

9 February 2010

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 9 FEBRUARY, 2010 COMMENCING AT 6.35PM.

T115. OPENING OF MEETING

The Chief Executive Officer, Mr Stuart Wearne, opened the meeting and advised that as Cr Wilson was an apology for this evening's meeting, nominations would be called for Presiding Member.

T115.1 Present

Cr Barry de Jong	Presiding Member
Mayor Alan Ferris	
Cr Cliff Collinson	
Cr Siân Martin	
Cr Dean Nardi	
Cr Maria Rico	
Mr Stuart Wearne	Chief Executive Officer
Mr Rohan Doust	Acting Town Planner
Mrs Peta Cooper	Minute Secretary

T116. ELECTION OF PRESIDING MEMBER

The Chief Executive Officer called for nominations for the position of Presiding Member in the absence of Cr Wilson.

Mayor Ferris nominated Cr de Jong who accepted the nomination. The nomination was seconded by Cr Nardi.

Cr de Jong assumed the chair.

The Chief Executive Officer left the meeting at 6.37pm.

T117. WELCOME TO GALLERY

There were 7 members of the public in the gallery at the commencement of the meeting.

T118. APOLOGIES

An apology was submitted on behalf of Cr Alex Wilson, Cr Rob Lilleyman & Cr Richard Olson.

T119. CONFIRMATION OF MINUTES

T119.1 Town Planning & Building Committee (Private Domain) – 8 December 2009

Mayor Ferris – Cr Nardi

That the Town Planning & Building Committee (Private Domain) minutes dated 8 December 2009 as adopted at the Council meeting held on 15 December 2009 be confirmed.

CARRIED

T120. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T120.1 Sewell Street No. 78 – Proposed New Residence

Submission received from adjoining neighbour at 76 Sewell Street requesting that the 1st floor be set back 1.5m from the boundary.

Mayor Ferris – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T121.4)

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T120.2 Sewell Street No. 78 – Proposed New Residence
Correspondence received from Algeri Planning & Appeals advising that their client would await the outcome of the Town Planning & Building Committee meeting to consider their options in terms of lodging an application for review with SAT.

Mayor Ferris – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T121.4).

CARRIED

T120.3 Munro Street No. 18 – Christie v TOEF
Correspondence from Peter D Webb & Associates advising that they have discussed this matter with their clients and have secured an opinion from lawyers competent in this jurisdiction.

Mayor Ferris – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T122.1).

CARRIED

T121. REPORTS OF OFFICERS

T121.1 Receipt of Reports

Cr Rico – Cr Martin

That the Reports of Officers be received.

CARRIED

T121.2 Order of Business

Cr Rico – Cr Martin

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

CARRIED

Cr Collinson & Cr Martin made the following impartiality declaration in the matter of 89 King Street: "As a consequence of the applicant being known to us, there may be a perception that our impartiality on the matter may be affected. We declare that we will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T121.3 King Street No. 89 (Lot 339)
Owner/applicant: K Ferguson
Application No. P125/09
By Rohan Doust, Acting Town Planner, 3 February 2010

BACKGROUND

Description of site

The subject site is:

- 508m² in area;
- zoned R20;
- located in the Plympton Precinct; and
- developed with a single-storey Federation dwelling that is included on the Municipal Inventory (Management Category B-).

Description of Proposal

It is proposed to construct a single-storey rear addition. A single car garage and a deck area to the rear of the dwelling are also proposed.

The extension is 33.8m² in area and includes a 3.4m long boundary wall to the northern boundary. The structure has a contemporary profile with a skillion roof and generally matches the wall heights of the existing dwelling. It is proposed to be constructed from

rendered brick with a Colorbond roof. It is intended to demolish a rear pergola to accommodate the addition.

The garage is 20m² in area and shares a common wall with the proposed extension. The garage replaces an existing timber pergola. The garage features a 5.6m long boundary wall to the southern boundary. It is noted that since the garage is attached to the dwelling it is not considered to be an outbuilding.

The rear deck is 24m² in area, unroofed and has a finished floor level not more than 0.5m above natural ground level.

It is also intended to relocate a small brick outdoor toilet three metres to the west to accommodate the rear addition.

Statutory Considerations

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

Relevant Council Policies

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

Date Application Received

11 September 2009 (amended plans received 11 November 2009).

Advertising

Adjoining landowners

Date Advertised

28 October 2009 to 11 November 2009

No. of Days Elapsed between Lodgement & Meeting Date

150 days

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

9 March 2006 The CEO approves a patio/car-parking structure under delegated authority. This structure has not been built and the planning approval has lapsed.

CONSULTATION

Principal Building Surveyor's Comment

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

Public Submissions

One public submission has been received from an adjoining landowner. The adjoining landowner's comments are summarised and responded to below:

Comments	Response
Request no boundary wall be built on the northern boundary and that normal setbacks apply in order to allow for light and ventilation to the respondent's house.	As set out in the sections on boundary walls below it is considered the boundary wall to the northern boundary can be supported. The subject house is already located on the northern boundary and the addition would extend this boundary wall a further 3.4m.

	<p>The proposal does not overshadow the respondent's property (as measured by the R-Codes). In fact the respondent's property overshadows the applicant's lot and the boundary wall will assist in ameliorating the overshadowing by having the shadow fall on the boundary wall rather than an outdoor living area or major opening. Whilst the windows of the respondent's property are set back only 1.0m from the boundary, it is considered this will still allow for adequate air circulation.</p> <p>The applicant has provided correspondence addressing the neighbour's concerns. In light of the applicant's advice and the above comments, it is considered that the proposed boundary wall to the northern boundary can be supported.</p>
<p>There is uncertainty about the location of the common boundary and request that a survey be undertaken before a final decision is made by Council.</p>	<p>It is understood a survey has been undertaken and it shows the proposed development being contained within the subject lot. Nonetheless it is recommended the applicant be advised that a planning approval does not cover any development outside the subject lot.</p>
<p>Concern that the two windows in the addition may not meet fire regulations.</p>	<p>This matter is addressed as part of the Building Licence process.</p>

A copy of the neighbour's letter and the applicant's response is provided at Attachments 5 and 6.

Site Inspection

By Acting Town Planner on 1 December 2009.

REPORT

Considerations

The proposal meets the provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Number of Boundary Walls

The site already features three existing boundary walls (one associated with the house and two associated with a small garden shed).

The application proposes to extend the boundary wall associated with the house and also provide a fourth boundary wall associated with the garage.

The R-Codes and Residential Development Policy (LPP142) limits the number of boundary walls on a site to one.

It is considered that a variation to the maximum permitted number of boundary walls on the site can be supported in for the following reasons:

- The existing and historical pattern development on King Street features narrow lots with houses at reduced or nil side setbacks. Accordingly the proposal is considered generally compatible with surrounding development.
- The proposed boundary walls are not located adjacent to any outdoor living areas on the adjoining properties.
- The proposal accords with the overshadowing provisions of the R-Codes.



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- Positioning the extension and garage on the side boundaries maximises the useable space on a narrow lot
- The proposed boundary walls are of a relatively high-quality material (rendered and painted masonry).
- Any effect on the streetscape would be marginal as the development is proposed to be located at the rear of the subject site.

Height of Boundary Walls

The height of the garage boundary wall is 3.0m. The height of the boundary wall associated with the extension is 3.9-4.1m.

The R-Codes limit the height of boundary walls to an average of 2.7m and not more than 3.0m.

It is considered these variations can be supported for the following reasons:

- The height of the boundary walls matches the increased wall heights of the existing heritage dwelling.
- The boundary wall to the north does not overshadow the adjoining property.
- Whilst the boundary wall to the south does overshadow the adjoining property, the extent of overshadowing complies with the R-Codes and the area overshadowed is a 1.3m-wide side setback area that is not used as an outdoor living area.
- The boundary wall to the north extends an existing boundary wall up to 4.3m high which is associated with the house.
- The proposed boundary walls are of a relatively high-quality material (rendered and painted masonry).
- Any effect on the streetscape would be marginal as the development is proposed to be located at the rear of the subject site.

The following aspect of the proposal is noted:

Development of a Heritage Property

The subject site is included in the Municipal Inventory with a Management Category of 'B-'. The proposed works are single storey, to the rear of the house, generally not visible from street, and have been designed to clearly read as a contemporary addition. On this basis it is considered the development does not detract from the individual heritage significance of the subject property or the King Street streetscape in general.

The applicant has authored a Heritage Impact Statement (see Attachment 4) which provides further detail on this aspect of the development.

RECOMMENDATION

Council exercise its discretion in granting approval for:

- an extension of the site's third existing boundary wall, and the provision of a fourth boundary wall in lieu of the single boundary stipulated by the R-Codes;
- the boundary wall associated with the garage having a height of 3.0m in lieu of the 2.7m average boundary wall height as per the R-Codes;
- the boundary wall associated with the addition having a height of 3.9-4.1m in lieu of the 3.0m maximum and 2.7m average boundary wall height stipulated by the R-Codes;

for a single storey addition, single garage and deck to the rear of the existing house at No. 89 (Lot 339) King Street, East Fremantle, as shown on plans received 20 November 2009 and subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
3. All storm water resulting from the development is to be retained on site.

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4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. 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.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed works 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.
8. Any 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.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *This approval does not cover development outside the subject lot. It is suggested a site survey be undertaken to confirm the development is contained within the subject lot.*
- (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) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Martin

Council exercise its discretion in granting approval for:

- **an extension of the site's third existing boundary wall, and the provision of a fourth boundary wall in lieu of the single boundary stipulated by the R-Codes;**
- **the boundary wall associated with the garage having a height of 3.0m in lieu of the 2.7m average boundary wall height as per the R-Codes;**
- **the boundary wall associated with the addition having a height of 3.9-4.1m in lieu of the 3.0m maximum and 2.7m average boundary wall height stipulated by the R-Codes;**

for a single storey addition, single garage and deck to the rear of the existing house at No. 89 (Lot 339) King Street, East Fremantle, as shown on plans received 20 November 2009 and subject to the following conditions:

1. **Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.**
2. **Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.**
3. **All storm water resulting from the development is to be retained on site.**

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4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. 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.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed works 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.
8. Any 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.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *This approval does not cover development outside the subject lot. It is suggested a site survey be undertaken to confirm the development is contained within the subject lot.*
- (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) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T121.4

Sewell Street No. 78 (Lot 299)

Owner: R & L Nicholson

Applicant: R & D Building Pty Ltd

Application No. P145/09

By Rohan Doust, Acting Town Planner, 3 February 2010.

INTRODUCTION

This application was considered by Council at its meeting on 15 December 2009.

Council resolved to defer this application "to allow the opportunity to amend the design such as to achieve a front elevation which is more compatible with the existing streetscape".

The applicant has explored options which would allow for a redesign to address the Council's concerns. However, the applicant has submitted that the existing proposal in its

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current form is a cohesive design and any modifications to the front facade will detract from the design of the building.

Accordingly the application considered by Council on 15 December 2009 is re-presented here, without any changes, in order that it be determined.

What follows is exactly the same report previously considered by Council.

Sewell Street No. 78 (Lot 299)

Application No. P145/09

Owner: R & L Nicholson

Applicant: R & D Building Pty Ltd

By Rohan Doust, Acting Town Planner, 11 December 2009

BACKGROUND

Description of subject site

The subject site is:

- 508m² in area
- zoned Residential R20
- located in the Plympton Precinct
- developed with a single-storey fibro cottage that is not included on the Municipal Inventory

Description of Proposal

It is proposed to demolish the existing dwelling on the site.

It is proposed to construct a two-storey single house with a front double garage and front balcony to the upper floor.

The ground floor is proposed to:

- be 161m² in area (including the double garage)
- be set back 6.0m from the front of the lot
- have a side setback of 1.7-4.6m to the south, 1.0m-2.2m to the north and a rear setback of 13.7m

The upper floor is proposed to:

- occupy the same footprint as the ground floor
- include a 21.1m² front balcony
- have wall heights between 5.3m and 6.0m above the changing natural ground level

Materials and finishes comprise:

- timber battening to the front of the building, with the battens being 30mm wide dressed recycled jarrah and being mounted horizontally with 30mm gaps; and
- a combination of concrete panel and cedar cladding to the sides and rear. The concrete panel of a Class 1 finish, which is a high-quality finish suitable for exposed concrete.

The front yard includes recycled bricks for the driveway and native vegetation for the landscaping. A 3.0m high concrete panel screen wall links the house to the southern boundary. No front fence is proposed.

Statutory Considerations

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

Relevant Council Policies

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

Date Application Received

8 October 2009

No. of Days Elapsed between Lodgement & Meeting Date

67 days

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

None

CONSULTATION

The proposal was referred to the adjoining land owners indicated on the attached location plan and a sign was placed on site. The referral period was 16 November 2009 to 1 December 2009.

One response was received, summarised and responded to below:

Item	Response
Although the proposed residence will comply at 23% overshadowing, the shadow falls the adjoining property's outdoor north-facing outdoor living area and the glazing to its internal living areas.	The attached photos and overshadowing diagram demonstrate that the proposal will indeed overshadow these areas. In response to concerns raised, the applicant has reduced the amount of overshadowing to 20%, noting that approximately one third of this falls on neighbouring roofs. In addition, the proposed house provides greater-than-required setbacks in order to increase solar access for the southern lot. The shadow from the fence is indicated on the overshadowing diagram; it shows that this element by itself overshadows the greater extent of the adjoining outdoor living area. The proposal fully complies with the R-Codes' overshadowing provisions (this is discussed further in the relevant section below).
The closest portion of the proposed house is approximately one metre away from the shared boundary, affecting outdoor and indoor living areas.	The closest portion of the southern elevation has been moved from 1.2m to 1.7m away from the boundary (providing 0.7m more setback than required at the ground floor, and 0.5m more at the upper). The rest of the two-storey wall is set back between 0.6m and 2.4m more than required.
The section of building closest to the shared boundary is a two-storey stairway/laundry/bath area will create privacy and noise problems, and will also impact on views to the street and access to breezes.	This portion of the building does not present any sources of overlooking. Its intended use is considered to be acceptable in terms of noise and privacy issues. The building provides greater-than-required setbacks allowing for adequate access to breezes. With respect to access to views of the street, any compliant development will in all likelihood impact on this -- and with respect to compliancy, it is noted that the proposed house has increased side setbacks to the respondent's property, provides more open space than required, and has an overall (ridge) height less than the permitted 9m.
It is suggested that the house layout be reversed to that the stairway/laundry/bath area is to the northern boundary and the building be set further back.	Given the above, it is considered the proposed configuration is acceptable.

