

7 December 2010

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 7 DECEMBER, 2010 COMMENCING AT 6.35PM.

T210. OPENING OF MEETING

T210.1 Present

Cr Alex Wilson	Presiding Member
Mayor Alan Ferris	
Cr Cliff Collinson	
Cr Barry de Jong	
Cr Rob Lilleyman	
Cr Siân Martin	
Cr Dean Nardi	
Cr Maria Rico	
Mr Stuart Wearne	Chief Executive Officer
Mr Jamie Douglas	Manager – Planning Services
Ms Gemma Basley	Acting Town Planner to 9.35pm
Mrs Peta Cooper	Minute Secretary

T211. WELCOME TO GALLERY

There were 30 members of the public in the gallery at the commencement of the meeting.

T212. APOLOGIES

Nil.

T213. CONFIRMATION OF MINUTES

T213.1 Town Planning & Building Committee (Private Domain) – 9 November 2010

Mayor Ferris – Cr de Jong

That the Town Planning & Building Committee (Private Domain) minutes dated 9 November 2010 as adopted at the Council meeting held on 16 November 2010 be confirmed.

CARRIED

T214. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T214.1 T216.11 Duke Street No. 34 (Lot 303) – Royal George Hotel

Correspondence received from Mr Jon Banfield submitting comment on the proposed redevelopment of the Royal George Hotel.

Mayor Ferris – Cr Martin

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T216.11).

CARRIED

T215. REPORTS OF COMMITTEES

T215.1 Town Planning Advisory Panel – 10 November 2010

Mayor Ferris – Cr Nardi

That the minutes of the Town Planning Advisory Panel meeting held on 10 November 2010 be received and each item considered when the relevant development application is being discussed.

CARRIED

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T216. REPORTS OF OFFICERS – STRATEGIC PLANNING/DEVELOPMENT CONTROL

T216.1 Receipt of Reports

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

CARRIED

T216.2 Order of Business

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

CARRIED

Cr Collinson made the following impartiality declaration in the matter of 10 Bolton Street: "As a consequence of the applicant, Mr John Chisholm, being known to me due to our shared ownership of the Donnelly River Holiday Village, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

Mayor Ferris made the following impartiality declaration in the matter of 10 Bolton Street: "As a consequence of my friendship with the applicant, Mr John Chisholm, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T216.3 Bolton Street No. 10 (Lot 24)
Proposed Upper Floor Extension to Accommodate a Studio & Gym
Applicant: John Chisholm Design
Owner: M Duncan-Smith
Application P185/2010
By Gemma Basley, Town Planner, 30 November 2010

BACKGROUND

Purpose of this Report

An Application for a revised Planning Approval for an upper floor extension to accommodate a studio and gym at No. 10 Bolton Street, East Fremantle is the subject of this report.

The property has previously been granted planning permission for a timber deck to accommodate a spa in the southern area of the site, conditional upon providing a 1 metre setback to the southern boundary and the provision of 1.6 metre high privacy screening around the decking. The applicant advises that after some consideration the owner feels that it may be better for all neighbouring parties to, rather than have an open air spa, put the spa inside a gym / studio, which would give all parties a high degree of privacy, both visual and acoustic.

The subject application therefore proposes to add an upper floor to the existing outbuilding (built as a garage but utilised as a bedroom and storeroom) and for this to extend onto the decking approved earlier.

Background to the Application

An application for Retrospective Approval was considered by Council (under Delegated Authority) for a deck that had been constructed adjacent to the rear boundary of the application site. The application was advertised for public comment and numerous strong objections were submitted from the surrounding landowners on the basis of loss of privacy and view impact.

Planning Approval was granted on the 1st February 2010 subject to the deck structure being set back 1.0 metre from the rear boundary and subject to 1.6 metre high visually

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impermeable privacy screens being installed along the southern and western edges of the deck.

The subject application seeks a variation to this Planning Approval.

Description of subject site

The subject site is:

- 678m² in area;
- zoned Residential R12.5;
- located in the Riverside Precinct; and
- developed with a two-storey Federation single house which is listed in the Municipal Inventory (Management Category A-).

Statutory Considerations

Town Planning Scheme No. 3 (TPS3)
Local Planning Strategy – Riverside Precinct
R12.5 Residential Design Codes - Assessed as R15 as per Clause 5.3.3 of TPS No. 3.

Relevant Council Policies

Local Planning Policy No. 47 – Design Precinct No. 5 Surbiton
Local Planning Policy No. 71 - Views
Local Planning Policy No. 142 – Residential Development
Local Planning Policy No. 143 – Fencing

Impact on Public Domain

Tree in verge : No Impact
Light pole : No Impact
Crossover : No Impact
Footpath : No Impact
Streetscape : The structure will be visible from Bolton and Surbiton Streets and the streetscape will be impacted upon adversely.

Documentation

Plans and relevant forms date stamp received on 29th September 2010

Date Application Received

20 September 2010 – Initial Plans lodged
26 October 2010 – Revised Plans submitted

No. of Days Elapsed between Lodgement & Meeting Date

86 Days

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

16 February 1993 Council grants special approval for the erection of a verandah incorporating a 0.9m setback from the north side boundary;

21 February 1996 Council refuses an application for an observation platform as proposed and requests the submission of an amended application;

23 April 1996 Council grants special approval for the erection of an observation deck and access way;

12 October 2006 Building Licence BL06/269 approved for alterations to an existing outbuilding to create a guest annexe.

1 February 2010 Council under Delegated Authority grants retrospective approval for a deck structure in the rear yard subject to Conditions to require a setback and privacy screening.

CONSULTATION

Advertising

The application was advertised to adjoining land owners for two weeks between the 7th October 2010 and the 21st October 2010. During this period several objections were received.

The revised plans were also advertised to the adjoining landowners and similarly several objections were received. The objections are tabled and responded to below.

Submission	Applicant Response	Officer Comment
<p>Grant & Samantha Mooney 10 Surbiton Road</p> <p>Pursuant to the R-Codes, Table 1 the rear set back is 6 metres for development at 10 Bolton Street. However the rear boundary setback of the existing addition at the rear of the dwelling at 10 Bolton Street, with its proposed second storey, is substantially less than this R-Codes setback standard.</p> <p>As a consequence concerns arise including its detrimental impact on our amenity, overshadow, privacy, bulk and scale, and impacts on views of significance.</p> <p>The south side elevation of the proposed additions incorporates hi-light windows, a door and balcony style landing (decking set back 1 metre from the rear boundary) that will be the source of noise and intrusion on our privacy.</p> <p>Almost the entire land area of 10 Bolton Street is developed, and it is doubtful that it would comply with the open space requirements specified in the R-Codes for an R12.5 coded property. We consider that the proposed additions will exacerbate this situation.</p> <p>The current Captains Study and Turret is extremely prominent when viewed from other areas of East Fremantle, the river, the bridge, North Fremantle and even parts of Mosman Park and is a well known landmark. Any structure of this height, design and scale built behind the Tower will severely diminish its prominence and in turn the heritage significance of this building.</p>	<p>The current proposal does not seek any concessions in terms of boundary setbacks and setbacks have been measured from Table 2b of the R-Codes based on height and length of the proposed walls.</p> <p>Overshadowing has been calculated and complies with the R-Code requirements</p> <p>The proposed studio will be set back 3.77 metres and the spa and gym will be located inside removing all issues of noise and visual privacy.</p> <p>The proposal does not seek to increase the site coverage in any way.</p> <p>The use of a character pitched roof with Dutch gables and finials has been used to compliment the existing character home.</p>	<p>Objection Supported – R-Codes require a 6 metre rear setback for the R12.5 and R15 coding (density being assessed at as per Clause 5.3.3 of TPS No. 3). Whilst a reduction to the setback requirements already occurs on the site a further variation to this is not considered acceptable.</p> <p>Objection Dismissed as overshadowing is compliant.</p> <p>Objection Supported – the decking area with a set back of 1.0 metre to the rear boundary could result in noise intrusion and visual intrusion and would go against the performance criteria of the R-Codes in relation to boundary setback by not moderating the visual impact of building bulk on a neighbouring property and by not assisting with the protection of privacy between adjoining properties.</p> <p>Objection Dismissed - as site cover is not proposed to increase.</p> <p>Objection Noted – a Heritage Impact Assessment would be required to determine if the proposed addition would be detrimental to the heritage significance of the building.</p>
<p>Tom & Judy Male 8 Surbiton Road</p> <p>The structure will obstruct the view from our property. We seek to preserve our remaining view corridor to the Swan River, river bank and sports field in North Fremantle, over the existing shed upon which the proposed studio addition would be built.</p>		<p>Objection Noted – A View Impact Study has been undertaken and demonstrates that a portion of the views of the north river bank will be lost from the ground floor of 8 Surbiton.</p>

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Submission	Applicant Response	Officer Comment
<p>Given that 10 Bolton Rd already exceeds the guidelines in more than one instance, we believe that approval of a further concession to the guidelines is simply not equitable.</p> <p>We also expect that acceptable design proposals would limit the negative impact on affected neighbours. Owners building first, and then retrospectively seeking building approval, which is then granted despite neighbours' objections would seem to trivialise the ethic of "sharing of views". Accordingly, we restate our dismay at the outcome of the previous spa and screen submission, and request that due consideration be given to our stance on the current matter.</p> <p>The proposed addition will substantially reduce the amenity of our ground floor main bedroom. We treasure this view corridor which remains following the alterations to our neighbours' properties, and the room was specifically designed to capture it.</p> <p>There is considerable emphasis on equitable view sharing in the council design guidelines. We believe that there are no grounds for granting approval of this project.</p>	<p>The current proposal does not seek any further concessions</p>	
<p>Kevin James 6 Surbiton Road</p> <p>Strong objection to the bulk and scale of the proposed addition. The neighbour has clearly had scant regard to neighbours concerns about overlooking and view loss. At the very least a flat roof design would achieve the same result and protect river views.</p>	<p>The use of a character pitched roof with Dutch gables and finials has been used to compliment the existing character home and it is felt that a contemporary skillion roof would be too much of a stark contrast to the existing home.</p>	<p>Objection Noted - a Heritage Impact Assessment would be required to determine if a skillion roof or a pitched roof would be more appropriate in proximity to the heritage residence.</p>
<p>John & Narelle Rate 28 Angwin Street</p> <p>Object to the proposal and potential overlooking into our property.</p>	<p>Verandah to the west of the studio now has horizontal louvers and an altered balustrade that will prevent overlooking.</p>	<p>Objection Supported – Whilst louvers and the balustrade are proposed there is no indication that this is to be fixed. In this regard a condition is recommended to require the provision of 1.65 metre high permanently fixed privacy screening in accordance with the requirements of the R-Codes.</p>

Additional correspondence has been submitted by the landowner Mr Mark Duncan-Smith, which is attached to this report and which raises issues separate to the application.

Town Planning Advisory Panel

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting on 28th September 2010 where the following comments were made:

- Details of the proposed ground floor studio use requested.
- Overlooking from western balcony – recommend a screening condition if non compliant.
- Clarification of building use / number of proposed doorways.
- Over development of the site.
- Check original Planning Approval.

The applicant advised that the ground floor is being used as a bedroom for the owner's son and further advised that the application included an extra doorway to allow the owners to enter and exit the proposed upper floor studio without disturbing their son in the studio below.

The applicant later submitted revised drawings, which reduce the building height of the proposed studio and which are the subject of this report.

Building Surveyor's Comment

Preliminary assessment has not identified any matters that may impact on the outcome of the planning application.

Site Inspection

By Town Planner, on 26 October 2010

STATISTICS

File	P/BOL10
Zoning	R12.5 assessed @ R15 as per Clause 5.3.3 of TPS No. 3
Lot Area	661m ²
Heritage Listing	A- Management Category under Municipal Heritage Inventory

Site:	Required	Proposed	Status
Open Space	50%	59.9	Not Acceptable but existing
Overshadowing	<25%	<25%	Acceptable

Height:	Required	Proposed	Status
Wall	5.6 metres	5.6	Acceptable
Ridge	8.1 metres	7.082	Acceptable
Roof type	Pitched roof @30 degrees		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Side (west)							
<i>Ground</i>	Studio	3.21	7.5	Yes	1.5	6.7	Acceptable
<i>Upper</i>	Gym	5.6	7.5	Yes	2.8	6.7	Acceptable
Side (east)							
<i>Ground</i>	Studio	3.21	7.5	Yes	1.5	2.297	Acceptable
<i>Upper</i>	Gym/Deck	5.6	7.5	No	1.2	Nil-2.297	Discretion Required
Rear (south)							
<i>Ground</i>	Studio	3.21	6.252	No	1.0	1.0	Acceptable
<i>Upper</i>	Gym	5.6	6.252	Yes	2.5		Discretion Required

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Front (north) N/a

Privacy/Overlooking: No overlooking from subject property

ASSESSMENT

Considerations

The following aspects of the proposal have been identified as areas of non-compliance and/or matters that have arisen from the advertising period:

Use of the Building

The existing building located in the rear yard of 10 Bolton Street has only been approved as a Garage. Council has not granted Planning Approval for a change of use to this structure and the current use as a studio is therefore unauthorised.

It is therefore necessary that the landowner submit an application for Retrospective Planning Approval to change the use of the garage to studio/bedroom.

Boundary Setback

The boundary setback provisions of the R-Codes are based on a number of principles including the following:

“Outdoor living areas, whether in the form of decks, verandahs, balconies or raised terraces, have an impact at least equal to and usually greater than those of indoor living areas, and hence ought to be treated similarly, in terms of setting back from the boundary”.

Boundary setback provisions are also stipulated in Council’s Local Planning Policy No. 47 – Design Precinct No. 5 Surbiton wherein it is stated that the 7.5 metre front and rear setback must be retained.

It is the assessment of the Town Planner that the required setback to the rear/southern boundary for the both the existing building and the proposed upper floor addition should be at least 6.0 metres as per Table 1 of the R-Codes but ideally 7.5 metres as required under LPP No. 47. It is however evident that there is already an existing anomaly that prevents this setback being achieved at the ground floor being the current setback of the subject studio to the rear boundary being only 3.773 metres.

To approve an upper floor extension which would result in the upper floor having a reduced setback is not desirable. The existing situation with the studio having a reduced setback to the rear boundary is acceptable primarily on the basis of the topographical differences between the subject site and the property to the rear being 10 Surbiton Road. More specifically, 10 Bolton Street is considerably higher than 10 Bolton Street and the existing studio development is below the natural ground level (NGL) of 10 Surbiton Street and therefore the reduced rear setback has no impact on the abutting properties on Surbiton Road.

The proposed upper floor addition will however result in development that will be visible and which will extend higher than the NGL of 10 Surbiton Road. It is considered that this does not meet the performance criteria of the R-Codes and in particular in relation to the purpose of boundary setbacks. The fact that the rear boundary setback has been reduced at the ground floor of 10 Bolton Street is not sufficient reason to allow this to extend upwards such that it would impact the ground level of the properties that abut to the south.

It is concluded that the proposed reduced upper floor setback will have a visual impact of building bulk on adjoining properties and in particular 6 to 10 Surbiton Road.

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It is further concluded that the proposed studio and decking proposal will not assist with the protection of privacy between adjoining properties and will rather introduce a habitable indoor and outdoor living area in close proximity to the adjoining properties. It is also determined that the reduced upper floor setback to the rear boundary does not achieve the objective of moderating the visual impact of building bulk on a neighbouring property as required under the R-Codes.

Building Footprint/Setback

Council's Local Planning Policy No. 47 provides design guidelines for the Surbiton Precinct and applies to 10 Bolton Street, the subject of this application. The policy requires a rear setback of 7.5 metres. This is a greater setback than required under the R-Codes and as such the significance of this setback is greater.

It is considered however, that the requirement to adhere to the 6.0 metre setback for the proposed addition is sufficient.

Visual Privacy

A photograph of the existing deck area is attached to this report. The current Planning Approval requires that this deck be setback 1.0 metre from the rear (southern) boundary. This is also reflected in the subject proposal as well as the provision of 1.6 metre high privacy screening along the southern opening of the deck. This requirement will address the potential impact of visual privacy, which is however exacerbated in the absence of a rear boundary fence that is 1.8 metres high on the higher land (being the Surbiton Road properties).

Whilst visual privacy can be achieved on the southern boundary, there are concerns about the method of screening proposed on the western opening of the upper floor balcony and deck area. The current application proposes louvres and a balustrade but there is no indication that this is to be fixed.

In this regard a condition is recommended to require the provision of 1.65 metre high permanently fixed privacy screening in accordance with the requirements of the R-Codes.

Works to Heritage Property

The subject house is included on the Municipal Inventory with a management category of A-. The subject proposal will involve a modification to the building's external heritage fabric and without a Heritage Impact Assessment it cannot be determined if this impact will be to the detriment of the significance and visibility of the heritage building.

