 (Lot 72)***

***Applicant & Owner: Mathew James Coleman***

***Application No. P113/2008***

By Chris Warrener, Town Planner on 25 June 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for the fixing of six 1.58m long X 0.808m wide X 0.045m thick solar panels in series (south to north) to the skillion roof at the rear of the single storey house at 38 Glyde Street

**Statutory Considerations**

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

**Documentation**

Plans and relevant forms date stamp received on 6 June 2008

**Date Application Received**

6 June 2008

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

66 days

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

16 May 1988	Council grants special approval for an additional unit;
4 April 1989	Building Licence issued for a retaining wall;
19 September 1989	Building Licence issued for a 2-storey strata unit;
3 April 1990	Building Licence issued for a carport;
1 September 1995	Building Licence issued for a front fence;
15 April 2003	CEO grants approval under delegated authority for the replacement of roof sheeting with “custom orb” zincalume finish roof sheeting;
20 April 2004	Council grants approval for variations to demolish outbuildings and construct additions to the rear of the house at 38 Glyde Street;
21 November 2006	Council grants approval for the use “storage” in the 12m <sup>2</sup> outbuilding adjacent to the carport with access from George Street.

**CONSULTATION**

**Other Agency/Authority**

Heritage Council of WA – Advised application supported





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**Site Inspection**

By Town Planner on 25 June 2008

**REPORT**

**Issues**

Heritage

The property at 38 Glyde Street is on the Heritage List under TPS 3 and this application to install solar panels on the roof at the rear of the house was referred to HCWA for comment.

Being on the Heritage List and pursuant to TPS 3 Cl. 8.2, this application requires the planning approval of the local government, and is herein formally put to Council rather than being dealt with under "delegated authority".

Clause 8.2 states:

*"8.2. Permitted development*

*Except as otherwise provided in the Scheme, for the purposes of the Scheme the following development does not require the planning approval of local government —*

- (a) the carrying out of any building or work which affects only the interior of a building and which does not materially affect the external appearance of the building except where the building is —*
  - (i) located in a place that has been entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990;*
  - (ii) the subject of an order under Part 6 of the Heritage of Western Australia Act 1990; or*
  - (iii) included on the Heritage List under clause 7.1 of the Scheme"*

**Discussion**

HCWA supports this application, the solar panels will not significantly alter the appearance of the property, and the application is supported.

**RECOMMENDATION**

That Council grants approval for the fixing of six (1.58m long x 0.808m wide x 0.045m thick) solar panels in series (south to north) to the skillion roof at the rear of the single storey house at No. 38 (Lot 72) Glyde Street, East Fremantle in accordance with the plans date stamp received on 6 June 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. 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).*

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**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

That Council grants approval for the fixing of six (1.58m long x 0.808m wide x 0.045m thick) solar panels in series (south to north) to the skillion roof at the rear of the single storey house at No. 38 (Lot 72) Glyde Street, East Fremantle in accordance with the plans date stamp received on 6 June 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. 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

**T71.11**

**Wolsely Road No. 23 (Lot 304)**

**Applicant: Deane Barker**

**Owner: John Richard & Patricia Olive Westaway**

**Application No. P115/2008**

By Chris Warrener, Town Planner on 7 August 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for alterations and additions to 23 Wolsely Road comprising:

- Remove carport on the west side, and construct a concrete double garage and store room in its place;
- Replace a skillion roofed carport on the east side with a pitched roof carport;
- Construct a 7m long x 4.5m wide x 5m high pitched roof patio at the rear of the new carport;
- Remove a covered pergola at the rear and build a 15m long x 8.5m wide x 5m high gable roofed alfresco with outdoor kitchen;
- Construct a covered timber deck off the family room at the rear, and install two sets of French doors and sliding window side lights;
- Enlarge the family room by enclosing a portion of the verandah on the west side.

Total building coverage amounts to 33.4% of the property leaving 66.6% open space; the RDC recommend 55%.

