

13 May 2008

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 13 MAY, 2008 COMMENCING AT 6.30PM.

T36. OPENING OF MEETING

T36.1 Present

T37. WELCOME TO GALLERY

T38. APOLOGIES

T39. CONFIRMATION OF MINUTES

T39.1 Town Planning & Building Committee (Private Domain) – 8 April 2008

T40. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T41. REPORTS OF COMMITTEES

T41.1 Town Planning Advisory Panel – 22 April 2008

T42. REPORTS OF OFFICERS

T42.1 Receipt of Reports

T42.2 Order of Business

*T42.3 Windsor Road No. 13 (Lot 1)
Applicant: Rodney O'Byrne Design
Owner: Felicity Cockburn
Application No. P72/2008*

*T42.4 Walter Street No. 3 (Lot 1)
Applicant & Owner: Mark Baldwin
Application No. P50/2008*

*T42.5 Habgood Street No. 7 (Lot 5022)
Applicant: Inhouse Building Design
Owner: Mr & Mrs Moriarty
Application No. P75/2008*

*T42.6 Locke Crescent No. 48 (Lot 4975)
Applicant: De Pledge Design
Owner: P Bartolomei & M Daluz
Application No. P74/2008*

*T42.7 Clayton Street No. 12 (Lot 427)
Applicant/Owners: Adam & Renita Mroz
Application No. P53/2008*

*T42.8 Preston Point Road No. 58A (Lot 11)
Applicant: Tony Wilkie
Owner: Orlando & Susana Maria Andrade
Application No. P27/2008*



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- T42.9** *Gill Street No. 6 (Lot 301)*
Applicant: Steven Radalj
Owner: Marty Westvelt
Application No. P67/2008
- T42.10** *Surbiton Road No. 10 (Lot 30)*
Applicant: Ashley Richards Architect
Owner: Mr Grant Mooney
Application No. P73/2008
- T42.11** *Walter Street No. 18B (Lot 8)*
Applicant & Owner: Beth McCrae Dungey
Application No. P57/2008
- T42.12** *Sewell Street No. 13 (Lot 224)*
Applicant & Owner: Parkrange Investments Pty Ltd
Application No. P49/2008
- T42.13** *Hubble Street No. 94 (Lot 286)*
Applicant & Owner: Beverley McMorrow & Gary Grimes
Application No. P71/2008
- T42.14** *Preston Point Road No. 162 (Lot 4)*
Applicant/Owner: Arthur Marshall
Application No. P63/2008
- T42.15** *Walter Street No. 3 (Lot 1)*
Applicant & Owner: Mark Baldwin
Application No. P54/2008
- T42.16** *Hamilton Street No. 18A (Lot 881)*
Applicant: Peter Stannard Homes P/L
Owner: Stephen & Christine Doyle
Application No. P52/2008
- T43.** **REFERRED BUSINESS (NOT INCLUDED ELSEWHERE)**
- T44.** **BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**
- T44.1** *Resignation of John Dowson from Town Planning Advisory Panel*
- T45.** **CLOSURE OF MEETING**

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MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 13 MAY, 2008 COMMENCING AT 6.30PM.

T36. OPENING OF MEETING

T36.1 Present

Cr Stefanie Dobro	Presiding Member
Cr Barry de Jong	
Cr Maria Rico	
Cr Alex Wilson	from 6.33pm
Mr Stuart Wearne	Chief Executive Officer
Mr Chris Warrener	Town Planner
Mrs Peta Cooper	Minute Secretary
Cr David Arnold	Observer
Cr Dean Nardi	Observer

T37. WELCOME TO GALLERY

There were 19 members of the public in the gallery at the commencement of the meeting.

T38. APOLOGIES

An apology was submitted on behalf of Mayor Alan Ferris and Cr Richard Olson.

T39. CONFIRMATION OF MINUTES

T39.1 Town Planning & Building Committee (Private Domain) – 8 April 2008

Cr de Jong – Cr Dobro

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

CARRIED

T40. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil

T41. REPORTS OF COMMITTEES

T41.1 Town Planning Advisory Panel – 22 April 2008

Cr Rico – Cr de Jong

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

CARRIED

T42. REPORTS OF OFFICERS

T42.1 Receipt of Reports

Cr Rico – Cr de Jong

That the Reports of Officers be received.

CARRIED

T42.2 Order of Business

Cr Rico – Cr de Jong

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

CARRIED

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T42.3 Windsor Road No. 13 (Lot 1)
Applicant: Rodney O'Byrne Design
Owner: Felicity Cockburn
Application No. P72/2008
By Chris Warrener, Town Planner on 24 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for additions to the single storey house at 13 Windsor Road comprising a roofed timber deck to the front, landscape works including 1.6m high split stone wall panels and 1.4m high cement rendered panel to the front fence, and a steel framed canopy over a 1.5m high solid steel front entry gate.

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

Documentation

Plans and relevant forms date stamp received on 28 March 2008

Date Application Received

28 March 2008

No. of Days Elapsed between Lodgement & Meeting Date

45 days

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

17 May 1976	Council decides not to give consideration to an application to convert the existing residence into a duplex dwelling;
15 June 1976	Council conditionally approves a unit behind the existing house;
20 September 1977	Town Clerk endorses Strata Plan 5472 to create 2 built strata lots at 13 Windsor Road;
22 December 1999	Council grants special approval for a home occupation – wholesale & manufacture of textiles;
20 June 2000	Council renews the home occupation – wholesale & manufacture of textiles;
19 September 2006	Council grants conditional approval for ground floor additions.

CONSULTATION

Town Planning Advisory Panel Comments

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

- the applicant be commended on the retention of the original home
- looks like an improvement
- advisory note that Council is unlikely to look favourably on converting the parking in front to an enclosed garage or carport at a later date

Site Inspection

By Town Planner on 16 June 2006

REPORT

Issues

Boundary Setbacks The proposed roofed timber deck is set back 6m from the east side (front) boundary.



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The RDC recommend a 7.5m front setback.

Fencing

The proposed landscaping works in the front setback incorporate 1.4m high stone panels, a 1.4m high cement rendered panel, and a 1.5m high solid gate. The remainder of the front fence is open style.

LPP 143 states:

Part 3 - Fence Design

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

Continuous vertical gaps of at least 50mm width occupying not less than 60% of the face in aggregate of the entire surface that is at least 60% of the length of the wall must be open. (Note: This differs from the 'R' Codes)"

Discussion

The roofed gate in the front setback is a minor structure it is considered to make a positive contribution to the local streetscape, and is supported.

Boundary Setbacks

There are a number of properties next to and near the subject land which have houses on reduced front setbacks.

No 11 is at 5.5m, No 15 is at 6m, No 17 is at 6m, and No 19 is at 5m.

The proposed roofed timber deck at 6m is considered not to affect the general street rhythm of this section of Windsor Road, and this variation is supported especially as it is considered to make a positive contribution to the appearance of the existing house.

Fencing

The major portion of the front fence conforms with LPP 143 in being open style.

The feature stone wall panels and 1.5m high solid panel gate are considered to make a positive contribution to the local streetscape and are supported.

RECOMMENDATION

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

- (a) variation to the east side (front) boundary setback pursuant to the Residential Design Codes from 7.5m to 6m;
- (b) variation to Local Planning Policy 143 for solid sections of wall in the front setback/front fence up to 1.6m high;

for the construction of additions to the single storey house at No. 13 (Lot 1) Windsor Road, East Fremantle comprising a roofed timber deck to the front, landscape works including 1.6m high split stone wall panels and 1.4m high cement rendered panel to the front fence, and a steel framed canopy over a 1.5m high solid steel front entry gate in accordance with the plans date stamp received on 28 March 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with

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- the conditions of this planning approval unless otherwise amended by Council.
3. the proposed roofed timber deck, roofed gate, and solid walls above 1.2m high in the front setback are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Rodney O'Byrne (designer) and Ms Felicity Cockburn (owner) addressed the meeting stating that they were satisfied with the officer's report.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Wilson

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

- (a) **variation to the east side (front) boundary setback pursuant to the Residential Design Codes from 7.5m to 6m;**
- (b) **variation to Local Planning Policy 143 for solid sections of wall in the front setback/front fence up to 1.6m high;**

for the construction of additions to the single storey house at No. 13 (Lot 1) Windsor Road, East Fremantle comprising a roofed timber deck to the front, landscape works including 1.6m high split stone wall panels and 1.4m high cement rendered panel to the front fence, and a steel framed canopy over a 1.5m high solid steel front entry gate in accordance with the plans date stamp received on 28 March 2008 subject to the following conditions:

1. **the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
2. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **the proposed roofed timber deck, roofed gate, and solid walls above 1.2m high in the front setback are not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**



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4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

T42.4

Walter Street No. 3 (Lot 1)

Applicant & Owner: Mark Baldwin

Application No. P50/2008

By Chris Warrener, Town Planner on 23 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for unauthorised existing development comprising enclosing a carport with white coloured roll-a-doors at either end, and incorporating a wall along the north side boundary at 3 Walter Street.

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 4 March 2008

Date Application Received

4 March 2008

Additional information

Letter of endorsed support from owner of 5 Walter Street

No. of Days Elapsed between Lodgement & Meeting Date

69 days

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

21 August 2001	Council decides to advise the WAPC that it does not support the subdivision of 3 Walter Street into 2 lots;
26 September 2001	WAPC conditionally approves the battle axe subdivision of 3 Walter Street into 2 survey strata lots (1 X 426m ² , 1 X 485m ²);
20 August 2002	Council grants special approval for alterations and additions at the rear with setback variations, and a parapet wall on the north-side boundary for a garage;
20 May 2003	Council approves a carport next to the north side;
8 June 2003	Building Licence 122/3430 approved for carport;
14 October 2003	WAPC grants final approval to Survey Strata Plan 44581;
25 March 2004	Building Licence 122/2565 approved for alterations and additions.

CONSULTATION

Town Planning Advisory Panel Comments

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

- should be timber doors not a roller door
- painted timber double doors with vertical opening (could be electric)
- should be recessed slightly (at least 100mm) from main building

Site Inspection

By Town Planner on 2 April 2008

REPORT

Background

On 4 March 2008 Council received an Application for Planning Approval to enclose a carport by constructing a parapet wall on the boundary, and fitting roll-a-doors at either end next to the north side of the single storey house at 3 Walter Street. The carport is fixed to the north side wall at the front of the house.

If approved this results in the conversion of the carport into a garage.

On 1 April 2008 in the course of a site visit the Town Planner observed that the parapet wall was already built.

The owner was subsequently notified in writing to cease all work on the carport and *"requested to show just cause, in writing within the next 7 days, as to why Council should not now initiate legal proceedings against you in respect of the unauthorised works."*

By letter dated 3 April 2008 the owner submitted a response to Council's letter (see attachment).

All work on the carport has ceased.

Issues

Unauthorised Works

Commencing and/or undertaking development without approval or without complying with an approval contravenes TPS 3, and is subject to the following provision:

"11.4. Person must comply with provisions of Scheme

A person must not —

- (a) *contravene or fail to comply with the provisions of the Scheme;*
- (b) *use any land or commence or continue to carry out any development within the Scheme area —*
 - (i) *otherwise than in accordance with the Scheme;*
 - (ii) *unless all approvals required by the Scheme have been granted and*



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- issued;
- (iii) otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and
 - (iv) otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the local government under the Scheme with respect to that building or that use.

Note: Section 10(4) of the Town Planning Act provides that a person who —

- (a) contravenes or fails to comply with the provisions of a town planning scheme; or
- (b) commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme,

is guilty of an offence.

Penalty: \$50 000, and a daily penalty of \$5 000.”

TPS 3 also includes a provision which enables the Council to approve an unauthorised works or use:

“8.4. *Unauthorized Existing Developments*

- 8.4.1. *The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.*
- 8.4.2. *Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.*

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

TPAP Comments

Given the potential impact of the proposed works on the local streetscape the application was considered by the Town Planning Advisory Panel who are of the view that the proposed door opening facing the street should be painted timber double doors with a vertical opening rather than a white painted roller door as proposed.

Discussion

Enclosing a carport is not considered to be a significant development in terms of its cost, and in terms of its overall impact on the built environment, and this breach of TPS 3 is not considered so serious as to warrant further prosecution proceedings.

In terms of “compliance” enclosing the carport does not propose any variations for which Council’s discretion is required to be exercised pursuant to the RDC or LPP 142.

However in terms of its potential impact on the local streetscape and neighbourhood amenity, noting in particular TPS 3, Clause 10.2, sub-clauses (j), (o), and (p), the views of TPAP are considered valid in terms of the structure needing to have a reasonable presentation to Walter Street.

The following recommendation includes a condition on the unauthorised works requiring the installation and design of the garage door to the front being to the satisfaction of the CEO.

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RECOMMENDATION

That, pursuant to Town Planning Scheme No 3, clause 8.4, Council grant approval for unauthorised works comprising the enclosure of a carport incorporating a wall along the north side boundary at No. 3 (Lot 1) Walter Street, East Fremantle in accordance with the plans date stamp received on 4 March 2008 subject to the following conditions:

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

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (c) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*

Mr & Mrs Mark & Taola Baldwin (applicants) addressed the meeting in support of their application.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr de Jong

That, pursuant to Town Planning Scheme No 3, clause 8.4, Council grant approval for unauthorised works comprising the enclosure of a carport incorporating a wall along the north side boundary at No. 3 (Lot 1) Walter Street, East Fremantle in accordance with the plans date stamp received on 4 March 2008 subject to the following conditions:

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

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2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed carport enclosure is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater 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 to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (c) *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 de Jong made the following impartiality declaration in the matter of 7 Habgood Street: "As a consequence of my being a neighbour who received a letter regarding this application, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T42.5 Habgood Street No. 7 (Lot 5022)
Applicant: Inhouse Building Design
Owner: Mr & Mrs Moriarty
Application No. P75/2008
By Chris Warrener, Town Planner on 28 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for additions to the 3-level house at 7 Habgood Street comprising:

Ground Floor: add a deck and a 7m long X 3.8m wide swimming pool to the front, enlarge the living room and add an alfresco at the rear;

Upper Floor: master bedroom, built-in-robos & en-suite, study, living room & balcony to the front, and balcony at the rear.