In this regard a condition has been recommended to require the submission of a Heritage Impact Assessment to determine the suitability of the proposed upper floor addition on the existing heritage character and significance of the property.

Undesirable Precedent

The Bolton Street and Surbiton Road precinct is an area where the retention of views to individual landowners is significant and any decisions that could impact on the retention of views in this precinct must be considered carefully.

It is the assessment of the Town Planner that granting approval to a reduced rear setback could set a precedent for additional applications of a similar nature and which could have significant and widespread impacts on the view corridors of this precinct.

CONCLUSION

Based on the above discussion it is considered that the location of the deck area (which could serve as an outdoor living area) in particular to the rear boundary of the lot is not desirable. Even with this deck area being screened along the southern opening, this will not prevent light spill and possible noise emanating from the building which could interfere with the open and undeveloped back yard areas of the Surbiton Road lots.

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In addition, the proposed screening along southern opening of the decking would impact on the view corridors of the Surbiton Road lots and the higher lots on Bolton Street.

It is therefore recommended that determination of the Application be deferred to allow the submission of revised plans which remove the deck area parallel to the southern boundary and which increase the rear setback of the proposed upper floor area to 6.0 metres. A deferral would also enable a Heritage Impact Assessment to be undertaken to determine the impact of the proposed development on the heritage significance of the property.

RECOMMENDATION

That Council defer determination of the application for the construction of an upper floor studio/gym at No. 10 (Lot 24) Bolton Street, East subject to the submission of additional information including:

- (a) Submission of revised plans which remove the deck area parallel to the southern boundary and which increases the rear setback of the upper floor structure to 6.0 metres.
- (b) Submission of a Heritage Impact Assessment report to determine the appropriateness of the upper floor addition and the impact on the highly classified heritage property.

Mr John Chisholm (applicant) addressed the meeting seeking deferral of Application No. P185/10 for an upper floor studio/gym at 10 Bolton Street, East Fremantle.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Lilleyman

That Council defer determination of the application for the construction of an upper floor studio/gym at No. 10 (Lot 24) Bolton Street, East subject to the submission of additional information including:

- (a) Submission of revised plans which remove the deck area parallel to the southern boundary and which increases the rear setback of the upper floor structure to 6.0 metres.**
- (b) Submission of a Heritage Impact Assessment report to determine the appropriateness of the upper floor addition and the impact on the highly classified heritage property.**

CARRIED

Mayor Ferris made the following impartiality declaration in the matter of 8 Glyde Street: "As a consequence of my friendship with the objector, Mr Bill Ward, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

Cr Collinson made the following impartiality declaration in the matter of 8 Glyde Street: "As a consequence of the objector, Mr Bill Ward, being known to me due to mutual friends, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T216.4 Glyde Street No. 8 (Lot 85) – Retrospective Planning Approval

Applicant/Owner: Mike Dearn, 8 Glyde Street

Application No. P174/2010

By Jamie Douglas, Manager – Planning Services on 2 December 2010

PURPOSE OF THE REPORT

This report considers an application for retrospective planning approval for the extension in the height of a side boundary wall at 8 Glyde Street and recommends refusal.

BACKGROUND

Description of Proposal

An Application for Retrospective Planning Approval for extensions to an existing boundary wall to a total height of 2.8metres above natural ground level.

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Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 29 September 2010

Date Application Received

29 September 2010

Additional information

28 October 2010

Advertising

Adjoining land owners only

Date Advertised

21 October 2010

Close of Comment Period

4 November 2010

No. of Days Elapsed between Lodgement & Meeting Date

61 days

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

On 7 July 2010 a site inspection by the Town's Principal Building Inspector identified that the masonry wall between 6B and 8 Glyde Street has been raised in height by several courses of bricks. The site inspection further identified a timber and slat structure, which attached to the masonry wall by steel poles. The applicants were directed to remove the unauthorised building works within 60 days or apply for a retrospective Planning Approval.

CONSULTATION

Public Submissions

At the close of the comment period two submissions were received from the adjacent neighbour at 6B Glyde Street.

Site Inspection

By Manager – Planning Services on 2 December 2010

ASSESSMENT

The applicants seek approval for work which has been undertaken to raise the wall by approximately 3 courses and to install a wooden slatted screen above this to a total height of 4 metres relative to the ground level on the neighbouring property at 6B Glade Street.

In support of their application the applicants state;

"We have constructed some raised garden beds in our yard and intend to build another along the boundary. When this is complete, the current boundary wall will become inadequate and, as 6B has installed a swimming pool adjacent, we thought it best to apply to alter the height of the wall to current council guidelines – 1.8 m above ground level directly beneath the wall.

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If we don't change the height of the wall, children may find easy access to this pool over the existing wall from the top of the garden bed, which has potential for terrible ramifications to all concerned."

The neighbours at 6B Glyde Street object to the works and this application. They initially advised the applicant they objected to the proposal to construct the fence extensions which they now feel are visually intrusive and dominate their outdoor area.

The neighbours also tendered professional architectural advice which submitted there was no merit to warrant an exercise of discretion in respect to the side boundary setback provisions of Clause 6.3.2 of the R-Codes and that the proposal did not meet the requirements for approval under clause 10.2 of the Scheme because of its impact upon the amenity of 6B Glyde Street.

Given the ground level difference between the two properties, it is considered the visual impact of the wall upon the neighbour at 6B is unreasonable and that the concerns expressed in their submissions are well founded. There is no imperative for the applicants to build a one metre high raised bed against their side of the wall and the extension in height is not necessary for privacy reasons. There is therefore no reason to waive the maximum height requirements of 1.8 metres specified in clause 3.1 of the Planning Policy No 143 – Policy on Local Laws Relating to Fencing'.

CONCLUSION

It is concluded that the existing works have an unreasonable visual impact upon the neighbouring property at 6B Glyde Street and the proposal for retrospective approval should be refused. Subject to Council's determination, the applicants should be directed, pursuant to Section 214(3) (a) of the Planning and Development Act 2005, to remove the unauthorised building works within 60 days of the date of the notice of determination.

RECOMMENDATION

That:

1. Council refuse the application for retrospective planning approval for the extension in the height of a side boundary wall at No. 8 (Lot 85) Glyde Street, East Fremantle for the following reasons:
 - (a) The proposal will 'have significant adverse effect on the adjoining property' and accordingly does not meet the Performance Criteria for approval pursuant with Clause 6.3.2 of the Residential Design Codes.
 - (b) The proposal does not comply with the requirements of Clause 10.2(g) and (p) of Town Planning Scheme No. 3.
 - (c) The proposal exceeds the maximum height of 1.8 metres for any part of a fence designated in clause 3.1 of Planning Policy 143 – Policy on Local Laws Relating to Fencing.
2. The applicants be directed, pursuant to Section 214(3) (a) of the Planning and Development Act 2005, to remove the unauthorised building works within 60 days of the date of the notice of this determination.

Mr Bill Ward (adjoining neighbour) addressed the meeting expressing concern with the slatted timber element of an already overheight fence.

Mr Mike Dearn (applicant) addressed the meeting seeking deferral of his application given perceived inaccuracies in the officer's report relating to ground level.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That the application for retrospective planning approval for the extension in the height of a side boundary wall at No. 8 (Lot 85) Glyde Street, East Fremantle be deferred to allow the officers the opportunity to review the submitted report with a view to maintaining the additional masonry courses and removal of the slatted timber element above.

CARRIED

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Cr Martin made the following impartiality declaration in the matter of 19 Preston Point Road: "As a consequence of the objector, Ms Penelope Johnson, being known to me due to her being my hairdresser, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

Cr Wilson made the following impartiality declaration in the matter of 19 Preston Point Road: "As a consequence of the owner, Mr Gary Archer, being known to me due to our sons previously attending primary school together, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T216.5 Preston Point Road No. 19 (Lot 35)
Four Level Residence & Change of Use from a 'Garage/Loft' to a 'Residence'
Applicant: Allerding & Associates Pty Ltd
Owner: Gary Archer
Application No. P185/2010
By Gemma Basley, Town Planner, 1 December 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for the construction of a four storey residence at 7 Reynolds Street and a Change of Use from a 'Garage/Loft' to a 'Residence' at 19 Preston Point Road, East Fremantle is the subject of this report.

More specifically the application seeks approval for minor amendments to previously approved plans in order for the two buildings to be assessed as two independent dwellings on this lot. The application seeks approval for the following modifications to the original Planning Approval to satisfy the Residential Design Codes (R-Codes) requirements for two separate dwellings:

- A proposed boundary location, separating the proposed two dwellings.
- Modifications to the constructed residence fronting Preston Point Road and redefinition of this as a dwelling.
- Modifications to the un-constructed residence fronting Reynolds Street, including the conversion of the formerly approved living area into a garage to accommodate 2 vehicles that would otherwise have been accommodated in the Preston Point Road building (garage/loft).

The subject approval is required by the applicant in order to facilitate a Survey Strata of the site into two lots each with independent frontage to Reynolds Street and Preston Point Road, respectively.

The report recommends that Council approve the application subject to conditions.

Description of subject site

The subject site:

- comprises an area of 539m²
- developed with a two storey garage/loft that front Preston Point Road
- zoned Residential R12.5
- located in the Riverside Precinct

Statutory Considerations

Town Planning Scheme No. 3 (TPS3)
Local Planning Strategy – Plympton/ Woodside Precinct (LPS)
R12.5 Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP 066)
Local Planning Policy No. 142 : Residential Development (LPP 142)
Local Planning Policy No. 143 : Fencing (LPP 143)

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Impact on Public Domain

Tree in verge : No Impact
Light pole : No Impact
Crossover : No Impact
Footpath : No Impact
Streetscape : The streetscape of Reynolds Street and Preston Point Road will be altered as a result of the development,

Documentation

Plans and relevant forms date stamp received on 30 August 2010

Date Application Received

30 August 2010

No. of Days Elapsed between Lodgement & Meeting Date

107 Days

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

1990	Council conditionally approves an additional unit at the rear of 21 Preston Point Road (now 5 Reynolds Street) with increased building and ceiling heights;
23 February 1998	Council conditionally approves a 4-level house at the rear of 17 Preston Point Road (now 9 Reynolds Street) on reduced setbacks and increased building height;
30 March 1993	State Planning Commission certifies approval to subdivide 21 Preston Point Road into 2 strata lots (1 X 378m ² - 5 Reynolds Street, 1 X 524 ² - 21 Preston Point Road);
17 April 2001	Council grants special approval for a second storey deck and parapet wall additions to the house at 5 Reynolds Street;
22 March 2002	WAPC certifies approval to subdivide 17 Preston Point Road into 2 strata lots (1 X 217m ² - 9 Reynolds Street, 1 X 304 ² - 17 Preston Point Road);
30 May 2006	CEO under delegated authority conditionally approves an upper level deck addition to 5 Reynolds Street
19 December 2006	Council resolves to defer the application for a 3 level house at 19 Preston Point Road pending the submission of additional information.
17 July 2007	Council grants approval for a 3 storey dwelling with an undercroft fronting Reynolds Street and a workshop/garage/studio fronting Preston Point Road.
18 March 2008	Council grants approval for revised plans for a 3 storey dwelling with an undercroft fronting Reynolds Street and a workshop/garage/studio fronting Preston Point Road.

Background to this Application

An application to construct a 3 storey house fronting Reynolds Street and a 2-storey building, comprising a double garage and upper floor studio with frontage to Preston Point Road was initially considered by Council at its meeting dated 6th March 2007 where Council resolved to refuse the application on the basis of the number and magnitude of discretions required and the final impact the building would have on the subject site. The applicant's appealed this decision with the State Administrative Tribunal (SAT) and through mediation, the applicant and the Town of East Fremantle agreed on a set of acceptable plans that were later approved by Council at its meeting of 17th July 2007.

The above approval has since expired and only part of the Planning Approval has been implemented. More specifically, the garage and loft that fronts Preston Point Road is under construction however, the multi storey residence to front Reynolds Street has not commenced construction.

The subject application proposes effectively to reinstate the approval for the multi storey residence fronting Reynolds Street and to approve the use of the building fronting Preston Point Road as 'Residential'.

The subject application is also the subject of a pending Survey Strata application with the Western Australian Planning Commission. The application proposes to Survey Strata the site into two lots with areas of 289m² and 250m² with frontage to Reynolds Street and Preston Point Road, respectively. The application has been deferred by the WAPC pending the receipt of Development Approval.

**CONSULTATION
Advertising**

The application was advertised to adjoining neighbours and a sign was placed on the site for a 2 week period between the 19th October and the 2nd November 2011. During the advertising period three submissions were submitted which will be tabled and responded to by the applicant below:

Submission	Applicant Response
<p>Brian & Ruth Watson of 5 Reynolds Street, East Fremantle</p> <p>The conversion from a garage to a dwelling is a fait accompli and as the dwelling does not impact upon our house we have no objection.</p> <p>The proposed new 4 storey residence does have an impact on our residence because of its size and the number of north facing windows that overlook our house. We ask that screening be provided to any areas of overlooking.</p> <p>Confirmation that the highest point of the proposed 4-storey residence is 45.299.</p>	<p>The south facing windows on the second floor of the dwelling to the north are highlight windows; as such there will be no overlooking from the north facing windows of the proposed dwelling into the rooms on the second floor of the adjoining northern residence.</p> <p>Should any potential issues of overlooking from the major openings of the habitable rooms on the upper floor levels facing north be identified, we would accept a condition requiring the openings to be replaced with highlight windows in order to resolve any such impacts of overlooking into the northern property.</p> <p>This development incorporates fixed obscured glass balustrade of 1.65 – 1.74 metre high privacy screening as measured from finished floor level on all upper floors levels and there is no overlooking from the upper floor level balconies into the adjoining properties to the north, east and south.</p> <p>The maximum dwelling height proposed is at 45.299 RL, and the ridge level of the third floor is proposed at 44.355 RL.</p> <p>We note the height of the adjoining three storey dwelling immediately north of the proposed development site, and therefore consider the proposed three storey dwelling to be in keeping with the character and built form of the existing streetscape.</p>
<p>Brooke Lawrence & Matthew Tideswell of 21 Preston Point Road, East Fremantle</p> <p>Request the east facing windows on the 1st and 3rd floors of 7 Reynolds Road to be of obscure glazing.</p> <p>Consideration of how the fence of No. 19 Preston Point Road will connect with our property at No. 21 Preston Point Road</p>	<p>The east facing windows on all elevated floors are screened by a 1.65metre obscure screen wall which will prevent overlooking from the windows and from the balcony into 21 Preston Point Road.</p> <p>The owner is willing to contact the owner of 21 Preston Point Road to discuss the best options for front fencing cohesion.</p>
<p>Penelope Johnson of 17 Preston Point Road, East Fremantle</p> <p>The proposed development and subdivision</p>	<p>There is no overlooking from the balconies or major openings into</p>

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Submission	Applicant Response
<p>would negatively impact on the amenity at my property, 17 Preston Point Road.</p> <p>The building proposed to the Reynolds Street end would substantially detract from the amenity of my property by overlooking into the only outdoor living areas of my home - the topmost floor level of the proposed building is some 12.7 metres above my house floor level. The provision of glass screens to address these significant overlooking issues is a cavalier and unreasonable approach and I have no faith that Council will or can enforce the permanency of these screens over the long term.</p> <p>Unfinished works at 19 Preston Point Road that is unsightly and detrimental to my property.</p> <p>The proposed building has no articulation in its design and towers above my property and screens to all balconies accentuate the overpowering mass. The bulk, height and width of the building take away my outlook to all the sky to the northwest and during spring, winter and autumn it will deprive my yard and sunroom of warming afternoon sunlight.]</p> <p>The proposal does not address the Boundary Setback and Building Height Performance criteria of the R-Codes in particular:</p> <ul style="list-style-type: none"> - Ensure adequate direct sun and ventilation being available to adjoining properties - Assist with protection of access to direct sun for adjoining properties - Assist in ameliorating the impacts of building bulk on adjoining properties. 	<p>the rooms or the private open space of the adjoining residences to the north, east and south. The development incorporates fixed obscured glass balustrade of 1.65 – 1.74 metre high privacy screening on all upper floor level balconies on the eastern side of the residence.</p> <p>The proposal fronting 7 Reynolds Street includes a three storey residential dwelling, as opposed to what is described as being “akin to an 6 storey office tower.” The development fronting Reynolds Street is similar to the height of the adjoining three storey dwelling immediately north of the proposed development; we therefore consider the proposal is in keeping with the character and built form of the existing streetscape.</p> <p>The property at 17 Preston Point Road includes an existing mature tree to the northwest which acts as sufficient screening to alleviate any potential concerns over impact of potential bulk and height created by the proposed development on the amenity of this property.</p> <p>In relation to overshadowing on the property at 17 Preston Point Road – the acceptable development provisions under the Residential Design Codes provide a maximum overshadowing of 25% of the site area of the adjoining property. As detailed in the previous officer report relating to the 2008 Council approval, a 2.6% variation to the acceptable development provisions was identified. Nevertheless, given the proposal complies with the performance provisions of the Residential Design Codes due to the extent of solar access available to outdoor living areas and major opening and habitable rooms on the adjoining lot, it was considered that the 2.6% variation was minor and acceptable.</p> <p>Furthermore, with respect to any concerns raised and potential impacts concerning visual privacy, height, bulk, amenity and streetscape, that the overall bulk and form of the proposal remains unchanged from that development approved by the Town of East Fremantle on 18 March 2008, where Council considered the proposed three storey dwelling fronting Reynolds Street and deemed the proposal as acceptable.</p>