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

**Documentation**

Plans and relevant forms date stamp received on 16 June 2008

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**Date Application Received**

16 June 2008

**Advertising**

Adjoining land owners only

**Date Advertised**

8 July 2008

**Close of Comment Period**

22 July 2008

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

56 days

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

19 January 1976	Swimming Pool built at rear of 23 Wolsely Road;
11 March 1981	Building Licence issued for a garage and a workshop;
23 April 1981	Council decides to advise the Town Planning Board that it supports the subdivision of 23 Wolsely Road into 2 lots;
11 May 1981	Town Planning Board conditionally approves the subdivision of 23 Wolsely Road into 2 lots (1 X 1051m <sup>2</sup> , 1 X 1389m <sup>2</sup> );
15 December 1986	Council grants approval for the conversion of a double garage into an isolated games room;
15 September 1987	Building Licence issued for conversion of a garage to a games room;
16 February 1999	Council grants conditional special approval for the demolition of a laundry and erection of a granny flat on a reduced east side setback and 19.5° roof pitch;
14 November 2000	Building Licence issued for an extension to an outbuilding/studio;
20 March 2007	Council approves a 4m long X 3.5m wide X 2.4m high garden shed next to the east side boundary behind an existing carport.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 July 2008 and the following comments were made:

- carport on east is subtle.
- proposal on elevation (5) is inappropriate and denigrates the value and appearance of the original property.
- carport is too far forward of the house.
- existing carport is appropriate with the existing house. It extends the existing veranda line without detracting from the original house.
- carport should remain open.
- permeable gates could be installed to provide security for the carport.
- double car garage on the west side does not carry the proportions of the house – it needs to adopt the same proportions and volume of the original house.
- roofing should be tiled to match the existing house.
- 3 Riverside Road's garage and doors are a good example for the double car garage and doors.

**Public Submissions**

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

<i>Jadranka Matijas-Kekez</i>	- Objects to height of proposed boundary wall for the double garage;
<i>68 Alexandra Road</i>	- Request that pool room with driveway and letterbox (23A) not be used as a residence.

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Lesley Jarman  
72 Alexandra Road

- Concerned that structure in southeast corner of 23 Wolsely Road was not approved;
- Old limestone wall with ornate capping and picket fence needs to be protected by a setback;
- Concerned at entertainment area being so close to the boundary;
- Concerned about impact development may have on future plans to develop the rear and side of 72 Alexandra Road.

**Site Inspection**

Site inspection by Town Planner in consultation with applicant on 23 July 2008

**REPORT**

**Issues**

*Boundary Walls*

The application proposes a double garage with a 6.2m long wall along the west side boundary common with 66 Alexandra Road, a carport and patio with a 17.1m long wall along the east side boundary common with the common property driveway access for 25 and 25A Wolsely Road, and a gable roofed alfresco area with an outdoor kitchen with a 8.58m long wall along the north side boundary common with 72 Alexandra Road.

The wall for the carport on the east side is 3m high, the wall for the garage on the west side incorporates a gable end with a 0.75m diameter circular window that varies up to 5.6m high at its peak, and the parapet wall for the alfresco area along the north side is 4m high.

LPP 142 states:

*“A wall may be situated closer to an adjoining residential boundary than the standards prescribed in Tables 1, 2a or 2b of the Residential Design Codes where the following are observed:*

- (a) Walls are not higher than 3m and up to 9m in length up to one side boundary;*
- (b) Walls are behind the main dwelling;”*

Technically the triangular portion of the gable end of the proposed garage on the west side is not a wall, however this gable end is a parapet on the boundary, and is therefore assessed as a wall, and as it varies up to 5.6m high requires the exercise of Council discretion to allow it.

The application proposes boundary walls along three side boundaries with the walls on the north and west sides exceeding the 3m height limit.

Council is required to exercise its discretion to permit the additional boundary walls on the north and east sides, and the higher boundary walls on the north and west sides.

*Use of ‘Games Room’*

In December 1986 Council granted approval to convert an existing double garage situated in the northwest corner of the subject property into an isolated games room.

The property contains two driveway crossovers and the crossover next to the west side boundary provides direct access to this ‘games room’ via a brick-paved driveway.

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The double garage proposed in this current application will be situated in front of (south) of the 'games room'.

The floor plan that was approved for the purposes of converting the double garage into the isolated games room shows that it contains amenities, which indicate that it is a habitable building that could be used for residential purposes.

In the front southwest corner of the property is a letterbox with the number 23A printed on it, which suggests that there is a postal address for the 'games room'.

**Discussion**

*Boundary Walls*

In regard to the boundary walls the property already has boundary walls on more than one side boundary generally in the same location as the new structures that are herein proposed.