Statutory Considerations

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

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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 28 March 2008

Date Application Received

28 March 2008

Additional information

Plans clearly illustrating natural ground level and building height date stamp received on 21 April 2008

Advertising

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

Date Advertised

2 April 2008

Close of Comment Period

18 April 2008

No. of Days Elapsed between Lodgement & Meeting Date

45 days

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

14 August 1981 Building Permit 014/507 issued for the erection of a family room over the existing residence;
7 March 1986 Building Permit 148/1097 approved for a metal workshop;
16 March 2004 Council grants approval for a Home Occupation – Property Management & Real Estate Sales.

CONSULTATION

Town Planning Advisory Panel Comments

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

- significant improvement
- finishes will be critical to the success of this proposal
- some thought could be given to the design of the side elevations
- nice balance
- 200mm overheight is noted

Public Submissions

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

Site Inspection

By Town Planner on 22 April 2008.

STATISTICS

	<i>Required</i>	<i>Proposed</i>
Land Area		736m ² Existing
Open Space	55%	60.65% Acceptable
Zoning		R12.5

Setbacks:

Front (northeast)

Ground	<i>No Change to Ground Floor</i>		
Upper	<i>Master Bedroom</i>	7.50	12.40
			Acceptable
	<i>Balcony</i>	7.50	9.05
			Acceptable

Rear (southwest)

Ground	<i>Alfresco</i>	6.00	4.52
			Discretion Required
Upper	<i>Balcony</i>	7.50	11.00
			Acceptable
	<i>Ensuite</i>	6.00	13.26
			Acceptable

Side (northwest)

Ground	<i>Livingroom</i>	1.00	1.72
			Acceptable
	<i>Alfresco</i>	1.50	1.72
			Acceptable
Upper	<i>Balcony (front)</i>	2.50	2.20
			Discretion Required
	<i>Livingroom</i>	1.50	2.20
			Acceptable
	<i>Balcony (rear)</i>	1.50	2.20
			Acceptable

Side (southeast)

Ground	<i>No Change to Ground Floor</i>		
Upper	<i>Balcony (rear)</i>	7.50	8.58
			Acceptable
	<i>Master Bedroom</i>	1.50	3.90
			Acceptable
	<i>Balcony (front)</i>	2.00	5.95
			Acceptable

Height:

Wall	5.60	6.70
		Discretion Required
Building	8.10	8.30
		Discretion Required

**REPORT
Issues**

Building Height

A portion of the roof is 8.3m above natural ground level (NGL).

LPP 142 specifies an 8.1m roof height limit in this area of East Fremantle.

The upper floor wall for the master bedroom on the northeast side (front) varies up to 6.2m above NGL, and the upper floor wall for the living room on the northwest side varies up to 6.7m above NGL.

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

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Boundary Setbacks

The proposed alfresco area at the rear is set back 4.52m from the southwest boundary common with 4 Chauncy Street.

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

The balcony at the front is set back 2.2m from the northwest side boundary common with 9 Habgood Street.

The RDC recommend a 2.5m setback.

[Note, that the recommended setback for an unscreened balcony is 7.5m however this balcony is at the front, and overlooks the front setback and public domain therefore the recommended side boundary setback is as per the setbacks for a wall with a major opening.]

Roof Pitch

The application proposes a gently curved roof over the proposed additions and existing structure pitched at approximately 10°.

LPP 066 states:

“dominant elements to be greater than 28°.”

Discussion

This application proposes additions to the 2-storey house at 7 Habgood Street, which incorporate a curved roof structure, which is considered to make a positive contribution to the appearance of the property and the local streetscape.

The variations to roof pitch, wall and roof height are very minor, and are considered not to detrimentally impact on any adjoining or nearby property views, the variations proposed to the rear and northwest side boundary setbacks do not detrimentally impact on the potentially affected adjoining properties, and given that no submissions were received the application is supported with the proposed variations.

Similarly, the proposed setback variations are also considered minor, they do not detrimentally impact on the amenity of any adjoining property or on the local streetscape, and are supported.

RECOMMENDATION

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

- (a) variation to the northwest side boundary setback for a balcony pursuant to the Residential Design Codes from 2.5m to 2.2m;
- (b) variation to roof height pursuant to Local Planning Policy 142 from 8.1m to 8.3m;
- (c) variation to wall height on the northeast and northwest sides pursuant to Local Planning Policy 142 from 5.6m to 6.2m and 6.7m respectively;
- (d) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to a curved roof pitched at approximately 10°;

for the construction of additions to the 3-level (2-storey) house at No. 7 (Lot 5022) Habgood Street, East Fremantle comprising:

Ground Floor: a deck and a 7m long x 3.8m wide swimming pool to the front, enlarge the living room and add an alfresco at the rear;

Upper Floor: master bedroom, built-in-robos & en-suite, study, living room & balconies to the front, and rear.

in accordance with the plans date stamp received on 21 April 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information

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- 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 to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 6. the proposed works for the swimming pool are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 7. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
 8. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
 9. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
 10. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
 11. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
 12. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
 13. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



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- amended*).
- (e) *the alfresco may not be enclosed without the prior written consent of Council.*

Mr Bruce Moriarty (applicant) addressed the meeting in support of his application.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Rico

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

- (a) variation to the northwest side boundary setback for a balcony pursuant to the Residential Design Codes from 2.5m to 2.2m;
- (b) variation to roof height pursuant to Local Planning Policy 142 from 8.1m to 8.3m;
- (c) variation to wall height on the northeast and northwest sides pursuant to Local Planning Policy 142 from 5.6m to 6.2m and 6.7m respectively;
- (d) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to a curved roof pitched at approximately 10°;

for the construction of additions to the 3-level (2-storey) house at No. 7 (Lot 5022) Habgood Street, East Fremantle comprising:

Ground Floor: a deck and a 7m long x 3.8m wide swimming pool to the front, enlarge the living room and add an alfresco at the rear;

Upper Floor: master bedroom, built-in-robos & en-suite, study, living room & balconies to the front, and rear.

in accordance with the plans date stamp received on 21 April 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed 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 to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. the proposed works for the swimming pool are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
8. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
9. pool filter and pump equipment to be located away from boundaries as



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- determined by Council and all pool equipment shall comply with noise abatement regulations.
10. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
 11. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
 12. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
 13. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

Cr Wilson having declared an interest in the following item as the subject property adjoins her property at No. 46 Locke Crescent, left the meeting at 7.00pm.

T42.6 **Locke Crescent No. 48 (Lot 4975)**
Applicant: De Pledge Design
Owner: P Bartolomei & M Daluz
Application No. P74/2008
By Chris Warrener, Town Planner on 30 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 48 Locke Crescent comprising:

Ground Floor: Double garage, portico, home office, foyer, 3 bedrooms, 2 bathrooms, sitting room, laundry, gym, and alfresco;

First Floor: Master suite, en-suite, powder room, dressing room, kitchen, dining room and balcony.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

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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 28 March 2008

Date Application Received

28 March 2008

Advertising

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

Date Advertised

2 April 2008

Close of Comment Period

18 April 2008

No. of Days Elapsed between Lodgement & Meeting Date

45 days

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

Nil

CONSULTATION

Town Planning Advisory Panel Comments

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

- interesting design
- front elevation is unbalanced and does not appear to have a clear stylistic concept

Public Submissions

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

- A & K Maricic* - no problems;
- 112 Preston Pt Rd* - only issue is raising soil level at rear boundary to accommodate the swimming pool – strength of retaining wall?

Site Inspection

By Town Planner on 8 March. 2007

STATISTICS	Required	Proposed
Land Area		736m ² Existing
Open Space	55%	61.49% Acceptable
Zoning		R12.5
Setbacks:		
Front (south)		
<i>Ground</i> <i>Garage</i>	7.50	7.50 Acceptable
<i>Portico</i>	7.50	6.80 Discretion Required

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	<i>Office</i>	7.50	7.30
			Discretion Required
<i>Upper</i>	<i>Kitchen</i>	7.50	14.50
			Acceptable
	<i>Stairway</i>	7.50	10.30
			Acceptable
	<i>Void</i>	7.50	9.20
			Acceptable
	<i>Dressing Room & WIR</i>	7.50	9.70
			Acceptable
Rear (north)			
<i>Ground</i>	<i>Bedroom 3</i>	6.00	11.60
			Acceptable
	<i>Alfresco</i>	6.00	8.90
			Acceptable
<i>Upper</i>	<i>Master Bedroom</i>	6.00	15.30
			Acceptable
	<i>Balcony</i>	7.50	8.90
			Acceptable
Side (west)			
<i>Ground</i>	<i>Gym, Ensuite & Guestroom</i>	1.50	1.70
			Acceptable
	<i>Garage</i>	1.10	1.00
			Discretion Required
<i>Upper</i>	<i>BBQ, Dining & Kitchen</i>	1.60	1.70
			Acceptable
Side (east)			
<i>Ground</i>	<i>Linen & Robe</i>	1.00	1.10
			Acceptable
	<i>Bathroom & Bedroom 3</i>	1.00	1.70
			Acceptable
<i>Upper</i>	<i>WIR</i>	1.10	1.70
			Acceptable
	<i>Ensuite</i>	1.10	1.10
			Acceptable
	<i>Master Bedroom</i>	1.20	1.70
			Acceptable
	<i>Balcony</i>	7.50	7.57
			Acceptable
Height:			
Wall		5.60 / 6.50	5.40 / 6.20
			Discretion Required
Building		8.10	8.10
			Complies

REPORT

Issues

Boundary Setbacks

A portico is set back 6.8m and an office is set back 7.3m from the south side (front) boundary.

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

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- The wall for a proposed garage is set back 1m from the west side boundary. The wall for this garage varies between 4.3m and 5.2m above natural ground level (NGL), and is 7.2m long.
- The RDC specify a 1.1m setback for a wall of the height and length proposed for the garage.
- Wall Height*
- The design of the proposed house incorporates pitched and concealed roof sections.
- LPP 142 specifies a wall height of 5.6m and a roof height of 8.1m for a pitched roof house, and a 6.5m height limit for a concealed/flat roofed house in this area of East Fremantle.
- The overall height of the proposed house complies with LPP 142 however some sections of wall under the pitched roof on the east and west sides exceed the 5.6m height limit.
- A 3.5m long section of the upper floor wall on the east side for the master suite varies between 5.6m and 6.1m above NGL.
- A 5.8m long section of the upper floor wall on the west side for the dining/kitchen varies between 5.6m and 6m above NGL.
- Under LPP 142 the wall height limit of 5.6m applies therefore these sections of the east and west side upper floor walls propose height variations for which Council discretion is required to be exercised to allow.
- Submission*
- The submission is concerned with the technical aspects relating to the construction of a retaining wall at the rear.
- Discussion**
- Boundary Setbacks*
- The proposed front setback variations are considered relatively minor, at 0.7m for a portico, and 0.2m for an office and are not considered to have any impact on local streetscape.
- Due to the topography of the property with a relatively steep down-slope near the road reserve these variations are supported.
- The proposed setback variation for the garage is considered minor, it does not detrimentally affect the amenity of the adjoining property, and the potentially affected property owner has not objected to the application.
- Wall Height*
- There is a 4.5m fall from the front of the property to the rear, which has necessitated an increase in wall height in order to maintain level floor and ceiling heights through the proposed house.
- The wall height variations are not significant and do not impact on any adjoining or nearby property views. Roof height is within the 8.1m maximum specified under LPP 142.

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RECOMMENDATION

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

- (a) variation to wall height on the east side pursuant to Local Planning Policy 142 from 5.6m to 6.1m;
- (b) variation to wall height on the west side pursuant to Local Planning Policy 142 from 5.6m to 6m;
- (c) variation to the front setback for a portico and an office pursuant to the Residential Design Codes from 7.5m to 6.8m and 7.3m respectively;
- (d) variation to the west side boundary setback for a garage wall pursuant to the Residential Design Codes from 1.1m to 1m;

for the construction of a 2-storey house at No. 48 (Lot 4975) Locke Crescent, East Fremantle comprising:

Ground Floor: Double garage, portico, home office, foyer, 3 bedrooms, 2 bathrooms, sitting room, laundry, gym, and alfresco;

First Floor: master suite, en-suite, powder room, dressing room, kitchen, dining room and balcony.

in accordance with the plans date stamp received on 28 March 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. 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. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



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

Mr Peter Bartolomei (owner) and Mr Brent De Pledge (designer) addressed the meeting in support of the application.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Rico

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

- (a) variation to wall height on the east side pursuant to Local Planning Policy 142 from 5.6m to 6.1m;
- (b) variation to wall height on the west side pursuant to Local Planning Policy 142 from 5.6m to 6m;
- (c) variation to the front setback for a portico and an office pursuant to the Residential Design Codes from 7.5m to 6.8m and 7.3m respectively;
- (d) variation to the west side boundary setback for a garage wall pursuant to the Residential Design Codes from 1.1m to 1m;

for the construction of a 2-storey house at No. 48 (Lot 4975) Locke Crescent, East Fremantle comprising:

Ground Floor: Double garage, portico, home office, foyer, 3 bedrooms, 2 bathrooms, sitting room, laundry, gym, and alfresco;

First Floor: master suite, en-suite, powder room, dressing room, kitchen, dining room and balcony.

in accordance with the plans date stamp received on 28 March 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. 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. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.