The neighbouring submissions have been assessed by the Town Planner and the following determinations have been made:

- The north facing upper floor windows to be obscure glazed or hi-lite windows to prevent overlooking into 5 Reynolds Street.
- The proposed front fence at 19 Preston Point Road does not form part of this application however an application for the fence is being considered concurrently and this issue will be addressed through that application.
- Discretion is sought for a 2.6% variation to the overshadowing requirements

Town Planning Advisory Panel

The subject application was assessed by the town Planning Advisory Panel (TPAP) at its meeting on the 28th September 2010 where the following comments were made:

- Original Planning Approval should be revoked based on the amended situation which causes significant overlooking, potential impact on Preston Point Road streetscape.
- Refer to original Panel comments (see below):

Panel Comments - 28 November 2006
(Application submitted 6 November 2006 - Refused Council 6 March 2007)

- concern re height and bulk particularly from eastern elevation
- three stories dominant element to Preston Point Road
- more box like than adjoining dwelling to the south

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- severe facades in particular to the north
- concern re massive box design
- hope Council look at existing dwelling and its preservation
- demolition if approved requires photographic record and heritage assessment
- consider moving existing dwelling forward in Preston Point Road
- facades need reconsideration, little shading for occupants
- severe privacy screens make appearance harsh

Panel Comments – 22 January 2008

(Application submitted 12 December 2007 for 'Revised Roof Plan' – Approved Council 18 March 2008)

- roof edging deep and clumsy
- requires finesse to remove bulky nature of property
- building unattractive
- original butterfly roof is preferred – far more interesting
- skillion roof should be really thin for it to work

The applicants have responded to the Panel comments as follows:

- This application is consistent with an approval that is already in place; the intent of this application is to simply seek that assessment consideration of the proposal be addressed as two residences as opposed to one residence and an ancillary building.
- This development incorporates obscured glass balustrade of 1.65 – 1.74 metre high privacy screening as measured from finished floor level on all upper floor levels. As such, there is no overlooking from the upper floor level balconies of the three storey dwelling fronting Reynolds Street into the private open space of the building fronting Preston Point Road.
- With respect to any impacts on the Preston Point Road streetscape; the overall bulk and form of the proposal remains unchanged from that development approved by the Town of East Fremantle on 18 March 2008. Following Council's receipt of the 2006 and 2008 Town Planning Advisory Panel comments the Council considered that the proposed three storey dwelling fronting Reynolds Street and deemed the proposal as acceptable. We accept that the Council in its consideration of the proposal weighed up the Committee comments on the potential impacts and determined that these variations were acceptable and subsequently granted approval, as per the resolution dated 18 March 2008.

It is considered the proposed bulk of the residence is largely determined by it being 4 storeys which is a response to the topography of the site. Similar development has occurred at No. 5 and No. 9 Reynolds Street and the maximum height of development on these sites is 44.8 metres RL and 45.8 metres RL, respectively. The maximum height proposed for the residence at 7 Reynolds Street is 45.299 and this is considered to be consistent with the existing building height on the eastern side of Preston Point Road.

The residence will extend further east than the adjoining residences but will still be setback some 25 metres from Preston Point Road and it is considered this will not detrimentally impact the way the residence is viewed from Preston Point Road. In addition to the above it is considered that little could be done to present the building differently to Preston Point Road because of the surrounding development and the need to obscure any development from overlooking into these properties. This lends the design of the building to have obscured privacy screens and numerous highlight windows on the side elevations. It is considered that the planting of significant vegetation in the rear yard of the proposed Reynolds Street residence will assist in softening the landscape as viewed from Preston Point Road. In this regard, a condition is included in the recommendation to require a landscaping plan to demonstrate the provision of mature evergreen trees to soften the impact of the residence.

The elevations are somewhat deceptive in the sense that they do not illustrate the shadows that will be created by roof overhangs and they do not demonstrate the textures created by the different external finishes.

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Site Inspection

By Town Planner, on 7 September 2010

STATISTICS

File	P/REY7
Zoning	R12.5 but assessed as R17.5 as per Clause 5.3.3 of TPS No. 3
Lot Area	539m ²
Heritage Listing	Not listed

Site:	Required	Proposed	Status
Open Space	50%	48.59%	Discretion Required
Overshadowing	<25%	27.6%	Discretion Required
Site Works	Max 0.5 metres	4.5 metre maximum	Discretion Required

Height:	Required	Proposed	Status
Wall	7 metres	11.59 metres	Discretion Required
Ridge	9 metres	12.83 metres	Discretion Required
Roof type	skillion		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Front (west)							
<i>Basement</i>	Music/Stairs	2.743	9.28	No	6.0	8.3	Acceptable
<i>Lower</i>	Bath/Bed	5.916	9.1	No	6.0	Nil	Discretion Required
<i>Ground</i>	Entry/Landing	8.573	3.5	No	6.0	3.9	Discretion Required
<i>Upper</i>	Whole	11.69	9.28	Yes	6.0	3.9	Discretion Required
Rear (east)							
<i>Basement</i>	Music/Store	2.743	8.78	Yes	1.0	5.9	Acceptable
<i>Lower</i>	Balcony	5.915	8.78	No	1.2	3.83	Acceptable
<i>Ground</i>	Balcony	9.002	8.78	No	1.4	3.83	Acceptable
<i>Upper</i>	Balcony	11.659	8.78	No	1.5	5.15	Acceptable
Side (north)							
<i>Basement</i>	Music	2.743	6.07	Yes	1.0	1.75	Acceptable
<i>Lower</i>	Whole	5.915	16.27	Yes	4.0	1.75	Discretion Required
<i>Ground</i>	Whole	9.002	16.2	No	2.6	1.75	Discretion Required
<i>Upper</i>	Whole	11.659	14.95	Yes	6.5	1.75	Discretion Required
Side (south)							
<i>Basement</i>	Whole	2.745	8.79	No	1.0	1.54	Acceptable

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Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Lower	Whole	5.95	19.14	Yes	4.7	1.54	Discretion Required
Ground	Whole	9.002	10.77	No	1.7	1.54-2.04	Discretion Required
Upper	Whole	11.659	14.95	No	3.0	1.54	Discretion Required

Privacy/Overlooking: Overlooking could occur to the north from Ground Floor Bedroom windows and to the south from the Lower Floor Bedroom window.

**ASSESSMENT
Considerations**

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the following elements that require a discretionary consideration:

Requirement	Proposed	Planning Comment
Minimum Open Space 50% as required under the R-Codes	48.59% Open Space	Supported - Discretion of 1.41% or 4.07 m² to the Open Space requirements of the R-Codes on the basis of the extensive and numerous outdoor living areas at the front of the house and on the 3 east facing balconies and because of the multi level nature of the house outdoor living areas at each level are likely to service the needs of future residents more aptly.
Overshadowing to impact on no more than 25% of the adjoining lot as required under the R-Codes	27.6% of the property to the south being 9 Reynolds Road will be subject to overshadowing from the proposed residence. No overshadowing from the proposed 4 storey residence will impact the dwelling at 17 Preston Point Road.	Supported – Discretion of 27.6% overshadowing in lieu of the required maximum of 25% required under the R-Codes on the basis of the nature of the development being 4 storey and the topography of the lots to the east of Reynolds Road being varied reducing the impact of overshadowing. The northern side of the residence at 9 Reynolds Road has limited openings on each floor thereby lessening the impact of overshadowing. The properties south of the subject land are also narrow east-west oriented lots with frontages of 12.65m and 12.57m and are subject to a greater impact from overshadowing. There is a significant level difference between the subject land and the properties to the south, which is down to 3m lower. While the percentage of overshadow exceeds the limit recommended in the RDC it is largely unavoidable and does not negatively impact on the amenity of the adjoining properties (overshadow of 117 Preston Point Road is of a driveway).
Site Works to a maximum of 0.5 metres as required under the R-Codes	Maximum retaining to 4.5 metres	Supported – Discretion to allow site works to 4.5 metres in lieu of the maximum 0.5 metres requirement of the R-Codes on the basis that the retaining wall is required to accommodate the significant grade differentials that applies to the site. The proposed retaining will not be visible from the street and will not detract from the amenity of the development

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Requirement	Proposed	Planning Comment
Building Height not to exceed Category B building heights as required under LPP No. 142 being a maximum wall height of 6 metres and maximum roof height of 9 metres	Maximum wall height of 11.59 metres. Maximum roof height of 12.83 metres	<p>Supported – Discretion to allow the building height to exceed the Category B (2-storey) requirements of the R-Codes and to allow a maximum wall height of 11.59 metres (44.124 RL) and a maximum roof height of 12.83 metres (45.299 RL) on the basis that the Category B provisions of the R-Codes relate to a two storey development and is not applicable to a multi storey residence on the subject topographically varied site.</p> <p>The multi storey residence will not entirely be visible from either Preston Point Road or Reynolds Street. The existing building fronting Preston Point Road will obscure the basement level of development minimising the impact of building height on the streetscape.</p> <p>Council previously approved houses on the adjoining properties on reduced setbacks and increased building heights to take account of this topography.</p> <p>The proposed house will blend between the adjoining houses its height being lower than the house at 9 Reynolds Street, and slightly higher than the house at 5 Reynolds Street.</p> <p>The proposed variations to the height limits are considered acceptable because there are no impacts on adjoining or nearby property views. The increase in height is necessary to build a practicable residence on a very steep property.</p> <p>The topography of the site is such that it is virtually impossible to design a 2/3-level house with convenient access to Reynolds Street and comply with the height limits recommended in the RDC.</p>
Front Setback to be 6.0 metres as required under the R-Codes or to be consistent with the setback of adjoining dwellings as required under LPP No. 142	Proposed front setback a minimum of 3.9 metres at street level and consistent with abutting development	<p>Supported – Discretion to allow a minimum front setback of 3.9 metres in lieu of the 6 metres required by the R-Codes on the basis of the topography of the site and the existing setback of the adjoining dwellings being consistent with the proposed development.</p>
Side/North setback to be between 2.6 metres and 6.5 metres	Proposed side setback 1.75 metres	<p>Partially Supported - Discretion to allow a reduced north side setback to a minimum of 1.75 metres in lieu of the 6.5 metres required under the R-Codes subject to the provision of obscure glazing or hi-lite windows in all openings to habitable rooms at the lower floor to prevent overlooking into the drying area and laundry entrance of 5 Reynolds Street and subject to the Dining room opening to be screened or to utilise obscure glass to minimise overlooking into and down to the residence at 5 Reynolds Street.</p> <p>The discretion is supported on the basis that there are only hi-lite windows on the same level of the adjoining house and it is considered that the reduced setback will not impact on sunlight, ventilation or amenity to the property at 5 Reynolds Street.</p>
Side/South setback to be between 1.7 metres and 4.7 metres	Proposed side setback 1.54 metres	<p>Supported – Discretion to allow a reduced south side setback to a minimum of 1.54 metres in lieu of the 4.7 metres required on the basis that the reduced setback will not impact on access to ventilation for the adjoining property</p>

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Requirement	Proposed	Planning Comment
		and because the major openings will not look directly into a habitable room of the adjoining house and therefore privacy is not affected.
Overlooking/Visual Privacy 7.5 metre setback for balconies 4.5 metre setback for bedrooms 6.0 metre setback for other habitable rooms	N/a - all balconies screened 1.75 metres and unscreened	Discretion not supported - Condition to be included to require the south and north facing bedroom windows on the lower level to be obscure glazed or hi-lite windows to prevent overlooking and to require the dining room doorways to be obscure glazed or privacy screening to be installed above the balustrade to prevent overlooking.

CONCLUSION

This application is for development on the only residential zoned property in East Fremantle with two effective street frontages with the exception of 31 Alexandra Street which has recently been the subject of a Council approve to develop 3 grouped dwellings fronting Staton Road and to retain the existing heritage residence fronting Alexandra Road. The subject application similarly proposes to provide for a residential frontage to each of Reynolds Street and Preston Point Road by converting the garage/workshop to a residence which will front Preston Pint Road and gaining approval to construct a four level residence with independent vehicle access from Reynolds Street.

Development of the site is constrained by its unique topography, hence the necessity for variations to build a house which can be accessed from Reynolds Street at the same time presenting a residential appearance to Preston Point Road sympathetic to the local streetscape and approving this as a dwelling.

Whilst there are a significant number of variations a number of these relate to the difficult site topography and the front setback. These variations have similarly been supported on the residences abutting the proposed 4 storey residence on the subject site.

The applicant has put forward a proposal to utilise the existing building fronting Preston Point Road as a residence and for this to be contained on a separate lot and has subsequently applied for Planning Approval to reinstate the approval for the Reynolds Street residence and to seek a revised planning approval to approve the building that fronts Preston Point Road as a residence.

The Planning Approval is sought by the applicant's to facilitate the proposed survey strata subdivision and this consideration has been at the forefront of the above assessment. The subject lot is the only remaining lot with dual frontage to Reynolds Street and Preston Point Road and the adjoining lots have previously been subdivided creating two lots with frontage to Reynolds Street and Preston Point Road, respectively.

The Survey Strata application will be considered by the Council at a later date and this will depend on the reactivation of the application by the WAPC. In the meantime the subject application is considered to be appropriate for approval and suitable for development on individual allotments should a Survey Strata be approved. In the possible case that the WAPC did not approve the Survey Strata, a condition is included in the recommendation to only support the conversion of the garage/loft to a residence subject to Survey Strata approval being granted by the WAPC to create a separate allotment for each building.

The subject application is determined to be acceptable and the areas that are not considered acceptable have been addressed by the recommended conditions below.

RECOMMENDATION

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

- (a) variation to allow a reduction in open space of 1.41% or 4.07 m² to the Open Space requirements of the R-Codes;
- (b) variation to allow a maximum of 27.6% overshadowing in lieu of the required maximum of 25% required under the R-Codes;
- (c) variation to allow site works to 4.5 metres in lieu of the maximum 0.5 metres requirement of the R-Codes;
- (d) variation to allow the building height to exceed the Category B (2-storey) requirements of the R-Codes and to allow a maximum wall height of 11.59 metres (44.124 RL) and a maximum roof height of 12.83 metres (45.299 RL);
- (e) variation to allow a minimum front setback of 3.9 metres in lieu of the 6 metres required by the R-Codes;
- (f) variation to allow a reduced north side setback to a minimum of 1.75 metres in lieu of the 6.5 metres required under the R-Codes subject to the provision of obscure glazing or hi-lite windows in all openings to habitable rooms at the lower floor to prevent overlooking into the drying area and laundry entrance of 5 Reynolds Street and subject to the Dining room opening to be screened or to utilise obscure glass to minimise overlooking into and down to the residence at 5 Reynolds Street;
- (g) variation to allow a reduced south side setback to a minimum of 1.54 metres in lieu of the 4.7 metres required;

for the construction of 4 storey residence fronting Reynolds Street and the conversion of a garage/workshop/loft into a residence to front Preston Point Road at No. 19 (Lot 35) Preston Point Road, East Fremantle in accordance with the plans date stamp received on the 30 August 2010 subject to the following conditions:

1. privacy screening in accordance with the requirements of the Residential Design Codes or otherwise to be applied to the lower level bedroom windows which face south and north to prevent overlooking
2. privacy screening in accordance with the requirements of the Residential Design Codes or otherwise to be applied to the north facing dining room opening to prevent overlooking.
3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. the proposed works are not to be commenced until Council has received an application for a 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.
5. 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.
6. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
10. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if

approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

11. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
12. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
13. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Kim Miller & Ms Penelope Johnson of 17 Preston Point Road addressed the meeting expressing concern with the proposed development and its impact on their amenity.