There is no detrimental impact on the amenity of the adjoining property on the east side at 25 Wolsely Road by the new carport and patio, however there is an impact on the amenity of the property on the west side at 21 Wolsely Road, which is situated at a lower natural ground level by the proposed double garage parapet wall.

*Use of 'Games Room'*

The games room approved by Council in December 1986 should not be permitted to be used for residential purposes because it is not approved for this purpose, and in any event its use for this purpose contravenes LPS 3 because the use of 23 Wolsely Road would exceed the allowable residential density.

The current owners upon taking possession of the property evicted the tenant/s of the games room.

**Conclusion**

In regard to the use of the 'games room' the new owners will be notified separately to this application in writing that this building may not be used for the purposes of human habitation/ residential use, and to remove the letterbox.

At a site meeting with applicant on 23 July 2008 changes to the design of the additions were discussed and the applicant agreed to submit amended plans in line with the comments of the TPAP and to also reduce the impact of the boundary wall to the neighbour to the west.

**RECOMMENDATION**

That the application for alterations/additions to the residence at No. 23 (Lot 304) Wolsely Road, East Fremantle be deferred pending the receipt of amended plans as discussed with applicant on 23 July 2008.

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

**That the application for alterations/additions to the residence at No. 23 (Lot 304) Wolsely Road, East Fremantle be deferred pending the receipt of amended plans as discussed with applicant on 23 July 2008.**

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*Cr Wilson having declared an interest in the following item as her property at 46 Locke Crescent adjoins the rear of the subject property, left the meeting at 9.43pm.*

**T71.12 Preston Point Road No. 114 (Lot 4965)**

**Applicant: Danmar Homes**

**Owner: Linley Michelle Morris**

**Application No. P124/2008**

By Chris Warrener, Town Planner on 4 August 2008

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 2-storey house with pitched skillion and concealed roofs at 114 Preston Point Road comprising:

Ground floor: double garage & store, porch, entry, 2 bedrooms, 2 built in robes, bathroom, laundry, family room, 2 patios and alfresco;

First floor: 2 bedrooms, en-suite, kitchen, pantry, living and dining room, 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 066 – Roofing (LPP 066)

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

**Documentation**

Plans and relevant forms date stamp received on 30 June 2008

**Date Application Received**

30 June 2008

**Additional information**

Plans defining natural ground level received on 8 July 2008

Amended plans increasing front setback from 7.5m to 10m received on 10 July 2008.

**Advertising**

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

**Date Advertised**

30 June 2008

**Close of Comment Period**

28 July 2008

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

42 days

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

19 November 2002 Council approves demolition of single storey house, and defers a 2-storey house pending building height clarification;

17 December 2002 Council approves a 2-storey house;

21 January 2003 Demolition Licence 418/2003 issued for single storey house;

25 March 2003 CEO grants approval under delegated authority for a below ground swimming pool;

2 April 2003 Building Licence 41/3394 issued for swimming pool;

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14 May 2003 Building Licence 89/3419 issued for limestone retaining walls;  
6 April 2004 Building Licence 41/3394 for swimming pool cancelled;  
20 November 2008 Council grants conditional approval for a south side boundary setback variation for a 2 storey house.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 July 2008 and the following comment was made:

- acceptable.

**Public Submissions**

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

**Site Inspection**

By Town Planner on 15 October 2007

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		744m <sup>2</sup> Existing
Open Space	55%	73.4% Acceptable
Zoning		R12.5
Heritage Listing		Not Listed
<b>Setbacks:</b>		
Front (north)		
<i>Ground</i> <i>Bedroom 2</i>	10.00	12.61 Acceptable
<i>Bedroom 3</i>	10.00	15.01 Acceptable
<i>Porch</i>	10.00	10.00 Acceptable
<i>Garage</i>	10.00	10.295 Acceptable
<i>Upper</i> <i>Living</i>	10.00	12.70 Acceptable
<i>Balcony</i>	10.00	10.00 Acceptable
<i>Walk In Robe</i>	10.00	11.30 Acceptable
Rear (south)		
<i>Ground</i> <i>Patio &amp; Pool Store</i>	6.00	13.20 Acceptable
<i>Family</i>	6.00	10.70 Acceptable
<i>Alfresco</i>	6.00	4.55 <b>Discretion Required</b>
<i>Patio</i>	6.00	10.70 Acceptable
<i>Upper</i> <i>Bedroom 4</i>	6.00	13.20 Acceptable