Town Planning Advisory Panel

The Panel viewed the proposal on 24 November 2009 and made the following comments:

- *Interesting design and good use of materials. If the details are well executed this could be a very interesting building*
- *There was no objection to the street setback of the upper storey.*
- *The panel requests a streetscape elevation and perspective view of the house in order to be convinced that the building detail of timber battening and shutter operation is effectively executed*
- *Details of the baton profiles are required.*

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- Details on the visual permeability of the shutters are required.
- Details of the garage door operation and whether it sits flush with the building when closed are required.
- Query the northern operable shutter as it will abut the northern boundary when open (the Town Planner has subsequently determined that the shutter can abut, but not project over, the boundary in accordance with BCA requirements).
- The north point on some of the drawings appears incorrect.

Additional information has since been provided by the applicant addressing the items raised by the Panel. It is considered the provided information satisfactorily addresses the Panels comments and queries.

As of 11 December 2009 further advice on the revised proposal is being sought from the Panel. Any revised or additional minutes will be tabled at the Council meeting on 15 December 2009.

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval. It is noted that the north-facing balcony shutter may abut, but not project over, the northern boundary in accordance with the BCA.

Site Inspection

By Acting Town Planner, most recently on 11 December 2009.

REPORT

Considerations

Demolition

Demolition of the existing single-storey fibro cottage does not form part of the application currently under consideration. Nonetheless it is noted that the house is not identified in the Municipal Inventory and it is considered that its demolition would not result in the loss of any significant built heritage.

Street Setback and Building Design

The building presents a sheer two-storey facade to the street, clad in horizontal timber battening and occupying half of the width of the site's 12.2m-wide frontage. The balcony includes shutters of the same timber battening which will, when closed, result in the building presenting as essentially a two-storey cube to the street. A streetscape elevation and perspectives of the proposal are attached.

Prefacing any consideration of the architectural style, it is noted that the building's front setback does comply with relevant provisions as:

- The ground floor street setback of 6.0m is in between the street setbacks of adjoining properties as per the provisions of the R-Codes and LPP142.
- The upper floor front balcony is set back at 6.0m from the street and the house proper set back at 9.2m. LPP142 specifies a street setback of at least 6.0m for the upper floor.

The Local Planning Strategy makes reference to building design and includes the following aims and objectives:

- *to safeguard and enhance the amenity of residential areas and ensure that housing relates to the character and scale of existing residential development*
- *to encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation and water sensitive design*

The Strategy also states that for the Plympton Precinct:

- *new development ... is to be generally small scale and sympathetic to the character (form, mass and materials) of existing development.*

These provisions are addressed below:

<i>Bulk & Scale</i>	The house provides approximately 68% open space (at least 50% is required) and has an overall height of 6.0m and 6.7m (LLP limits overall height to 9.0m).
<i>Relationship with Adjoining Developments</i>	The adjoining house to the north is a 1980s two-storey building with the upper floor a loft that is set back the same distance from the street as the floor below; the dwelling to the south is a Federation single-storey cottage included on the Municipal



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Inventory. It is considered the proposed house is compatible with the two-storey house to the north in terms of bulk and scale. With respect to the single-storey cottage to the south, the proposal features increased setbacks to the southern boundary, and manages the transition to the southern building via a single storey front screen wall linking the two structures. It is noted the southern cottage is closer to the street than the subject house.

Compatibility with the Locality

The Plympton Precinct is largely pre-WW2 housing stock with some more contemporary dwellings up to two storeys in height. It is considered the proposal is not incompatible with such surrounds.

Safeguarding Amenity

The development complies with the overshadowing provisions of the R-Codes (see below). There are two minor overlooking variations which are considered supportable (see below).

High Standards and Innovative Design

Details of the building materials are provided above and are indicated on the attached plans. It is considered the materials are of high-quality and will age well. Overall, the overall design is considered to be a well-executed example of contemporary architecture that will contribute to the future character of the locality.

Roof Pitch

LPP066 specifies a minimum roof pitch of 28°. A 12° roof pitch is proposed.

Given that the overall design is considered to be supportable (as set out above), it is considered that a reduced roof pitch as part of that design can be supported.

It is noted that the roof pitch results in the overall (ridge) height of the dwelling being between 6.0m and 6.7m above natural ground levels. This is significantly less than the maximum overall (ridge) height of 9.0m permitted under LPP142.

Overshadowing

The proposal overshadows 20% of the adjoining lot to the south. The R-Codes allow for 25% overshadowing.

Notwithstanding the above, the subject lot is oriented east-west and the proposed house does impact on the solar access of the neighbouring property to the south, in particular it's primary outdoor living area and adjacent glazed areas (photos of the area are attached as part of the neighbour's correspondence; the attached plans include an overshadowing diagram).

The Explanatory Guidelines section of the R-Codes acknowledges the overshadowing challenges posed by lots oriented east-west, and goes on to state that:

a shadow may not exceed the limit but may fall over the only available outdoor living area, or living room window, of an adjoining house

which is the case in this instance.

Given the above statement, and given that the house creates 5% less overshadowing than permitted, in terms of the R-Codes it is considered this aspect of the proposal is compliant.

This is not to suggest that it would not be within the discretion of Council, pursuant to Clause 10.2(p) and 10.2(o) of the Scheme, to still deem this aspect unacceptable in amenity terms.

In that respect it is noted the adjoining landowner to the south has expressed reservations about the location of the overshadowing. Clause 10.2(o) obliges Council to have due regard to "the preservation of the amity of the locality" and Clause 10.2(p) obliges Council to have due regard to "the relationship of the proposal to development on adjoining land or on other land in the locality". Nevertheless two relevant issues should be noted.

Firstly, due to the layout and location of the of the outdoor area on the southern neighbour's property which would be affected by overshadowing, it is concluded firstly that this area already experiences overshadowing from the existing adjoining development, and secondly that *any* new development on the lot in question in all likelihood is still going to cause significant overshadowing.



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Secondly, notwithstanding the abovementioned Scheme provisions, it is accepted that R Code compliance carries considerable weight in most planning applications and would likely be of significance in an appeal situation, for example.

Setbacks

The northern two-storey facade is set back between 1.0m and 2.2m from the northern boundary. Whilst the ground-floor setback complies, the 10.2m length of the upper floor that is set back at 1.0m is required to be set back 1.5m as per the R-Codes.

In considering this variation the regard can be given to the following advice in the Explanatory Guidelines section of the R-Codes:

It should be council practice to assist where necessary by making concessions in particular cases, especially by modifying side setbacks to allow solar access

In this case the applicant has moved the development 0.5m closer to the northern boundary to increase solar access for the adjoining lot to the south. This has resulted in the 0.5m setback variation.

Given the above, and noting that the development meets overlooking, overshadowing, open space and height provisions, it is considered that the setback variation can be supported.

RECOMMENDATION

Council exercise its discretion in granting approval for:

- a 10.2m length of the upper floor wall to the northern boundary being set back 1.0m lieu of the required 1.5m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;
- the roof pitch being 12° in lieu of the 28° minimum roof pitch specified by the Roofing Policy (LPP066)

for a two-storey single house at Lot 299 (No. 78) Sewell Street, East Fremantle, as shown on plans received 10 December 2009 and subject to the following conditions:

1. Any door, gate or similar to the opening in the front screen wall is to be visually permeable as per the definition in the Residential Design Codes of WA.
2. Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
3. All storm water resulting from the development is to be retained on site.
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. 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.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed works 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.
8. 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.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *Approved materials and finishes are those shown on the approved plans.*
- (b) *The north-facing balcony shutter is not to encroach into the neighbouring lot.*
- (c) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
- (d) *With respect to condition 2), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.*
- (e) *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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- (f) *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.*
- (g) *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).*
- (h) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Additional details demonstrating that crossover will result in minimal disruption to the existing verge levels and that storm water will be effectively managed are to be provided to and endorsed by the CEO in consultation with relevant officers prior to issuance of a Building Licence.*

Correspondence referred from MB Ref. T120.1 & T120.2 was tabled.

Mr Richard Harris (designer) and Mrs Lauren Nicholson (owner) in addressing the meeting in support of the proposed new residence stated the following:

- with regard to modifying the front façade, the design would be compromised if one attempted to meet the concerns of Council.
- the proposed design is not an overly radical piece of architecture. This is more of a modern interpretation of 'Australian' style interacting with neighbours and street.
- a reduced setback for the 1st floor from 1.5m to 1.0m would not impact the adjoining neighbours at 76 Sewell Street as no living areas are located on that side.

Amendment

Cr Martin – Mayor Ferris

That the following additional condition be inserted:

1. *Batons permeable to 50% ratio as depicted in the 'Baton Screen Elevation' from floor level of 2nd storey except where plans indicate privacy screening. **CARRIED***

RECOMMENDATION TO COUNCIL

Cr Martin – Mayor Ferris

Council exercise its discretion in granting approval for:

- **a 10.2m length of the upper floor wall to the northern boundary being set back 1.0m lieu of the required 1.5m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;**
- **the roof pitch being 12° in lieu of the 28° minimum roof pitch specified by the Roofing Policy (LPP066)**

for a two-storey single house at Lot 299 (No. 78) Sewell Street, East Fremantle, as shown on plans received 10 December 2009 and subject to the following conditions:

1. **Batons permeable to 50% ratio as depicted in the 'Baton Screen Elevation' from floor level of 2nd storey except where plans indicate privacy screening.**
2. **Any door, gate or similar to the opening in the front screen wall is to be visually permeable as per the definition in the Residential Design Codes of WA.**
3. **Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.**
4. **All storm water resulting from the development is to be retained on site.**
5. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
6. **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.**



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7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. The proposed works 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.
9. 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.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *Approved materials and finishes are those shown on the approved plans.*
- (b) *The north-facing balcony shutter is not to encroach into the neighbouring lot.*
- (c) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
- (d) *With respect to condition 2), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.*
- (e) *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.*
- (f) *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.*
- (g) *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).*
- (h) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Additional details demonstrating that crossover will result in minimal disruption to the existing verge levels and that storm water will be effectively managed are to be provided to and endorsed by the CEO in consultation with relevant officers prior to issuance of a Building Licence.*

CARRIED ON THE CASTING VOTE OF THE PRESIDING MEMBER

T121.5 **Wolsely Road No. 20 (Lot 400)**
Owner: A Philip & LC Watson
Applicant: Webb & Brown-Neaves
Application No. P165/09
By Rohan Doust, Acting Town Planner, 3 February 2010

BACKGROUND

Description of site

The subject site is:

- 448m² in area;
- located in the Richmond Precinct;
- an undeveloped lot part of a two-lot subdivision of the original corner lot; and
- zoned Residential R12.5.

Description of Proposal

It's proposed to construct a two-storey single house.

The ground floor is 224m² in area, resulting in the provision of 49.8% open space. The upper floor occupies generally the same footprint as the ground floor except that it does not extend over the double garage.

The roof is of a hipped form pitched at 23° and clad in Metaldeck sheeting of an unspecified colour. The house is constructed in rendered brick of an unspecified colour.

A two-storey balcony is provided to the front facade.

No front fencing is proposed.

Statutory Considerations

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

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)
- Council Policy for Footpaths & Crossovers (LPP123)

Date Application Received

11 November 2009

Advertising

Adjoining landowners

Date Advertised

7-22 December 2009

No. of Days Elapsed between Lodgement & Meeting Date

89 days

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

- | | |
|-------------------|--|
| 16 September 1985 | Council by an "Absolute Majority Resolution" grants special approval for a reduced setback for a duplex addition; |
| 16 October 2001 | Council decides to advise the WAPC that it recommends refusal of an application to subdivide 67 Alexandra Road into 2 lots; |
| 12 December 1985 | Building Permit 022/1062 approved for an additional duplex unit; |
| 18 May 2004 | Council decides to advise the WAPC that it supports the subdivision of 67 Alexandra Road into 2 x 458m ² lots; |
| 1 June 2004 | WAPC conditionally approves the subdivision of 67 Alexandra Road into 2 x 458m ² lots; |
| 17 November 2006 | Demolition Licence 06/259 issued for brick & tile house complete with outbuildings; |
| 1 June 2006 | Town of East Fremantle endorses clearance to conditions of subdivision; |
| 19 August 2008 | Council defers determination of a planning application for a two-storey house to allow the applicant to address issues relating to bulk, overshadowing and streetscape. Revised plans have not received and the application has not been determined. |

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel

The Panel viewed the proposal on 2 February 2010. At this stage the meeting minutes have not been endorsed by the Panel. The Panels *draft* advice is summarised and responded to below:

<i>Comments</i>	<i>Response</i>
Consider reducing front setback to improve solar access for the adjoining property to the south.	The applicant has advised that the development has been designed to minimise overshadowing of this property. A copy of the applicant's advice is attached. In light of the applicant's advice, and given the proposal accords with overshadowing provisions, and noting that the proposal only partially overshadows the adjoining outdoor living area, it is considered the current position of the house on the lot is acceptable.
Consider increasing reducing the size of the upper floor along its north-south axis, and increasing the size of this floor along its east-west axis, in order to improve solar access for the adjoining property to the south.	See above.
The proposal should show due regard for the neighbours to the south, especially in terms of overshadowing.	Agreed.
A streetscape elevation is required to demonstrate the proposal is contextually appropriate.	The applicant intends to provide a streetscape elevation which can be tabled at the Committee meeting.
Query materials (i.e. balustrading, verandah posts, colours, etc).	It is recommended any planning approval include a condition requiring details of materials and finishes being provided to and endorsed by the CEO prior to issuance of a building licence.

A copy of the Panel's advice is provided at Attachment 4.

Public Submissions

No submissions were received as part of neighbour consultation.

Site Inspection

By Acting Town Planner on 14 January 2010.

REPORT

Considerations

The proposal meets the provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:



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Street Setback

Development at R12.5 requires a front setback of 7.5m as per the R-Codes and the Residential Development Policy (LPP142). The front facade of the house is set back between 5.5 and 7.8m.

It is considered the reduced front setback can be supported in this instance for the following reasons:

- The proposed adjoining house to the east (which is the previous Item on this Agenda) has been assessed at R20 in accordance with the corner lot provisions of Clause 5.3.1 of TPS3. This proposal features a 4.5m setback to Wolsely Road (Wolsely Road being the secondary street for this lot) with a double storey balcony set back 2.9m from Wolsely Road. The proposed front setback for the subject site is compatible with the Wolsely Road setback of the adjoining proposal to the east.
- Development of the adjoining vacant lot to the west was approved by Council on 18 August 2009, with the dwelling having a 4.8-5.5m setback to Wolsley Road. The proposed front setback for the subject site is compatible with the Wolsely Road setback of the adjoining proposal to the west.