Mr John Meggitt (Allerding & Associates) addressed the meeting in support of the application and explained the difficulties in designing a residence for the steeply sloping site. Mr Meggitt supported the officer's recommendation and advised that where discretions had been sought that will have an impact that they could be addressed.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

That the application for the construction of a 4 storey residence fronting Reynolds Street and the conversion of a garage/workshop/loft into a residence to front Preston Point Road at No. 19 (Lot 35) Preston Point Road, East Fremantle be deferred pending a site visit. CARRIED

T216.6

View Terrace No. 3 (Lot 240)

New Residence and Swimming Pool

Owner: F & D Garofalo

Applicant: Darren Miller Building Design

Application P198 2010

By Gemma Basley, Town Planner, 3 December 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for a new two storey residence and a below ground swimming pool No. 3 View Terrace, East Fremantle is the subject of this report.

The report recommends that Council approve the application conditionally.

Description of subject site

The subject site:

- 890m²
- is zoned Residential R12.5
- is undeveloped
- located in the Riverside Precinct

Statutory Considerations

Town Planning Scheme No. 3 (TPS3)
Local Planning Strategy –Riverside Precinct (LPS)
R12.5 Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP 066)
Local Planning Policy No. 142 : Residential Development (LPP 142)
Local Planning Policy No. 143 : Fencing (LPP 143)

Impact on Public Domain

Tree in verge : No Impact
Light pole : No Impact
Crossover : No Impact
Footpath : No Impact
Streetscape : The new residence will alter the streetscape but it is considered that it will be in keeping with existing development

Documentation

Plans and relevant forms date stamp received on 23rd and 29th November 2010

Date Application Received

26 October 2010

No. of Days Elapsed between Lodgement & Meeting Date

43 Days

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

Nil

CONSULTATION

Advertising

The application was advertised to adjoining land owners only for two weeks between the 12 and the 26 November 2010. During this period one submission was received from the adjoining neighbour of 5 View Terrace requesting that Council be consistent in the treatment it applies to new developments with regard to setbacks and intrusions.

The subject application will be assessed on its site merits and against the requirements of the R-Codes and TPS No. 3 as will be detailed in the Assessment section of this report.

Town Planning Advisory Panel

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting on 10 November 2010. The Panel made the following comments:

- Resubmit when there is a complete application.
- Query height compliance and degree of roof pitch.
- Further detail required on elevations and setbacks to plans.
- North point is not indicated on plans.
- Materials and finishes need to be provided.
- Overshadowing diagram required.
- Faux Palladian style is architecturally inappropriate.

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- Panel would prefer to see a more architecturally innovative and environmentally sustainable design.
- It would appear that passive solar design has not been adequately considered.

The applicant has since submitted revised plans which demonstrate height compliance (with the exception of the north west corner of the building), the proposed materials and finishes and overshadowing.

The applicant advises that the design of the dwelling is based on the client's design brief and is in keeping with similar designs in this street and is in keeping with a modern up-market dwelling within the locality.

In response to the Panel's comments about lack of solar passive design the applicant disputes this and identifies the extensive north facing windows on the ground and upper floors which will have full access to sunlight. Further the outdoor living area has been designed to separate the swimming and play area from the main residence to minimise any overshadowing from the proposed residence. The applicant concludes that the design has also considered and designed to best suit deflecting the strong (sometimes cold) south westerly winds via the rear yard large central blade wall, plus the location of the front balcony.

It is considered that the Panel's comments have been adequately responded to by the applicant.

Site Inspection

By Town Planner, 23 October 2010

STATISTICS

File	P/VIE3
Zoning	R12.5
Lot Area	890m ²
Heritage Listing	No

Site:	Required	Proposed	Status
Open Space	50%	65.32%	Acceptable
Overshadowing	<25%	<25%	Acceptable

Height:	Required	Proposed	Status
Wall	5.6	5.6 to 6.7	Discretion Required
Ridge	8.1	5.8	Acceptable
Roof type	Pitched and Tiled		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Front Ground	Whole	2.914	17.2	Yes	7.5	8.3	Acceptable
Upper	Balcony	5.6 to 6.7	15.5	Yes	7.5	7.5	Acceptable
Rear Ground	Whole	2.914	12.5	Yes	6.0	11.69	Acceptable
Upper	Bed 4	5.6	5.5	Yes	2.5	15.0	Acceptable
Side (west) Ground	Garage	2.7	7.68	No	1.0	3.0	Acceptable
	Pool Store	3.0	4.0	No	1.0	Nil	Discretion Required
	Whole	2.914	15.0	Yes	1.5	3.5	Acceptable

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Setbacks:

Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Upper	Lounge	5.6 to 6.7	7.0	Yes	3.2	3.0	Discretion Required (no screening on balcony)
Side (east)							
Ground	Office	2.914	9.8	Yes	1.5	1.75	Acceptable
	Kitchen	2.914	4.5	Yes	1.5	6.5	Acceptable
	Family	2.914	6.0	No	1.0	3.8	Acceptable
Upper	Whole	5.6	11.2	Yes	2.9	1.8	Discretion Required (no screening on balcony)

ASSESSMENT

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies. The following aspects of the proposal are noted:

Building Height and Site Works

The site has a 1.2 metre fall from south east to north west and therefore the north west corner of the site requires retaining. The proposed retaining in this section will result in the wall height exceeding the 5.6 metre height limit and requiring a variation to allow a 6.6 metre maximum wall height (as required under LPP No. 142)..

A variation to the site works/fill requirements is also required to allow 0.7 metres of fill in lieu of the 0.5 metres permitted under the R-Codes.

The proposed variation to the building height and the site works is supported based on the development retaining the visual impression of the natural level of the site as seen from the street. In addition the increased building height will not result in the obstruction of any views, overlooking or overshadowing.

A variation to allow site works up to 0.7 metres in lieu of the maximum 0.5 metres permitted under the R-Codes is therefore supported.

A variation to allow a maximum building height (retaining inclusive) of 6.7 metres in the north western area of the site and in lieu of the 5.6 metre height restriction under LPP No. 142 is therefore supported.

Privacy and Overlooking

The application proposes an unscreened balcony with reduced setbacks to both the east and west boundaries. Approval to these balcony openings being unscreened is not considered to be desirable or necessary and would result in overlooking into the neighbouring property front yards.

A variation for unscreened balconies is not supported. ***Therefore a condition is included in the recommendation to require the eastern and western balcony openings to be installed with 1.65 metre high privacy screens to prevent overlooking.***

Streetscape

The proposed design of the residence is considered to be in keeping with the surrounding development. The residence will be lower than the adjoining eastern property and marginally higher than the adjoining western residence providing an appropriate stepping down from each residence.

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Fencing

Council's Local Planning Policy 143 requires that fencing in the front setback of a residential lot be no higher than 1.2 metres.

The application proposes fencing above 1.2 metres in the front setback area. A variation as such is not supported because of the importance of lower fences for vehicle safety. ***In this regard a condition is recommended for the fencing to comply with LPP No. 143.***

RECOMMENDATION

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

- a variation to allow site works up to 0.7 metres in lieu of the maximum 0.5 metres permitted under the R-Codes;
- a variation to allow a maximum building height (retaining inclusive) of 6.7 metres in the north western area of the site and in lieu of the 5.6 metre height restriction under LPP No. 142;

for the construction of a two storey residence and swimming pool at No. 3 (Lot 240) View Terrace, East Fremantle in accordance with the plans date stamp received on the 23 and 29 November 2010 subject to the following conditions:

1. Fixed permanent privacy screens to a height of 1.65 metres on the eastern and western balcony openings, respectively in accordance with the requirements of the R-Codes.
2. Fencing to comply with the requirements of Local Planning Policy 143.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a 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.
5. 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.
6. The proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *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.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Flavio Garofalo (owner) chose not to address the meeting indicating his support for the officer's report.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

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

- a variation to allow site works up to 0.7 metres in lieu of the maximum 0.5 metres permitted under the R-Codes;
- a variation to allow a maximum building height (retaining inclusive) of 6.7 metres in the north western area of the site and in lieu of the 5.6 metre height restriction under LPP No. 142;
- a variation to allow a roof pitch of 20° in lieu of the 28° as required under LPP No. 66;

for the construction of a two storey residence and swimming pool at No. 3 (Lot 240) View Terrace, East Fremantle in accordance with the plans date stamp received on the 23 and 29 November 2010 subject to the following conditions:

1. Fixed permanent privacy screens to a height of 1.65 metres on the eastern and western balcony openings, respectively in accordance with the requirements of the R-Codes.
2. Fencing to comply with the requirements of Local Planning Policy 143.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a 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.
5. 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.
6. The proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

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Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) 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) 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.*
- (e) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T216.7

**Reynolds Street No. 5 (Lot 2)
Swimming Pool, Deck & Shade Structure**

Applicant: Q3 Architecture

Owner: B & R Watson

Application No. P191/2010

By Gemma Basley, Town Planner on 6 December 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for a swimming pool, deck and shade devices at the front of the existing residence at 5 Reynolds Street, East Fremantle is the subject of this report.

This report recommends conditional approval.

Statutory Considerations

Town Planning Scheme No. 3 subject to Clause 5.3.3 of TPS No. 3
Local Planning Strategy – Riverside Precinct (LPS)
R12.5 Residential Design Codes (RDC)

Relevant Council Policies

LP Policy No. 143: Residential Development

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : The proposed pool will be clearly visible from Reynolds Street but it is considered to be suited to the existing residence and not detrimental to the streetscape.

Documentation

Plans and relevant forms date stamp received on 22 October 2010.

Date Application Received

22nd October 2010

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

20 March 2001 Council grant special approval for the erection of 2nd storey additions to existing residence comprising northern second storey balcony with parapet wall subject to receipt of adjoining strata owner's consent.

CONSULTATION

Advertising

The application was advertised to the surrounding neighbours for two weeks between the 29 October and the 12 November 2010. One submission was received in the advertising period and is detailed below with a response from the applicant also.

Submission	Applicant Response
<p>Allerding & Associates on behalf of Mr Gary Archer of 7 Reynolds Street.</p> <p>Object on the basis that variations being sought will adversely affect 7 Reynolds Street, which adjoins to the south.</p> <p>Concerns relating to the impact of overshadowing from the proposed development (24.7%), the nil boundary setback of the pergola over the pool and noise impact from the use of the pool.</p> <p>Impact of overshadowing on the existing lot (24.7%) and on the proposed survey strata lot (46%).</p> <p>Impact of overshadowing on the north facing habitable room windows and balconies.</p> <p>Impact of noise from the pool as a result of the nil setback and its proximity to the proposed development on 7 Reynolds Street.</p>	<p>The proposed additions will only increase the overshadowing onto 7 Reynolds Street by 2.6% and based on the current area of 7 Reynolds Road, this is below the 25% maximum overshadowing permitted by the R-Codes.</p> <p>If 7 Reynolds Street (adjoining to the south) is granted Survey Strata Subdivision Approval by the WAPC, the overshadowing on the subdivided lot will increase by 5%.</p> <p>The overshadowing however will only fall over the front setback area of the neighbouring lot and will not therefore impact on any habitable rooms or balconies.</p> <p>The owners of 5 Reynolds Street are a retired couple in their 70's and are installing a pool for the health benefits of regular exercise. The pool is part of an ongoing modification to the residence, including a recent lift, to allow them to stay in their current residence throughout their retirement.</p> <p>The pool is located within the front setback area so that it is easily accessible from the first floor balcony and a nil setback has been proposed to maximise the use of this space. Privacy screening is proposed along the southern boundary to ensure no loss of privacy to the adjoining site at 7 Reynolds Street.</p> <p>The pool is restricted in size as are the associated decks which will restrict their use. The proposed pool area is not intended for outdoor entertaining usage. Outdoor entertaining will continue to occur on the balcony above the garage.</p>

The neighbour objections have been responded to above and it is considered that the development is acceptable as is proposed. The additional overshadowing will not impact on any habitable rooms or balconies on the proposed development of 7 Reynolds Street and will predominantly affect the front setback area of 7 Reynolds Street. It is further concluded that there will be limited noise impact from the pool on the residents of 7 Reynolds Street.

Site Inspection

By Town Planner on 4 November 2010

Statistics				
File	P/REY5			
Zoning	R12.5			
Lot Area	379m ²			
Heritage Listing	No			
Site:	Required	Proposed	Status	
Site Works on boundary/street setback	Maximum 0.5m	n/a	n/a	
Open Space	n/a	n/a	n/a	
Overshadowing	<25%	<25%	Acceptable Development	

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Height:	Required	Proposed	Status
Wall	6.0 metres	5.4	Acceptable
Ridge	9.0 metres	7.05	Acceptable
Roof type	Flat		

Privacy/Overlooking No overlooking will occur – privacy screens to be installed

Setbacks

Setbacks have not been assessed because the application is for a pool, which is proposed in the front setback area of the site and which proposes a boundary wall.

ASSESSMENT

The application proposes to construct a swimming pool, associated decking and shading devices at 5 Reynolds Street, East Fremantle. The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the following elements that require a discretionary consideration:

Streetscape Requirements

The pool and associated structure is proposed to be located in the front setback area of 5 Reynolds Street and requires a variation to the requirements of the R-Codes. The topography of Reynolds Street is such that discretions have already been granted to allow a reduced front setback for the existing dwelling.

The application has been assessed and it is determined that the proposed pool and structures will not detract from the streetscape because it will only intrude approximately 1.5 metres in front of the existing balcony as would a minor encroachment into the front setback from stairs, porches etc. The proposed structure is simple and will not compete with the existing residential façade.

More so the proposed pool is likely to contribute to the desired streetscape by creating an active space where increased interaction between the street and the residence can occur. The application proposes the use of privacy screens as required under the R-Codes and will not detract from the privacy of the application site or the neighbouring properties. The variation to the streetscape requirements by allowing a pool structure in the front setback area is therefore supported.

Boundary Setback and Boundary Wall Requirements

The pool is proposed to be located on the southern boundary of the site with a nil setback for the length of the screening wall. This requires a boundary wall with a length of 3.725 metres and with a maximum height of 3.895 metres. The proposed boundary setback and boundary wall variations are considered to be acceptable based on the effective use of the site. The amenity of the adjoining neighbours will not be affected because the proposed pool will be forward of the proposed neighbouring residence. In addition to this the location of the pool will not impact directly on any balcony areas or habitable windows associated with 7 Reynolds Street.

Given that the proposal meets nearly all of the relevant acceptable development provisions of TPS3, the R-Codes and applicable Local Planning Policies and only one minor discretionary decision is required by Council, the proposal is supported and recommended for Approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for:

- a variation to the streetscape requirements of the R-Codes to allow the pool to be located within the front setback area; and
- a boundary wall with a maximum height of 3.895 metres along the southern boundary in lieu of the R-Code requirements for a maximum boundary wall height of 3.0 metres; for the construction of a swimming pool, decking and shade cover at No. 5 Reynolds Street, East Fremantle, in accordance with plans date stamp received on 22 October 2010, subject to the following conditions:

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1. the additions to be finished in high quality materials to match the existing residence.
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 approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. 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. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
7. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
8. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
9. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
10. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
11. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
12. 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.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

Mr Brian Watson (owner) addressed the meeting in support of his application.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Lilleyman

That Council exercise its discretion in granting approval for:

- **a variation to the streetscape requirements of the R-Codes to allow the pool to be located within the front setback area; and**
- **a boundary wall with a maximum height of 3.895 metres along the southern boundary in lieu of the R-Code requirements for a maximum boundary wall height of 3.0 metres;**

for the construction of a swimming pool, decking and shade cover at No. 5 Reynolds Street, East Fremantle, in accordance with plans date stamp received on

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22 October 2010, subject to the following conditions:

1. the additions to be finished in high quality materials to match the existing residence.
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 approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. 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. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
7. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
8. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
9. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
10. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
11. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
12. 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.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

CARRIED

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T216.8 Fletcher Street No. 1 (Lot 500)
Applicant & Owner: Barry Toms
Application No. P148/2010

By Gemma Basley, Town Planner on 3 December 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for substantial alterations and additions to the existing single residence at 1 Fletcher Street, East Fremantle is the subject of this report. More specifically the application proposes to redevelop the existing residence to form two individual grouped dwellings.

This report recommends conditional approval.

Description of Proposal

The most westerly grouped dwelling is proposed to comprise only a single storey of development and will utilise the existing west side walls and openings and the rear walls including increasing the north facing window. The proposed east side walls and front walls will be newly constructed after the demolition of the central areas of the existing residence and numerous internal walls. The single storey residence will present to the street with a verandah at the front of the house and a garage that projects forward of this and into the front setback area.

The easterly grouped dwelling is proposed to comprise a two storey dwelling and will utilise a portion of the existing eastern side walls and will retain the garage and entrance area in its current position. The remainder of the existing front verandah and concrete steps will be removed and replaced with a new structure to accommodate a Study area at the front of the proposed house. All of the proposed western walls will be constructed after the demolition of numerous internal walls.