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	<i>Dining</i>	6.00	10.60
			Acceptable
	<i>Balcony</i>	7.50	9.10
			Acceptable
	<i>Pantry</i>	6.00	10.60
			Acceptable
Side (east)			
<i>Ground</i>	<i>Alfresco</i>	1.50	6.10
			Acceptable
	<i>Patio</i>	1.50	1.75
			Acceptable
	<i>Bedroom 2</i>	1.50	5.15
			Acceptable
	<i>Bedroom 3</i>	1.50	1.75
			Acceptable
	<i>Porch</i>	1.50	7.50
			Acceptable
<i>Upper</i>	<i>Kitchen/Living</i>	3.10	5.10
			Acceptable
Side (west)			
<i>Ground</i>	<i>Garage</i>	1.00	1.64
			Acceptable
	<i>Patio</i>	1.50	1.64
			Acceptable
	<i>Family</i>	1.50	5.89
			Acceptable
	<i>Alfresco</i>	1.50	7.82
			Acceptable
<i>Upper</i>	<i>Walk In Robe</i>	1.20	2.50
			Acceptable
	<i>Bedroom 4</i>	1.20	1.64
			Acceptable
	<i>Dining</i>	2.50	5.90
			Acceptable
	<i>Balcony</i>	7.50	7.75
			Acceptable
<b>Height:</b>			
Wall		5.6 & 6.5	5.6m & 6.5m
			Acceptable
Building		8.10	8.10
			Acceptable

**Front Setbacks 104 to 122 Preston Point Road**

104	7.3m to 11.3m
106	10m
108	10m
110	10m
112	12m
116	11m
118	8m
120	7.5m
122	12m



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**REPORT**

**Issues**

*Setbacks*

The application proposes an alfresco area that is set back 4.55m from the south side (rear) boundary common with 46 Locke Crescent.

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

*Roof Pitch*

The application proposes a 2-storey house with a pitched skillion roof and flat/concealed roofs. The skillion roof portion of the house is pitched at 7°.

LPP 066 states:

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

**Discussion**

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

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

**RECOMMENDATION**

That Council grants approval for the following:

- (a) a variation to the rear setback for an alfresco area pursuant to the Residential Design Codes from 6m to 4.55m;
- (b) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 7°; for the construction of a 2-storey house at No. 114 (Lot 4965) Preston Point Road, East Fremantle with flat and skillion roofs comprising:

Ground floor: double garage & store, porch, entry, 2 bedrooms, 2 built in robes, bathroom, laundry, family room, 2 patios and alfresco;

First floor: 2 bedrooms, en-suite, kitchen, pantry, living and dining room, and 2 balconies;

in accordance with the plans date stamp received on 30 June 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 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.

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6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. 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.
7. 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.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *the patios and alfresco area may not be enclosed without the prior written consent of Council.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Correspondence from adjoining neighbour was tabled (MB Ref T69.1).

**RECOMMENDATION TO COUNCIL**

**Mayor Ferris – Cr de Jong**

**That Council grants approval for a variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 7° for the construction of a 2-storey house at No. 114 (Lot 4965) Preston Point Road, East Fremantle with flat and skillion roofs comprising:**

**Ground floor: double garage & store, porch, entry, 2 bedrooms, 2 built in robes, bathroom, laundry, family room, 2 patios and alfresco;**

**First floor: 2 bedrooms, en-suite, kitchen, pantry, living and dining room, and 2 balconies;**

**in accordance with the plans date stamp received on 30 June 2008 subject to the following conditions:**

- 1. prior to the issue of a building licence amended plans be submitted showing the rear setback to the alfresco area at 6.0m pursuant to the Residential Design Codes.**
- 2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than**

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

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

*Cr Wilson returned to the meeting at 9.50pm and it should be noted that she neither spoke nor voted on the foregoing item.*

**T72. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

*T72.1 Design Guidelines – Plympton Ward*

**RECOMMENDATION TO COUNCIL**

**Cr Dobro – Mayor Ferris**

**That Mayor Ferris discuss the matter of Design Guidelines for the Plympton Ward with the Chief Executive Officer.** CARRIED

**T73. CLOSURE OF MEETING**

There being no further business the meeting closed at 9.55pm.

*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 **12 August 2008**, Minute Book reference **T65. to T73.** were confirmed at the meeting of the Committee on*

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*Presiding Member*