Incursion into Street Setback Area

The proposal includes a two-storey front balcony and entry statement that is set back 4.5m from Wolsely Road. The R-Codes state that this structure may protrude into the front setback area, provided the protrusion is less than one metre in depth and occupies less than 20% of the width of the lot frontage.

The front balcony and entry statement protrudes 3.0m into the 7.5m-deep front setback area and occupies 24% of the width of the frontage.

It is considered this variation may be supported for the following reasons:

- The proposed adjoining house to the east has a double storey balcony set back 2.9m from Wolsely Road. The proposed front setback for the subject site is compatible with the Wolsely Road setback of the adjoining proposal to the east.
- The adjoining development to the west, approved by Council on 18 August 2009, features a reduced front setback of 4.8-5.5m. The proposed balcony setback of 4.5m is considered compatible with the front setbacks of this adjoining development.

Open Space

The R-Codes require the provision of 55% open space. A total of 49.8% open space is proposed. It is considered this variation can be supported as:

- Both sites adjoining the subject site are required to provide a minimum 50.0% open space in accordance with Clause 5.3.1 of TPS3 which allows these sites to be developed at R20. It is considered that the provision of a similar amount of open space on the subject site will not detract from the streetscape.
- The development provides a two-storey front balcony and entry statement, and whilst these structures are considered to be site cover as per the R-Codes, their open aspect does help to lessen the impact of the open space variation.
- The proposal accords with overshadowing, overall height and wall height provisions.

Roof Pitch

The proposal features a 23° roof pitch in lieu of the 28° roof pitch required by LPP066. It is considered that this variation can be supported as:

- The proposed roof pitch is compatible with the form and scale of the development.
- The roof pitch is compatible with the heterogeneous nature of surrounding development in the locality.

Crossover

A 5.0m-wide crossover is indicated on the plans. LPP123 limits the width of crossovers to 3.0m.

Since the crossover lies outside the subject site it doesn't form part of the application and therefore cannot be approved or otherwise as part of this application.

It is recommended the applicant be advised that a 3.0m-wide crossover is permitted as per the requirements of LPP123, however a wider crossover will require a separate approval. It is also recommended the applicant be advised not to finalise the driveway configuration until the width of the crossover has been determined.

The following aspects of the proposal are noted:

Overshadowing

The development provides a compliant 7.8% overshadowing of the adjoining lot to the south. It is noted, however, that the development does overshadow a portion of the rear yard associated with the grouped dwelling immediately adjacent to the subject site.

The adjoining dwelling to the south and is aligned east-west. The Explanatory Guidelines section of the R-Codes acknowledges the overshadowing challenges posed by lots oriented east-west, and goes on to state that:

a shadow may not exceed the limit but may fall over the only available outdoor living area, or living room window, of an adjoining house

which is the case in this instance.

The development also overshadows a portion of the common property area on the adjoining site. It is considered that this arrangement is acceptable as the common property area is used for car parking and does not include any outdoor living areas.

In light of the above, and noting the development provides compliant heights and setbacks, it is considered the overshadowing accords with the provisions of the R-Codes.

The applicant has provided a statement addressing the overshadowing (see Attachment 5).

Sewer Easement

A sewer easement is located at along the front boundary of the site. The house is well clear of the easement but the driveway does run over it. It is recommended any development approval include an advice note stating that any driveway over the sewer easement is to accord with Water Corporation requirements.

Applicant's Assessment

The documentation provided by the applicant at Attachment 3 details a setback variation to the rear boundary. Assessment of this element of the proposal has found that the setback accords with the Acceptable Development provisions of the R-Codes.

The documentation also details an overall (ridge) height of 8.4m and a maximum wall height of 5.9m. It appears these measurements have been taken from the floor pad which is somewhat recessed into the site. The plans indicate that the overall height is a compliant 8.1m above natural ground level, and the wall height a compliant 5.6m above natural ground level.

The applicant's report also justifies overlooking associated with the openings to the upper floor kitchen which are set back 3.4m from the rear boundary. Assessment has determined that the combined area of these openings is not more than one square metre and as a result the R-Codes consider them to be minor openings which do not need to meet privacy setback requirements.



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RECOMMENDATION

Council exercise its discretion in granting approval for:

- a portion of the dwelling having a front setback of 5.5m in lieu of the 7.5m setback required by the R-Codes and the Residential Development Policy (LPP142);
- the two-storey front balcony and entry statement projecting 3.0m into the front setback area for a length of 24% of the width of the frontage; the R-Codes limit incursions into the front setback area to not more than 1.0m and for not more than 20% of the width of the frontage;
- open space being 49.8% in lieu of the 55.0% open space requirement as per the R-Codes; and
- roof pitch being 23° in lieu of the 28° roof pitch required by the Roofing Planning Policy (LPP066);

for a two-storey single house at No. 20 (Lot 4001) Wolsely Road, East Fremantle as shown on plans received 11 November 2009 and subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
3. All storm water resulting from the development is to be retained on site.
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. 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.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed works 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.
8. Any 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.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *Any driveway over the sewer easement is to meet Water Corporation requirements.*
- (b) *Fencing does not form part of the approved plans. Any fencing may require further planning approval.*
- (c) *The proposed crossover is not included as part of this approval as it lies outside the subject land. The Footpaths & Crossovers Planning Policy (LPP123) limits the width of crossovers to 3.0m. Any crossover wider than this will require further approval from the CEO. It is recommended the driveway configuration not be finalised until the width of the crossover has been determined.*
- (d) *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.*
- (e) *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.*

- (f) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (g) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Andrew & Mrs Lesley Watson addressed the meeting in support of their proposed new residence.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

Council exercise its discretion in granting approval for:

- a portion of the dwelling having a front setback of 5.5m in lieu of the 7.5m setback required by the R-Codes and the Residential Development Policy (LPP142);
- the two-storey front balcony and entry statement projecting 3.0m into the front setback area for a length of 24% of the width of the frontage; the R-Codes limit incursions into the front setback area to not more than 1.0m and for not more than 20% of the width of the frontage;
- open space being 49.8% in lieu of the 55.0% open space requirement as per the R-Codes; and
- roof pitch being 23° in lieu of the 28° roof pitch required by the Roofing Planning Policy (LPP066);

for a two-storey single house at No. 20 (Lot 4001) Wolsely Road, East Fremantle as shown on plans received 11 November 2009 and subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
3. All storm water resulting from the development is to be retained on site.
4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. 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.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed works 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.
8. Any 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.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *Any driveway over the sewer easement is to meet Water Corporation requirements.*

- (b) *Fencing does not form part of the approved plans. Any fencing may require further planning approval.*
 - (c) *The proposed crossover is not included as part of this approval as it lies outside the subject land. The Footpaths & Crossovers Planning Policy (LPP123) limits the width of crossovers to 3.0m. Any crossover wider than this will require further approval from the CEO. It is recommended the driveway configuration not be finalised until the width of the crossover has been determined.*
 - (d) *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.*
 - (e) *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.*
 - (f) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
 - (g) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- CARRIED

T121.6

Glyde Street No. 21 (Lot 28)

**Applicant & Owner: Anna Benes & Rainer Heigl
(Application No. P249/2006)**

By Rohan Doust, Acting Town Planner, on 5 February 2010

BACKGROUND

Description of Proposal

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

Statutory Requirements

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

Date Application Received

20 December 2006

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

13 May 1988	Building Licence issued for a 2-storey brick extension at the rear;
20 November 2001	Council conditionally approves the removal of 2 Jacaranda trees from the front verge;
20 February 2007	Council grants conditional approval for a variation to the height of a boundary wall for additions.
17 February 2009	Council grants approval for a 12-month extension to the term of planning approval granted on 20 February 2007.

REPORT

Issues

Term of Planning Approval

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

On 17 February 2009 Council granted a 12-Month extension as the owners advised they were not in a position to carry out the approved works at the present time.



9 February 2010

MINUTES

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

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

TPS 3 includes the following provision:

"10.5 Term of Planning Approval

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

(a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and

(b) the approval lapses if the development has not substantially commenced before the expiration of that period.

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

Discussion

Given that there have been no legislative changes which might otherwise affect the development approved by Council in February 2007, such as an amendment to TPS 3 or the introduction of a local planning policy, and based on the circumstances of the applicants/owners it is considered reasonable for Council to permit a further 12-month extension to the term of the planning approval.

RECOMMENDATION

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

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. this planning approval to remain valid for a period of 12 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Collinson

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

- 1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 4. the proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 5. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 6. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
- 7. this planning approval to remain valid for a period of 12 months from date of this approval.**

Footnote:

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

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

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

T121.7 Preston Point Road No. 10 (Lot 2)

Applicant: I Rijavec

Owners: I, D & I Rijavec

By Rohan Doust, Acting Town Planner, 4 February 2010

BACKGROUND

Description of site

The subject site is:

- 1358m² in area;
- zoned R12.5;
- located in the Richmond Precinct;
- is developed with a single-storey fibro cottage that is included on the Municipal Inventory (Management Category C).

Description of Proposal

A request to Council to initiate an amendment to Town Planning Scheme 3 to rezone No. 10 Preston Point Road from Residential R12.5 to Residential R25.

The request has been received in response to the rezoning of the adjoining site at No. 8 (Lot 10) Preston Point Road from R12.5 to R17.5 which was approved by Council on 20 October 2009.

Statutory Considerations

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

Date Request Received

6 August 2009

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

None relating to subject site.

20 October 2009 Council resolved to adopt Amendment 6 to Town Planning Scheme 3 to rezone the *adjoining* property at No. 8 (Lot 10) from R12.5 to R17.5.

REPORT

Discussion

At this stage no report has been provided by the applicant in support of the re-zoning. This report will need to be provided prior to the proposal being advertised should Council decide to initiate public advertising as part of the rezoning procedure.

RECOMMENDATION

That Council advise the applicant that it is prepared to initiate public advertising associated with an amendment to the Town of East Fremantle Town Planning Scheme

No 3 to rezone No. 10 (Lot 2) Preston Point Road from R12.5 to R25, subject to Council's consideration of appropriate amendment documentation.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

That Council advise the applicant that it is prepared to initiate public advertising associated with an amendment to the Town of East Fremantle Town Planning Scheme No 3 to rezone No. 10 (Lot 2) Preston Point Road from R12.5 to R25, subject to Council's consideration of appropriate amendment documentation.

CARRIED

T121.8

Marmion Street No. 138 (Lot 142)

Owner/applicant: PE Ovens & VJ Bascarello Ovens

Application No. P179/09

By Rohan Doust, Acting Town Planner, 3 February 2010

BACKGROUND

Description of site

The subject site is:

- 1004m² in area;
- zoned R12.5;
- located in the Woodside Precinct;
- is developed with a single-storey fibro cottage that is included on the Municipal Inventory (Management Category C-).

Description of Proposal

It's proposed to demolish the existing house and construct a single-storey single house.

The ground floor is 443m² in area, resulting in the provision of 55.2% open space. A double garage is provided in line with the front of the dwelling and a front verandah is included.

The roof is of a gabled form pitched at 30° and clad in Colorbond sheeting of an unspecified colour. The house is constructed in rendered and painted brick of an unspecified colour.

No front fencing is proposed.

Statutory Considerations

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

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)
- Council Policy for Footpaths & Crossovers (LPP123)

Date Application Received

20 November 2009

Advertising

Adjoining landowners

Date Advertised

22 December 2009 – 15 January 2010

No. of Days Elapsed between Lodgement & Meeting Date

80 days

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

None

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel

The Panel viewed the proposal on 2 February 2010. At this stage the meeting minutes have not been endorsed by the Panel. The Panels *draft* advice is summarised and responded to below:

Comments	Response
Faux heritage and pastiche design elements (such as the verandah post and gable treatments) are not supported.	Agreed. Revised plans received 5 February 2010 show these elements modified for a more contemporary design. The revised detailing is supported.
The garage in the front yard is not supported.	The garage has since been moved back in line with the front of the house.
Demolition of the existing dwelling is not objected to.	Noted.

Public Submissions

One item of correspondence was received from an adjoining landowner.

The neighbour does not object to the proposal but has advised that the north boundary fence is in a poor state of repair. In response the applicant has advised the fence can be addressed as part of the building works and in accordance with the Dividing Fences Act.

A copy of the neighbour's submission and the applicant's response is provided at Attachments 4 and 5.

Site Inspection

By Acting Town Planner on 14 January 2010.

REPORT

Considerations

Demolition

The existing dwelling is a single storey fibro cottage that is included on the Municipal Inventory with a Management Category of C-. It is intended to demolish this dwelling.

The demolition of the dwelling lies outside the scope of this planning application, but nonetheless the Town has commissioned a heritage consultant to comment on the appropriateness or otherwise of the demolition.

The consultant has advised that the demolition of this dwelling is not objected to. A copy of the consultant's advice is provided at Attachment 6.

Street Setback

The R-Codes and the Residential Development require a 7.5m front setback for this site as it is zoned R12.5. A 6.0m setback for house is proposed, with the front verandah being set back 4.5m.

In order to address this variation is it considered that a any development approval can include a condition requiring the entire house to be positioned a further 1.5m away from the front boundary. The applicant supports this approach.



Incursion Into Street Setback Area

Provided the house is sited a further 1.5m away from the front boundary as described above, this leaves the front verandah with a front setback of 6.0m.

The R-Codes state structures may protrude into the front setback area, provided the protrusion is less than one metre in depth and occupies less than 20% of the width of the lot frontage.

The verandah features a 1.5m protrusion into the front setback area for a length of 45% of the width of the lot frontage.

It is considered this variation can be supported for the following reasons:

- The 1.5m protrusion into the front setback area does not considered to detract from the Marmion Street streetscape as this locality features heterogeneous development of varying front setbacks.
- The verandah is a lightweight single-storey structure and does not significantly contribute to the bulk and scale of the development.

Setback of Garage

The Residential Development Policy requires carparking structures to be located at or behind the main building. The garage projects 0.5m forward of the rest of the front facade.