Statutory Considerations

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

Relevant Council Policies

LP Policy No. 143: Residential Development

Impact on Public Domain

Tree in verge	:	No impact
Light pole	:	No impact
Crossover	:	No impact
Footpath	:	No impact
Streetscape	:	The redevelopment of the residence will alter the streetscape but not in an adverse way

Documentation

Plans and relevant forms date stamp received on 22 September 2010 and correspondence received on 1 November 2010

Date Application Received

30 August 2010

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

20 December 2005 Council resolves to initiate Amendment No. 3 to TPS 3 which is later approved by the Minister for Planning and which rezoned the site to 'R20'.

CONSULTATION

Advertising

The application was advertised to the surrounding neighbours for two weeks between the 13 and the 26 October 2010. No objections were received in the advertising period.

Town Planning Advisory Panel

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting of the 28 September 2010 and again at the 10 November 2010 meeting where the following comments were made:

- No support for the garage forward of the main building line.
- Applaud the use of the existing building.
- The two storey element sits discordantly over the lower section.
- Design somewhat mundane and could be improved to reflect the streetscape.
- Revised Plans - Double garage element still too dominant –consider reducing to single garage or;
- Revised Plans - Consider aligning both second storey entrance components with single storey, in order to create new streetscape in line with garage and further 'modulate' streetscape presentation.

The applicant has submitted further revised plans to address the comments raised by the Panel. The revised plans are the subject of this report and include the following changes:

- The upper floor of the eastern grouped dwelling has been pulled forward and cantilevered over the entrance and the garage to provide visual interest and articulation.
- The upper floor lines up with the ground floor which will enable a more simplistic roofline.

It is considered that the plans the subject of this report have taken into consideration all of the comments put forward by the Panel and in this regard they are suitable for determination.

Site Inspection

By Town Planner on 4 November 2010

Statistics - Single Storey + Loft Grouped Dwelling

File	P/FLE1
Zoning	R20
Lot Area	608m ²
Heritage Listing	No

Site:	Required	Proposed	Status
Site Works on boundary/street setback	Maximum 0.5m	n/a	Acceptable
Open Space	50%	40.11%	Discretion Required
Overshadowing	<25%	<25%	Acceptable Development
Height:	Required	Proposed	Status
Wall	3.0 metres	3.6 metres	Discretion Required
Ridge	6.0 metres	45.989 metres	Acceptable Development
Roof type	Skillion		
Privacy/Overlooking	No overlooking will occur		

Setbacks have not been assessed on all boundaries because the application proposes to retain existing walls and setbacks.

Setbacks:							
Wall Orientation (east)	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Ground	New eastern side wall	2.75	18.0	Yes	1.5	1.65	Acceptable
	New eastern boundary wall	2.75	6.0	No	1.0	Nil	Acceptable (refer assessment below)

Minor incursion into the front setback area requires a variation

Statistics Two Storey Grouped Dwelling

File	P/FLE1
Zoning	R20
Lot Area	607m ²
Heritage Listing	No

Site:	Required	Proposed	Status
Site Works on boundary/street setback	Maximum 0.5m	0.5	Acceptable
Open Space	50%	64%	Acceptable Development
Overshadowing	<25%	<25%	Acceptable Development

Height:	Required	Proposed	Status
Wall	3.0 metres	4.5 metres	Discretion Required
Ridge	6.0 metres	4.5 metres	Acceptable Development
Roof type	Skillion		

Privacy/Overlooking	Overlooking will occur into the front yard of 41 Allen Street because the balcony is unscreened.
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Setbacks have not been assessed on all boundaries because the application proposes to retain existing walls and setbacks to some boundaries.

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Side (west)							
Ground	Whole	2.5	8.6	No	1.0	1.2	Acceptable
	Upper	5.4	5.5	No	1.2	1.2	Acceptable
Side (east)							
Ground	Bed 3 – Bed 1	2.5	8.2	No	1.0	1.0	Acceptable
	Upper	5.4	5.2	Yes	2.5	4.71	Acceptable

ASSESSMENT

Garage Forward of the Building Line

LPP No. 142 requires that garages be setback behind the main building line of a residence. The subject application proposes to construct a double garage at the front of the proposed single storey residence. In respect to the comments raised by the Panel, the applicant has advised that it is not physically possible to shift the garage to behind the main building line because of the raised floor level, which is currently accessed via the front steps. To push the garage behind the main building line and into the area comprising the proposed Theatre would require more significant portions of the

house to be demolished including the removal of parts of the slab. The applicant advises that this is not practicable.

The applicant has taken on all the advice from the Panel and proposes a raised verandah and entry to extend forward of the existing residence and a portico that extends marginally beyond the garage and which will be higher and more prominent than the garage.

Fletcher Street has many side fences which detract from the streetscape. Whilst a garage forward of the building line will also detract from the streetscape it is considered acceptable on the basis of the varied streetscape of Fletcher Street and on the basis of the re-use of a substantial residential building and conversion of this into two separate grouped dwellings.

Minor Incursion into the Front Setback Area

The proposed garage and portico of the single storey dwelling intrudes into the front setback area by between 1.0 and 1.5 metres. This is not desirable but can be considered on the basis of utilising existing building stock. The intrusion of the garage and portico into the front setback area will be considerably offset by the proposed two storey development immediately to the east.

Variation to Open Space Requirements for Single Storey Grouped Dwelling

The proposed western most single storey dwelling is proposed to be retained on a 607m² lot however the site cover exceeds the maximum requirements of the R-Codes and leaves a shortfall in the provision of open space. More specifically a variation is sought to allow the provision of 40.11% in lieu of the 50% required under the R-Codes.

The site has been the subject of an earlier subdivision approval granted by the Western Australian Planning Commission, which has since expired. The applicant will pursue subdivision of the site again.

The application successfully converts an existing and oversized dwelling into two smaller and more manageable grouped dwellings that will provide for different living opportunities within the Town of East Fremantle. Given that the proposal meets nearly all of the relevant acceptable development provisions of TPS3, the R-Codes and applicable Local Planning Policies and only minor discretionary decisions are required by Council, the proposal is supported and recommended for Approval.

Visual Privacy

The eastern opening of the upper floor balcony is not screened and could overlook 41 Allen Street. The neighbouring site has just been granted Planning Approval to construct a garage adjacent to 1 Fletcher Street and in this regard the screening of this opening is not required and a variation to the privacy requirements is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for:

- A variation to the privacy requirements to allow the eastern opening of the upper floor balcony to be unscreened;
- A variation to the open space requirements to allow a reduction in open space for the single storey residence from 50% to 40.11%;
- A variation to the building height requirements to allow a single storey wall to exceed to 3.6 metres in lieu of 3.0 metres required by the Codes;

redevelopment of No. 1 (Lot 500) Fletcher Street, East Fremantle to create two dwellings, in accordance with plans date stamp received on 26 November 2010, subject to the following conditions:

1. the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the CEO prior to the issue of a Building Licence.
2. 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.
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. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 6. 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).*

Mr Barry Toms (applicant) addressed the meeting in support of the officer's recommendation.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Lilleyman

That Council exercise its discretion in granting approval for:

- **A variation to the privacy requirements to allow the eastern opening of the upper floor balcony to be unscreened;**
- **A variation to the open space requirements to allow a reduction in open space for the single storey residence from 50% to 40.11%;**
- **A variation to the building height requirements to allow a single storey wall to exceed to 3.6 metres in lieu of 3.0 metres required by the Codes;**

redevelopment of No. 1 (Lot 500) Fletcher Street, East Fremantle to create two dwellings, in accordance with plans date stamp received on 26 November 2010, subject to the following conditions:

1. **the garage door to be cedar or similar material.**
2. **the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.**
3. **the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
4. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
5. **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.**
6. **all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief**

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

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

Footnote:

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

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

CARRIED

Cr Martin made the following impartiality declaration in the matter of 42 Glyde Street: "As a consequence of the adjoining neighbour, Ms Felicity Caulfield, being a former participant in my piano classes, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T216.9 Glyde Street No. 42 (Lot 147) – Rear Deck
Applicant: Glyde –In Community Learning Centre
Owner: Town of East Fremantle
Application No. P179/2010

By Jamie Douglas, Manager – Town Planning Services on 3 November 2010

BACKGROUND

Purpose of this Report

The report assesses an application for Planning Approval for a rear deck and recommends approval.

Statutory Considerations

Town Planning Scheme No. 3

Impact on Public Domain

Tree in verge : N/a
Light pole : N/a
Crossover : N/a
Footpath : N/a
Streetscape : The deck will be unseen from the street.

Documentation

Plans and relevant forms date stamp received on 20 October 2010

Date Application Received

2 October 2010

Additional Information Received:

20 October 2010

CONSULTATION

Advertising

Three adjoining land owners only

Date Advertised

2 November 2010

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Submission Received

One submission received on 15 November 2010 from rear neighbours at 49 Hubble Street

No. of Days Elapsed between Lodgement & Meeting Date

49 days (since lodgement of additional plans)

Site Inspection

By Manager – Town Planning Services

ASSESSMENT

The proposal is to construct a timber deck over an area currently occupied by a disabled ramp access and a paved area. The proposed deck will incorporate a replacement disability ramp to the side of the building. The proposed deck will generally be contained under the existing roofed veranda.

The neighbours submission states *'we do not foresee any problems with the erection of the proposed rear deck'*. However they raise concerns as to increased volume of noise if the new deck is to be used for functions and activities, and would like this possible impact considered in any determination.

The proposed deck is of modest proportions – 9.42 metres by 2.88 metres with a finished level to match that of the existing building which is a maximum of 400mm above natural ground level. There is substantial screening vegetation, a high fence and a garden shed between the proposed deck and the neighbouring property to the rear. There will also be a setback of 5.6 metres from the proposed deck to the rear boundary.

Given the site features and the scale of the deck it is not considered to have any greater potential to impact upon neighbour amenity than if the proposal was associated with a residential use. However some conditions placed upon the hours of operation and the use of public address systems or amplified music on the proposed deck area would provide added assurance that existing neighbour amenity will be retained.

CONCLUSION

The proposal merits approval subject to conditions being imposed upon the hours of operation and the use of amplified sound systems.

RECOMMENDATION

That Council grant planning approval for the construction of wooden deck at No. 42 (Lot 147) Glyde Street, East Fremantle in accordance with the plans date stamp received on 20 October 2010 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has issued a 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 rear deck area the subject of this approval, is not to be utilised for activities which involve the use of public address systems or amplified music and should not be used for functions after 8 pm on any evening.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

Mr Jono Farmer (Board Member – Glyde-In) addressed the meeting, thanking officers for their recommendation.

RECOMMENDATION TO COUNCIL

Cr Collinson – Cr Nardi

That Council grant planning approval for the construction of wooden deck at No. 42 (Lot 147) Glyde Street, East Fremantle in accordance with the plans date stamp received on 20 October 2010 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has issued a 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 rear deck area the subject of this approval, is not to be utilised for activities which involve the use of public address systems or amplified music and should not be used for functions after 8 pm on any evening.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T216.10 Osborne Road No. 47 (Strata Lot 1) - Alterations/Additions & Roof Replacement
Applicant/Owner: Darryl & Vicki Poletti
Application P189/2010

By Gemma Basley, Town Planner, 2 December 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for alterations and additions to the existing character residence (C[^] in the MI) at No. 47 Osborne Road, East Fremantle is the subject of this report.

The application comprises the following:

- extending the lounge forward of the entry and verandah;
- demolishing the single garage and replacing this with a double garage with a boundary wall to the North;
- replace external asbestos fibro and replace with painted weatherboard; and
- replacing the existing fence with a 1.2 metre high white picket fence.

The report recommends that Council approve the application conditionally.

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Description of subject site

The subject site:

- 538m²
- is zoned Residential R20
- developed with a aged building which has become degraded
- located in the Richmond Precinct abutting the former corner store building (No. 38 Wolsely Road)
- is included in the Town's Municipal Inventory (management Category of C^).

Statutory Considerations

Town Planning Scheme No. 3 (TPS3)
Local Planning Strategy – Plympton/ Woodside Precinct (LPS)
R12.5 Residential Design Codes (RDC)
C^ (Management Category – Municipal Heritage Inventory)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP 066)
Local Planning Policy No. 142 : Residential Development (LPP 142)
Local Planning Policy No. 143 : Fencing (LPP 143)

Impact on Public Domain

Tree in verge : No Impact
Light pole : No Impact
Crossover : No Impact
Footpath : No Impact
Streetscape : The proposed additions will alter the streetscape but it is considered that it will not be to the detriment of the streetscape

Documentation

Plans and relevant forms date stamp received on 21 October 2010

Date Application Received

21 October 2010

No. of Days Elapsed between Lodgement & Meeting Date

48 Days

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

Nil

CONSULTATION

Advertising

The application was advertised to adjoining land owners only for two weeks between 22 October 2010 and 8 November 2010. During this period no comments were received.

Town Planning Advisory Panel

The subject application was assessed by the town Planning Advisory Panel (TPAP) at its meeting on 10 November 2010. The Panel supports the proposal and retention of the house.

Site Inspection

By Town Planner, 9 November 2010

STATISTICS

File	P/OSB47
Zoning	R20
Lot Area	538m ²
Heritage Listing	MI Management Category 'C^'

STATISTICS

Site:	Required	Proposed	Status
Open Space	50%	61.43%	Acceptable
Overshadowing	<25%	Nil	Acceptable

Height:	Required	Proposed	Status
Wall	3.0	3.2	Discretion Required
Ridge	6.0	5.8	Acceptable
Roof type	Pitched and Tiled		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Front Ground	Lounge/Garage	3.2	10.7	Yes	6.0	6.0	Acceptable
Side (north) Ground	Garage	2.7	6.8	No	1.0	Nil	Acceptable refer assessment below

Privacy/Overlooking: No overlooking will occur from subject property

ASSESSMENT

Considerations

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies. The following aspects of the proposal are noted:

Heritage Impact Assessment

A heritage Impact Assessment was submitted by the application and is attached to this report. The Report concludes that overall, the proposal is considered acceptable as the development retains the limited cultural heritage significance of the original building and the streetscape contribution to Osborne Road. The following key aspects have been considered in evaluating the proposal:

- The place has limited cultural heritage significance being constructed post 1950 and being a late example of a simple bungalow style house.
- The place has limited cultural heritage significance being constructed post 1950 and being a late example of a simple bungalow style house.
- The place is not part of an intact streetscape section of Osborne Road.
- The proposed new setbacks are consistent with both adjoining properties.
- A double garage is located adjacent to this property.
- The historical research undertaken for this report should be provided to the Town of East Fremantle and the Local History Collection at the City of Fremantle Library.

The Heritage Impact Assessment supports the modifications to the building that are the subject of this report.

Streetscape

The proposed additions will not be out of character with the immediate locality, which is undergoing change. The site adjoins 38 Wolsely Road a former shop which has been converted into a contemporary residential building.

The proposed setback of the lounge and double garage to the front boundary is in keeping with the setback that has been established on the adjoining lots.

Building Height

The additions propose a wall height of 3.2 metres. This is to match the existing wall heights of the original residence. Wall heights in excess of 3.0 metres in earlier

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architecture are not isolated. The retention of the wall height thought the whole development enables a simple roof design and a balanced development.

A variation to allow a maximum wall height of 3.2 metres in lieu of the 3.0 metres required under the R-Codes is supported based on the above.

Boundary Setbacks and Boundary Walls

Clause 6.3.2 A2 (ii) of the R-Codes lists the following as 'Acceptable Development':

"(ii) Walls built up to the boundary in areas coded R20 and R25, walls not higher than 3 metres with an average height of 2.7 metres up to 9 metres in length up to one side of the boundary"

The proposed boundary wall does not therefore require a variation to the R-Code requirements as would be required in lower density codes.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to allow a maximum wall height of 3.2 metres in lieu of the 3.0 metres required under the R-Codes for the construction of additions at No. 47 (St Lot 1) Osborne Road, East Fremantle in accordance with the plans date stamp received on 21 October 2010 subject to the following conditions:

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

Footnote:

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

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

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- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *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.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Darryl Poletti (owner) chose not to address the meeting indicating his support for the officer's recommendation.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council exercise its discretion in granting approval for a variation to allow a maximum wall height of 3.2 metres in lieu of the 3.0 metres required under the R-Codes for the construction of additions at No. 47 (St Lot 1) Osborne Road, East Fremantle in accordance with the plans date stamp received on 21 October 2010 subject to the following conditions:

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

Footnote:

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

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

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- (d) *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.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.* CARRIED

T216.11 **Duke Street No. 34 (Lot 303)** **'DRAFT REPORT'**
Applicant: Cole Dryka Architects/National Trust
Owner: National Trust
Application No. P49/2009
By Jamie Douglas – Manager Planning Services on 2 December 2010

PURPOSE OF THIS REPORT

This report considers an application for the redevelopment and change of use of the Royal George Hotel, 34 Duke Street, from artist's studios and art gallery to short term accommodation and restaurant. It is recommended the determination of the application be deferred.