7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
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.*

CARRIED

Cr Wilson returned to the meeting at 7.06pm and it should be noted that she neither spoke nor voted on the foregoing item.

T42.7 **Clayton Street No. 12 (Lot 427)**
Applicant/Owners: Adam & Renita Mroz
Application No. P53/2008
By Chris Warrener, Town Planner on 29 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for renovations including 2-storey additions to the rear of the single storey house at No. 12 (Lot 427) Clayton Street, East Fremantle comprising:

Ground Floor: carport, convert the back verandah for use as a computer room with a new laundry, extend the house to create a kitchen, meals area, and a living room, outdoor decking and a verandah;
First Floor: studio above the proposed living room

Statutory Considerations

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



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Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 14 March 2008

Date Application Received

14 March 2008

Advertising

Adjoining land owners only

Date Advertised

8 April 2008

Close of Comment Period

23 April 2008

No. of Days Elapsed between Lodgement & Meeting Date

59 days

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

Nil

CONSULTATION

Town Planning Advisory Panel Comments

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

- there appears little impact to the streetscape with this proposal
- it picks up the rhythm of the original house without mimicking it – quite appropriate in its style
- whilst the design as shown will maximise passive solar benefit it would appear to intrude on the neighbours to the rear - ensure that area being overshadowed on neighbouring property is not a living area
- minor re-orientation of the living/studio space through 90° the rear setback could be increased to reduce the impact on the neighbour to the rear

Public Submissions

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

Tracey Bence
119 Petra Street

- object to upper level extension on privacy grounds
- second floor addition will look into our property & overlook our pool

Colin Langdon
10B Clayton Street

- opposed to development
- proposed development does not maintain the existing character of street appeal
- visual obstruction
- reduces solar access
- not in character with existing dwelling or neighbouring properties
- windows overlook courtyard

Site Inspection

By Town Planner on 3 April 2008

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STATISTICS	Required	Proposed
Land Area		804m ² Existing
Open Space	55%	66.50% Acceptable
Zoning		R12.5
Setbacks:		
Front (west)		
<i>Ground</i> <i>Carport</i>	7.50	12.60 Acceptable
Rear (east)		
<i>Ground</i> <i>Livingroom</i>	6.00	3.00 Discretion Required
<i>Verandah</i>	6.00	4.20 Discretion Required
<i>Upper</i> <i>Studio</i>	6.00	3.00 Discretion Required
Side (north)		
<i>Ground</i> <i>Verandah</i>	1.50	5.00 Acceptable
<i>Upper</i> <i>Studio</i>	2.50	14.10 Acceptable
Side (south)		
<i>Ground</i> <i>Kitchen & Livingroom</i>	1.00	1.30 Acceptable
<i>Upper</i> <i>Studio</i>	1.20	1.30 Acceptable
Height:		
Wall	6.00	5.40 Acceptable
Building	9.00	6.85 Acceptable
Overshadowing:	10% of adjoining property	

**REPORT
Issues**

Boundary Setbacks

The wall for a proposed ground floor living room and upper floor studio is set back 3m, and a verandah is set back 4.2m from the east side (rear) boundary common with 117 Petra Street.

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

TPAP Comments

In general the panel considered that the proposed additions are acceptable except for the overshadowing of the neighbouring property (rear 10B Clayton Street), and rear setback.

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Submissions

The submission from 119 Petra Street is concerned at the overlooking by the addition into its rear swimming pool area.

The submission from the owner of 10B Clayton Street is concerned at the impact of the additions on solar access, and the impact on streetscape.

Discussion

The single storey house at 12 Clayton Street is classified with a "B" management category in Council's MI. It is described as an inter-war 'Californian bungalow', which according to plumbing records held by the owner/applicant, was built in the 1930's.

The proposed additions are to the rear and are proposed to be constructed to complement rather than mimic the character and style of the existing house.

The existing tiled roof is a 'new' roof that was installed approximately 20 years ago, and the owners propose to replace this roof with a roof which as closely as possible matches the original roof style and colour.

With regard to the proposed rear setback variation the potentially affected property at 117 Petra Street contains a recently completed single storey house with a small service area not an outdoor living area or habitable room, which might have been affected by the proposed 2-storey addition. The upper floor of the proposed addition does not contain a major opening which might otherwise impact on the privacy of the rear of 117 Petra Street, and the potentially affected property owner has not objected to the setback variation.

In regard to the submission regarding the overlooking of the swimming pool area at the rear of 119 Petra Street the upper floor window of the proposed studio, which is nearest the rear property boundary, is set back approximately 15m from the northeast corner of 12 Clayton Street common with the objector's property.

Under the RDC the recommended setback for a wall with a major opening of the type proposed is 2.5m therefore the proposed additions do not involve a setback, which gives rise to overlooking under the RDC.

In regard to the issues raised in the submission from the owner of 10B Clayton Street the following points are made:

The additions are at the rear of the property, and are considered to have minimal impact on streetscape especially given that it is not proposed to alter or remove the existing single storey house at the front, which will continue to be the dominant built form on the property.

In regard to solar access the extent of overshadow by the proposed additions comprises 10% of the property at 10B Clayton Street. The acceptable development under the RDC states:

"A1 Notwithstanding the boundary setbacks in Element 3, development in Climatic Zones 4, 5 and 6 of the State shall be so designed that its shadow cast at midday, 21 June onto any other adjoining property does not exceed the following limits:

- *on adjoining properties coded R25 and lower – 25% of the site area;*
- *on adjoining properties coded R30 to R40 inclusive – 35% of the site area;*
- *on adjoining properties coded R-IC or higher than R40 – 50% of the site area.*

Note: In this context "site area" refers to the surface of the adjoining lot without regard for any building on it but taking into account its natural ground levels."

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It must be remembered that the overshadow calculation is based on the effect of the shadow cast by the proposed development at a single point in time, and is not to comprise 25% or more of the affected site area, in this case 10B Clayton Street.

Solar access to the area of concern at 10B Clayton Street will be available for most of the year, and for most of every day in the year (morning and afternoon), and as the overshadow is substantially less than the maximum allowable under the RDC this particular concern is not considered to be a significant amenity issue to justify refusal or modification of the application.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the east side (rear) boundary setback for a ground floor living room and upper floor studio, and verandah pursuant to the Residential Design Codes from 6m to 4.2m and 3m respectively for renovations including 2-storey additions to the rear of the single storey house at No. 12 (Lot 427) Clayton Street, East Fremantle comprising:

Ground Floor: carport, convert the back verandah for use as a computer room with a new laundry, extend the house to create a kitchen, meals area, and a living room, outdoor decking and a verandah;

First Floor: studio above the proposed living room

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

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed 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 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 adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*



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Mr & Mrs Adam & Renita Mroz (applicants) addressed the meeting in support of their application.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Wilson

That the application for alterations/additions to the single storey residence at No. 12 (Lot 427) Clayton Street, East Fremantle be deferred pending the applicants providing a sample of the material proposed for the external walls of the additions.

Footnote:

The applicants be commended for retaining the original house.

CARRIED

T42.8

Preston Point Road No. 58A (Lot 11)

Applicant: Tony Wilkie

Owner: Orlando & Susana Maria Andrade

Application No. P27/2008

By Chris Warrener, Town Planner on 28 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval to redevelop 58A Preston Point Road by demolishing the gable roofed 6 multiple dwellings and replacing them with a flat/concealed roof over 6 new multiple dwellings comprising a basement parking area, 3 units on the first floor each with 2 bedrooms, living, dining, kitchen and study, and 3 units on the second floor each with 2 bedrooms, living, dining, kitchen and study.

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)

Local Planning Policy No 066 - Roofing

Documentation

Plans and date stamp received on 20 February 2008

Amended plans date stamp received on 8 April 2008

Date Application Received

1 February 2008

Advertising

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

Date Advertised

15 February 2008

Close of Comment Period

29 February 2008

No. of Days Elapsed between Lodgement & Meeting Date

101 days

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

21 June 1964

Plans & specifications submitted for 6 flats by L.W. Buckeridge;

26 October 1964

Council approves plans for flats;

5 July 1965

Public Health Department approves of a septic tank installation for the flats;

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- | | |
|-------------------|--|
| 19 October 1981 | Council conditionally agrees to strata titles for the 6 flats; |
| 19 September 1983 | Council considers the property unsuitable for strata titling; |
| 16 December 1985 | Council decides to seek the advice of the State Planning Commission on proposed Strata Titling of 6 units in view of the new Strata Titles Act 1985; |
| 17 March 1986 | Council refuses to agree to Strata Titling; |
| 21 April 1986 | Council decides that a fence must be brought into conformity otherwise legal proceedings will be instigated; |

CONSULTATION

Town Planning Advisory Panel Comments

This application was reconsidered by the Town Planning Advisory Panel at its meeting on 22 April 2008 and the following comments were made based on colour perspectives of the proposed development:

- modernist look is acceptable
- should not allow for height concessions in this location
- design is totally out of character with anything else in this area

Public Submissions

At the close of the comment period 10 submissions were received.

- | | |
|---|--|
| <i>Louise Good</i>
<i>2/60 Preston Pt</i> | <ul style="list-style-type: none">- Objection - building height – impact on views- Proposed design appears to be an improvement |
| <i>Moreschini Nominees</i>
<i>2/60 Preston Pt</i> | <ul style="list-style-type: none">- Objection – height- Access will increase traffic hazards on Preston Point Road- Concerns raised regarding dust and structural damage during construction |
| <i>Cathryn Brown</i>
<i>11/60 Preston Pt</i> | No objection to redevelopment of buildings to the current height |
| <i>Andrew Wheeler</i>
<i>3/60 Preston Pt</i> | <ul style="list-style-type: none">- Oppose any development that exceeds the height limit- My harbour views may be affected by the development |
| <i>Max Barton</i>
<i>6/60 Preston Pt</i> | <ul style="list-style-type: none">- Disapprove and raise objection to plan- Building will curtail at least a third of my views |
| <i>Uliana Pullella</i>
<i>4/60 Preston Pt</i> | Objection – would affect the view |
| <i>Martin Johnson</i>
<i>8/60 Preston Pt</i> | Objects if the development is overheight |
| <i>Sue & John Moody</i>
<i>1 Fraser Street</i> | <ul style="list-style-type: none">- Object-stand to lose substantial views- Ugly flat roof;- Encroaching our north and south facing views |
| <i>Amanda Thomas</i>
<i>7/60 Preston Pt</i> | Do not agree because it will significantly block my river views |
| <i>Plan-It</i>
<i>on behalf of</i>
<i>J & S Moody</i> | <ul style="list-style-type: none">- Concerns raised:- top of new building must not exceed height of existing ridge- setbacks to be more in keeping with existing |

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- streetscape
- building is bland & unimaginative
- roof must be concealed and in non-reflective material
- there are to be no air-conditioners or other roof projections
- there will not be a 'forest' of aerials & satellite dishes
- Council to condition its approval to take into consideration the above concerns

Sabine Frichot
5/60 Preston Pt

Asking Council to consider all ratepayers fairly and to ensure that the river views of 60 Preston Point Road are not compromised by the development

Site Inspection

By Town Planner on 8 April 2008

STATISTICS		<i>Required</i>	<i>Proposed</i>
Land Area			852m ² Existing
Zoning			R12.5
<u>Setbacks:</u>			
Front (west)			
<i>Undercroft</i>	<i>Carpark</i>	4.00	4.40 Acceptable
<i>Ground</i>	<i>Balconies</i>	3.00	3.502 Acceptable
<i>Upper</i>	<i>Balconies</i>	3.00	3.502 Acceptable
	<i>Bedrooms</i>	4.00	4.40 Acceptable
Rear (east)			
<i>Ground</i>	<i>Bedrooms</i>	1.50	4.30 Acceptable
<i>Upper</i>	<i>Bedrooms</i>	3.00	4.30 Acceptable
Side (north)			
<i>Ground</i>	<i>Bedroom & Study</i>	1.00	2.50 Acceptable
<i>Upper</i>	<i>Bedroom & Study</i>	2.00	2.50 Acceptable
Side (south)			
<i>Undercroft</i>	<i>Carpark</i>	1.00	4.20 to 4.60 Acceptable
<i>Ground</i>	<i>Balcony</i>	2.00	3.40 Acceptable
	<i>Living</i>	2.00	4.026 to 4.70 Acceptable

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<i>Upper</i>	<i>Balcony</i>	2.00	3.40
			Acceptable
	<i>Living</i>	2.00	4.026 to 4.70
			Acceptable

Height:

Wall	6.50	6.50 to 7.30
		Discretion Required

REPORT

Background

Around the years 1964-65 the block of 6 flats named “Derna Court” was built.

The current application proposes to redevelop the site by demolishing “Derna Court” and building 6 attached multiple dwellings in its place.

The existing building is a rather “tired” looking 2-storey salmon brick and gable tiled roof structure, with car parking on an open hardstand area at the rear accessed via a driveway crossover to Fraser Street.

The proposed building is a 3-level (car parking to be provided at basement level accessed via a crossover to Preston Point Road, with 2 floors of multiple dwellings above) concealed/flat roofed structure.