It is considered this variation can be supported for the following reasons:

- The garage meets the minimum front setback of 7.5m (provided a condition accompanies any planning approval requiring the house to be setback a further 1.5m from the front of the lot as described above).
- The front verandah projects 1.5m forward of the garage, helping to lessen the impact of the garage on the streetscape.
- The variation is relatively minor at 0.5m.

Boundary Wall

A 7.2m long single storey boundary wall is proposed to be located on the eastern side boundary. This wall partially abuts a similar boundary all associated with a garage on the adjoining property.

Provided the house is sited a further 1.5m away from the front boundary as described above, a 1.9m long section of this boundary wall would be exposed (the remainder of the walls abuts the adjoining garage).

This exposed section of boundary wall is 3.2-3.3m high. The R-Codes limit the height of boundary walls to a maximum of 3.0m and an average of 2.7m.

It is considered this variation can be supported for the following reasons:

- The length of over-height boundary wall is relatively minor at 1.9m.
- The exposed section of boundary wall abuts a driveway on the adjoining property and accordingly will have little impact on the amenity of that property.
- The proposal accords otherwise accords with setback and overshadowing provisions.

Visual Privacy

The site features an approximately one metre change in level along its east-west axis. Whilst the house is cut into the block on the highest (west) side, a section of the eastern side of the development features a floor level that is up to 0.6m above natural ground level.

There are four openings at this section where the floor level is more than 0.5m above natural ground level; they are associated with the home office, the cinema and bedroom 4. Openings to these rooms are setback less than the required 4.5m privacy setback



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distance (as per the R-Codes) and hence they have the potential to impact on the privacy of the adjoining property.

It is considered that a variation to the privacy setback requirement for these openings can be supported as they overlook a driveway on the adjoining property and do not affect any major openings or outdoor living areas of that property.

In addition the front verandah has a finished floor level more than 0.5m above natural ground level. Whilst the majority of overlooking from this verandah is of the adjoining front setback area, there is a portion of the adjoining property behind its street setback line that is overlooked. It is considered this variation can be supported as the verandah overlooks the adjoining driveway and does not impact on any major openings or outdoor living areas.

Crossover

A 5.2m-wide crossover is indicated on the plans. LPP123 limits the width of crossovers to 3.0m.

Since the crossover lies outside the subject site it doesn't form part of the application and therefore cannot be approved or otherwise as part of this application.

It is recommended the applicant be advised that a 3.0m-wide crossover is permitted as per the requirements of LPP123, however a wider crossover will require a separate approval. It is also recommended the applicant be advised not to finalise the driveway configuration until the width of the crossover has been determined.

RECOMMENDATION

Council exercise its discretion in granting approval for:

- boundary wall height of 3.2-3.3m in lieu of the 2.7m average and 3.0m maximum boundary wall height as per the R-Codes;
- the front verandah projecting 1.5m into the front setback area for a length of 45% of the width of the frontage; the R-Codes limit incursions into the front setback area to not more than 1.0m and for not more than 20% of the width of the frontage
- major openings to the home office, cinema and bedroom 4 being set back 4.2m, 2.7m & 2.7m respectively in lieu of the 4.5m privacy setback distance as per the Residential Design Codes;
- a portion of the front verandah being set back 1.9m in lieu of the 7.5m privacy setback distance as per the Residential Design Codes;
- the garage projecting 0.5m forward of the front façade of the house; the Residential Development Policy requires the front of the garage to be at or behind the front of the house;

for a single-storey single house at No. 138 (Lot 142) Marmion Street, East Fremantle as shown on plans received 5 February 2010 and subject to the following conditions:

1. A minimum 7.5m front setback is to be provided in accordance with the R-Codes and the Residential development Policy (LPP142). This can be achieved by siting the entire house an additional 1.5m away from the front boundary, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
2. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
3. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
4. Finishes to exposed boundary walls are to be of the same standard as the rest of the development, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
5. All storm water resulting from the development is to be retained on site.
6. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where



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- varied in compliance with the conditions of this planning approval or with Council's further approval.
7. 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.
 8. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 9. The proposed works 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.
 10. Any 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.
 11. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *Fencing does not form part of the approved plans. Any fencing may require further planning approval.*
- (b) *The proposed crossover is not included as part of this approval as it lies outside the subject land. The Footpaths & Crossovers Planning Policy (LPP123) limits the width of crossovers to 3.0m. Any crossover wider than this will require further approval from the CEO. It is recommended the driveway configuration not be finalised until the width of the crossover has been determined.*
- (c) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (d) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (e) *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).*
- (f) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Amendment

Cr Collinson – Cr Martin

That the following additional conditions be inserted:

1. *Prior to the issue of a Demolition Licence an archival record of the existing building is to be provided to and endorsed by the Chief Executive Officer. The archival materials are to include:*
 - (i) *a site plan prepared at 1:200 scale, a plan of the building and all four elevations prepared at 1:100 scale;*
 - (ii) *archival quality black and white photographs prepared when the house is empty to include:*
 - *a general shot of the dwelling to be demolished;*
 - *photos of each of the four elevations;*
 - *internal photos of all rooms; and*
 - *photos of any special architectural features.*
2. *Amended plans which show the following are to be submitted and endorsed by the Chief Executive Officer prior to the issue of a Building Licence:*

- (a) *The garage to be set back behind the main building line of the proposed residence;* CARRIED

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

Council exercise its discretion in granting approval for:

- boundary wall height of 3.2-3.3m in lieu of the 2.7m average and 3.0m maximum boundary wall height as per the R-Codes;
- the front verandah projecting 1.5m into the front setback area for a length of 45% of the width of the frontage; the R-Codes limit incursions into the front setback area to not more than 1.0m and for not more than 20% of the width of the frontage
- major openings to the home office, cinema and bedroom 4 being set back 4.2m, 2.7m & 2.7m respectively in lieu of the 4.5m privacy setback distance as per the Residential Design Codes;
- a portion of the front verandah being set back 1.9m in lieu of the 7.5m privacy setback distance as per the Residential Design Codes;

for a single-storey single house at No. 138 (Lot 142) Marmion Street, East Fremantle as shown on plans received 5 February 2010 and subject to the following conditions:

1. **Prior to the issue of a Demolition Licence an archival record of the existing building is to be provided to and endorsed by the Chief Executive Officer. The archival materials are to include:**
 - (i) **a site plan prepared at 1:200 scale, a plan of the building and all four elevations prepared at 1:100 scale;**
 - (ii) **archival quality black and white photographs prepared when the house is empty to include:**
 - **a general shot of the dwelling to be demolished;**
 - **photos of each of the four elevations;**
 - **internal photos of all rooms; and**
 - **photos of any special architectural features.**
2. **Amended plans which show the following are to be submitted and endorsed by the Chief Executive Officer prior to the issue of a Building Licence:**
 - (a) **The garage to be set back behind the main building line of the proposed residence; and**
 - (b) **A minimum 7.5m front setback is to be provided in accordance with the R-Codes and the Residential development Policy (LPP142). This can be achieved by siting the entire house an additional 1.5m away from the front boundary.**
3. **Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.**
4. **Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.**
5. **Finishes to exposed boundary walls are to be of the same standard as the rest of the development, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.**
6. **All storm water resulting from the development is to be retained on site.**
7. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
8. **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.**
9. **With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have**

received planning approval, without those changes being specifically marked for Council's attention.

10. The proposed works 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.
11. Any 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.
12. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *Fencing does not form part of the approved plans. Any fencing may require further planning approval.*
- (b) *The proposed crossover is not included as part of this approval as it lies outside the subject land. The Footpaths & Crossovers Planning Policy (LPP123) limits the width of crossovers to 3.0m. Any crossover wider than this will require further approval from the CEO. It is recommended the driveway configuration not be finalised until the width of the crossover has been determined.*
- (c) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (d) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (e) *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).*
- (f) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T121.9

Alexandra Road No. 67 (Lot 401)

Owner: T & C Clark

Applicant: Webb & Brown-Neaves

Application No. P169/09

By Rohan Doust, Acting Town Planner, 3 February 2010

BACKGROUND

Description of site

The subject site is:

- 448m² in area;
- located in the Richmond Precinct;
- an undeveloped corner lot; and
- zoned Residential R12.5 (noting that Clause 5.3.1 of the Town Planning Scheme allows corner lots to be developed at R20 under certain circumstances, see below).

Description of Proposal

It is proposed to construct a two-storey single house.

The site is located at the corner of Wolsely and Alexander Roads and the front of the house faces Wolsely Road. Vehicle access to a double garage is via Wolsely Road.

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The ground floor is 224m² in area, resulting in the provision of 50.0% open space. The upper floor occupies generally the same footprint as the ground floor.

The roof is of a hipped form pitched at 30° and clad in Metaldeck sheeting of an unspecified colour. The house is constructed in rendered brick of an unspecified colour.

A two-storey balcony is provided to the front facade.

No front fencing is proposed.

Statutory Considerations

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

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)
- Council Policy for Footpaths & Crossovers (LPP123)

Date Application Received

18 November 2009

Advertising

Adjoining landowners

Date Advertised

23 December 2009 to 18 January 2010

No. of Days Elapsed between Lodgement & Meeting Date

82 days

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

- | | |
|-------------------|---|
| 16 September 1985 | Council by an "Absolute Majority Resolution" grants special approval for a reduced setback for a duplex addition; |
| 16 October 2001 | Council decides to advise the WAPC that it recommends refusal of an application to subdivide 67 Alexandra Road into 2 lots; |
| 12 December 1985 | Building Permit 022/1062 approved for an additional duplex unit; |
| 18 May 2004 | Council decides to advise the WAPC that it supports the subdivision of 67 Alexandra Road into 2 x 458m ² lots; |
| 1 June 2004 | WAPC conditionally approves the subdivision of 67 Alexandra Road into 2 x 458m ² lots; |
| 17 November 2006 | Demolition Licence 06/259 issued for brick & tile house complete with outbuildings; |
| 1 June 2006 | Town of East Fremantle endorses clearance to conditions of subdivision; |
| 1 June 2006 | Town of East Fremantle endorses clearance to conditions of subdivision; |
| 19 August 2008 | Council defers determination of a planning application for a two-storey house to allow the applicant to address issues relating to bulk, overshadowing and streetscape. Revised plans have not been received and the application has not been determined. |

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel

The Panel viewed the proposal on 2 February 2010. At this stage the meeting minutes have not been endorsed by the Panel. The Panels *draft* advice is summarised and responded to below:

Comments	Response
The development is to face Alexandra Road as per Clause 5.3.1 of TPS3	This matter is addressed below. It is recommended any planning approval include a condition requiring the provision of an entry, entry statement and letterbox to Alexandra Road of the same standard as the rest of the development
A streetscape elevation of both streets is required (in particular to demonstrate the proposal's compatibility with the adjoining single storey cottages).	The applicant intends to provide streetscape elevations which can be tabled at the Committee meeting.
Garage can remain off Wolsely Road (being the secondary street)	Agreed.
The side elevation to the secondary street is to should not negatively impact on the streetscape.	The applicant intends to provide entries to both Wolsely and Alexandra Roads, mitigating the effects of an inactivated side facade to the secondary street. This is discussed in more detail below.
Query materials (i.e. balustrading, verandah posts, colours, etc).	It is recommended any planning approval include a condition requiring details of materials and finishes being provided to and endorsed by the CEO prior to issuance of a building licence.

Public Submissions

One public submission has been received from an adjoining landowner. The adjoining landowner's comments are summarised and responded to below:

Comments	Response
The house is a reasonable fit with the streetscape.	Noted.
No objection to roof height variation.	Noted.
Consider moving the house one metre to the north to improve the solar access and amenity of the neighbour to the south.	Compliant setbacks are provided to this boundary, and the proposal accords with overshadowing provisions. Whilst the proposal does not overshadow any adjoining outdoor living areas, three windows of the house to the south are overshadowed. These windows are set back just 0.8m from the boundary and if the development were moved one metre north these windows would still be overshadowed. Moving the house north would also reduce the setback to Wolsely Road. Given the subject site is a corner lot it is considered that moving the house any closer Wolsely Road will have an adverse impact on the streetscape. In light of the above it is considered that the current location of the house is acceptable.

A copy of the neighbour's letter and the applicant's response is provided at Attachments 4 and 5.

Site Inspection

By Acting Town Planner on 14 January 2010.

REPORT

Considerations

The proposal meets the provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Development at R20

The site is a corner lot and is zoned R12.5. Clause 5.3.1 of TPS3 relates to density bonuses for corner lots and states that:

In areas with a density coding of R12.5, the local government may approve development up to a density of R20 on corner lots where:

- *the dwellings are designed to face each of the two street frontages; and*
- *in the opinion of local government, there will be an improvement in the overall amenity of the streets as a result of the development.*

The proposal has is based on a density of R20 and thus will need to accord with Clause 5.3.1. The two requirements are addressed below:

- Dwellings Facing Each of the Two Street Frontages

The subject site has come about from the subdivision of the original 894m² lot at the corner of Alexandra and Wolsely Roads into two lots. The subdivision was approved by the WAPC on 1 June 2004. Both sites are currently vacant land. Development of the new corner lot at R20 will require the house to face both street frontages.

The proposal has been designed to face Wolsely Road, and in its current form does not accord with Clause 5.3.1. The applicant has suggested that the provision of a second entry statement and also a letterbox to the Alexandra Road frontage may satisfy this requirement. This would mean the development faces both street frontages.

Development of corner lots can impact negatively on the streetscape where one of the street frontages clearly reads as the side of the house. By providing a second frontage, this effect can be mitigated. Given the potentially improved streetscape outcome resulting from two street frontages, it is considered this arrangement would potentially accord with the first part of Clause 5.3.1.

Accordingly it is recommended any approval include a condition requiring the provision of an entry, entry statement and letterbox to Alexandra Road, of the same standard as the rest of the development, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.

[Note: the applicant has advised that plans of the new entry etc will be available at the Committee meeting.]

- Improvement in the Overall Amenity of the Streets

The subject site and adjoining site created by the subdivision are currently vacant land. The two lots are both subject of planning applications (the next Agenda item deals with the adjoining lot).

These two two-storey houses are designed by the same company and are largely similar in appearance. They sit side-by-side on Wolsely Road and are adjoined to the west by a recently approved development of similar scale (construction has yet to commence). Opposite the site to the north is Kaleeya hospital and a three-storey multiple development is to the east. The proposal is considered compatible with this streetscape setting.

Adjoining the site to the south is a grouped dwelling development comprising three pre-WW2 single-storey cottages. The design elements of the proposal are compatible with those of the adjoining cottages, however the two-storey aspect of the development has the potential to impact negatively on these smaller buildings.