BACKGROUND

The application was originally lodged on 21 May 2009. Council staff did not consider the plans submitted were adequate for a determination and there were numerous queries regarding proposed uses and other relevant issues, which Council staff did not consider had been sufficiently addressed by the applicant such as to allow the completion of the planning assessment. In addition there was a dispute about the required role of the Heritage Council in the matter pursuant to relevant provisions of the Heritage Act (The National Trust argued the Council had no such role). Some of these issues remained unresolved at the time the applicants subsequently appealed to the State Administrative Appeals Tribunal on the grounds of a 'deemed refusal' pursuant with clause 10.9.2 of Town Planning Scheme No. 3. Under this clause, an application is deemed to have been refused if a determination is not conveyed to the applicant within 90 days of the receipt of the application. Following mediation hearings, the SAT has directed that Council review its decision (deemed refusal) and determine the application. Any determination may be subject to subsequent hearings before the SAT.

SITE HISTORY

1904-05	Royal George built for Daniel & Michael Mulcahy (cost – 5,200pounds);
1964	Balcony with decorative iron panels and graceful posts removed and replaced with a suspended awning;
1979	Hotel closes;
1980	Building purchased by MRWA for demolition for a 4-lane freeway;
1980-1985	Building leased to KIDS (open learning school)
1983	Minister for Planning and Member for Fremantle David Parker and Minister for Transport Julian Grill meet with MRWA and decide to change plans for the highway to retain the Royal George;
Post 1985	Building leased to community groups, artists and craftspeople;
1986-1988	Government grant of \$104,000.00 used to restore the building;
9 October 1985	15-year lease between MRWA and Town of East Fremantle commences;
19 December 1994	Council grants special approval for a mezzanine floor and stairs to Room C1 subject to Main Roads and Fire Brigades approval, and the structure being removable;
13 March 1996	WAPC approves amalgamation of Lots 542-548 Duke Street;
15 April 1996	Council decides to refuse an application for 2 semaphore signs to the face of the Royal George Art & Community Centre for the Thai Kitchen Restaurant;
17 June 1996	Council decides to refer back an application for a semaphore sign on the veranda of the Royal George Hotel to the Town Planning & Building Committee;

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9 August 1996	Planning Officer/Building Surveyor grants approval for an illuminated sign between the veranda posts;
12 November 1996	Council grants special approval for a mezzanine floor and stairs in Room 1 subject to Main Roads and Fire Brigades approval, and the structure being of a temporary nature;
10 February 1997	WAPC endorses Diagram 91578 to create Lot 303 containing Royal George Hotel;
11 February 1998	Final Conservation Plan forwarded to Council for information;
19 May 1998	Council adopts Conservation Plan prepared by Hocking Planning and Architecture and Adele Adelphi, (March 1998);
12 June 1998	Council applies for a \$10,500.00 Heritage Grant for urgent works to the cupola/tower room;
20 October 1998	Council decides to advise the Heritage Council of its disappointment with not obtaining a grant to restore the hotel tower;
30 October 1998	Building is permanently entered on the State Register of Heritage Places;
15 June 1999	Council decides to delegate to the Mayor and CEO responsibility to deal with MRWA & other relevant agencies in respect to the Royal George Art & Community Centre;
25 November 2000	One-year lease between Main Roads WA and Town of East Fremantle for building at 34 Duke Street executed;
21 March 2001	CEO seeks lessor's approval to sub-let the gallery area to the Old Royal George Artist Foundation (Inc);
October 2001	Lease between MRWA and Town of East Fremantle extended until 31 March 2002;
April 2002	Lease extended until September 2002;
December 2004	Royal George Hotel ownership transferred from MRWA to National Trust;
7 August 2007	Tom Perrigo for the National Trust delivers a presentation to Council on a redevelopment proposal.
12 May 2009	Proposal for Serviced Apartments, Restaurant and Wine Bar lodged and then withdrawn
21 May 2009	Revised Proposal for Serviced Apartments, Restaurant and Gallery lodged

FURTHER CHRONOLOGY TO BE INSERTED

DESCRIPTION OF THE PROPOSAL

Documentation

Plans and relevant forms date stamp received on 3 November 2010 (revised plans)

Date Application Received

21 May 2009

Additional information

From the initial lodgement of the proposal, Council has made various requests for clarification of the proposal and for additional information. Most recently amended plans have been submitted and received on 3 November 2010. These plans form the basis of this assessment.

Title Description

The property is the subject of Certificate of Title Volume 2582 Folio 876 and is described as Lot 303 on Diagram 91758 (see Attachment 2).

The registered proprietor is the National Trust of Australia, and the transfer of the title for the property from the Minister for Lands to the National Trust of Australia (WA) registered on 31 January 2005 was conditional.

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The Second Schedule on the record of the Certificate of Title lists the following limitations, interests, encumbrances and notifications:

- "1. J167373 CONDITIONAL TENURE LAND, LAND SUBJECT TO CONDITIONS PURSUANT TO S75 LAA. MINISTER'S CONSENT REQUIRED TO TRANSFER OR ENCUMBER LAND. SEE INSTRUMENT J167373. REGISTERED 31.1.2005.
2. *H110405 MEMORIAL. HERITAGE OF WESTERN AUSTRALIA ACT 1990. LODGED 17.5.1999.
3. *J167374 MEMORIAL LAND ADMINISTRATION ACT 1997 SECTION 16 REGISTERED 31.1.2005"

Development Proposal

The proposed works comprise demolition, extensions, refurbishment and a change of use from artists studios and art gallery to short term accommodation (15 en-suite rooms and 6 serviced apartments) and restaurant as follows:

- Lower Ground floor (external)
New vehicular entry point and 22 on site car bays, landscaping, new stairs and lift/stair tower to first floor level
- Basement
Internal alterations and refurbishment to create serviced apartments – Units 1-6 with lower restaurant with 20 seats
- Ground Floor
Demolish existing ablution block and provide new kitchen facilities, repave and water seal courtyard and internal alterations and refurbishment to create a restaurant servery, 44 seat restaurant, managers office and administration, 3 hotel rooms with en-suites, toilets and dining room.
- First Floor
Internal alterations and refurbishment to create 12 hotel rooms with en-suites, stores
- Cupola
Internal alterations and refurbishment to establish 'interpretative centre'.

Details of the proposed conservation works are contained in Attachment 3 'Scope of Conservation Works to be Undertaken'.

CONSULTATION

The proposal has been the subject of two rounds of advertising in June/July 2009 and the revised plans were subsequently readvertised from 18 November until 3 December 2010. The advertising consisted of letters to landowners, business proprietors and residents in the immediate area; sign/s on site, and advertisement in local newspaper for two consecutive weeks. The proposal was also referred to relevant agencies.

The submission period has not finished at the time of writing this report, accordingly a submissions summary will be tabled at the meeting.

Town Planning Advisory Panel Comments

The application was previously considered by the Town Planning Advisory Panel at its meeting held on 28 July 2009 (and there have been no material changes to the plans since then) and the following comments were made:

- insufficient detail for assessing the application for planning approval.
- Panel's understanding is that the condition on the title requires that the building be used for 'heritage purposes'. Query what constitutes 'heritage purposes'.
- a Conservation Plan is required and should be submitted as part of the application.
- detailed information in relation to what conservation works are to be undertaken as part of the re-development needs to be provided for Council's consideration.
- detailing on the lift structure is very obvious on the Stirling Highway side and if done well will be an acceptable solution.
- Council needs to see the detailing on the lift.
- accommodation is an ideal use of the building.
- some relaxation of parking could be considered.

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- seems illogical that the lift doesn't go to upper floor.
- some of the rooms appear ill-conceived in their planning and unlikely to be acceptable.
- no original walls shown on the plans for the proposed development.
- note that original name 'Royal Hotel' should be re-instated.
- Unit No. 2 does not appear on the plans.
- drawings are lacking detail.

Referral Responses from other Agency/Authority

- Fremantle Ports* It is recommended that it be made a condition of approval that proposed development meets the built form requirements for Area 2 of the Fremantle Port Buffer where possible as detailed in the Town of East Fremantle's 'Fremantle Port Buffer Development Guidelines'.
- Main Roads WA*
- no objections to the change of use;
 - applicant to be made aware residential amenity may be impacted by noise and vibration from Stirling Highway;
 - appropriate features may need to be incorporated in the design and refurbishment of the serviced apartments to mitigate against such impacts and consideration be given to noise attenuation measures for two storey apartments.
- Heritage Council*
- the Heritage Council has endorsed the new works and the conservation works

Site Inspection

By Manager – Town Planning Services Town Planner 22 November 2010.

STATUTORY PLANNING CONTEXT

Town Planning Scheme No. 3 – George Street Mixed Use
Local Planning Strategy – Plympton Precinct (LPS)

Relevant Council Policies

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

Heritage

The property at 34 Duke Street is on the State Register of Heritage Places and Council's Heritage List therefore this planning application was referred to the Heritage Council for comment (Part 8, Sn. 78, Heritage of Western Australia Act, 1990).

Land Use

This application proposes to change the use of the building known as the "Royal George Hotel" from an "Exhibition Centre" (presently used as a gallery with individual rooms for artists) to "Serviced Apartments and Restaurant".

The property is in the George Street Mixed Use zone under TPS 3.

Within this zone a Restaurant is a "D" use which means that it is not permitted *unless the local government has exercised its discretion by granting planning approval.*

Serviced apartments/short stay accommodation is a use that is not listed in TPS 3, and the following provision applies:

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

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

In the mixed use zone the following objectives apply:

- *To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which will not prejudice the amenities of the neighborhood;*
- *To ensure future development within each of the Mixed Use Zones is sympathetic with the desired future character of each area, and that a significant residential component is retained as part of any new development;*
- *To promote the coordination of development within each of the Mixed Use zones and to facilitate the safe and convenient movement of pedestrians to and within the area;*
- *To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the streetscape.*

(TPS 3, Part 4: Zones, Cl. 4.2 Objectives of the zones)

Residential use in the Mixed Use zone is a permitted use; the use “serviced apartments” is a commercial/residential use, which is considered to meet the above-stated first dot point objective, and is therefore able to be considered by Council for approval as an integral part of this application.

Car Parking & Vehicular Access

Clause 5.85 of the Scheme states where there are no applicable standards for car parking in Schedule 11 of the Scheme (as is the case) then Council is to determine what standards are to apply taking into account the likely demand for parking which is generated.

Clause 5.8.7 states Council may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.

Clause 5.8.8 states Council may accept or require cash-in-lieu of all or a proportion of required car parking, based on the estimated cost of providing the requisite parking. Any such acquired funds are to be used to provide public car parking in the vicinity of the subject site.

Variations to the Scheme Provisions for a Heritage Place

Clause 7.7 of the Scheme provides that Council may vary any site or development requirement specified in the Scheme where it would facilitate the conservation of a heritage place.

Matters to be Considered in the Determination

Clause 10.2 of the Scheme contains a range of matters to which Council is to have due regard in considering the application, of these the following are considered to be particularly relevant to this proposal:

- (i) the conservation of any place included in the Heritage List;
- (k) any social issues that have an effect on the amenity of the locality;
- (l) the cultural significance of any place or area affected by the development;
- (o) the preservation of the amenity of the locality;

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- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicle;
- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (v) whether adequate provision has been made for access for disabled persons,
- (z) any relevant submissions received on the application;

Local Planning Strategy- Plympton Precinct

The Strategy states:

Land Use

The planning of George Street needs to balance the mix of uses (that contributes to its particular atmosphere) with the effect on the adjoining residential area and the Town Centre. The proliferation of non-residential land uses at the expense of existing residential occupation could upset the balance, and accordingly a Mixed Use is proposed.

CONSIDERATION

Land Use

It should be noted that, only six of the total 21 rooms proposed have self contained facilities for cooking and dining. As such the majority of rooms could not strictly be interpreted as "serviced apartments". However if the development was defined as a 'motel' or 'hotel' it could not be approved because such uses are 'prohibited' in the 'mixed use' zone. Given the constraints imposed by the heritage fabric of the building and the desire to develop an economic reuse of the site in accordance with 'Burra Charter' principles, it is therefore considered reasonable to interpret the accommodation use as "serviced apartments" albeit that a central dining room will be provided to service the majority of the rooms.

The proposed uses of "serviced apartment" and restaurant are considered to be supported by the objectives of the 'mixed use zone' and the Local Planning Strategy – (Plympton Precinct desired land use provisions). The proposed uses are considered to be preferable in terms of impact on residential amenity within the neighbourhood in comparison with alternative entertainment uses such as nightclub, music venue and bar, which might otherwise be proposed for the building and which have formed components of previous proposals.

The important community function of the past interim use of the site for community uses – artist's studios and gallery etc. is acknowledged however such uses do not form part of this proposal. It is proposed however that the Cupola could be utilised as a 'community space', however the feasibility of this is yet to be determined at the time of writing this report.

Built Form

A Conservation Plan for the Building was prepared by Hocking Planning & Architecture for the National Trust in June 2007. This Plan has guided the preparation of the proponents report 'Scope of Conservation Works to be Undertaken' which was prepared in September 2010 (refer Attachment 3).

It has been assessed that the proposed works are generally appropriate and will support the heritage significance of the building while providing for its economic re-use. Accordingly further assessment of these works is not necessary within the context of this consideration.

Consultation

As stated, the provisions of Clause 10.2 of the Scheme require Council to have due regard to 'any relevant submissions received on the application'. At the time of writing,

the public notification period has not concluded and it has not been possible to present an analysis of the submissions received within this report.

Traffic and Car Parking

Traffic and parking considerations are fundamental to this assessment. The proponents submitted a Car Parking and Traffic Report prepared by ML Traffic Engineers and dated October 2010. This report is similar to a report by ML Traffic Engineers for the National Trust and dated November 2009. The only difference between the reports is that the initial report found that a provision of 10 on-site spaces was adequate while the latter report found that a provision of 23 on-site spaces was adequate. However given the following concerns in respect to this assessment an Independent Traffic Engineering consultant was commissioned by Council:

- the actual variation in car parking provisions required for the proposal is substantially greater than that identified;
- the survey does not consider the parking profile of surrounding uses and the findings do not address the impacts of recent developments in the vicinity;
- concerns in respect to the assessment of relevant on-street parking supply; and
- a perceived underestimate in parking generation from the proposal.

The independent Traffic and Parking Assessment - 'Traffic and Parking Assessment Report', Donald Veal Consultants P/L forms Attachment 4 to this report. This assessment concluded;

"Based upon a review the relevant TPS and WAPC policies, it can be concluded that in the context of the existing planning framework, that any shortfall in the provision of car parking on the site can only be accommodated either immediately adjacent to the site (i.e. the east and west sides of Duke Street) and not within the other available car parking supply within the general George Street Town Centre zone. The proposed on-site car parking supply was originally proposed to be 23 car parking bays. However, a review of the design and layout of the proposed on-site car parking supply would indicate, based upon the results of the sight distance assessment and review of on-site circulation and service/delivery access to the site that only 17 to 18 bays would be able to be accommodated on the site. A review of the required car parking standards, as outlined in the TPS, would indicate that there is no standard for short-stay accommodation applicable to the area in which the proposal is located; however, based upon a review of other relevant TPS policies within the Perth Metropolitan Area, it is deemed appropriate to apply an appropriate standard of 1 car parking bay/accommodation unit for the proposed uses on the site. The required car parking standards, therefore, should be applied as follows and have been used as the basis for this assessment:

- 22 short-stay accommodation units @ 1 bay/unit = 22 bays
- 115 m² restaurant (over two levels)+ 65 m² courtyard alfresco @ 1 bay/5 m² + 1 bay/staff member = 41 bays".

As a result, the minimum on-site car parking would be in the order of 63 bays, which represents a shortfall of a minimum of 45 bays on the site.

In summary, this parking assessment has demonstrated that the application of discretionary concessions can only be applied in the context of immediately adjacent available car parking which is in the order of only 9 bays available during peak demand periods, which is still less than the 45 bay shortfall resulting in a net shortfall of 36 bays. If cash-in-lieu provisions were to be applied to this shortfall, then the developer should be required to make a cash-in-lieu payment to offset this shortfall in excess of \$1 million. However, due to anticipated future additional conflicting demands on the public car parking in the vicinity of the site associated with the redevelopment of the Lauder Antiques site, the availability of public car parking immediately adjacent to the site is likely to be substantially less in the future and any concessions applied to the redevelopment of the Royal George Hotel car parking arrangements cannot be justified.