At its meeting held on 18 March 2008 Council considered this application and decided:

“That Council defers its decision on the application for the redevelopment of No. 58A (Lot 11) Preston Point Road, East Fremantle by demolishing the gable roofed 6 multiple dwellings and replacing them with a flat/concealed roof over 6 new multiple dwellings comprising a basement parking area, 3 units on the first floor each with 2 bedrooms, living, dining, kitchen and study, and 3 units on the second floor each with 2 bedrooms, living, dining, kitchen and study in accordance with the plans date stamp received on 20 February 2008 pending the submission of additional information including colour perspectives of the development, and plans illustrating the context of the building in respect to the streetscape of Preston Point Road and Fraser Street, and design modifications to bring the whole of the proposed building into compliance with the height limits specified in LPP 142.”

In response the applicant surveyed the property, positioned boundary pegs, and line marked the extent/boundary of the proposed building. In addition the applicant prepared and submitted colour images depicting the appearance of the proposed development, and plans illustrating the context of the building in respect to the streetscape of Preston Point Road and Fraser Street.

The proposed building continues to include a 0.8m height variation in the southwest corner.

Issues

Zoning & Density

The subject land comprises 852m², and it is zoned Residential R12.5 under TPS 3.

Under the R12.5 density code the property can accommodate a single dwelling.

The existing block of 6 multiple dwellings comprises development that equates with a density code of R70.



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The use "Multiple Dwelling" is an 'X' use in the Residential zone in areas with a density coding of less than R40.

On the above basis this application could not be considered or approved however TPS 3 includes the following special provision:

"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, 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."*

This application has been assessed as complying pursuant to this provision based on the development being at a density of R70.

Building Height

The upper floor wall in the south west corner of the building for the living room for Unit 6 varies up to 7.3m above Natural Ground Level (NGL).

LPP 142 recommends a height limit of 6.5m for a concealed/flat roofed development in this area of East Fremantle.

Roof Pitch

The roof of the proposed development is flat/concealed.

LPP 066 states:

"dominant elements to be greater than 28°."

Submissions

The submissions from the multiple dwellings at 60 Preston Point Road object to the application because in their opinion the height of the proposed building will interfere with or block their views. 3 of these submissions advise that they have no objections if the building complies with the height limits.

The submission from 1 Fraser Street similarly objects to the application because the proposed building will interfere with north and south facing views.

A town planning consultant acting for the owners of 1 Fraser Street advises that the application would be supported provided Council applies conditions on the development which address building height, setbacks, appearance, roof material and colour, and roof projections.



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Council decision

The colour images of the proposed development illustrate a contemporary building based on an “art deco” theme typical of some of the remnant buildings still remaining in this area of East Fremantle. There are a number of examples in View Terrace. The curved corner walls (“Serpentine walls”) are the key design element of this theme.

The applicant has not altered the height of the proposed building.

Discussion

Building Height

Most of the proposed building is within the height limit specified in LPP 142. The applicant’s plans illustrate that the proposed building will be no higher than the roof ridge of the existing building.

A portion of the proposed building along its west side (facing Preston Point Road) and in the southwest corner is “over-height”, varying up to 7.3m above natural ground level (NGL).

This portion of the building will have a negligible impact on views from properties at the rear, namely 60 Preston Point Road (“Panorama Views”), and the small view that will be obscured by this portion of the development is not a significant view.

Conclusion

The subject site is in a very prominent location of East Fremantle and its redevelopment should be carefully undertaken to provide the most aesthetically pleasing result.

The TPAP comments in general are positive in regard to the design of the building, and its impact on streetscape. The one negative comment is to a large degree not applicable given the wide variety of building styles along Preston Point Road, particularly the section within which the subject land is situated.

Based on the applicant’s perspective images the building is considered to make a positive, attractive contribution to the local streetscape, and will result in significant improvements to the outlook and amenity of adjoining properties.

The proposed height variation is not significant, and it does not obscure any significant views from the multiple dwellings at 60 Preston Point Road or from the single house at 1 Fraser Street.

The multiple dwellings at 60 Preston Point Road will no longer overlook a “run down” salmon brick and asbestos roofed block of flats, but rather a modern expensively finished development considered to contribute to an increase in their property values.

Access is proposed off Preston Point Road not Fraser Street as is the current arrangement, and this element will significantly improve the amenity of 1 Fraser Street, which will no longer be next to an open area carpark and crossover. The current river views from 1 Fraser Street will not be detrimentally affected by the proposed development.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to height in the southwest portion pursuant to Local Planning Policy 142 from 6.5m to 7.3m for the redevelopment of No. 58A (Lot 11) Preston Point Road, East Fremantle by demolishing the gable roofed 6 multiple dwellings and replacing them with a flat/concealed roof over 6 new multiple dwellings comprising a basement parking area, 3 units on the first floor

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each with 2 bedrooms, living, dining, kitchen and study, and 3 units on the second floor each with 2 bedrooms, living, dining, kitchen and study in accordance with the plans date stamp received on 20 February 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed multiple dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. 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. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
8. any new crossovers which are constructed under this approval to be a maximum width of 6.0m, 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.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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Mr & Mrs John & Sue Moody (1 Fraser Street) and Mr Max Barton (Unit 6/60 Preston Point Road) addressed the meeting on proposed building height and loss of views.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr de Jong

That the application for redevelopment of No. 58A (Lot 11) Preston Point Road, East Fremantle be deferred:

- (a) pending site visits of adjoining properties being undertaken ie No. 1 Fraser Street and 60 Preston Point Road; and
 - (b) the Committee noted that plans showing compliance with the height requirements of “Local Planning Policy No. 142 – Residential Development” have yet to be submitted.
- CARRIED

T42.9

Gill Street No. 6 (Lot 301)

Applicant: Steven Radalj

Owner: Marty Westvelt

Application No. P67/2008

By Chris Warrener, Town Planner on 30 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 6 Gill Street comprising:

Ground Floor: double garage, store, porch, entry, laundry, kitchen, family, dining, guest room with en-suite & alfresco;

First Floor: 3 bedrooms, 2 bathrooms, sitting room and balcony.

Statutory Considerations

Town Planning Scheme No. 3 –Metropolitan Region Scheme Reserve for Primary Regional Roads

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 25 March 2008

Date Application Received

25 March 2008

Additional information

29 April 2008 Amended plans for the south elevation (Canning Highway), and the upper floor received.

Advertising

The landowners potentially affected by this application have endorsed their support on the applicant's plans.

No. of Days Elapsed between Lodgement & Meeting Date

48 days

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

19 February 1996 Council decides to advise the WAPC that it does not support the subdivision of 222 Canning Highway (cnr Gill Street) into 2 lots (1 x 1237m², 1 X 334m²);

21 May 1996 WAPC refuses the subdivision application;

21 August 2001 Council conditionally approves additions to the 'old' house at the cnr of Gill Street & Canning Highway;

20 November 2001 Council conditionally approves additions (amended plans);

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- | | |
|------------------|---|
| 19 February 2002 | Council decides to advise the WAPC that it supports a boundary adjustment; |
| 5 March 2002 | WAPC conditionally approves the boundary adjustment; |
| 27 November 2002 | WAPC endorses Deposited Plan 34146 for the boundary adjustment for final approval; |
| 15 April 2003 | Building Licence 178/3405 approved for a sunroom, dressing room, bathroom and garage extension; |
| 11 February 2008 | WAPC conditionally approves the subdivision of 6 Gill Street into 2 lots (1 x 403m ² , 1 x 1041m ²); |

CONSULTATION

Town Planning Advisory Panel Comments

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

- all trees should remain
- trees are a non permanent feature and should they be removed the new residence will present an unfortunate face to Canning Highway
- the proposed dwelling almost fills the whole of the small lot
- the façade of the dwelling facing Canning Highway is bland and poorly considered – it makes no contribution to the streetscape
- the dwelling should appear to address Canning Highway better than it does by the use of stone cladding and a doorway
- the proposed dwelling addresses Gill Street – it is strongly recommended that Council condition any approval with a requirement that the building address Canning Highway

Other Agency/Authority

Department for Planning & Infrastructure

Site Inspection

By Town Planner on 4 April 2008.

STATISTICS	Required	Proposed
Land Area		403m ² Existing
Zoning		Primary Regional Road
Setbacks:		
Front (west)	Gill Street	
<i>Ground</i>	<i>Garage</i>	4.00 Discretion Required 2.00
	<i>Porch</i>	4.00 Discretion Required 2.60
	<i>Stairs</i>	4.00 Discretion Required 3.95
	<i>Laundry</i>	4.00 Discretion Required 5.50
		Acceptable
<i>Upper</i>	<i>Bedroom 2</i>	4.00 Discretion Required 2.75
	<i>Balcony</i>	4.00 Discretion Required 1.50
	<i>Stairs</i>	4.00 Discretion Required 3.95
		Discretion Required
Rear (east)		
<i>Ground</i>	<i>Guestroom</i>	Nil <i>LPP142</i> Nil Acceptable

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	<i>Alfresco</i>	1.00	4.40
			Acceptable
<i>Upper</i>	<i>Bedroom 1</i>	1.20	4.40
			Acceptable
	<i>Balcony</i>	7.50	4.40
			Discretion Required
Side (north)			
<i>Ground</i>	<i>Guestroom</i>	1.50	5.60
			Acceptable
	<i>Alfresco</i>	1.00	Nil
			Discretion Required
	<i>Garage</i>	1.00	Nil
			Discretion Required
<i>Upper</i>	<i>Balcony</i>	7.50	1.53
			Discretion Required
	<i>Sittingroom,</i>	1.50	2.13
	<i>Bathroom & Bedroom 2</i>		Acceptable
	<i>Balcony</i>	1.80	3.50
			Acceptable
Side (south)	<u>Canning Highway</u>		
<i>Ground</i>	<i>Stairs</i>	1.00	9.00
			Acceptable
	<i>Laundry</i>	1.00	6.20
			Acceptable
	<i>Kitchen &</i>	1.00	6.00
	<i>Familyroom</i>		Acceptable
	<i>Ensuite & WIR</i>	1.00	5.00
			Acceptable
<i>Upper</i>	<i>Balcony</i>	2.30	12.50
			Acceptable
	<i>Stairs</i>	1.20	8.80
			Acceptable
	<i>Bedroom 3</i>	2.80	7.50
			Acceptable
	<i>Spa & WIR</i>	1.20	5.23
			Acceptable
<u>Height:</u>			
Wall		6.00	6.00
			Acceptable
Building		9.00	9.00
			Acceptable
Parapet Wall Height		3.00	3.50
			Discretion Required

REPORT

Assessment

This property is wholly situated within the Metropolitan Region Scheme Primary Regional Roads reserve for Canning Highway; there is no underlying TPS 3 zone.

However as with other properties along Canning Highway where they are zoned their zoning under TPS 3 is Residential R12.5/40, and assessment of development applications for properties with this particular coding is based on the following TPS 3 provision:

"5.3.2 *Highway frontage dual coding:* In the case of those sites with frontage on to



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Canning Highway and which are designated with a dual density coding, development above the lower density coding is subject to the following requirements:

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

Note: Development of land affected by the Primary Regional Road Reserve associated with Canning Highway, is also subject to the requirements of the Metropolitan Region Scheme."

The application proposes that access to the house be via Gill Street therefore the following assessment is based on the property being zoned Residential R40.

Issues

Boundary Setbacks

*Front (west side)
Boundary*

The application proposes at ground level a garage setback 2m, a porch set back 2.6m, and a stairwell setback 3.95m from the front boundary (Gill Street).

On the upper level the application proposes a bedroom setback 2.75m, a balcony at 1.5m, and the stairwell at 3.95m.

The recommended front setback under the RDC for a R40 coded property is 4m.

*Rear (east side)
Boundary*

The application proposes an upper floor balcony that is set back 4.4m from the rear boundary.

The RDC recommend a 7.5m setback for unscreened balconies.

*North Side Boundary
common with 8 Gill
Street (Proposed)*

The application proposes a garage and store with a 2.629m high X 10.5m long parapet wall set back 0m from the north side boundary.

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;"*

An upper level balcony is set back 1.53m from the north side boundary.

The RDC recommend a 7.5m setback for unscreened balconies.

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Wall Height

The application proposes a guest room with a wall along the east side boundary 4.9m long x 3.5m 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;"*

DPI Advice

DPI advised:

"In principle, the Department does not support development of a substantial nature within reserved land. However, given the type and nature of the development, the Department would be prepared to support the use of the reserved land on a temporary basis only and subject to the following condition:

The land owner enters into a deed of agreement with the WAPC that the presence of the development on the reserved land shall not be taken into consideration in determining any land acquisition cost or compensation that may be payable by Council or the WAPC, and the land owner agrees to removed the development on the reserved land at their own cost at the time the reserved land is required for the upgrading of Canning Highway.

This agreement is to be registered as a Caveat on the Certificate of Title. The applicants should be advised to contact the WAPC Land Asset Management Branch of the Department for Planning and Infrastructure (Tim Hillyard, Manager, Telephone 9264 7508) should they wish to discuss the formulation of a deed of agreement for the temporary used of the reserved land.

The Department has no objections to the proposed development under regional transport planning grounds, subject to the above recommendations being taken into consideration.

This advice relates to some paving, a retaining wall, and landscaping in the proposed corner truncation.

TPAP Comments

In general the panel considered that the proposed house design is acceptable except for the presentation of the house to the Canning Highway frontage.