In terms of bulk and scale, the proposal largely complies with the R-Codes and relevant planning policies, with the exception of a 0.1m setback variation and a 0.1m wall-height variation (which are recommended to be supported, see below) and a 0.7m overall height variation (which is recommended to be the subject of a condition requiring the ridge height to be reduced to a compliant 8.1m, see below).

Given that a two-storey building is permitted on the subject site, and given that the proposal generally meets relevant bulk and scale provisions, it is considered that the development does not unduly impact on the adjoining cottages and the Alexandra Road streetscape in general.

Accordingly it is considered the development meets the provision of Clause 5.3.1 which requires an "improvement in the overall amenity of the streets as a result of the development."

Wall Height

LPP142 limits wall height to 5.6m. The north-west corner of the house has a wall height up to 5.7m. It is considered this variation can be supported for the following reasons:

- The increased wall height arises from an approximately one metre fall across the site and is compensated by reduced wall heights (as little as 5.0m) where the house cuts into the higher area of the site.
- The walls of increased height meet setback and overshadowing provisions.
- The variation is minor at 0.1m.

Overall (ridge) Height

LPP limits overall height to 8.1m. The hipped roof has proposal has an overall height of 8.8m.

The applicant has provided justification for the ridge height variation (see Attachment 3. It is noted the applicant refers to an overall height of 8.6m, however this appears to be a height measurement taken from the finished floor level rather than natural ground level.)

Given the site is in an area that has access to views of the Swan River, it is considered that the overall height of the development should meet relevant provisions and accordingly it is recommended any development approval include a condition limiting overall height to 8.1m above natural ground level as per LPP142. The reduction in overall height can be accommodated by reducing the roof pitch to less than the proposed 30°.

Setbacks

The western facade of the garage is proposed to be setback 1.0m in lieu of the 1.1m setback as per the R-Codes.

The applicant has provided justification for the reduced setback (see Attachment 3). In light of the applicant's advice, and given that the variation is minor and results in no additional overshadowing, it is considered this can be supported.

Crossover

A 5.0m-wide crossover is indicated on the plans. LPP123 limits the width of crossovers to 3.0m.

Since the crossover lies outside the subject site it doesn't form part of the application and therefore cannot be approved or otherwise as part of this application.

It is recommended the applicant be advised that a 3.0m-wide crossover is permitted as per the requirements of LPP123, however a wider crossover will require a separate approval. It is also recommended the applicant be advised not to finalise the driveway configuration until the width of the crossover has been determined.

The following aspect of the proposal is noted:

Sewer Easement

A sewer easement is located at the north-west corner of the site. The house is well clear of the easement but the driveway does run over it. It is recommended any development approval include an advice note stating that any driveway over the sewer easement is to accord with Water Corporation requirements.

RECOMMENDATION

Council exercise its discretion in granting approval for:

- the wall height of the north-west corner of the development being 5.7m in lieu of the 5.6m wall-height limit as set out in the Residential Development Policy (LPP142);
- the garage being setback 1.0m from the western boundary in lieu of the 1.1m setback stipulated by the Acceptable Development provisions Residential Design Codes of WA;

for a two storey for a two-storey single house at No. 67 (Lot 401) Alexandra Road, East Fremantle as shown on plans received 18 November 2009 and subject to the following conditions:

1. An entry, entry statement and letterbox are to be provided to the Alexandra Road frontage in order to satisfy Clause 5.3.1 of Town Planning Scheme 3. These works are to be of the same standard as the rest of the development, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
2. The roof pitch is to be reduced so that the overall (ridge) height of the development is not more than 8.1m above natural ground level in as per the Residential Development Planning Policy (LPP142), details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
3. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
4. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
5. All storm water resulting from the development is to be retained on site.
6. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
7. 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.
8. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
9. The proposed works 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.
10. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.



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

That the applicant be advised of the following:

- (a) Any driveway over the sewer easement is to meet Water Corporation requirements.
- (b) Fencing does not form part of the approved plans. Any fencing may require further planning approval.
- (c) The proposed crossover is not included as part of this approval as it lies outside the subject land. The Footpaths & Crossovers Planning Policy (LPP123) limits the width of crossovers to 3.0m. Any crossover wider than this will require further approval from the CEO. It is recommended the driveway configuration not be finalised until the width of the crossover has been determined.
- (d) 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.
- (e) 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.
- (f) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (g) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.

An additional plan showing

both the Wolsely Road and Alexandra Road streetscapes was tabled.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

Council exercise its discretion in granting approval for:

- the wall height of the north-west corner of the development being 5.7m in lieu of the 5.6m wall-height limit as set out in the Residential Development Policy (LPP142);
- the garage being setback 1.0m from the western boundary in lieu of the 1.1m setback stipulated by the Acceptable Development provisions Residential Design Codes of WA;

for a two storey for a two-storey single house at No. 67 (Lot 401) Alexandra Road, East Fremantle as shown on plans received 18 November 2009 and subject to the following conditions:

1. An entry, entry statement and letterbox are to be provided to the Alexandra Road frontage in order to satisfy Clause 5.3.1 of Town Planning Scheme 3. These works are to be of the same standard as the rest of the development, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
2. The roof pitch is to be reduced so that the overall (ridge) height of the development is not more than 8.1m above natural ground level in as per the Residential Development Planning Policy (LPP142), details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
3. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
4. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
5. All storm water resulting from the development is to be retained on site.

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6. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
7. 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.
8. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
9. The proposed works 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.
- 10 Any 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.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *Any driveway over the sewer easement is to meet Water Corporation requirements.*
- (b) *Fencing does not form part of the approved plans. Any fencing may require further planning approval.*
- (c) *The proposed crossover is not included as part of this approval as it lies outside the subject land. The Footpaths & Crossovers Planning Policy (LPP123) limits the width of crossovers to 3.0m. Any crossover wider than this will require further approval from the CEO. It is recommended the driveway configuration not be finalised until the width of the crossover has been determined.*
- (d) *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.*
- (e) *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.*
- (f) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (g) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

- T121.10** **Pier Street No. 41 (Lot 303)**
Applicant: Classic Home & Garage Improvements
Owner: Sheila Lansbury
Application No. P110/2009
By Rohan Doust, Acting Town Planner on 8 February 2010

BACKGROUND

Description of Proposal

Application for Planning Approval to construct a patio to the east (rear) side of an existing two-storey house at 41 Pier Street (Lot 303).

This application was considered by Council at its meeting held on 20 October 2009 where it was resolved to approve the construction of a patio in accordance with plans stamp dated 17 August & 17 September 2009 with the following condition:

1. *The roof of the patio is to be set back at least 1.0m from the eastern boundary.*

The applicants have now requested that Council reconsider the requirement for a 1.0m setback in lieu of the 0.5m as sought by the applicant.

The officer's report from the October 2009 round of meetings is reprinted below:

Pier Street No. 41 (Lot 303)
Applicant: Classic Home & Garage Improvements
Owner: Sheila Lansbury
Application No. P110/2009
By Chris Warrener/Rohan Doust (Town Planner) on 8 October 2009

BACKGROUND

Description of Proposal

Application for Planning Approval to construct a patio to the east (rear) side of an existing two-storey house at 41 Pier Street (Lot 303).

The patio is proposed to be single storey, 4.2m x 10.0m in area, and constructed of Colorbond.

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans received 17 August 2009 and 17 September 2009

Date Application Received

8 September 2009

Additional information

None

Advertising

Adjoining land owners

Date Advertised

21 August 2009

Close of Comment Period

4 September 2009

No. of Days Elapsed between Lodgement & Meeting Date

35 days



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

2 April 1979	Building Permit No 20 approved for extension of asbestos fence;
19 December 1988	Council decides to advise the WAPC that it supports the subdivision of 41 Pier Street into two lots;
14 February 1989	WAPC conditionally approves the subdivision of 41 Pier Street;
20 March 1989	Council defers its decision on an application for two two-storey houses;
26 April 1989	Demolition Licence No 270 granted;
13 June 1989	WAPC approves the survey diagram for the subdivision of 41 Pier Street into 2 lots (474m ² and 456m ² in area), creating 41 Pier Street and 2 Easton Street;
1 August 1989	Building Permit 122/89/1595 approved for brick-and-tile dwelling;
17 February 2004	Council grants special approval for plot ratio, building height & setback variations for upper-level additions and balcony;
6 June 2004	Building Licence 221/3578 approved for garage and second storey.

CONSULTATION

Principal Building Surveyor's Comment

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

Public Submissions

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

Site Inspection

By Town Planner on 31 August 2009

REPORT

Considerations

Discrepancy in Plans

Site plans received 17 August 2009 show the roof of the patio being set back 0.75m from the eastern boundary. However, elevations received 16 September 2009 show a 0.5m setback. The applicant has confirmed that a setback of 0.75m is proposed.

Setback Variation

The patio is proposed to be set back 0.75m from the eastern boundary. The R-Codes require a setback of 1.5m.

This variation may be supported as:

- The subject site is lower than the adjoining property. The plans indicate that the height of the proposed patio would, at the boundary, be lower than that of the dividing fence. Accordingly, the setback variation would generally be unnoticeable from the adjoining property.
- The proposed reduced setback is adjacent to the driveway of the eastern adjoining property and would not impact on that property's outdoor living areas or major openings.
- The proposal would not result in any additional overshadowing of neighbouring properties as measured by the R-Codes.
- Any impact on the streetscape would be low.

Given that the subject site is somewhat overdeveloped from previous approvals, it's recommended that any development approval include a condition requiring the roof of the patio be set back further to at least 1.0m from the eastern boundary in order to address concerns raised by the adjoining landowner (see below).

It's noted that the proposed patio includes four metal uprights along the boundary itself. The R-Codes are unclear on whether or not these count as a wall. In this case, the uprights weren't considered to form a wall as they would not exceed the height of the dividing fence (due to the change in level between the two lots). The patio roof was used for setback calculations instead.

Submission

An adjoining landowner raised concerns about stormwater run-off, encroachment, and the proposed setback variation.

Stormwater and encroachment matters are addressed at the Building Licence stage subsequent to any Planning Approval.

With respect to the setback variation, the landowner has suggested that a 1.0m setback be considered. It is agreed that this would be an appropriate outcome in this case.



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RECOMMENDATION

That Council approve the planning application for a single-storey patio the east (rear) of the two-storey house at No. 41 (Lot 303) Pier Street, East Fremantle in accordance with plans dated 17 August 2009 and 17 September 2009, subject to the following conditions:

1. The roof of the patio is to be set back at least 1.0m from the eastern boundary.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed patio is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (d) the patio may not be enclosed without the prior written consent of Council.
- (e) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

CONCLUSION

The R-Codes require the patio be set back 1.5m from the eastern boundary. The previous application was conditionally approved with a reduced setback of 1.0m.

The applicant's are requesting the eastern setback of the patio to be further reduced to 0.5m.

It is considered this variation may be supported as per the justification set out above.

The previous application was referred to the adjoining neighbour who requested the patio be set back at 1.0m. Subsequent conversation with this landowner has confirmed that a 0.5m setback as proposed is not objected to.

RECOMMENDATION

That Council approve the planning application for a single-storey patio the east (rear) of the two-storey house at No. 41 (Lot 303) Pier Street, East Fremantle in accordance with plans dated 17 August 2009 and 17 September 2009, subject to the following conditions:

1. The roof of the patio is to be set back at least 0.5m from the eastern boundary.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed patio is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

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

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *the patio may not be enclosed without the prior written consent of Council.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Collinson

That Council approve the planning application for a single-storey patio the east (rear) of the two-storey house at No. 41 (Lot 303) Pier Street, East Fremantle in accordance with plans dated 17 August 2009 and 17 September 2009, subject to the following conditions:

1. **The roof of the patio is to be set back at least 0.5m from the eastern boundary.**
2. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
3. **The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
4. **With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
5. **The proposed patio is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
6. **This planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *the patio may not be enclosed without the prior written consent of Council.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

The Chief Executive Officer, Mr Stuart Wearne, entered the meeting at 8.25pm.



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MINUTES

T121.11 *Riverside Road No. 2 (Lots 3 & 4)*
Owner: E & K Errington
Applicant: K Jensen
Application No. P127/09

By Rohan Doust, Acting Town Planner, 3 February 2010

BACKGROUND

Description of Subject Site

The subject site:

- is zoned Residential R20/40;
- is located in the Plympton Precinct;
- has total area of 1141m² (Lot 3 is 604m²; Lot 4 is 537m²);
- is vacant;
- abuts Riverside Road to the north and Canning Highway to the south;
- is located adjacent to the Swan River;
- features a change in level of approximately 7.75m (the site slopes from Canning Highway down to Riverside Road);
- adjoins an existing four-storey plus undercroft multiple dwelling complex to the west (Sunnys), and an existing single-storey single dwelling to the east (which is included in the Town's Municipal Inventory of Heritage Places); and
- is located within Buffer Area 2 of the Fremantle Port Control Area.

Description of Proposal

Planning approval is sought for a five-storey residential development. The proposed building is to accommodate four multiple dwellings (each a single floor in extent) and an undercroft area for car parking. Fencing, landscaping, retaining and terracing is also proposed.

The Proposed Building Envelope:

- is set back 7.5-10.4m from Riverside Road and 7.0-15.5m from Canning Highway;
- is set back 2.2m from the western side boundary and 3.7m from the eastern side boundary;
- has a height between 7.8m above natural ground level (NGL) at the Canning Highway frontage and 16.2m above NGL at the Riverside Road frontage;

Each Of The Four Multiple Dwelling Apartments:

- occupy the full extent of the building footprint (noting the upper floor apartment has a slightly reduced footprint);
- include living areas, three bedrooms and three bathrooms;
- are provided with three balconies (one large balcony to Riverside Road, a smaller balcony to Canning Highway, and a smaller balcony to the eastern elevation).

The Undercroft Area:

- is 547.5m² in size and provides parking for 12 cars;
- features an unspecified garage door to the Riverside Road frontage;
- includes a visitors' lobby accessed via the Riverside Road frontage; and
- includes stores for the apartments and a bin store.

Roof-Form, Materials And Finishes:

- The development is of pre-cast concrete-aggregate panel construction.
- Light-coloured stone cladding is to be provided to the Riverside Road facade and to portions of the Canning Highway facade.
- Balconies are to be provided with stainless steel balustrading and opaque glazing where screening is required. Timber soffits (ie ceilings) are to be provided to the balcony areas.
- The roof is horizontal with the centre portion being raised approximately 0.7m. Stainless steel gutters are provided. Approximately 112m² of photo-voltaic panels are proposed to be installed flush with the roof. No additional plant or fixtures to the roof are proposed.