Based upon the results of the traffic and parking assessment for the proposed development of the Royal George Hotel, the results of the traffic operations assessment, detailed safety review and on-site circulation assessment and proposed car parking management plan, traffic-related issues are concluded to result in significant impediments to the approval of the proposed development.

Based on this independent traffic engineering advice alone, the proposal should not be approved in its present form. However the facilitation of redevelopment pursuant with Clause 7.7 of the scheme requires that consideration be given to the merit of waiving all or part of the on-site parking requirement.

Variations to the Scheme Provisions for a Heritage Place

As stated, Clause 7.7 of the Scheme provides that Council may vary any site or development requirement specified in the Scheme where it would facilitate the conservation of a heritage place. It is appropriate that consideration be given to varying the on site parking requirements to facilitate the development and economic reuse of this significant heritage site. However in considering the extent of any variation Council must necessarily have regard to the General Provisions of the Scheme and more specifically the following requirements of Clause 10.2 in reaching its determination:

- “(o) the preservation of the amenity of the locality*
- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicle;*
- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;”*

It is considered that a net shortfall of 45 parking bays will impact on the amenity of residences in the vicinity. Many of these heritage properties have been able to retrospectively provide accommodation for a single vehicle on site. However there remains a substantial reliance upon on-street parking. Additionally, nearby businesses substantially rely upon on-site parking provisions. There are five restaurants/eateries established along George Street within three blocks of the subject site. These uses are likely to generate parking demand peaks at similar times to the restaurant component within the proposal. In light of the above it is considered that an exercise of discretion to waiver the assessed on-site parking requirements by more than the 9 on-street spaces identified as immediately adjacent (as required by clause 5.8.7) to the subject site would conflict with the provisions of Clauses 5.8.7 and 10.2 of the Scheme.

CONCLUSIONS

While the nature of the proposed uses and the proposed works are generally supported, it is considered that the extent of the car parking generated by the proposal and the lack of adequate on-site parking provisions militates against approval of the proposal in its present form. There are several options which may be explored to address this;

- Reduction in the extent of the restaurant use. For example there have been preliminary discussions with the proponents regarding the possible theme-ing of the proposal as an “art house” hotel utilising the courtyard as a sculpture park and displaying art works for sale in the various rooms in addition to providing for an “artist in residence” in the Cupola space. However at time of writing the proponents have not advised of the detail or commitment to these changes.
- Changing the balance of the proposed uses so that the “short stay accommodation” component” is given increased prominence.
- Increase in the number of on-site car spaces by the provision of decked parking. Given the topography of the site deck parking may efficiently be accommodated on site with minimal visual intrusion. The pending development proposal on the neighbouring Lauder & Howard Antiques site incorporates decked parking for all assessed parking demand.
- The payment of cash-in-lieu for the assed car parking shortfall.

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A combination of the above (and other) options may form the basis of a revised proposal.

It should be noted that Council sought the proponent's agreement to defer the determination of the application. In the course of the Town Planners assessment of the application, a number of issues requiring clarification or further advice from the applicant were identified and at the time of this report advice or further clarification on all of these issues is still awaited.

These matters were:

- written detail of how the Cupola is proposed to be used.
- alternative layout/access options for carpark and consultant engineers advice in respect to the safety/functionality of proposed vehicle entrance.
- dimensioned drawings of courtyard and restaurant areas.
- drawings showing existing and proposed floor plans using colour coding to identify areas to be demolished, retained or extended.
- Trust's statement of management in respect to the building.
- a statement as to the proponents support/commitment to the concept of a sculpture park/exhibition area for the courtyard as an alternative to alfresco dining to ameliorate car parking deficiencies.

Such a deferral would provide an opportunity for the provision of the abovementioned information, an opportunity to explore options for amending the proposal and also allow both Council and the applicant adequate time to consider and respond to any submissions received.

In the light of the above, it is considered that two options are open to Council either;

- defer determination of the application for the reasons given above and to invite the proponents to respond to the Traffic and Parking Assessment prepared by Donald Veal Consultants; or
- refuse the proposal and allow for a further round of public consultation on any amended proposal.

RECOMMENDATION

That Council:

1. Defer determination of the proposal for the redevelopment and change of use of the Royal George Hotel, No. 34 (Lot 303) Duke Street, East Fremantle from artist's studios and art gallery to short term accommodation and restaurant until a Special Meeting of Council to be held on 27 January 2011.
2. Provide the proponents with a copy of the Traffic and Parking Assessment prepared by Donald Veal Consultants and the public submissions received and invite the submission by 14 January 2011 of an amended proposal addressing all relevant issues and incorporating all information necessary to complete the determination of the application.

The following supplementary report prepared by the Chief Executive Officer was tabled.

Duke Street No. 34 (Lot 303)

SUPPLEMENTARY REPORT

Applicant: Cole Dryka Architects/National Trust

Owner: National Trust

Application No. P49/2009

By Stuart Wearne, Chief Executive Officer, on 7 December 2010

This report is being written as a supplement to the draft report dated 2 December 2010, prepared by the Manager, Planning Services.

Since that report was written an Urgent Directions Hearing was held at SAT on today's date. This was in response to a request from the Town to SAT, pursuant to the then existing SAT Order, to effectively defer the date of when a Council decision was expected, from 14 December 2010 until 27 January 2011.

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The reasons for the deferral request were given in the Manager, Planning Services' report, and were, in brief:

- a number of issues required further advice or clarification
- to give the applicant time to respond to public submissions received, and the Town's Traffic Study.

The application was strongly opposed by the applicant's representative Mr Dryka in two letters to SAT, although at today's hearing Mr Dryka effectively agreed with Council's position, which the Council considered had been in the applicant's interests.

With respect to the six matters referred to in the Manager, Planning Services' report, in which further information had been sought, advice is still being awaited on:

- written detail of how the cupola is proposed to be used
- a statement as to the proponents support/commitment to the concept of a sculpture park/exhibition area for the courtyard as an alternative to alfresco dining to ameliorate car parking deficiencies.

In addition, some of the advice received, such as advice from the applicant's traffic engineer, is likely to require further clarification.

Whilst revised SAT Orders are still awaited, the proposed timetable, from both a Council and SAT viewpoint, is now:

7 December 2010	Town Planning & Building Committee meeting makes recommendation to Council.
13 December 2010	Special Council Meeting cancelled.
14 December 2010	Council meeting considers recommendation from Town Planning & Building Committee meeting.
22 December 2010	SAT Mediation.
14 January 2011	SAT Mediation
27 January 2011	Special Council Meeting
4 February 2011	SAT Directions Hearing

Arising from the above:

1. Further to consultation with the Mayor, the Chief Executive Officer, under his delegated authority, intends to cancel the Special Council Meeting called for 13 December 2010.
2. It is intended that there will be a formal recommendation put to the Council Meeting on 14 December with respect to calling a Special Council Meeting on 27 January 2011.
3. Pursuant to Recommendation 2 of the Manager, Planning Services' report, (and as subsequently recommended by the Manager, Planning Services), assuming this recommendation is adopted, it is intended to provide the applicant with a copy of Council's Traffic Study and all public submissions received, on 8 December 2010, rather than waiting until after the Council Meeting of 14 December, 2010. It is also intended on 8 December 2010 to invite the applicants to make a submission, by 14 January 2011, of an amended proposal addressing all relevant issues and incorporating all information necessary to complete the determination of the application.

Mediation

The CEO is not at liberty to publicly discuss what has occurred in mediation, although can do so with elected members behind closed doors.

It can be publicly stated that through the SAT mediation process, the applicant has now done a number of things which Council had been seeking and the previous lack of which was germane to the issue of why the development application had not previously been put before Council.

Artists/Art Gallery

It is a matter of record that the Expression of Interest process conducted by the National Trust, which resulted in Mr Cobb and McGee becoming the "preferred developers", included amongst the "Limitations", in the Expression of Interest Brief, the following:

- A portion of the building (the first floor) is to be developed as a community arts facility recognising the social significance of the place. The Old George Foundation is the existing occupant of this place and will have first right of usage.

Note: Use of this area will have to be complementary to the adaptive re-use proposal and will be subject to market rental and a defined terms of lease. It is proposed the Foundation's tenancy will be managed by a specialist organisation.

- The remainder of the facility is available for development.

Clearly the community arts facility component is an aspect which is not included in the plans before Council.

This issue is considered to be a "non planning" issue and is not subject to the current SAT proceedings.

If requested by the meeting, the CEO is happy to speak further on this matter at the meeting.

Meanwhile, as of late, in discussions between the applicants and the Manager, Planning Services, there has been some ideas touching on the "artist"/"arts" issue, including suggestions of:

- an "Artist in Residence" in the cupola
- a "Sculpture Park" in the courtyard

however nothing concrete has transpired in this regard.

Correspondence referred from MB Ref. T214.1 was tabled.

The Chief Executive Officer advised that the above report was largely as a consequence of developments that occurred this morning. He stated that he could not talk about the mediation process in the presence of members of the public. Nevertheless the CEO advised that the key recent events had been:

- .. Council received a long awaited Traffic Study from the applicants earlier this year.
- .. At the same time Council had been negotiating with the National Trust with respect to the Heritage Council being allowed to assess the plans submitted for the Royal George restoration, as per normal Council practice for State Heritage listed buildings. After the National Trust opposed the Heritage Council having any role in the matter, Council had sought independent advice on the plans from a recognised heritage architect. This action had the support of the National Trust, however prior to Council receiving advice from that heritage architect, the applicant had referred the matter to the State Administrative Tribunal on the grounds of a deemed refusal.

Subsequently the heritage architect engaged by Council reported that the plans were insufficient to allow a proper determination of the application.

Whilst the CEO could not discuss what had occurred in mediation, the CEO could advise that a number of matters which had been of considerable concern to Council, and which

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had prevented Council from proceeding to process the planning application, had now been resolved, to Council's satisfaction and in a manner which has vindicated Council's position on these issues.

Messrs Peter Jackson, Peter Unsworth, Eddy Lutz and Andrew Smith addressed the meeting expressing their concerns with regard to the proposed redevelopment project.

Mr Unsworth, who has lodged a development application with Council for the old 'Lauder & Howard' building, opposite the Royal George, stated that he expected the Council to apply its parking provisions in an equitable manner.

Messrs Andy Cobb who described himself as "the chosen developer" and Michael Dryka, the architect, addressed the meeting expressing their support for the proposed redevelopment project.

Mr Cobb stated "we get a lease when DA is achieved".

Mr Cobb, in reflecting on Council's concerns and Council's subsequent actions in the matter, also stated "I take my cap off to the Council".

T217. ADJOURNMENT

Cr Wilson – Cr de Jong
That the meeting be adjourned at 9.35pm.

CARRIED

T218. RESUMPTION

Cr Wilson – Cr de Jong
That the meeting be resumed at 9.55pm with the exception of the Town Planner, Ms Gemma Basley, who left the meeting during the adjournment.

CARRIED

8 members of the gallery remained at the resumption of the meeting.

T219. REPORTS OF OFFICERS – STRATEGIC PLANNING/DEVELOPMENT CONTROL (Cont)

T219.1 T216.11 Duke Street No. 34 (Lot 303) - (Continued)
Applicant: Cole Dryka Architects/National Trust
Owner: National Trust
Application No. P49/2009

In response to concerns expressed by members of the public present, the Chief Executive Officer addressed the meeting on the security issue adding that he would have kept the artists in the hotel as long as possible, noting the Fremantle Society were permitted to remain in residence following the departure of the artists. Two break-ins were reported to Council, with every indication a number of other break-ins have occurred. The CEO had been advised at the time the artists were in residence that after the building was vacated it would be fenced, however this had not occurred. After the break-ins the CEO had suggested security patrols and offered the use of Council Rangers to regularly check the building (which would mean once again providing Council with keys to the building) however the National Trust declined to take up this offer.

RECOMMENDATION TO COUNCIL

Cr Wilson – Mayor Ferris

That Council:

- 1. Defer determination of the proposal for the redevelopment and change of use of the Royal George Hotel, No. 34 (Lot 303) Duke Street, East Fremantle from artist's studios and art gallery to short term accommodation and restaurant until the Meeting of Council to be held on 1 February 2011.**

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2. Provide the proponents with a copy of the Traffic and Parking Assessment prepared by Donald Veal Consultants and the public submissions received and invite the submission by 14 January 2011 of an amended proposal addressing all relevant issues and incorporating all information necessary to complete the determination of the application. CARRIED UNANIMOUSLY

T219.2 Dalgety Street No. 8A (Lot 2) – Fence Application
Applicant & Owner: Mr J & Mrs A Harris
Application No. P200/2010

By Jamie Douglas, Manager – Town Planning Services on 3 November 2010

BACKGROUND

Purpose of this Report

The report assesses an application for Planning Approval for a garden wall and recommends approval.

Statutory Considerations

Town Planning Scheme No. 3

Relevant Council Policies

Council Policy No. 143 : Policy on Local Laws Relating to Fencing

Impact on Public Domain

Tree in verge : N/a

Light pole : N/a

Crossover : N/a

Footpath : N/a

Streetscape : The subject site is a rear battleaxe lot and there will be no material impact upon the streetscape.

Documentation

Plans and relevant forms date stamp received on 28 October 2010

Date Application Received

28 October 2010

CONSULTATION

Advertising

Adjoining land owners only

Date Advertised

5 November 2010

Close of Comment Period

18 November 2010

No. of Days Elapsed between Lodgement & Meeting Date

39 days

Site Inspection

By Manager – Town Planning Services

ASSESSMENT

The proposal is to extend an existing boundary wall to enclose an alfresco dining area. The proposed wall would be solid rendered brick to a height of 1.6m. with Piers to 1.8m to match the existing wall, as such the wall requires planning consent under the Policy on Local Laws Relating to Fencing because it does not contain visually permeable panels. The applicant submits the solid wall is required to provide privacy and ameliorate traffic noise. The neighbours have not objected to the proposal and the wall will not impact the streetscape as the subject site is an internal battleaxe lot.

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CONCLUSION

The proposal merits approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for the following variation to the provisions of the Policy on Local Laws Relating to Fencing by permitting a non-visually permeable boundary wall at No. 8A (Lot 2) Dalgety Street, East Fremantle in accordance with the plans date stamp received on 28 October 2010 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has issued a 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. 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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Collinson

That Council exercise its discretion in granting approval for the following variation to the provisions of the Policy on Local Laws Relating to Fencing by permitting a non-visually permeable boundary wall at No. 8A (Lot 2) Dalgety Street, East Fremantle in accordance with the plans date stamp received on 28 October 2010 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has issued a 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. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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(c) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.* CARRIED

T219.3 **Alexandra Road No. 42B (Lot 2) – Rear Balcony/Walkway**
Applicant & Owner: Phillip & Margaret Scott
Application No. P177/2010

By Jamie Douglas, Manager – Town Planning Services on 24 November 2010

BACKGROUND

Purpose of this Report

The report assesses an application for retrospective Planning Approval for a rear balcony/walkway and recommends approval.

Statutory Considerations

Town Planning Scheme No. 3

R-Codes Design Element 6.8.1 – Visual Privacy

Impact on Public Domain

Tree in verge : N/a

Light pole : N/a

Crossover : N/a

Footpath : N/a

Streetscape : The balcony will be unseen from the street.

Documentation

Plans and relevant forms date stamp received on 4 October 2010

Date Application Received

4 October 2010

Additional Information Received

20 October 2010

CONSULTATION

Advertising

One adjoining land owner only

Date Advertised

5 November 2010

Submission Received

One submission received on 15 November 2010 from adjacent neighbours at Unit 6, 46 Alexandra Road. The submission does not object to the balcony providing privacy screening is provided to a height of 1.65 metre on the northern elevation and extending 1 metre along the eastern elevation.

No. of Days Elapsed between Lodgement & Meeting Date

63 days

Site Inspection

By Manager – Town Planning Services

ASSESSMENT

The proposal is for retrospective approval for an east facing balcony/walkway to the rear of a dwelling which is presently under construction. The balcony/walkway was not shown on the plans which received planning approval on 19/9/2006. The subject development is an extension of the cantilevered suspended slab and provides access from the bedroom onto the main deck area. The balcony/walkway is 860 mm wide with a solid balustrade and is too narrow to serve any other function than as an access way. However it does provide for surveillance over the rear garden area and habitable windows of the Unit 6,

46 Alexandra Road and for this reason the imposition of privacy screening is supported to a minimum height of 1.65 metres from the deck level in accordance with the provisions of the R-Code Design Element 6.8.1 – Visual Privacy. The screens should be erected on the northern elevation and extend 1 metre along the eastern elevation as suggested by the submitting neighbour.

The applicants have indicated they are supportive of a requirement for privacy screening.

CONCLUSION

The proposal merits approval subject to a condition requiring privacy screening.