While this frontage is presently thickly vegetated, and the house will not be visible to the highway, if in the future the WAPC decides to proceed with its proposed highway widening the trees along this frontage would be removed therefore exposing the proposed house.

Discussion

Boundary Setbacks

The proposed front setback variations have been incorporated into the design of the development to be

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consistent with the setback of the adjoining property at 8 Gill Street.

This property contains a single storey Federation bungalow "Bonaccord", which is highly rated in Council's MI (see attached extract). This house is set back approximately 2.5m from Gill Street.

The proposed front setback variations will not have any adverse impact on the streetscape and are supported.

Wall Length

The variation in wall length for the garage and store on the north side does not detrimentally impact on the amenity of the adjoining property, and is supported.

Wall Height

The variation proposed to the height of the guest room wall on the east side boundary will provide increased privacy for the adjoining property, and the adjoining property owner has endorsed the plans for this application.

This variation does not result in a detrimental impact on amenity, or detract from the streetscape, and is supported.

DPI Advice

DPI raised no objections to the proposed 2-storey house however it recommends that an appropriately worded condition be applied in respect to the works proposed in the proposed corner truncation for the regional road.

The following recommendation includes the condition recommended by DPI.

TPAP Comments

In response to the comments raised by the panel in regard to the appearance of the south elevation of the proposed house the applicant has submitted plan amendments, which provide additional 'articulation' of the upper floor, and changed and added the window openings on the south side.

In addition the finishes of the building on this elevation are proposed to include additional stonework, which will also help to "break up" and create interest in the appearance of this elevation.

RECOMMENDATION

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

- (a) variation to the west side (front) boundary setback at ground level for a garage, porch and stairwell pursuant to the Residential Design Codes from 4m to 2m, 2.6m and 3.95m respectively;
- (b) variation to the west side (front) boundary setback on the upper floor for a bedroom, balcony and stairwell pursuant to the Residential Design Codes from 4m to 2.75m, 1.5m and 3.95m respectively;
- (c) variation to the east side (rear) setback for an unscreened upper floor balcony pursuant to the Residential Design Codes from 7.5m to 4.4m;
- (d) variation to the length of a parapet wall on the north side boundary for a garage pursuant to Local Planning Policy 142 from 9m to 10.5m;
- (e) variation to the north side boundary setback for an unscreened upper floor balcony pursuant to the Residential Design Codes from 7.5m to 1.53m;

for the construction of a 2-storey house at No. 6 (Lot 301) Gill Street, East Fremantle comprising:

Ground Floor double garage, store, porch, entry, laundry, kitchen, family, dining, guest

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room with en-suite & alfresco;

First Floor 3 bedrooms, 2 bathrooms, sitting room and balcony;
in accordance with the plans date stamp received on 25 March 2008, and the amended plans date stamp received on 29 April 2008 for the south side (Canning Highway) elevation and upper floor subject to the following conditions:

1. prior to the issue of the Building Licence there must be proof submitted that the proposed development will be situated on a separate lot/clear title;
2. prior to the issue of the Building Licence the landowner is to enter into a deed of agreement with the WAPC that the presence of the development on the reserved land shall not be taken into consideration in determining any land acquisition cost or compensation that may be payable by Council or the WAPC, and the landowner agrees to remove the development on the reserved land at their own cost at the time the reserved land is required for the upgrading of Canning Highway.
This agreement is to be registered as a Caveat on the Certificate of Title, and the applicants are advised to contact the WAPC Land Asset Management Branch of the Department for Planning and Infrastructure (Tim Hillyard, Manager, Telephone 9264 7508) should they wish to discuss the formulation of a deed of agreement for the temporary use of the reserved land.
3. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
9. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
10. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
11. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
12. this planning approval to remain valid for a period of 24 months from date of this approval.

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Footnotes:

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

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

Mr Steven Radalj (applicant) and Mr Marty Westvelt (owner) addressed the meeting in support of the application.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Rico

That the application for a two storey residence at No. 6 (Lot 301) Gill Street (cnr Canning Highway), East Fremantle be deferred pending:

- (a) the submission of a perspective/image showing both the Gill Street and Canning Highway frontages; and
- (b) the applicant to give consideration to bringing the porch forward to either align with or be located forward of the garage. CARRIED

T42.10

Surbiton Road No. 10 (Lot 30)

Applicant: Ashley Richards Architect

Owner: Mr Grant Mooney

Application No. P73/2008

By Chris Warrener, Town Planner on 1 May 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 7.2m long x 3.5m wide concrete swimming pool surrounded on 3 sides by a timber deck that varies up to 0.67m above natural ground level in the northwest corner of 10 Surbiton Road

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Riverside 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 28 March 2008

Date Application Received

28 March 2008

13 May 2008

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Advertising

Adjoining land owners only

The applicant submitted plans endorsed for approval by the owners of 28 Angwin Street adjacent to the northwest corner of the subject land.

Date Advertised

8 April 2008

Close of Comment Period

23 April 2008

No. of Days Elapsed between Lodgement & Meeting Date

45 days

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

1 February 1983	Building Licence 105/614 issued for a pergola;
30 May 1985	Council resolves to refuse an application for extensions;
15 July 1985	Council grants approval for extended wall height from 5.6m to 7.1m for the erection of another storey over the existing residence;
13 September 1985	Building Licence 026/1022 approved for upper storey addition;
12 December 1986	Building Licence 057/1248 approved for a timber deck;
20 February 2007	Council grants conditional approval for setback and height variations for 2-storey alterations and additions;
4 December 2007	Building Licence 07/220 issued for alterations and additions;
6 March 2008:	Amended Building Licence No 08/69 issued for rebuild of existing first floor.

CONSULTATION

Public Submissions

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

<i>E Miocevich-Turner & W Turner</i> <i>26 Angwin Street</i>	Concerned regarding overlooking our outdoor living area on north side of our house – a 1.8m high boundary fence would prevent this.
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Site Inspection

By Town Planner on 30 Oct. 2007

REPORT

Issues

Site Works

A portion of the swimming pool and deck in the northwest corner varies up to 0.67m above natural ground level (NGL). A retaining wall will be constructed as an integral part of the works.

The acceptable development standard under the RDC states:

*“A1.4 Filling behind a street setback line and within one metre of a common boundary:
- not more than 0.5m above the natural level at the boundary;”*

Discussion

The site works for the swimming pool and deck are necessary to retain the visual impression of the natural level of the site.

The earthworks are proposed to result in the least impact on the landscape, and do not negatively impact on the amenity of any adjoining property.

The owners of the property with the most potential impact at 28 Angwin Street have endorsed their approval for the submitted plans.

In regard to the concerns raised by the owners of 26 Angwin Street the applicant has confirmed that a 1.8m high fence will be installed on the proposed 0.67m high retaining wall. This will negate any potential overlooking.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to site works pursuant to the Residential Design Codes from 0.5m up to 0.67m above natural ground level for the construction of a 7.2m long x 3.5m wide concrete swimming pool surrounded on 3 sides by a timber deck and retaining wall in the northwest corner of No. 10 (Lot 30) Surbiton Road, East Fremantle in accordance with the plans date stamp received on 28 March 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed works are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
5. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
6. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
7. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
8. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
9. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
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).*



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Mr Ashley Richards (architect) addressed the meeting in support of the application.

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Wilson

That Council exercise its discretion in granting approval for a variation to site works pursuant to the Residential Design Codes from 0.5m up to 0.67m above natural ground level for the construction of a 7.2m long x 3.5m wide concrete swimming pool surrounded on 3 sides by a timber deck and retaining wall in the northwest corner of No. 10 (Lot 30) Surbiton Road, East Fremantle in accordance with the plans date stamp received on 28 March 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed works are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
5. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
6. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
7. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
8. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
9. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
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*

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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

T42.11 **Walter Street No. 18B (Lot 8)**
Applicant & Owner: Beth McCrae Dungey
Application No. P57/2008
By Chris Warrener, Town Planner on 1 May 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 18B Walter Street comprising:

Ground Floor: Porch, double garage, entry, home theatre, laundry, hall, kitchen and pantry and scullery, kitchen, dining and family room, alfresco, & 7.8m long x 4.3m wide belowground swimming pool;

First Floor: 4 bedrooms, 2 bathrooms.

The garage door occupies 45.9% of the property frontage.

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 14 March 2008

Date Application Received

14 March 2008

Additional information

1 May 2008 Plans received illustrating wall and gate in the front.

Advertising

Adjoining land owners only

Date Advertised

8 April 2008

Close of Comment Period

23 April 2008

No. of Days Elapsed between Lodgement & Meeting Date

59 days

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

4 November 1977	Building Licence issued for a patio attached to the front;
22 December 2004	Council advises the WAPC that it does not support the subdivision of 18 Walter Street into two 455m ² lots;
15 January 2005	WAPC conditionally approves the subdivision to create 2 “long tom” lots;
25 September 2007	Demolition Licence 07/244 issued for single storey dwelling;
18 December 2007	Council conditionally approves variations to wall height and roof pitch for a 2-storey skillion-roofed house at 18A Walter Street.

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CONSULTATION

Town Planning Advisory Panel Comments

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

- garage is overpowering/dominant feature to streetscape
- garage door could be made to appear to be two doors to lessen the impact of the large opening
- front elevation needs to address the streetscape better
- front looks unbalanced
- southern setback could be relaxed to allow bedroom to be widened to address streetscape

Public Submissions

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

Site Inspection

By Town Planner on 4 April 2008

STATISTICS	Required	Proposed
Land Area		455m ² Existing
Open Space	55%	60% Acceptable
Zoning		R12.5
Setbacks:		
Front (west)		
<i>Ground</i> <i>Porch</i>	7.50	7.50 Acceptable
<i>Garage</i>	7.50	8.40 Acceptable
<i>Upper</i> <i>Void</i>	7.50	7.50 Acceptable
<i>Bedroom 1</i>	7.50	7.90 Acceptable
Rear (east)		
<i>Ground</i> <i>Alfresco</i>	6.00	4.60 Discretion Required
<i>Upper</i> <i>Bedroom 3 & 4</i>	6.00	16.20 Acceptable
Side (north)		
<i>Ground</i> <i>Alfresco, Dining, Family & Kitchen</i>	1.50	2.86 Acceptable
<i>Stairs, Entry & Porch</i>	1.50	1.66 Acceptable
<i>Upper</i> <i>Bedroom 4</i>	1.10	2.26 Acceptable
<i>Stairs, WIR & Void</i>	1.50	1.66 Acceptable
Side (south)		
<i>Ground</i> <i>Garage</i>	Nil	<i>Policy 142</i> Nil Acceptable

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	<i>Theatre</i>	1.50	1.50
			Acceptable
	<i>Kitchen</i>	1.00	1.00
			Acceptable
	<i>Dining</i>	1.00	1.95
			Acceptable
	<i>Familyroom</i>	1.00	1.50
			Acceptable
	<i>Alfresco</i>	1.50	2.10
			Acceptable
<i>Upper</i>	<i>Bedroom 1</i>	1.10	1.50
			Acceptable
	<i>Bedroom 2</i>	1.10	2.00
			Acceptable
	<i>Bedroom 3</i>	1.10	1.50
			Acceptable
Height:			
	Wall	6.00	6.00
			Acceptable
	Building	9.00	7.60
			Acceptable
	Parapet Wall Height	3.00	3.00
			Acceptable

REPORT

Issues

Boundary Setback

A proposed outdoor alfresco area is set back 4.6m from the east side (rear) boundary common with 17 Stratford Street.

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

TPAP Comments

The panel considered that the garage door is too dominant and the front elevation should be changed to address the streetscape.

Discussion

The setback variation for the proposed alfresco is considered relatively minor at 1.4m, and does not impact on the amenity of the adjoining property at 17 Stratford Street; the potentially affected property owner has not objected to this variation.

In response to the panel comment regarding the front elevation the applicant submitted plans illustrating the addition of a limestone rendered brick pier and gate on the north side at the front.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the east side (rear) boundary setback pursuant to the Residential Design Codes for an alfresco from 6m to 4.6m for the construction of a 2-storey house at No. 18B (Lot 8) Walter Street, East Fremantle comprising:

Ground Floor: Porch, double garage, entry, home theatre, laundry, hall, kitchen and pantry and scullery, kitchen, dining and family room, alfresco, & 7.8m long x 4.3m wide belowground swimming pool;

First Floor: 4 bedrooms, 2 bathrooms;

in accordance with the plans date stamp received on 14 March 2008 and the plans date stamp received on 1 May 2008 incorporating a limestone rendered brick pier and gate on the north side subject to the following conditions:

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

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- upon completion of all works* including fencing.
17. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr de Jong

That the application for a two storey residence at 18B (Lot 8) Walter Street, East Fremantle be deferred pending the submission of revised plans that better address the streetscape. CARRIED

T42.12

Sewell Street No. 13 (Lot 224)

Applicant & Owner: Parkrange Investments Pty Ltd

Application No. P49/2008

By Stuart Wearne, Chief Executive Officer and Chris Warrener, Town Planner on 9 May 2008

BACKGROUND

Description of Proposal

An application for planning approval for a change of use of the property at 13 Sewell Street from Residential to Short Stay Accommodation "for holidaying tourists" which also incorporates an application for planning approval for unauthorised existing use of the studio at the rear for rental for habitation.

Statutory Considerations

Town Planning Scheme No. 3

Local Planning Strategy - Plympton Precinct (LPS)

Residential Design Codes (RDC)

Documentation

Plans and relevant forms date stamp received on 26 February 2008

Date Application Received

26 February 2008

Additional information

17 April 2008 advice from McLeods



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Advertising

Adjoining landowners and sign on site

Date Advertised

8 March 2008

Close of Comment Period

25 March 2008

Site Inspection

By Consultant Town Planner on 6 March 2008

No. of Days Elapsed between Lodgement & Meeting Date

76 days.