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- Photographic examples of the proposed materials and finishes are included at Attachment 10.

Fencing:

- Pedestrian access and an unspecified open, metal fence and a gatehouse is to be provided to Canning Hwy. The gatehouse is 2.7m by 4.6m in area and 2.7m high with a flat roof with the same profile as the building proper.
- An open fence, driveway entry gates, visitors' entry and letter boxes and gatehouse is to be provided to Riverside Rd. The gatehouse is 2.7m by 4.3m in area and 2.6m high with a flat roof with the same profile as the building proper.
- Photographic examples of the proposed fencing are included at Attachment 10.

Landscaping And Vehicle Access:

- Kangaroo Paw plantings are proposed for each of the balconies facing Riverside Road.
- Landscaping comprising native species 1-2m high is to be provided to the all of the site's curtilage.
- Terracing is to be provided to the Canning Highway frontage to accommodate the site's changes in level.
- Water features are proposed for the Riverside Road setback area.
- Four visitor's car bays and a 6.2m-wide driveway are to be provided to the Riverside Road setback area. The type of road surface is not specified.

The applicant has advised that the two subject lots are intended to be amalgamated and strata titled subsequent to any planning approval.

Statutory Considerations

Town Planning Scheme 3 (TPS3)
TPS3 Local Planning Strategy

Relevant Council Policies

Council Policy on Roofing (LPP066)
Fremantle Port Buffer Development Guidelines (LPP140)
Local Laws Relating to Fencing (LPP143)
It is noted that LPP143 replaces the provisions of the Residential Design Codes of WA with respect to front fences.
Local Planning Policy – Residential Development (LPP142)
Local Planning Policy – Rainwater Tanks (LPP144)

Date Application Received

Application received 2 September 2009
Revised plans received 19 October 2009
Revised plans received 4 November 2009
Revised plans received 19 November 2009
Revised plans received 29 January 2010

Advertising

Adjoining land owners and a sign on site.

Date Advertised

28 October 2009 – 11 November 2009

No. of Days Elapsed between Lodgement & Meeting Date

166 days
17 days (Revised)

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

28 August 1997 Since the adjoining development Sunnys forms an important aspect of the context of the proposed development, it is relevant to

note the Town had opposed the Sunnys development on a number of grounds including excessive plot ratio, excessive scale and height, insufficient setbacks, poor design, failure to address Canning Highway, poor streetscape appearance and being "out of harmony with the character of the surrounding environs in terms of height, bulk, mass and footprint", with respect to which Council's resolution included

"no amount of tinkering with the submitted concept can overcome these fundamental issues..."

Subsequently former Minister for Planning Graham Kierath approved "Sunnys" development under the previously operating Ministerial appeal system.

5 October 2007

The Town of East Fremantle previously issued a demolition licence to demolish the single dwelling that was located on the site after the then Heritage Minister refused to prevent the demolition of the property which was of high heritage value.

CONSULTATION

Town Planning Advisory Panel

The Panel viewed an earlier version of the proposal on 27 October 2009. The earlier version is largely similar to the proposal currently under consideration and so the following comments by the Panel remain applicable:

Architecture and Design

- The proposal is considered to be a mediocre design which fails to address the opportunities of the site. The Riverside Road and Canning Highway facades lack visual interest and articulation. The proposal ought to feature better-quality architecture given that the site is in a highly visible location.
- The development does not ameliorate the heavy visual massing and horizontal emphasis of the adjoining Sunnys development.
- The development does not address the adjoining heritage building. There is the potential to move the development closer to Sunnys in this respect.
- The Panel viewed samples of the stone cladding proposed for the facades and noted that the cladding will, in of itself, be insufficient to ameliorate the poor facade design.
- The Panel expressed concerns about the use of balcony plantings (kangaroo paws) as the primary means of providing visual interest to the development. Visual interest is to be provided in the architecture itself.
- It's felt that the Riverside Road and Canning Highway facades should be entirely redesigned – simply modifying the existing arrangement will not likely achieve a high-quality outcome.

Canning Highway Frontage

The proposal should interface with Canning Highway.

Residential Density

The Panel had no comment to make on the proposed residential density of four dwellings.

Ground Floor to Riverside Road

- The Panel does not object to the proposed undercroft arrangement, provided high quality landscaping and finishes is provided.
- There are concerns about the pedestrian entry which forces people to walk down the side of the building in order to access the lift. This presents a potential safety concern, particularly at night. The pedestrian entry point should be more legible, safer and better integrated into the development.
- The setback to Riverside Road is considered appropriate.



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Other Matters

- It is noted that the applicant's report is somewhat irrelevant as it consists of motherhood statements and does not address relevant planning considerations in detail. The report should also provide quantitative information about the building's environmental performance, given that the applicant has stressed the importance of this aspect of the proposal.
- Applicant to detail air conditioning, photovoltaic panels and any other plant, especially where it is to be installed on the roof. Applicant to detail whether the lift requires an additional structure on the roof.
- Applicant to detail bin store and how bins will be managed on bin pickup day.
- The applicant should provide a perspective drawing and streetscape elevation.
- Applicant to detail any retaining walls.
- It appears the adjoining heritage property depicted on the 3D model is not to scale.

A revised proposal featuring minor amendments was viewed by the Panel on 24 November 2009. The following comments were made:

The Panel acknowledges the changes shown on the amended plans, namely:

- *movement of the building envelope towards the Sunnys development;*
- *minor changes to the building facades;*
- *relocation of the pedestrian entry; and*
- *the provision of an entry from Canning Highway.*

However, the Panel considers that the amendments (with the exception of the building relocation towards the Sunnys development and the relocated pedestrian entry) are superficial in nature and have not addressed the Panel's concerns raised at the previous meeting. The Panel is of the opinion that the substantive architecture of the building has remained unchanged and the building still fails to address the transition between the built form of the Sunnys development and the surrounding heritage architecture.

Accordingly, the Panel's previous advice remains unchanged. In particular, the Panel reiterates the following comments already provided to the applicant:

- *"The proposal is considered to be a mediocre design which fails to address the opportunities of the site. The Riverside Road and Canning Highway facades lack visual interest and articulation. The proposal ought to feature better-quality architecture given that the site is in a highly visible location."*
- *"It's felt that the Riverside Road and Canning Highway facades should be entirely redesigned – simply modifying the existing arrangement will not likely achieve a high-quality outcome."*

A further revision to the proposal (reducing the extent of the upper floor) was viewed by the Panel on 2 February 2010. At this stage the minutes for this meeting have not been endorsed by the Panel. The Panel's draft advice is as follows:

- *The reduction in the extent of the upper floor is acknowledged however the Panel's previous advice remains unchanged.*
- *The Panel considered the plans and supporting documentation to be of poor quality and lacking in detail and requested any further plans be of a more professional standard.*

Independent Design Review

The Town has commissioned an architect to provide independent third party advice on the proposal. A copy of the advice is provided at Attachment 12.

The design review concludes that:

The information provided and the design itself could be much improved. The matter should be deferred and the proponent given some clear guidance on what is required to give the scheme proper consideration.

We are not sure that we were given all the information available. Council should ensure that the following is provided: -

- a site survey showing the adjacent buildings and the key floor levels and heights of adjoining buildings;
- a properly drawn set of context elevations extending up to the Glanville Buildings; and,
- a landscape plan that deals with the key issues of access, levels, hard and soft landscaping.

The proponent's architect should be requested to:

- prepare an alternative solution to the Canning Highway frontage to achieve a higher degree of activation;
- re-consider the rhythm of the elevations to make them more in keeping with the urban grain;
- increase the articulation of the east and west elevations, perhaps incorporating shading to the windows which will also assist passive solar principles;
- re-consider the resolution of the top floor in terms of proportions; and,
- to generally refine the design to reflect finer detailed qualities in the context of the development and to achieve a better mediation between Sunnys and the remaining development of Riverside Road.

Neighbour Consultation

The proposal was referred to adjoining landowners for a period of fourteen days commencing 28 October 2009. Ten responses have been received as summarised and responded to below:

Neighbours' comments	Response
<u>Respondent 1</u> No objection	Noted.
<u>Respondents 2 and 3</u> Setback to Riverside Road should not be less than the setback at the north-eastern end of the Sunny's main building, i.e. approximately 15m at this point. There appears to be insufficient vehicle parking for residents of the complex. In addition, four bays for visitors may not be adequate. The western side balconies appear to overlook the outdoor area of the lower floor eastern apartment at Sunnys and that the rear balconies overlook the Sunny's pool area. No objection to the style or size of the development being proposed.	A setback of 15m is proposed at this point. The proposal provides three bays per apartment and four visitor bays which meet relevant provisions. 1.6m high visually impermeable privacy screening is proposed for the west-facing balconies. Noted.
<u>Respondent 4</u> The proposed front setback should match the front setback of Sunnys apartments. West-facing balconies will overlook the respondent's back and side yards.	Plans depict this as being the case.
<u>Respondent 5</u> The proposed setback should be equal or	Plans depict this as being the case.

Neighbours' comments	Response
<p>no less than the eastern corner wall of Sunnys apartments.</p> <p>Two permanent parking bays per apartment is not sufficient.</p> <p>Guest parking at the front of the development is insufficient.</p> <p>The Canning Highway balconies should not overlook the Sunny's swimming pool area.</p> <p>The development design does not include a front fence and it is anticipated this will be required for security purposes. The location, height and design of the fence require detailing.</p> <p>The drawings indicate side balconies and some type of glassed side windows. These should not be approved on the eastern side as they will intrude on the privacy of Sunnys' residents and the personal garden of unit 18.</p> <p>The proposed design superficially makes some attempt to be sympathetic to the environ and local landscape. However, if the front balcony area is to be changed to include metal railing treatment instead of the flowerboxes it could be considered too modern, cold and industrial.</p>	<p>Three car bays per dwelling are proposed which meets relevant car parking provisions.</p> <p>Four visitor bays are proposed which meets relevant car parking provisions.</p> <p>Additional information regarding overlooking has been requested so that this aspect of the proposal can be properly assessed.</p> <p>Agreed. Detailed plans and elevations of the proposed fence have been requested.</p> <p>1.6m high visually impermeable privacy screening is proposed for the west-facing balconies.</p> <p>Noted.</p>
<p><u>Respondent 6</u></p> <p>Proposal is a reasonable outcome considering Town of East Fremantle Guidelines permit a multi unit building next to the respondents' single family dwelling.</p> <p>Appreciate the developer's consideration of the respondents' comfort in their design setbacks.</p>	<p>Noted.</p> <p>Noted. It is considered the development can be further improved in this regard. Please refer to the section on 'Design and Architecture' below.</p>
<p><u>Respondent 7</u></p> <p>Concerns that the development may result in additional multi-level buildings being erected in the area.</p> <p>The development will result in the loss of river views.</p>	<p>The subject site and adjoining sites between the Swan River and Canning Highway have split or dual zonings (i.e. R20/40 and R12.5/40). These zonings do allow for grouped and/or multiple dwelling developments, provided relevant Scheme provisions are met.</p> <p>The respondents live in Glyde Street approximately 80m away from the subject site and have unrestricted views across the site because it is currently vacant.</p>

Neighbours' comments	Response
	Any development on the subject site has the potential to impact on the respondent's views.
<p><u>Respondent 8</u></p> <p>The proposal may not constitute a lawful proposal as the Scheme does not permit this site to be developed at the higher R40 density. Therefore the lower R20 density prevails and multiple dwellings are not permitted in the R20 zone.</p>	The Town subsequently sought legal advice – see discussion under "Report".
<p><u>Respondents 9 and 10</u></p> <p>Setback to Riverside Road should not be less than the setback at the north-eastern end of the Sunny's main building, i.e. approximately 15m at this point.</p> <p>West-facing balconies will overlook the outdoor area of the lower floor eastern apartment at Sunnys. Rear balconies will overlook the Sunny's pool area.</p> <p>The development provides two bays for each apartment and four visitor bays. This may not be sufficient and may result in undue pressure on car-parking in the area.</p> <p>No objection provided the above matters are taken into account and appropriate conditions imposed.</p>	<p>A setback of 15m is proposed at this point.</p> <p>1.6m high visually impermeable privacy screening is proposed for these balconies.</p> <p>The number of bays complies with the car-parking provisions of TPS3 and the R-Codes.</p> <p>Noted.</p>

Copies of the above correspondence are provided at Attachment 9.

Swan River Trust

The subject site abuts the Trust's Development Control Area and the proposal has been referred to the Trust for comment. The Trust has advised that there is no objection to the proposal subject to the following condition:

Condition 1:

No fill, building materials, rubbish or any other deleterious matter shall be placed in the Trust Development Control Area or allowed to enter the river as a result of the development.

The Trust has also provided the following advice to the applicant:

Advice 1:

The applicant is advised that the selected building materials and colour scheme for the development should be of a low reflective standard, and harmonise with the river environment.

Advice 2:

The applicant is advised that the Trust recommends planting of locally native species to reduce water and fertiliser requirements.

It is recommended any planning approval include the above condition and advice.

Main Roads WA/Department Of Planning (Urban Transport System)

The subject site abuts Canning Highway and is affected by an Other Regional Road reservation. Accordingly the proposal was referred to Main Roads WA. Main Roads advised that the Department of Planning Urban Transport Systems is responsible for future planning on Canning Highway.

The proposal was referred to the Urban Transport System. The UTS has advised that there is no objection to the proposal on regional transport planning grounds, provided the Local Government ensures the proposed number of car parking bays complies with the provisions of TPS3. (It is noted that the development provides twelve car-parking bays for residents and four visitors' bays – this complies with the requirements of TPS3.)

Principal Building Surveyor's Comment

An assessment of the development by the Principal Building Surveyor will be carried out upon receipt of any application for a building licence.

It is noted that the balustrading provided to balconies that are more than 4.0m above natural ground levels does not comply with BCA regulations due to the climbable horizontal balustrade members.

Site Inspection

By Acting Town Planner, most recently on 3 February 2010.

REPORT

Considerations

Residential Density - Part 5.2.4 of TPS3

The site has a split or dual density coding of R20/40.

Part 5.2.4 of TPS3 states that "where a site is identified as having a split density such as R12.5/30, the higher code may only be employed where the specific requirements identified for development or re-development of the site as set out in Schedule 2 are addressed to the satisfaction of the local government. In all other circumstances, the lower of the two codes prevail".