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

- | | |
|------------------|--|
| 20 December 1993 | Council resolves to refuse its special approval for the erection of a 2-storey studio at the rear; |
| 17 February 1998 | Council grants conditional approval for setback variations to allow the erection of a 2-storey studio (condition 2 states: "structure not be rented out for habitation"); |
| 26 March 1998 | Building Licence 006/2664 issued for the erection of a 2-storey studio and garage outbuilding containing a ground floor workshop, store, bath, shower and wash up area; and a studio on the upper floor. |

REPORT

Background

A file note written by then Town Planner, Beryl Foster on 5 October 2006, stated that a neighbour had expressed concern that the studio at the rear of 13 Sewell Street was to be rented out.

In the file note Ms Foster further stated that she had contacted the managing agent to confirm whether or not this was the case, and advised him about condition '2' (as referred to above in the "History" at 17 February 1998) of the planning approval. The file note indicated the managing agent said he would advise the new owner (settlement had only occurred the day before) of the situation.

In an email dated 9 February 2007 one of the owners of 16 Sewell Street expressed concern that there was a tenant in the studio and *"the precedent this may set in the neighbourhood"*.

In a letter dated 12 February 2007 the CEO advised the owner that renting the studio contravened a previous condition of planning approval therefore ie that the studio/workshop was not to be rented out.

In a letter dated 4 March 2007 the owner applied for the abovementioned planning condition to be lifted.

In a letter dated 13 March 2007 the CEO requested that the owner, via a Statutory Declaration, answer a number of questions regarding the use of the studio.

The questions were intended primarily to clarify what the owners knew of Council's planning condition both at the time of purchase and at the time a tenant was installed in the studio.

The owner did not accede to the CEO's request however did meet with the CEO to explain certain events and discuss the issue.



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The owner confirmed the studio was being rented out to a single tenant however claimed she had been unaware of the breach of planning approval in doing so. The owner also claimed (both verbally and in writing) it was necessary to have tenants in the property (involving both the studio and the main house) whilst she was not living there, to meet insurance requirements. (These alleged insurance requirements, which seemed at odds with the situation of numerous owners of holiday homes or “weekenders” which were generally unoccupied, were never verified and it is of interest to note that in relation to the current application the owner now states “*As the nature of the tourism business, both buildings would be occupied some times and none (sic) in other times.*”) In any event the insurance situation is not a legitimate planning consideration.

On 5 April 2007 at the CEO’s request Council’s Principal Environmental Health Officer inspected the rear studio with the owner and the tenant. The Principal Environmental Health Officer’s subsequent advice was that for the studio to be tenanted, leaving aside any issues of planning approval, unless an ancillary accommodation arrangement was to apply, then (other than under an ancillary accommodation arrangement), a laundry would need to be installed.

Following this period the matter remained under review. In the CEO’s view there were also potential planning issues involved with the renting out of the main house and yet there were a number of legal uncertainties in this regard pertaining to such tenancies. It was also understood there were other properties in the Town where similar arrangements were in place, thus there were also issues of equity and potential precedent.

In November 2007 complaints were received from neighbours relating to excessive noise allegedly being caused by tenants of the main house via their socialising activities on the front verandah during the early hours of some mornings.

In a letter dated 27 November 2007 the CEO wrote to the tenants (with copies to the managing agent and the owner) advising of noise complaints and the requirement to comply with the Environmental Protection (Noise) Regulations 1997 “*in the interests of neighbourhood amenity*”.

In a letter dated 21 January 2008 the owner of 16 Sewell Street lodged a formal complaint about the use of the studio at 13 Sewell Street.

On 26 February 2008 Council received an application from the owner to change the use of the property to allow short term holiday accommodation for both dwellings, ie in the case of the studio, to cancel the planning condition relating to the non rental of the studio.

Following a comprehensive review of relevant Scheme and R Code provisions, and research into relevant SAT decisions, in the Chief Executive Officer’s view the application gave rise to a number of legal issues and the Chief Executive Officer subsequently wrote to McLeods seeking advice. (This request accompanies this report as a confidential attachment.)

McLeods were not able to provide the advice in time for the last meeting, hence the matter was held over to the current meeting.

A reply from McLeods was however subsequently received and accompanies this report as a confidential attachment.

Issues

There are 2 separate primary aspects in relation to this application.

The first involves the use of the studio at the rear for rental accommodation and the second involves the use of the property in its entirety for short stay tourist accommodation.

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Issue 1. Use of studio

On 17 February 1998 Council granted conditional approval for setback variations for the construction of a 2-storey structure at the rear of 13 Sewell Street for the purposes of a studio/workshop. (The then owner was an artist.)

Condition 2 of the planning approval states:

"2. structure not be rented out for habitation;"

A plan was subsequently submitted for the purposes of obtaining a Building Licence for this structure, which was issued on 26 March 1998.

This plan shows a workroom, store, bath, shower, and wash up facility on the ground floor, and a studio on the upper floor.

It is not known when a kitchen and toilet were installed and part of the space converted to a bedroom.

This structure is being used as rental accommodation therefore its use contravenes the Scheme.

However TPS 3 includes a provision which enables Council to grant approval to a development or use already commenced that is unauthorised if the development conforms to the provisions of the Scheme.

In the latter regard however, it has been concluded the proposed use of the studio is not capable of being approved under Council's Town Planning Scheme, ie Council does not even have a discretion in the matter, ie revoking the previous condition of planning approval would be meaningless.

This decision is based on a conclusion that under the proposed use (and existing use) the studio would constitute a separate dwelling, thus making the two dwellings involved, a group dwelling.

Yet pursuant to the relevant provisions of the R Codes, given the property is zoned R20, the applicable minimum site area required (ie required for a group dwelling), would be 1000m². However the size of this property is only 508m².

(Whilst McLeods were not asked to address this specific issue, it had been thought possible that the broader advice on renting properties in a residential area (see next issue) may have had a bearing on the officer's ultimate conclusions in this matter. However there was nothing in McLeods' advice which indicated the above conclusion was incorrect and nor was there any aspect of McLeods advice which indicated Council may have some discretion in the matter.)

In short, it is concluded the only way the studio could be approved for habitation (other than as Ancillary Accommodation which does not apply in this case) would be via a rezoning of the property to a sufficiently higher density (at least R40) or via the granting of an Additional Use as per Clause 4.5 of Town Planning Scheme 3.

Even then however, such approval would be subject to a laundry being built.

However neither request has been made – rather, a request has been made to allow for the rental of short term accommodation on the whole site. Thus, the unauthorised use of the studio leads to the following initial recommendation to Council:

Recommendation 1

The applicant be advised to cease the use of the studio for habitation as:

(a) such habitation is a breach of a prevailing condition of planning approval

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- (b) such habitation is in breach of the Residential Design Codes density applicable to this location.

Issue 2. Use of property for short stay accommodation

Council has received comprehensive advice from their solicitors, McLeods, on this issue.

The comprehensive nature of the advice reflected the complex nature of the issue, in terms of relevant planning law.

McLeods' advice addressed the issue via reference to relevant provisions of Council's Town Planning Scheme, relevant provisions of the R Codes and through examination of the principles and interpretations arising from a number of relevant SAT and Supreme Court decisions.

Elected members should read that advice carefully.

In short however, the key conclusion and consequent advice to Council was that the use being applied for, ie "short stay accommodation" (clearly understood in this case, based on the applicant's advice, as entailing accommodation for tourists involving stays of less than 3 months duration), was a use that was not listed in the Zoning Table of the Scheme.

Recommendation 2

Council determines that "short stay accommodation" is neither a use listed in the Zoning Table of Council's Town Planning Scheme and nor can such a use be reasonably determined as falling within any use class listed in the Zoning Table.

As McLeods advise, if Council adopts the position inherent in the abovementioned recommendations:

"it is then necessary for a determination to be made pursuant to clause 4.4.2 of the Scheme as to whether the use is, or may be, consistent with the objectives and purposes of the residential zone."

Clause 4.4.2 is as follows:

4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within any use class in the Table, the local government may:

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
- (b) determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.5 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted."*

The key elements to consider in assessing the appropriateness of this change of use lie in the objectives and purpose of the Residential zone.

Following are the objectives of the Residential Zone:

- *To provide for a range and variety of housing to meet the social and economic needs of the community, while recognising the limitations on re-development necessary to protect local character.*

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- *To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of the existing built form.*
- *To encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation, water sensitive design and provision of 'greenspace'.*
- *To protect residential areas from encroachment of inappropriate land uses which are likely to detract from residential amenities, but to provide for a limited range of home-based activities compatible with the locality.*
- *To recognise the importance of design elements such as the 'front yard' and the 'back yard' to the character, amenity and historical development of the Town and to the community." (TPS 3, Part 4: Zones, 4.2 Objectives of the zones)*

Arguments in favour of a conclusion that the proposed use (other than use of studio) is consistent with the objectives and purposes of the Residential Zone.

Whilst it is concluded the first dot point of the Objectives of the Residential Zone (see above) is intended to apply to the *physical* aspects of any proposed new housing, it may be arguable that a broader "social" interpretation could apply, in which event the provision of short stay accommodation, which it was deemed helped "meet the social and economic needs of the community" (and in particular a need for short stay tourist accommodation) could be seen as a positive attribute of the proposal, notwithstanding this would also involve applying a broad definition of "community."

Arguments in favour of a conclusion that the proposed use (other than use of studio) is not consistent with the objectives and purposes of the Residential Zone.

These arguments will essentially involve assessing the proposal in respect of the amenity provisions referred to above ie "To safeguard and enhance the amenity of residential areas..."; "To protect residential areas from encroachment of inappropriate land uses which are likely to detract from residential amenities..."

It would be useful at this point to consider the public submissions received.

The submissions cite neighbourhood amenity as the key issue in regard to the use of 13 Sewell Street for short stay accommodation.

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

1. *Submission from S. Martin & G. Foster (16 Sewell Street)*
 - Object strongly to change of use;
 - Noise from tenants;
 - Parking issues;
 - Negative impact on amenity.
2. *Submission from R. Taylor & H. Markmann (9 Sewell Street)*
 - Strong objection;
 - Anti social behaviour of occupants;
 - Use of studio for habitation impacts on privacy as its balcony has unobstructed views into backyard of 9 & 11 Sewell Street;
 - Impact on parking availability.
3. *Submission from L. & K. Doonan (18 Sewell Street)*
 - Partying etc by tenants causes the main problem
 - Request removal of bathroom, kitchen & toilet fixtures from studio;
 - Should be strict guidelines on number of occupants;
 - House should be rented on the basis of normal residential.

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However the two separate issues of the habitation of the studio (which has already been addressed in this report) and the broader short stay accommodation proposal makes it necessary to consider the submissions in more detail, as in each submission the two issues tended to be combined.

The main objection of all three objectors is an argument that when the studio is rented out, the tenants in the main house, if wishing to socialise outdoors, are “forced” to do so on the front verandah and this has caused noise issues for neighbours.

It is noted neither adjoining owner submitted an objection to the proposal (or has submitted any earlier noise complaint) although it is claimed by one objector that language issues has made this difficult in the case of the occupants of 11 Sewell Street.

The submission from the owners of 16 Sewell Street largely concerns the studio issue. In fact the writers even state that it is “the separate rental of the studio” (which) “has caused congestion and noise issues in our small street”. Further: “If No 13 were let out to the one tenant/s (sic) “then they would unfettered use of the rear of the property, and therefore be unlikely to cause the problems the neighbours are currently having.”

It is acknowledged the authors of this submission conclude their submission by stating the application to use the accommodation for tourist accommodation will only make things worse. However it is not suggested why, other than the comment “it is unlikely a ‘caretaker’, or the owner, would be living on site to ensure responsible behaviour”.

The submission from the owners of 9 Sewell Street raises similar issues to the first mentioned submission. Again the submission mainly revolves around the use of the studio and the alleged consequences of that use in terms of consequent use of the front verandah by other tenants.

Again the parking issue is mentioned. At this point it is noted that there is sufficient space on site for the parking of three cars in tandem in the driveway.

The submission from the owners of 18 Sewell Street suggests approval of the short stay proposal would:

- “Possibly cause more noise/traffic”
- “People finding their way” (it is not known what this means)
- Security risk of unknowns (this would surely apply to some extent to *any* new neighbour moving in, whether owner or occupier)
- Create even further parking problems.
- Affect property values
- Entirely unsuitable for...Plympton (not really explained why).

DISCUSSION

In short, the objections to the short stay accommodation proposal are not a straight forward issue, not only because of the unapproved use of the “studio”, but also because it could be argued that noise problems (which could equally involve a “noisy family” occupying their own home) should be dealt with in the normal way ie under the Noise Abatement Act, Police Act etc. Similarly, objections about the multiple vehicles are similar to complaints being received in respect of many other locations in the Town where there is limited parking available.

It is thus important to distinguish between the planning issues involved and the “non planning” aspects of that alleged behaviour of a particular group of tenants who are currently residing at this location. Put another way, had the existing tenants caused no noise/parking problems, it is suspected at least some of the complaints received in relation to the application may not have occurred.

Nevertheless, in respect of the aspect of proper and orderly planning, having reviewed McLeods’ advice, and having reviewed the written decisions of some of the cases

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referred to by McLeods, and in particular the case *Hope v City of Joondalup*, which McLeods describe as a matter which “most closely resemble(s) the question which has arisen for consideration in the Town”, the following conclusions are reached:

1. There are compelling grounds for considering the term “residential area” to be consistent with the notion of permanent residential accommodation, rather than short stay accommodation.
2. With respect to any argument that Council should exercise a discretion in the matter under 4.4.2(a) or 4.4.2(b) of Town Planning Scheme 3 (and noting that advertising of the application has already occurred), there are compelling grounds for concluding that the proposed short stay accommodation use does not involve development contemplated by the objectives and purposes of the Residential Zone.

In fact, in the similar case of *Hope v the City of Joondalup*, the Tribunal determined that:

“if the proposed use were capable of approval, the application would warrant refusal in the exercise of discretion, because of its likely adverse impacts in terms of social cohesion and noise and because it would set an adverse planning precedent in the circumstances.”

and the authors conclude an identical determination is applicable in the case of the current application.

3. With respect to the abovementioned reference to “social cohesion” the following issues are considered relevant
 - As stated in the deliberations of the abovementioned case, the sense of community and security that comes from knowing your neighbours is an important factor for residents and that the transient nature of the proposed use has the potential to compromise both qualities of community living.
 - It is much easier to raise concerns with neighbours when you are familiar with your neighbours and have a relationship with them.
 - It is accepted neighbours in any residential area can change, as owners sell and move etc, however this is quite different to a constant “turn over” of neighbours. In that regard it is noted the applicants advise that they intend to rent out rooms on a “room by room or house by house” basis and resulting in up to 20 different tenants per week.
4. With respect to the abovementioned reference to “noise” the following issues are considered relevant
 - It is considered that adjoining properties would be *likely* to be exposed to greater levels of noise as a result of the proposed use, given the occupants would, by definition, be in “holiday mode”. It is considered persons using the house as holiday accommodation are more likely to socialise, both indoors and outdoors on the property and more likely to socialise until later at night.
 - If neighbour noise issues occurred, the lack of neighbour familiarity with the occupants (as referred to above), would likely exacerbate the problem of dealing with the noise complaint on a neighbour to neighbour basis.
 - Further with respect to the issue of noise control and the control of any other anti social behaviour, it is noted the owners (who live in Denmark) do not intend to live on site and thus there appears no provision for effective supervision. Certainly Council was given no advice in this regard, which is of



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particular interest given past complaints regarding current tenants of the property, which the applicants are aware of.

5. With respect to the issue of parking it is noted that in March 2007 the applicant acknowledged in writing "that parking is an issue in the area" (sic) and thus allegedly "selected 3 young professionals who has (sic) one car between them and also work away at significant time (sic) of the year" .

It is also acknowledged that in respect of the current proposal the applicant has written "*we strongly believe parking would not create a problem because tourists often look for locations easily accessible by public transport, which in our case is a strait (sic) down the street only few houses away*".

Nevertheless it is considered this proposal, which represents a commercial operation, has insufficient provision for parking and has the potential to exacerbate existing street parking shortfalls.

6. Planning precedent is also considered an issue. There seems little doubt that approval of the application would set a planning precedent, which, if it came in effect, with other house owners also letting out their houses for short stay accommodation, would potentially have an adverse cumulative impact on the amenity of the locality.

Thus in the case of *Hope v City of Joondalup*, this was cited as a relevant planning consideration and in that case became a ground for refusal by the Tribunal "because of cumulative impact of short term accommodation uses within the Residential Zone would be to undermine the purposes and objectives of the zone".

The basis of this determination is considered equally applicable in the present case.

7. Concerns raised by objectors is also an issue, particularly as those concerns are consistent with the conclusions reached above. Clauses 10.2(k), 10.2 (o), 10.2(q) and 10.2(z) are considered to apply.

10.2(k) and 10.2(o) are concerned with the preservation of amenity and 10.2 (q) relates to whether adequate provision has been made for parking. 10.2(z) concerns Council's obligations to consider any relevant submissions received.

8. Pursuant to Clause 10.2(a) it is considered the proposal is inconsistent with Clause 1.6(b) of the Scheme, being one of the Aims of the Scheme, as follows:

(b) To enhance the character and amenity of the Town, and to promote a sense of place and community identity within each of the precincts of the Town;

9. Pursuant to the above conclusions, it is ultimately concluded that if "short stay accommodation" is to be a use allowed under the Scheme, it should be a use which is not allowed in the Residential Zone, but, rather confined to more appropriate zones, such as the Mixed Use Zone.

CONCLUSION

Based on the above considerations it is concluded the proposed use does not meet the objectives and purposes of the Residential Zone, and therefore, is not a permitted land use pursuant to Clause 4.4.2(c) of Town of East Fremantle Local Planning Strategy 3. Accordingly Recommendation 3 is as follows:

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Recommendation 3

Council determines that the proposed use does not meet the objectives and purposes of the Residential Zone, and therefore, is not a permitted land use.

RECOMMENDATION

1. The applicant be advised to cease the use of the studio for habitation as:
 - (a) such habitation is a breach of a prevailing condition of planning approval
 - (b) such habitation is in breach of the Residential Design Codes density applicable to this location.
2. Council determines that "short stay accommodation" is neither a use listed in the Zoning Table of Council's Town Planning Scheme and nor can such a use be reasonably determined as falling within any use class listed in the Zoning Table.
3. Council determines that the proposed use does not meet the objectives and purposes of the Residential Zone, and therefore, is not a permitted land use.
4. Subject to recommendations 2 and 3 above, Council refuses the application for planning approval as:
 - (a) the proposed unlisted use is not a permitted use under Clause 4.4.2 of Town Planning Scheme 3 as the proposed use is not consistent with the objectives and purposes of the Residential Zone
 - (b) having regard to the orderly and proper planning of the locality, and in particular the preservation of the amenity of the locality, the proposed unlisted use is considered inappropriate having regard to the proposed use and its location within the Residential Zone.
5. The applicant be advised that any tenants of the main house should involve tenancy agreements of six months duration or more, since any tenancy arrangement involving a lesser period without Council's planning consent may be an unlawful use of that property.

Ms Sian Martin and Mr Kevin Doonan (adjoining neighbours) addressed the meeting reiterating the comments contained in their submissions to Council including the adverse impact on the neighbourhood and street parking and the behaviour of the existing tenants.

Mrs Agnes Gaspar (applicant) addressed the meeting in support of her proposal and responded to the comments of the adjoining neighbours and the report of the Chief Executive Officer.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Rico

1. **The applicant be advised to cease the use of the studio for habitation as:**
 - (a) such habitation is a breach of a prevailing condition of planning approval**
 - (b) such habitation is in breach of the Residential Design Codes density applicable to this location.**
2. **Council determines that "short stay accommodation" is neither a use listed in the Zoning Table of Council's Town Planning Scheme and nor can such a use be reasonably determined as falling within any use class listed in the Zoning Table.**
3. **Council determines that the proposed use does not meet the objectives and purposes of the Residential Zone, and therefore, is not a permitted land use.**
4. **Subject to recommendations 2 and 3 above, Council refuses the application for planning approval as:**
 - (a) the proposed unlisted use is not a permitted use under Clause 4.4.2 of**

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Town Planning Scheme 3 as the proposed use is not consistent with the objectives and purposes of the Residential Zone

- (b) having regard to the orderly and proper planning of the locality, and in particular the preservation of the amenity of the locality, the proposed unlisted use is considered inappropriate having regard to the proposed use and its location within the Residential Zone.

5. The applicant be advised that any tenants of the main house should involve tenancy agreements of six months duration or more, since any tenancy arrangement involving a lesser period without Council's planning consent may be an unlawful use of that property. CARRIED

T42.13 *Hubble Street No. 94 (Lot 286)*
Applicant & Owner: Beverley McMorrow & Gary Grimes
Application No. P71/2008
By Chris Warrener, Town Planner on 24 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for a Home Occupation – Beauty/massage therapy.

Statutory Considerations

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

Documentation

Plans and relevant forms date stamp received on 27 March 2008

Date Application Received

27 March 2008

Advertising

Adjoining land owners only

Date Advertised

8 April 2008

Close of Comment Period

23 April 2008

No. of Days Elapsed between Lodgement & Meeting Date

45 days

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

28 May 1998	CEO grants approval under delegated authority for a front verandah;
29 May 1998	Building Licence 081A/2684 approved for a steel roofed verandah with a timber floor;
16 June 1998	Council refuses a proposal for 2 gable roof forms to the main roof and a gable portico to the verandah;
20 March 2001	Council grants special approval for reduced setbacks for the erection of additions including carport to existing residence subject to parapet wall being a maximum height of 2.8m above natural ground level at north west corner of parapet wall;
11 October 2001	Building Licence 022/3136 approved for extensions to the residence.

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CONSULTATION

Public Submissions

At the close of the comment period no written submissions were received however a resident did express concerns regarding car parking in the vicinity of the proposed home occupation.

Site Inspection

By Town Planner on 18 January 2007.

REPORT

Issues

Proposed Home Occupation

Under TPS 3 a "home occupation" is listed as a "D" use in the zoning table in the Residential Zone.

This means:

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

TPS 3 defines a "Home Occupation" as follows

"Home Occupation means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —

- (a) does not employ any person not a member of the occupier's household;*
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;*
- (c) does not occupy an area greater than 20 square metres;*
- (d) does not display a sign exceeding 0.2 square metres;*
- (e) does not involve the retail sale, display or hire of goods of any nature;*
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and*
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone;"*

The application is for a beauty and massage therapy business operating between 9am and 6:30pm Monday to Friday.

It is proposed to conduct the business from the "Guest" room which comprises approximately 18m².

The applicant estimates the number of deliveries to the property of products relating to the conduct of the business to be once per month between the hours 9am to 5pm.

Discussion

The application was advertised to adjoining and nearby landowners for comment. No written submissions were received during the advertising period. However a neighbour has verbally expressed concern regarding the parking at the site.

In regard to the parking issue 94 Hubble Street contains a single car garage, and brick-paved driveway with access to the street. Combined the driveway and the garage provide space for parking 2 motor vehicles.

In front of the property there is a single kerbside car parking space.

During normal working hours at least one of the on site parking spaces is available and depending on traffic during the day the kerbside space would similarly be available for the use of patrons of the proposed massage therapy business.

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However outside of normal work hours the available parking would likely be limited, and the following recommendation includes a condition limiting the hours of operation of the proposed home occupation to normal working hours.

The proposed use is not a use that will generate any noise or activity that would be considered to impact on the amenity of a residential area; the application is supported.

RECOMMENDATION

That Council grants approval for the use of the Guest room at No. 94 (Lot 286) Hubble Street, East Fremantle for Home Occupation – Beauty/Massage Therapy in accordance with the application date stamp received on 27 March 2008 subject to the following conditions:

1. Hours of operation: Monday to Friday 9am to 5:30pm.
2. This planning approval to remain valid for a period of 12 months from date of this approval unless the annual renewal fee for the Home Occupation is paid prior to 20 May 2009, in which case this planning approval is valid for a further 12 months.

Footnote:

The following is not a condition but notes of advice to the applicant/owner:

This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Wilson

That Council grants approval for the use of the Guest room at No. 94 (Lot 286) Hubble Street, East Fremantle for Home Occupation – Beauty/Massage Therapy in accordance with the application date stamp received on 27 March 2008 subject to the following conditions:

1. **Hours of operation: Monday to Friday 9am to 5:30pm.**
2. **This planning approval to remain valid for a period of 12 months from date of this approval and will be subject to review prior to any extension being granted.**
3. **The ‘Massage Therapy’ business is to comply with the Department of Health Code of Practice for Skin Penetration Procedures. Note: Appendix (2) Special Requirements for Beauty Therapy Procedures - annual inspections will be conducted by Council’s Principal Environmental Health Officer.**

Footnote:

The following is not a condition but a note of advice to the applicant/owner:

This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.

CARRIED

T42.14 **Preston Point Road No. 162 (Lot 4)**
Applicant/Owner: Arthur Marshall
Application No. P63/2008
By Chris Warrener, Town Planner on 15 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for a front fence which contains solid masonry panels and garden planter boxes in front of 162 Preston Point Road.

Statutory Considerations

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

Relevant Council Policies

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



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Documentation

Plans and relevant forms date stamp received on 13 March 2008

Date Application Received

13 March 2008

Advertising

Adjoining landowners

Date Advertised

8 April 2008

Close of Comment Period

23 April 2008

No. of Days Elapsed between Lodgement & Meeting Date

60 days

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

- | | |
|-----------------|--|
| 15 October 2002 | Council decides to advise the WAPC that it does not support an application to subdivide 162 Preston Point Road into 2 lots (1 x 489m ² , 1 x 490m ²); |
| 1 November 2002 | WAPC refuses the application for subdivision; |
| 30 August 2007 | WAPC conditionally approves the subdivision of 162 Preston Point Road into 2 lots (1 x 500m ² , 1 x 479m ²); |
| 16 October 2007 | Council conditionally approves two 2-storey houses at the corner of Preston Point Road and Gordon Street. |

CONSULTATION

Public Submissions

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

Site Inspection

By Town Planner on 8 April 2008

REPORT

Issues

This application proposes a boundary fence which does not comply with LPP 143.

In the front setback to Preston Point Road it proposes solid wall panels up to 1.3m above natural ground level.

Along the west side adjacent to Gordon Street it proposes solid panels with 0.25m² selected infills varying up to 3.2m above NGL.

Along the east side next to 164 Preston Point Road it proposes solid panels up to 2.2m above NGL.