The subject site is not included on TPS3 Schedule 2 – Additional Use Sites and Requirements.

It appears that the applicant and the former Town Planner concluded at the outset that the R40 coding would apply, perhaps based on the fact that as subject site is not listed in Schedule 2, there are no "specific requirements" in Schedule 2 applicable to the subject site and it was therefore considered the development met the requirements of Schedule 2 and as a result it was considered that the development met the requirements of Part 5.2.4 with respect to employment of the higher R40 density.

However, following a verbal query from a member of the public (and later followed by a written submission, see Respondent 8 above), the matter was reviewed and the Chief Executive Officer decided the issue should be the subject of legal advice.

Two confidential legal opinions were subsequently received.

In each case reference was made to difficulties and statutory interpretation and hence application, of clause 5.2.4, due to the unclear wording of the clause.

In consideration of the legal advice, relevant Scheme provisions and a review of the Scheme Report, the CEO has concluded that subject to it being considered that the requirements of Clause 5.3.2 have been complied with, the proposal may be assessed at R40.

Residential Density - Part 5.3.2 of TPS3

TPS3 includes further provisions governing the development of a split-zoning site. Part 5.3.2 (Highway Frontage Dual Coding) states that if the site is approved for development at R40 the following requirements will apply:

- Sole vehicle access via a street other than Canning Highway
- Noise attenuation measures to be provided in all dwellings
- Development designed to "face the frontage to Canning Highway and any other street to which the site has frontage"
- The heritage value of any place listed under Clause 7.1 of TPS3 is to be maintained

The proposed development meets points a), b) and d) above (it is noted the applicant has advised in correspondence that point b) will be met, and with respect to point d), the adjoining property is *not* listed under Clause 7.1 of the Scheme).

As to whether the development meets point c), whilst there are again problems with statutory interpretation, it is concluded that, while the front of the development is not *required* to face Canning Highway (the front is to Riverside Road), as long as the elevation to Canning Highway is designed in a sufficiently attractive and aesthetically appealing manner that is consistent with the amenity of the Highway streetscape and does not obviously present as the rear of the building, then it could be considered to 'face' Canning Highway.

On the basis of the above interpretation it is considered the development may be assessed at R40. Notwithstanding this, it is considered the Canning Highway elevation can be improved in order to provide a better interface with the highway, a conclusion which is also supported by Council's commissioned architect. This matter is discussed further below.

Nature of the Site

The subject site is in a highly visible location (please refer to the photomontage provided at Attachment 2).

Due to the site's position and visibility, it is considered that its development will impact on the future character of the Town and the Swan River environs.

This consideration informs the following discussion.

Design and Architecture

The proposal is a five-storey flat-roofed building of concrete panel construction and featuring neo-Classical design elements.

The Town Planning Advisory Panel has expressed significant concerns about the building's design and architecture. Please refer to the 'Consultation' section above. The Panel's advice is agreed with.

In addition to the issues raised by the Panel, it is considered that the development fails to meet the following provisions:

- One of the objectives of Clause 4.2 of TPS3 is to "encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation and water sensitive design". It is considered the development does not meet this objective as it fails to provide "high standards and innovative housing design". In particular, it is considered the neo-Classical design of the building is not reflective of contemporary, 21st Century architectural practices and will result in a built form outcome that is considered incompatible with the East Fremantle Swan River environs which feature traditional and 'Contemporary Australian' building forms.
- Clause 4.2 of TPS3 states that "new housing development is [to be] sympathetic with the character and scale of the existing built form".



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- In addition, an objective of Part 3.2 of the TPS3 Local Planning Strategy is to "safeguard the amenity of residential areas and ensure that new housing relates to the character and scale of existing residential development."
- The development is considered to be compatible with the scale of the adjoining Sunnys apartment complex to the west, albeit a development which Council had opposed on various grounds, including scale and height concerns and which was subsequently approved on appeal (see "History of Site" above). However, it is considered that the development does not respond to the smaller-scale traditional housing forms to the east. This is exacerbated by the building's symmetrical design which features similar facades to both the east and west. It is considered the eastern facade should feature greater levels of articulation and, potentially, an increased setback to the uppermost floor(s) in order to improve the development's relationship with the adjoining single houses.
- Clause 10.2(j) of TPS3 notes the Local Government is to have consideration for "the compatibility of a use or development with its setting". The TPS3 Local Planning Strategy recognises the importance of development that influences the Swan River riverscape (ie the foreshore, skyline and intervening backdrop to the river). It is considered that the development's neo-Classical architectural style is incompatible with the Swan River riverscape which is characterised by traditional housing forms and 'Contemporary Australian' design.

Canning Highway Facade

The Canning Highway facade is to be set back between 7.0m and 15.5m from the footpath, with the gap being filled with landscaping and steep terracing. A pedestrian access gate is provided to Canning Highway and stairs connect this gate with the undercroft area.

The Panel advised that, with respect to the Canning Highway frontage:

- *the proposal should interface with Canning Highway.*

Council's independent architect advised that:

- *The Canning Highway approach as indicated in the drawings will be more prominent than the demolished house was, but will not have a strong presence on the streetscape. The low impact is a combination site contours, setback and building height. While Sunnys turns its back on the highway, the proposed building presents a positive frontage, albeit with very little presence.*
- *Similarly on Canning Highway the development recedes away from the road with a small gateway arrangement and terraces stepping down the site to provide light to the lowest level of accommodation. An opportunity to create a presence on Canning Highway has been missed and it is doubtful that the intent and spirit of TPS3 Clause 5.3.2(c) has been met.*
- *While the Riverside Road side of the building is five fully expressed storeys, the Canning Highway side appears as a three storey building, set back deep into the site by comparison to the majority of the development in the immediate vicinity.*
- *The southern elevation is well set back from Canning Highway and a real opportunity is missed here by the building, or some other architectural element not taking up the chance to enhance the Canning Highway approach by locating development of a significant built element there.*
- *The Canning Highway frontage could be much improved by street frontage development, either by additional development through a density bonus or by having*

a significant garden structure such as a contemporary style arbour the full length of the lot.

- *The proponent's architect should be requested to prepare an alternative solution to the Canning Highway frontage to achieve a higher degree of activation.*

It is concluded that the current arrangement, which sets the development back from the highway, does not contribute in a sufficiently positive manner to the Canning Highway streetscape as it is felt that the Canning Highway elevation clearly reads as the rear of the building.

It is concluded the proposal should feature better integration with the highway so that the development positively contributes to rather than detracts from, the Canning Highway streetscape.

Roof Form

The proposal features a flat roof across the building, with the central section of roof being raised approximately 0.7m.

The Roofing Policy (LPP066) states that roof forms are to be gable, hip or skillion, with dominant elements to be pitched greater than 28°.

Whilst a roof pitched at 28° or more may not be appropriate for a building of this size, it is considered that the inclusion of gable, hip or skillion elements may assist in articulating the roof form and better reflect existing and traditional building forms in the locality.

The plans show photo voltaic panels installed flush on the roof. The Town's Local Planning Policies are silent with respect to PV panels. The Explanatory Guidelines on page 4 of the R-Codes do allow solar collectors "as of right" and hence this aspect of the proposal is supported.

Height

The development is proposed to have an overall height between 7.8-16.2m above natural ground level.

The Residential Development Policy (LPP142) states that, for sites where views are an important part of the amenity (the subject site is considered to fall into this category), the maximum permitted height for a flat-roofed development is 6.5m.

The specific height provisions of the LPP142 are generally applicable to two-storey development. The proposed development is five-storey.

LPP142 does include an objective to ensure that "the height of buildings [is] consistent with the locality". It is considered that the height of the development is consistent with the adjoining five-storey Sunnys complex (again noting that Council did not support the Sunnys development). However, it is considered that the height of the development is not consistent with the adjoining single-storey single house.

The height variation is exacerbated by the building design which features minimal articulation at the roof line resulting in a visually heavy building envelope that has a pronounced horizontal massing.

It is noted that a streetscape elevation showing adjoining developments has not been provided, so a detailed assessment of the proposed building height cannot be completed.

Side Setbacks

The building is proposed to be set back 2.2m from the western side boundary and 3.7m from the eastern side boundary.



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Attachment 11 provides an assessment of the building's side setbacks. As can be seen, the setback of the undercroft complies; however the setbacks of the other four floors do not comply and become increasingly non-compliant for the higher portions of the building.

It is considered the building design does not provide adequate levels of articulation and visual interest to warrant the proposed setback variations. In particular, the reduced setbacks to the east are considered to impact negatively on the adjoining single house.

Fencing

The plans indicate fencing is proposed for the Riverside Road and Canning Highway frontages. The plans do not detail the form and style of the fence, however the applicant has provided a photographic example of the proposed fencing (see Attachment 10).

The fencing shown in the photograph consists of closely-spaced metal uprights painted white with a square profile and 1.8m in height. This style of fencing is reminiscent of pool fencing and accordingly is considered to detract from the Swan River facade and the river environment and on this basis is not supported.

The following aspects of the proposal are noted:

Car Parking

The development provides three car-parking bays per dwelling for a total of twelve bays. These are located in the undercroft area.

The development also includes four visitor car parking bays located in the Riverside Road front setback area.

The proposed car parking provision meets the requirements of the R-Codes and applicable Local Planning Policies.

Retaining Walls

The development features extensive retaining to three facades. These retaining walls may require fencing or balustrading for safety. It is recommended any planning approval include an advice note advising the applicant of the BCA requirements for balustrading.

Development in the Front Setback Area

The ground floor plan indicates that a structure covering the pedestrian walkway is proposed to be located in the setback area fronting Riverside Road.

The R-Codes do allow for the construction of gate houses in the front setback area.

Materials and Finishes

Attachment 10 provides photographic examples of the proposed materials and finishes. The materials and finishes indicated in the photographs are of a generally high standard (with the exception of the proposed fencing, see above), and are not objected to.

Crossover

The ground floor plan shows a 6.2m-wide driveway and 6.2m-wide vehicle crossover. The Town's Footpaths and Crossovers Planning Policy (LPP123) limits the width of a vehicle crossover to 3m.

The applicant has advised in correspondence that the requirements of LPP123 will be met. It is assumed this includes the provision of a crossover no more than 3.0m-wide. Any planning approval should include a condition limiting the width of the crossover to that specified by LPP123.

Landscaping Requirements

The R-Codes state that for a grouped dwelling development, the amount of hard surface in the front setback area is limited to 50%. It is proposed to provide approximately 59% paved surface in the front setback area abutting Riverside Road.

Provided that the plans are amended to show a 3.0m wide crossover as detailed above, the amount of paved surface in the front setback area will likely be reduced.

It is noted that the applicant has indicated that native vegetation of 1-2m in height will be used for the landscaping. The provision of indigenous (ie local) vegetation is recommended in this instance due to the site's proximity to the Swan River and its riverbank.

Fremantle Port Buffer

The subject site is located within Buffer Area 2 of the Fremantle Port Control Area.

The Fremantle Port Buffer Development Guidelines list a number of requirements that the development will need to provide to address potential loss in amenity arising from Port activities.

The applicant has advised that the development will meet the requirements of the Guidelines. Any planning approval should include a condition requiring the development to accord with the Port Buffer Development Guidelines.

Two Versions of the Upper Floor

The current proposal, which is the subject of this report, features an upper floor apartment that has a smaller footprint than the other floors.

An earlier version of the proposal featured an upper floor of the same size and extent as the other floors. Attachment 13 shows a plan and elevations of this version of the upper floor.

The applicant has requested that the two different versions of the upper floor each be the subject of two separate recommendations.

As can be seen from the recommendation below, the version that has the upper floor limited in extent is recommended to be refused or deferred as it is considered the design of the building can be improved, both in terms of its individual architectural merit and its compatibility with its setting.

The enlarged version of the upper floor is similarly recommended to be refused or deferred. Indeed, the enlarged version of the upper floor is considered a retrograde option, the bulk and scale of which is considered to have an increased negative impact on the adjoining (heritage listed) single house.

Upper Floor Apartment Smaller Than Other Apartments

RECOMMENDATION (REFUSAL)

That Council refuse the planning application for a five-storey residential development (accommodating four multiple dwellings and an undercroft) at Lots 3 and 4 (No. 2) Riverside Road, East Fremantle, as shown on plans received 4 November and 19 November 2009 and 29 January 2010 for the following reasons:

1. Clause 4.2 of Town Planning Scheme 3 (TPS3) encourages "high standards and innovative housing design". The building is considered to be a mediocre design which fails to meet this provision.
2. Clause 4.2 of TPS3 states that "new housing development is [to be] sympathetic with the character and scale of the existing built form". Part 3.2 of the TPS3 Local Planning Strategy is to "safeguard the amenity of residential areas and ensure that new housing relates to the character and scale of existing residential development."



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The bulk and scale of the building's eastern façade is considered incompatible with the scale of the adjoining single house.

3. Clause 10.2(j) of TPS3 notes the Local Government is to have consideration for "the compatibility of a use or development with its setting". The TPS3 Local Planning Strategy recognises the importance of development that influences the Swan River riverscape (ie the foreshore, skyline and intervening backdrop to the river). It is considered that the design of the development will detract from the Swan River riverscape which is characterised by traditional housing forms and 'Contemporary Australian' design.
4. The building height of 10.0-16.1m exceeds the 8.1m height limit set out in the Residential Development Policy. It is considered that the proposed building design is not of a sufficient standard to warrant a significant height variation.
5. Side setbacks to the upper floor are considerable less than that specified by the R-Codes. It is considered that the proposed building design is not of a sufficient standard to warrant these variations.
6. The Canning Highway frontage of the proposed development inadequately addresses Canning Highway – despite a Scheme provision which provides a density bonus for development "designed to face the frontage to Canning Highway".

The Canning Highway aspect has very little presence and is set back deep into the site.

Yet development on Canning Highway is an important aspect of the historical development of East Fremantle and an important aspect of the character and amenity of the Town.

One of the objectives of Part 4.2 of TPS3 is to "recognise and respect the desired future character of each precinct, and to ensure future development is sympathetic with that character". It is anticipated that future development fronting Canning Highway will continue to offer active facades that are integrated into the Canning Highway streetscape. The proposed development is set back from the highway and features a deep ravine between the building and the highway. It is considered this arrangement will be incompatible with future desired development on the highway.

Clauses 1.6(a), 1.6(b), 4.2, 10.2(a), 10.2(j), 10.2(o), 10.2(p), 10.2(zb) refer.