In addition a section of the fencing in the street corner encroaches the corner truncation.

For the purposes of assessment the fencing along Gordon Street is considered a side boundary fence with the front fence comprising the section along Preston Point Road.

LPP 143 states:

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

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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)

3.1 Maximum Height

The maximum height of any part of the fence is to be 1.8m.

3.2 Materials

Applications for front fences made from materials not included within the following list of materials or of a design which does not accord with the principles or intent of the policy are considered to be unacceptable and will not be approved unless by consent of Council.

Acceptable materials for front fences and walls:

Solid Sections limestone
 masonry
 brickwork
 rendered finishes over concrete or masonry

Infill Sections visually permeable metal structures
 visually permeable timber structures

3.3 Corner Lots

Where a lot has frontage to two streets a fence/wall shall not be constructed within the first 6m of the secondary frontage from the primary frontage unless it is of the same materials and design as the fence/wall along the primary frontage.

3.4 Truncations on Corner Lots

A person shall not erect any fence/wall or structure within a 6m truncation of intersecting road reserves (or their prolongation where a truncation has already been set aside) to a height greater than .75m unless the special approval of Council has been obtained in writing. (Refer to Town Planning and Development Act 1928, Town Planning (Height of Obstructions at Corners, amendment gazetted 5 August 1983.)"

Discussion

LPP 143 states:

"Part 4 – Council Approval Required

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

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

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The subject property is a corner lot where the proposed development incorporates outdoor living and entertaining areas including a barbeque area and swimming pool in the land next to Gordon Street.

In addition there is a difference in levels between the property and the public domain which contributes to the fence being calculated as higher than recommended under LPP 143.

It is considered necessary to provide privacy screening of the property next to Gordon Street hence the proposed fencing incorporates panels higher than LPP 143 recommends.

The variation to the height of the solid fence along Preston Point Road comprising 0.1m is considered acceptable and will not obscure surveillance from the proposed house of the public domain.

However the height and location of the fencing in the corner truncation should comply with LPP 143 to ensure safe sight distances are maintained at the T-junction of Gordon Street and Preston Point Road.

The variation to the height of the boundary fence next to 164 Preston Point Road is considered minor and can be supported.

Conclusion

Given the location of the proposed entertaining and outdoor living areas next to Gordon Street the increase in fence height is supported.

The inclusion of the proposed garden planter boxes in front will soften the impact of this fence and it is considered will contribute positively to the local streetscape.

RECOMMENDATION

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

- (a) variation to fence height pursuant to Local Planning Policy 143 from 1.8m to 3.2m along the west side;
- (b) variation to fence height pursuant to Local Planning Policy 143 from 1.2m to 1.3m along the north side;
- (c) variation to fence height pursuant to Local Planning Policy 143 from 1.8m to 2.2m along the east side;

for the construction of a front fence which contains solid masonry panels and garden planter boxes in front of No. 162 (Lot 4) Preston Point Road in accordance with the plans date stamp received on 13 March 2008 subject to the following conditions:

- 1. prior to the issue of a building licence the applicant is to submit amended plans to illustrate compliance with Local Planning Policy 143 in regard to the fence in the corner truncation to the satisfaction of the Chief Executive Officer in consultation with relevant officers
- 2. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- 3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- 4. the proposed fence is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
- 5. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.

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

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr de Jong

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

- (a) **variation to fence height pursuant to Local Planning Policy 143 from 1.2m to 1.3m along the north side;**
- (b) **variation to fence height pursuant to Local Planning Policy 143 from 1.8m to 2.2m along the east side;**

for the construction of a front fence which contains solid masonry panels and garden planter boxes in front of No. 162 (Lot 4) Preston Point Road in accordance with the plans date stamp received on 13 March 2008 subject to the following conditions:

1. **prior to the issue of a building licence the applicant is to submit amended plans to illustrate compliance with Local Planning Policy 143 - "Fencing" in regard to:**
 - (a) **the fence in the corner truncation;**
 - (b) **the fence along the west side (Gordon Street);****to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
2. **the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
3. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
4. **the proposed fence is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
5. **all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
6. **this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

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

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

T42.15 *Walter Street No. 3 (Lot 1)*

Applicant & Owner: Mark Baldwin

Application No. P54/2008

By Chris Warrener, Town Planner on 14 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for ground floor additions comprising a bedroom and store attached to the rear of the single storey house next to the west side boundary of 3 Walter Street.

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 13 March 2008

Date Application Received

13 March 2008

Advertising

Adjoining land owners only

No. of Days Elapsed between Lodgement & Meeting Date

60 days

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

- | | |
|-------------------|---|
| 21 November 1983 | Council approves removal of a verge tree and construction of a double crossover at 3 Walter Street; |
| 21 August 2001 | Council decides to advise the WAPC that it recommends the subdivision be refused; |
| 26 September 2001 | WAPC grants conditional approval to subdivide 3 Walter Street into 2 survey strata lots (1 x 485m ² , 1 x 426m ²); |
| 20 August 2002 | Council grants special approval for reduced setbacks for additions with a parapet wall to the single storey house at 3 Walter Street; |
| 20 May 2003 | Council resolves to support the principle of a carport to 3 Walter Street; |
| 8 June 2003 | Building Licence 122/3430 approved for an attached carport at 3 Walter Street; |
| 14 October 2003 | WAPC endorses Survey Strata Plan for final approval creating 2 lots (1 x 428m ² , 1 x 483m ²); |
| 25 March 2004 | Building Licence 122/3565 approved for additions; |
| 20 September 2005 | Council grants approval to a 2-storey house at 3A Walter Street. |

CONSULTATION

Public Submissions

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

Site Inspection

By Town Planner on 2 April 2008

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REPORT

Issues

Boundary Setbacks

The proposed bedroom and store are set back 0m from the west side (rear) boundary common with 3A Walter Street.

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

Discussion

Approval is sought for additions to the rear (east side) of the single storey house at 3 Walter Street comprising a bedroom and store.

These additions were the subject of a previous approval by Council in August 2002 and Building Licence approved in March 2004 however they were not completed within the prescribed time-frame (3 years for the Planning Approval, and 12months for the Building Licence).

The wall for the proposed bedroom and store will abut a proposed double garage that has been approved adjacent to the east side boundary of the property at 3A Walter Street, and will therefore have no impact on the amenity of that property.

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

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the west side (rear) boundary setback pursuant to the Residential Design Codes from 6m to 0m for the construction of ground floor additions comprising a bedroom and store attached to the rear of the single storey house next to the west side boundary of No. 3 (Lot 1) Walter Street, East Fremantle in accordance with the plans date stamp received on 13 March 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. 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 to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Wilson

That Council exercise its discretion in granting approval for a variation to the west side (rear) boundary setback pursuant to the Residential Design Codes from 6m to 0m for the construction of ground floor additions comprising a bedroom and store attached to the rear of the single storey house next to the west side boundary of No. 3 (Lot 1) Walter Street, East Fremantle in accordance with the plans date stamp received on 13 March 2008 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. 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 to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

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T42.16 **Hamilton Street No. 18A (Lot 881)**
Applicant: Peter Stannard Homes P/L
Owner: Stephen & Christine Doyle
Application No. P52/2008
By Chris Warrener, Town Planner on 30 April 2008

BACKGROUND

Description of Proposal

An Application for Planning Approval for a single storey house comprising a double garage & store, portico, entry, verandah, 3 bedrooms, 2 bathrooms, kitchen, living, meals, & laundry on the rear/battleaxe block at 18A Hamilton Street.

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 12 March 2008

Date Application Received

12 March 2008

Advertising

Adjoining land owners only

Date Advertised

8 April 2008

Close of Comment Period

23 April 2008

No. of Days Elapsed between Lodgement & Meeting Date

61 days

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

7 December 1999	Demolition Licence 363 issued for the house at 18 Hamilton Street;
4 November 2004	WAPC conditionally approves the subdivision of 201 Canning Highway and 18 Hamilton Street (a single lot) into 2 lots to create 203 Canning Highway & 18 Hamilton Street;
20 December 2005	Council conditionally approves a single storey house at 18 Hamilton Street;
16 February 2006	Building Licence 05/71 approved for single storey house at 18 Hamilton Street;
6 June 2006	WAPC endorses Deposited Plan 42067 to create 18 Hamilton Street & 203 Canning Highway;
7 February 2008	WAPC conditionally approves the subdivision of 203 Canning Highway into 2 lots to create 18A Hamilton Street (860m ²) & 203 Canning Highway (860m ²).

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CONSULTATION

Public Submissions

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

- Ms Enza Falso* - objection
197 Canning Highway - boundary fence dispute

Site Inspection

By Town Planner on 30 April 2008

STATISTICS	<i>Required</i>	<i>Proposed</i>
Land Area		860m ² Existing
Open Space	55%	63% Acceptable
Zoning		R12.5
<u>Setbacks:</u>		
Front (west)		
<i>Garage</i>	Nil	<i>LPP142</i> Nil Acceptable
<i>Livingroom</i>	1.50	6.00 Acceptable
<i>Portico</i>	1.50	7.70 Acceptable
<i>Verandah</i>	1.50	8.00 Acceptable
Rear (east)		
<i>Bedroom 2 & Laundry Ensuite & WIR</i>	1.00	1.40 Acceptable
<i>Verandah</i>	1.50	1.00 Acceptable 1.80 Acceptable
Side (north)		
<i>Alfresco</i>	1.50	9.40 Acceptable
<i>Storeroom</i>	1.00	0.80l Discretion Required
Side (south)		
<i>Verandah</i>	1.50	3.00 Acceptable
<i>Bedroom 3</i>	1.50	1.60 Acceptable
<i>Bathroom</i>	1.00	2.50 Acceptable
<i>Bedroom 2</i>	1.50	1.60 Acceptable

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Height:		
Wall	6.00	3.50 Acceptable
Building	9.00	7.60 Acceptable
Parapet Wall Height	3.00	3.50 Discretion Required

REPORT

Issues

Boundary Wall Height

A proposed garage and store incorporates an 8.2m long X 3.5m high parapet wall along the west side boundary common with 18 Hamilton Street.

LPP 142 states:

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

Boundary Setbacks

A wall for a proposed store next to a garage is set back 0.72m from the north side boundary common with 199 Canning Highway.

The RDC recommend a 1m setback.

Submission

The submission disputes the position of the property boundary and location of the boundary fence, matters which are unrelated to the application for the single storey house at 18A Hamilton Street.

Discussion

Boundary Wall Height

The proposed variation to the height of the parapet wall for the garage & store on the west side boundary does not detrimentally affect the amenity of the adjoining property at 18 Hamilton Street, the potentially affected property owner has not objected to the application, and this variation is supported.

Boundary Setbacks

The boundary along which the proposed store setback variation is proposed comprises a 2.2m high masonry wall which provides a very effective screen between the rear of the potentially affected property at 197 Canning Highway and the proposed development of the subject land.

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

RECOMMENDATION

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

- (a) variation to the north side boundary setback pursuant to the Residential Design Codes from 1m to 0.72m;
- (b) variation to the height of a parapet wall along the west side boundary pursuant to Local Planning Policy 142 from 3m to 3.5m;

for the construction of a single storey house comprising a double garage & store, portico, entry, verandah, 3 bedrooms, 2 bathrooms, kitchen, living, meals, & laundry on the rear/battleaxe block at No. 18A (Lot 881) Hamilton Street, East Fremantle in accordance with the plans date stamp received on 12 March 2008 subject to the following conditions:



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1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all 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 to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *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.*

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr de Jong

That the application for a single storey residence at 18A (Lot 881) Hamilton Street, East Fremantle be deferred pending the submission of additional information including:

- (a) **confirmation of open space calculation; and**
- (b) **justification for height of boundary wall to garage (west elevation) as shown on submitted plans at 3.5m – 0.5m above maximum height of 3.0m pursuant to Local Planning Policy 142 – Residential Development.**

CARRIED

T43. REFERRED BUSINESS (NOT INCLUDED ELSEWHERE)

Nil.

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T44. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T44.1 Resignation of John Dowson from Town Planning Advisory Panel

The Chief Executive Officer advised that a letter had been received from John Dowson today in which Mr Dowson tendered his resignation from the Town Planning Advisory Panel.

The letter read in part:

"I am afraid that with being elected deputy mayor again and being chair of Heritage and Special Places committee, which always meets on a Tuesday, and having so many other meetings, I am finding it very difficult to get to your meetings.

I believe your committee is a very valuable one and it is run in a great spirit and the views of all panel members are listened to with respect. I must however tender my resignation from the committee and ask for your understanding in this matter.

I ask that you please pass on my regrets and best wishes.

I often speak to others about your panel as an object lesson to others and long may it live."

The Chief Executive Officer advised he had originally recruited John Dowson to the Panel, essentially on the basis of John's long standing passion for good planning and in particular his commitment to promoting heritage protection, and his knowledge of local government.

After commencing with the Panel John had attended the initial meetings with his young daughter, such was his keenness to participate despite family responsibilities, however with his extensive Council and related commitments the situation had ultimately become untenable.

Nevertheless it had been a credit to John and the Town that the City of Fremantle's Deputy Mayor had participated for as long as he did and an appropriate motion was indicated.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Rico

That Council notes John Dowson's letter of resignation from the Town Planning Advisory Panel and John be warmly thanked for all of his efforts in assisting the Town which wishes him well for the future.

CARRIED

T45. CLOSURE OF MEETING

There being no further business the meeting closed at 10.00pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **13 May 2008**, Minute Book reference **T36.. to T45.** were confirmed at the meeting of the Committee on*

.....

Presiding Member