The Town Planning Advisory Panel and an independent consultant architect have supported the above concerns.

Clause 10.2(z) refers.

ALTERNATIVE RECOMMENDATION (DEFERRAL)

That Council defer determination of the planning application for a five-storey residential development (accommodating four multiple dwellings and an undercroft) at Lots 3 and 4 (No. 2) Riverside Road, East Fremantle, as shown on plans received 4 November and 19 November 2009 and 29 January 2010 in order to allow the applicant to address the following:

1. It is recommended further consideration be given to the following provisions of Town Planning Scheme 3 and the TPS3 Local Planning Strategy:
 - One of the objectives of Clause 4.2 of TPS3 is to "encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation and water sensitive design".
 - Clause 4.2 of TPS3 states that "new housing development is [to be] sympathetic with the character and scale of the existing built form ".In addition, an objective of Part 3.2 of the TPS3 Local Planning Strategy is to "safeguard the amenity of residential areas and ensure that new housing relates to the character and scale of existing residential development."
 - Clause 10.2(j) of TPS3 notes the Local Government is to have consideration for "the compatibility of a use or development with its setting". The TPS3 Local



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Planning Strategy recognises the importance of development that influences the Swan River riverscape (ie the foreshore, skyline and intervening backdrop to the river).

2. It is recommended that further consideration be given to the proposed building height in order to improve the development's relationship with the adjoining single storey single house as per the requirements of TPS3 and the Residential Development Policy (LPP142).
3. It is recommended that further consideration be given to the side setbacks of the upper floors (particularly those to the eastern boundary) in order to improve the development's relationship with the adjoining single storey single house as per the requirements of TPS3 and the Residential Development Policy (LPP142).
4. The Canning Highway frontage of the proposed development inadequately addresses Canning Highway – despite a Scheme provision which provides a density bonus for development “designed to face the frontage to Canning Highway”.

The Canning Highway aspect has very little presence and is set back deep into the site.

Yet development on Canning Highway is an important aspect of the historical development of East Fremantle and an important aspect of the character and amenity of the Town.

One of the objectives of Part 4.2 of TPS3 is to “recognise and respect the desired future character of each precinct, and to ensure future development is sympathetic with that character”. It is anticipated that future development fronting Canning Highway will continue to offer active facades that are integrated into the Canning Highway streetscape. The proposed development is set back from the highway and features a deep ravine between the building and the highway. It is considered this arrangement will be incompatible with future desired development on the highway.

Clauses 1.6(a), 1.6(b), 4.2, 10.2(a), 10.2(j), 10.2(o), 10.2(p), 10.2(zb) refer.

The Town Planning Advisory Panel and an independent consultant architect have supported the above concerns.

Clause 10.2(z) refers.

It is recommended that the applicant prepare an alternative solution to the Canning Highway frontage to achieve a higher degree of activation.

Upper Floor Apartment Same Size As Other Apartments

RECOMMENDATION (REFUSAL)

That Council refuse the planning application for a five-storey residential development (accommodating four multiple dwellings and an undercroft) at Lots 3 and 4 (No. 2) Riverside Road, East Fremantle, as shown on plans received 4 November and 19 November 2009 and 29 January 2010 for the following reasons:

1. Clause 4.2 of Town Planning Scheme 3 (TPS3) encourages “high standards and innovative housing design”. The building is considered to be a mediocre design which fails to meet this provision.
2. Clause 4.2 of TPS3 states that “new housing development is [to be] sympathetic with the character and scale of the existing built form “. Part 3.2 of the TPS3 Local Planning Strategy is to “safeguard the amenity of residential areas and ensure that new housing relates to the character and scale of existing residential development.” The bulk and scale of the building's eastern façade is considered incompatible with the scale of the adjoining single house.
3. Clause 10.2(j) of TPS3 notes the Local Government is to have consideration for “the compatibility of a use or development with its setting”. The TPS3 Local Planning Strategy recognises the importance of development that influences the Swan River riverscape (ie the foreshore, skyline and intervening backdrop to the river). It is



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considered that the design of the development will detract from the Swan River riverscape which is characterised by traditional housing forms and 'Contemporary Australian' design.

4. The building height of 10.0-16.1m exceeds the 8.1m height limit set out in the Residential development Policy. It is considered that the proposed building design is not of a sufficient standard to warrant a significant height variation.
5. Side setbacks to the upper floor are considerable less than that specified by the R-Codes. It is considered that the proposed building design is not of a sufficient standard to warrant these variations.
6. The Canning Highway frontage of the proposed development inadequately addresses Canning Highway – despite a Scheme provision which provides a density bonus for development “designed to face the frontage to Canning Highway”.

The Canning Highway aspect has very little presence and is set back deep into the site.

Yet development on Canning Highway is an important aspect of the historical development of East Fremantle and an important aspect of the character and amenity of the Town.

One of the objectives of Part 4.2 of TPS3 is to “recognise and respect the desired future character of each precinct, and to ensure future development is sympathetic with that character”. It is anticipated that future development fronting Canning Highway will continue to offer active facades that are integrated into the Canning Highway streetscape. The proposed development is set back from the highway and features a deep ravine between the building and the highway. It is considered this arrangement will be incompatible with future desired development on the highway.

Clauses 1.6(a), 1.6(b), 4.2, 10.2(a), 10.2(j), 10.2(o), 10.2(p), 10.2(zb) refer.

The Town Planning Advisory Panel and an independent consultant architect have supported the above concerns.

Clause 10.2(z) refers.

ALTERNATIVE RECOMMENDATION (DEFERRAL)

That Council defer determination of the planning application for a five-storey residential development (accommodating four multiple dwellings and an undercroft) at Lots 3 and 4 (No. 2) Riverside Road, East Fremantle, as shown on plans received 4 November and 19 November 2009 and 29 January 2010 in order to allow the applicant to address the following:

1. It is recommended further consideration be given to the following provisions of Town Planning Scheme 3 and the TPS3 Local Planning Strategy:
 - One of the objectives of Clause 4.2 of TPS3 is to "encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation and water sensitive design".
 - Clause 4.2 of TPS3 states that “new housing development is [to be] sympathetic with the character and scale of the existing built form “.In addition, an objective of Part 3.2 of the TPS3 Local Planning Strategy is to "safeguard the amenity of residential areas and ensure that new housing relates to the character and scale of existing residential development.”
 - Clause 10.2(j) of TPS3 notes the Local Government is to have consideration for “the compatibility of a use or development with its setting”. The TPS3 Local Planning Strategy recognises the importance of development that influences the Swan River riverscape (ie the foreshore, skyline and intervening backdrop to the river).
2. It is recommended that further consideration be given to the proposed building height in order to improve the development’s relationship with the adjoining single

storey single house as per the requirements of TPS3 and the Residential Development Policy (LPP142).

3. It is recommended that further consideration be given to the side setbacks of the upper floors (particularly those to the eastern boundary) in order to improve the development's relationship with the adjoining single storey single house as per the requirements of TPS3 and the Residential Development Policy (LPP142).
4. The Canning Highway frontage of the proposed development inadequately addresses Canning Highway – despite a Scheme provision which provides a density bonus for development “designed to face the frontage to Canning Highway”. The Canning Highway aspect has very little presence and is set back deep into the site.

Yet development on Canning Highway is an important aspect of the historical development of East Fremantle and an important aspect of the character and amenity of the Town.

One of the objectives of Part 4.2 of TPS3 is to “recognise and respect the desired future character of each precinct, and to ensure future development is sympathetic with that character”. It is anticipated that future development fronting Canning Highway will continue to offer active facades that are integrated into the Canning Highway streetscape. The proposed development is set back from the highway and features a deep ravine between the building and the highway. It is considered this arrangement will be incompatible with future desired development on the highway.

Clauses 1.6(a), 1.6(b), 4.2, 10.2(a), 10.2(j), 10.2(o), 10.2(p), 10.2(zb) refer.

The Town Planning Advisory Panel and an independent consultant architect have supported the above concerns.

Clause 10.2(z) refers.

It is recommended that the applicant prepare an alternative solution to the Canning Highway frontage to achieve a higher degree of activation.

UPPER FLOOR APARTMENT SMALLER THAN OTHER APARTMENTS

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Rico

That Council defer determination of the planning application for a five-storey residential development (accommodating four multiple dwellings and an undercroft) at Lots 3 and 4 (No. 2) Riverside Road, East Fremantle, as shown on plans received 4 November and 19 November 2009 and 29 January 2010 in order to allow the applicant to address the following:

1. **It is recommended further consideration be given to the following provisions of Town Planning Scheme 3 and the TPS3 Local Planning Strategy:**
 - **One of the objectives of Clause 4.2 of TPS3 is to "encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation and water sensitive design".**
 - **Clause 4.2 of TPS3 states that “new housing development is [to be] sympathetic with the character and scale of the existing built form “.In addition, an objective of Part 3.2 of the TPS3 Local Planning Strategy is to "safeguard the amenity of residential areas and ensure that new housing relates to the character and scale of existing residential development.”**
 - **Clause 10.2(j) of TPS3 notes the Local Government is to have consideration for “the compatibility of a use or development with its setting”. The TPS3 Local Planning Strategy recognises the importance of development that influences the Swan River riverscape (ie the foreshore, skyline and intervening backdrop to the river).**

2. It is recommended that further consideration be given to the proposed building height in order to improve the development's relationship with the adjoining single storey single house as per the requirements of TPS3 and the Residential Development Policy (LPP142).
3. It is recommended that further consideration be given to the side setbacks of the upper floors (particularly those to the eastern boundary) in order to improve the development's relationship with the adjoining single storey single house as per the requirements of TPS3 and the Residential Development Policy (LPP142).
4. The Canning Highway frontage of the proposed development inadequately addresses Canning Highway – despite a Scheme provision which provides a density bonus for development “designed to face the frontage to Canning Highway”.

The Canning Highway aspect has very little presence and is set back deep into the site.

Yet development on Canning Highway is an important aspect of the historical development of East Fremantle and an important aspect of the character and amenity of the Town.

One of the objectives of Part 4.2 of TPS3 is to “recognise and respect the desired future character of each precinct, and to ensure future development is sympathetic with that character”. It is anticipated that future development fronting Canning Highway will continue to offer active facades that are integrated into the Canning Highway streetscape. The proposed development is set back from the highway and features a deep ravine between the building and the highway. It is considered this arrangement will be incompatible with future desired development on the highway.

Clauses 1.6(a), 1.6(b), 4.2, 10.2(a), 10.2(j), 10.2(o), 10.2(p), 10.2(zb) refer.

The Town Planning Advisory Panel and an independent consultant architect have supported the above concerns.

Clause 10.2(z) refers.

It is recommended that the applicant prepare an alternative solution to the Canning Highway frontage to achieve a higher degree of activation. CARRIED

UPPER FLOOR APARTMENT SAME SIZE AS OTHER APARTMENTS

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Collinson

That Council defer determination of the planning application for a five-storey residential development (accommodating four multiple dwellings and an undercroft) at Lots 3 and 4 (No. 2) Riverside Road, East Fremantle, as shown on plans received 4 November and 19 November 2009 and 29 January 2010 in order to allow the applicant to address the following:

1. It is recommended further consideration be given to the following provisions of Town Planning Scheme 3 and the TPS3 Local Planning Strategy:
 - One of the objectives of Clause 4.2 of TPS3 is to "encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation and water sensitive design".
 - Clause 4.2 of TPS3 states that “new housing development is [to be] sympathetic with the character and scale of the existing built form “.In addition, an objective of Part 3.2 of the TPS3 Local Planning Strategy is to "safeguard the amenity of residential areas and ensure that new housing relates to the character and scale of existing residential development.”

- Clause 10.2(j) of TPS3 notes the Local Government is to have consideration for “the compatibility of a use or development with its setting”. The TPS3 Local Planning Strategy recognises the importance of development that influences the Swan River riverscape (ie the foreshore, skyline and intervening backdrop to the river).
- 2. It is recommended that further consideration be given to the proposed building height in order to improve the development’s relationship with the adjoining single storey single house as per the requirements of TPS3 and the Residential Development Policy (LPP142).
- 3. It is recommended that further consideration be given to the side setbacks of the upper floors (particularly those to the eastern boundary) in order to improve the development’s relationship with the adjoining single storey single house as per the requirements of TPS3 and the Residential Development Policy (LPP142).
- 4. The Canning Highway frontage of the proposed development inadequately addresses Canning Highway – despite a Scheme provision which provides a density bonus for development “designed to face the frontage to Canning Highway”.
The Canning Highway aspect has very little presence and is set back deep into the site.

Yet development on Canning Highway is an important aspect of the historical development of East Fremantle and an important aspect of the character and amenity of the Town.

One of the objectives of Part 4.2 of TPS3 is to “recognise and respect the desired future character of each precinct, and to ensure future development is sympathetic with that character”. It is anticipated that future development fronting Canning Highway will continue to offer active facades that are integrated into the Canning Highway streetscape. The proposed development is set back from the highway and features a deep ravine between the building and the highway. It is considered this arrangement will be incompatible with future desired development on the highway.

Clauses 1.6(a), 1.6(b), 4.2, 10.2(a), 10.2(j), 10.2(o), 10.2(p), 10.2(zb) refer.

The Town Planning Advisory Panel and an independent consultant architect have supported the above concerns.

Clause 10.2(z) refers.

It is recommended that the applicant prepare an alternative solution to the Canning Highway frontage to achieve a higher degree of activation. CARRIED

T122. CONFIDENTIAL BUSINESS

T122.1 *Munro Street No. 18 (Lot 5049) – Christie v TOEF*

Mayor Ferris – Cr Nardi

That the following matter be dealt with on a confidential basis, in accordance with Section 5.23(2)(d) of the Local Government Act. CARRIED

Correspondence referred from MB Ref. T120.3 was tabled.

The Acting Town Planner reported on the matter of Christie v TOEF that is currently before the State Administrative Tribunal and sought direction from elected members with respect to matters to be discussed at mediation. Discussion ensued.

9 February 2010

MINUTES

T123. OPENING OF MEETING TO PUBLIC

Mayor Ferris – Cr Nardi

That the meeting be reopened to members of the public.

CARRIED

T124. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T125. CLOSURE OF MEETING

There being no further business the meeting closed at 9.35pm.

*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 **9 February 2010**. Minute Book reference **T115. to T125.** were confirmed at the meeting of the Committee on*

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Presiding Member