RECOMMENDATION

That Council grant retrospective planning approval for the construction of a balcony/walkway at No. 42B (Lot 2) Alexander Road, East Fremantle in accordance with the plans date stamp received on 20 October 2010 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. an application being made for a building licence for the subject works and the issue of a licence which is 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 erection of permanent screening, preventing direct line of sight for a minimum height of 1.65 metres above the relevant floor level and extending continuously along the northern elevation and for a minimum of 1 metre along the eastern elevation
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Cr de Jong – Mayor Ferris

That Council grant retrospective planning approval for the construction of a balcony/walkway at No. 42B (Lot 2) Alexander Road, East Fremantle in accordance with the plans date stamp received on 20 October 2010 subject to the following conditions:

1. **the erection of permanent screening, preventing direct line of sight for a minimum height of 1.65 metres above the relevant floor level and extending continuously along the northern elevation and for a minimum of 1 metre along the eastern elevation.**
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. **an application being made for a building licence for the subject works and the issue of a licence which is 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**

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

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

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T219.4 Irwin Street No. 50 (Lot 5) – Extension to Front Verandah
Applicant & Owner: Roger Bradshaw
Application No. P182/2010

By Gemma Basley, Town Planner on 15 November 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for an extension to the front verandah with a gabled roof at 50 Irwin Street, East Fremantle is the subject of this report.

More specifically, the existing verandah at 50 Irwin Street has not been finished to be square and rather follows the line of the walls of the house. The application proposes to increase the area of the verandah by adding to and squaring off the north western part of the verandah. The proposed verandah will be constructed of the same materials as the existing verandah and will be finished to match the residence.

This report recommends conditional approval.

Statutory Considerations

Town Planning Scheme No. 3

Local Planning Strategy – Woodside Precinct (LPS)

R12.5 Residential Design Codes (RDC)

'C+' Management Category Municipal Heritage Inventory

Relevant Council Policies

LP Policy No. 143: Residential Development

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : The verandah extension will present differently to the streetscape than the existing verandah but this is not considered to have an adverse impact on the streetscape.

Documentation

Plans and relevant forms date stamp received on 8 October 2010 and correspondence and photos received on 2 November 2010

Date Application Received

8 October 2010

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

Nil

CONSULTATION

Advertising

The application was advertised to the surrounding neighbours for two weeks between the 21 October 2010 and the 4 November 2010. No objections were received in the advertising period.

Town Planning Advisory Panel

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting of 26 October 2010 where the following comments were made:

- Justification for additions required.
- Original features of the house should be retained.
- Extension of verandah is fine but gable unnecessary.
- Query repetition of fretwork, should simplify and distinguish.
- Guttering to wrap around the proposal.

The applicant has provided a detailed response to the Panels comments which is attached to this report. Essentially the applicant explains the need to increase the area of the verandah to make it more useable and justifies the reason for proposing the second gable. The applicant also explains that the balustrade will be extended using the same fretwork as the existing verandah and will provide continuity in the detail of the verandah.

The application proposes to retain all original features of the house and that the proposed gable addition will not be to the detriment of this heritage residence. It is concluded the applicant's justifications and explanations are satisfactory and that they address the comments raised by the Panel.

Site Inspection

By Town Planner on 4 November 2010

Statistics

File	P//RW50
Zoning	R12.5
Lot Area	503m ²
Heritage Listing	C+ Management Category

Site:	Required	Proposed	Status
Site Works on boundary/street setback	Maximum 0.5m	n/a	n/a
Open Space	50%	>50%	Acceptable Development
Overshadowing	<25%	<25%	Acceptable Development

Height:	Required	Proposed	Status
Wall	3.0 metres	3.17 metres	Discretion Required
Ridge	6.0 metres	5.4 metres	Acceptable Development
Roof type	Pitch		

Privacy/Overlooking	No overlooking will occur
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ASSESSMENT

The application proposes to continue the existing ceiling heights in the verandah extension which results in the proposed wall heights exceeding the maximum wall height for a single storey residence as recommended by the Residential Design Codes 2008. Whilst this requires a variation to the Codes, because of its minor nature and because it reflects the existing development it is considered that the variation can be supported.

The application does not propose any alterations to the front of the residence or any other development that would detract from the heritage character of the residence.

Given that the proposal meets all of the relevant acceptable development provisions of TPS3, the R-Codes and applicable Local Planning Policies and only one discretionary decision is required by Council, the proposal is recommended for approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for a wall height that exceeds 3.0 metres by 0.172 metres to match the existing wall heights of the residence to allow the extension of the front verandah at No. 50 (Lot 5) Irwin Street, East Fremantle, in accordance with plans date stamp received on 8 October 2010, subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. 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. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council exercise its discretion in granting approval for a wall height that exceeds 3.0 metres by 0.172 metres to match the existing wall heights of the residence to allow the extension of the front verandah at No. 50 (Lot 5) Irwin Street, East Fremantle, in accordance with plans date stamp received on 8 October 2010, subject to the following conditions:

- 1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. 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.**

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4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

**T219.5 Pier Street No. 26A (Lot 1) –Extension to Side Boundary Wall
Applicant & Owner: Pietro & Pamela Bongiascia
Application No. P193/2010**

By Jamie Douglas, Manager – Town Planning Services on 3 November 2010

BACKGROUND

Purpose of this Report

The report assesses an application for Planning Approval for an extension in height for a side boundary wall in front of the building line and recommends approval subject to conditions requiring visually permeable infill panels.

Statutory Considerations

Town Planning Scheme No. 3

Planning Policy No143 Policy on Local Laws Relating to Fencing

Impact on Public Domain

Tree in verge : N/a

Light pole : N/a

Crossover : N/a

Footpath : N/a

Streetscape : The wall will have an increased visual impact when viewed from the west along Pier Street.

Documentation

Plans and relevant forms date stamp received on 25 October 2010

Date Application Received

25 October 2010

Advertising

A letter of support from the adjacent neighbour forms part of this application.

No. of Days Elapsed between Lodgement & Meeting Date

49 days

Site Inspection

By Manager – Town Planning Services

ASSESSMENT

The proposal is to extend the height of an existing retaining wall between 24B and 26A Pier Street. There is a substantial level difference between the two properties with 26A built substantially at natural ground level while the site at 24B has been cut to a

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maximum depth of 2 metres to allow for vehicular access down into the garage. The applicants have requested an extension in the height of the wall between the properties to provide a safety barrier to this 2 metre drop adjacent to their front entrance steps.

The proposal requires Council approval pursuant with Part 4 of the Planning Policy on 'Local Laws Relating to Fencing' which states:

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

4.3 *where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence"*

It is proposed to extend the wall as a solid rendered wall with attached piers. At its highest point the proposed wall would be 3.7 metres above the entrance driveway of 24B and in front of the established building line of these properties. While the need for the wall is accepted, it is considered the visual impact upon the streetscape would be lessened if the proposed extension to the wall was comprised of visually permeable metal or timber infill panels between the proposed piers.

CONCLUSION

The proposal merits approval under clause 4.3 of the Planning Policy subject to conditions requiring the wall to be constructed with visually permeable infill panels between the rendered piers.

RECOMMENDATION

That Council exercise its discretion in regard to clause 4.3 of the Planning Policy No. 143 - 'Local Laws Relating to Fencing' by permitting a fence in excess of a maximum height of 1.8 metres to be constructed at No. 26A (Lot 1) Pier Street, East Fremantle subject to the following conditions:

1. the submission of revised plans to incorporate visually permeable infill panels between the proposed rendered brick piers to the satisfaction of the Chief Executive Officer.
2. 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 issued a 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. 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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Lilleyman

That Council exercise its discretion in regard to clause 4.3 of the Planning Policy No. 143 - 'Local Laws Relating to Fencing' by permitting a fence to a maximum height of 3.7 metres to be constructed at No. 26A (Lot 1) Pier Street, East

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Fremantle subject to the following conditions:

1. the submission of revised plans to incorporate visually permeable infill panels between the proposed rendered brick piers to the satisfaction of the Chief Executive Officer.
2. 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 issued a 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. 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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

Cr Wilson made the following impartiality declaration in the matter of 94 King Street: "As a consequence of the applicant, Jane Tangney, being known to me due to the purchase of her artworks, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and comment accordingly".

T219.6 King Street No. 94 (Lot 2) – Additions to Rear

Owner: Janene Adey

Applicant: Jane Tangney

Application No. P169/2010

By Gemma Basley, Town Planner on 15 November 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for an extension to the rear of a semi-detached dwelling at 94 King Street, East Fremantle is the subject of this report. The application also proposes a roofed sun deck in the rear of the lot and an outdoor shower also.

This report recommends conditional approval.

Statutory Considerations

Town Planning Scheme No. 3

Local Planning Strategy – Plympton Precinct (LPS)

R20 Residential Design Codes (RDC)

'B+' Management Category Municipal Heritage Inventory

Relevant Council Policies

Local Planning Policy No. 143: Residential Development

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

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Footpath : No impact
Streetscape : No impact

Documentation

Plans and relevant forms date stamp received on 22 September 2010 and correspondence received on 1 November 2010

Date Application Received

22 September 2010

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

Nil

CONSULTATION

Advertising

The application was advertised to the surrounding neighbours for two weeks between the 6 October and the 21 October 2010. No objections were received in the advertising period.

Town Planning Advisory Panel

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting of 26 October 2010 where the following comments were made:

- Panel would prefer retention of 2nd chimney.
- Query potential impact of chimney removal on neighbours.
- Panel supports the single storey only addition and the retention of the tree in the rear.

The applicant has provided a detailed response to the Panel's comments which is attached to this report. The advice details that the chimney to be removed is disused by the application site and the adjoining neighbour and restricts access within the residence. The applicant confirms however that the front chimney, which is visible to the street will be retained.

The application proposes to retain all original features of the semi detached dwelling and that the proposed addition will not be to the detriment of this heritage residence. It is considered that the applicant's justifications and explanations are satisfactory and that they address the comments raised by the Panel.

Site Inspection

By Town Planner on 4 November 2010

Statistics

File P/KIN94
Zoning R20
Lot Area 253m²
Heritage Listing C+ Management Category

Site:	Required	Proposed	Status
Site Works on boundary/street setback	Maximum 0.5m	n/a	n/a
Open Space	50%	>50%	Acceptable Development
Overshadowing	<25%	<25%	Acceptable Development
Height:	Required	Proposed	Status
Wall	3.0 metres	4.5 metres	Discretion Required
Ridge	6.0 metres	4.5 metres	Acceptable Development
Roof type	Skillion		
Privacy/Overlooking	No overlooking will occur		

Setbacks

Setbacks have not been assessed because the application proposes to retain existing setbacks and utilisation of boundary walls.

ASSESSMENT

The application proposes to modify the existing kitchen and living area and to extend a deck from the back of the house into the back yard. The proposed decking is to be screened on the northern boundary to ensure there is no impact on the privacy of the adjoining semi detached dwelling.

The application also proposes to construct a skillion roofed north facing sun deck, which will have a parapet wall to the southern boundary. The proposed parapet wall for the skillion roof sun deck will have a maximum height of 2.1 metres and will extend for a length of 6.1 metres along the southern boundary.

The proposed parapet wall requires a variation to the Codes, as it would be the second parapet wall on the property. Based on its minor nature; it being only marginally higher than a boundary fence; and there being no neighbour objections, it is considered that the variation can be supported.

As indicated in the table above, a variation is also required for the proposed wall height of the rear extension, which extends to a maximum height of 4.55 metres. The small area of the wall that does not comply with the height requirements combined with its position will not have any adverse impact on adjoining lots or the streetscape. The addition will not be visible from the street. The increased wall height will not cause overshadowing or loss of ventilation to the adjoining lots. Based on this assessment it is considered that the height of the wall meets the performance criteria of the Codes and the variation can be supported.

The application does not propose any alterations to the front of the residence or any other development that would detract from the heritage character of the residence.

Given that the proposal meets nearly all of the relevant acceptable development provisions of TPS3, the R-Codes and applicable Local Planning Policies and only one minor discretionary decision is required by Council, the proposal is supported and recommended for approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for:

- a boundary wall with a maximum height of 2.1 metres and length of 6.1 metres along the southern boundary in lieu of the R-Code requirements for only one boundary wall in an R20 coded area; and
- a maximum wall height of 4.55 metres in lieu of the 3.0 metres required under the R-Codes;

for additions including decking and a roofed sun deck and outdoor shower at No. 94 (Lot 2) King Street, East Fremantle, in accordance with plans date stamp received on 22 September 2010, subject to the following conditions

1. the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
2. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.

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4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. 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.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council exercise its discretion in granting approval for:

- a boundary wall with a maximum height of 2.1 metres and length of 6.1 metres along the southern boundary in lieu of the R-Code requirements for only one boundary wall in an R20 coded area; and
- a maximum wall height of 4.55 metres in lieu of the 3.0 metres required under the R-Codes;

for additions including decking and a roofed sun deck and outdoor shower at No. 94 (Lot 2) King Street, East Fremantle, in accordance with plans date stamp received on 22 September 2010, subject to the following conditions

1. **prior to the issue of a building licence plans be submitted showing the retention of both chimneys.**
2. **the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.**
3. **that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.**
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. **all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**

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

Footnote:

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

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

CARRIED

Cr Wilson made the following impartiality declaration in the matter of 19 Preston Point Road: "As a consequence of the owner, Mr Gary Archer, being known to me due to our sons previously attending primary school together, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T219.7 Preston Point Road No. 19 (Lot 35) – Front Fence/Wall

Applicant & Owner: Gary Archer

Application No. P221/2010

By Gemma Basley, Town Planner on 2 December 2010

BACKGROUND

Purpose of the Report

An Application for Planning Approval to construct a front fence/wall at No. 19 Preston Point Road, East Fremantle is the subject of this report.

The application is being referred to Council for consideration of streetscape impact from the proposed fence and for consideration of a minor variation to the requirements of Local Planning Policy No.143 – Fencing with regard to visual permeability. The proposed fence has a maximum height of 1.8 metres with a visually permeable gate that occupies 41% of the width of the frontage and a partially visually permeable fence/wall for the remaining width of frontage.

The application proposes a unique and contemporary fence that incorporates elements of the building and the site; being the angle of the skillion roof and the slope of Preston Point Road. More specifically, the application proposes a gate to a height of 1.8 metres that will be entirely visually permeable and that will take up in the order of 41% of the sites frontage. The gate is proposed to be a sliding gate and will slide behind and in between the grey/black and red articulated fence panels (with cut outs for visual permeability) that covers the remainder of the sites frontage. The maximum height of these panels will be 1.65 metres.

The site is also the subject of a separate application for Planning Approval for a 4 storey residence fronting Reynolds Road which is being considered as a separate application also included in this agenda.

The subject fencing application does not impact upon the previous application and it is considered that the two applications can be processed individually.

It is recommended that the proposal be approved subject to conditions.

Description of site

The subject site is:

- a 539m² block
- zoned Residential R12.5
- developed with a garage/studio on-site

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- located in the Riverside Precinct

Statutory Considerations

Town Planning Scheme No. 3
Local Planning Strategy - Riverside Precinct (LPS)
Residential Design Codes 2008 (RDC)

Relevant Council Policies

Local Planning Policy No. 143 : Fencing

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : The streetscape will be altered by the proposed front fencing

Documentation

Plans and relevant forms date stamped received on 31 August 2010

Date Application Received

31 August 2010

No. of Days Elapsed between Lodgement & Meeting Date

99 Days

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

18 March 2008 Council grants approval for a 3 storey dwelling with an undercroft fronting Reynolds Road and a workshop/garage/studio fronting Preston Point Road.

CONSULTATION

Advertising

The subject application was advertised as part of the advertising for the 4 storey residence between the 19 October 2010 and the 2 November 2010.

No objections have been raised however a comment was made by the owner of 21 Preston Point Road (to the north) that consideration should be given to how the fencing will be constructed to join with the existing fencing at 21 Preston Pint Road.

CONSULTATION

Town Planning Advisory Panel Comments

The Panel viewed the proposal at the meeting held on the 28 September 2010. The Panel advised that the fencing design for 19 Preston Point Road is suited to the contemporary design of the wall however increased visual permeability is recommended.

The applicant acknowledges the Panel's comments and responds by advising that less visual permeability is sought because of the impact from headlight glare from cars accessing Preston Point Road from the Alcester intersection opposite the site. The applicant is however prepared to increase the visual permeability by creating additional openings in the wall. This will be reflected as a condition in the Recommendation at the end of this report.

ASSESSMENT

Approval is sought to construct a front fence along Preston Point Road that does not fully comply with the requirements of the LPP No. 143 and does not provide visual permeability by way of continuous vertical gaps. The fence does however provide for at least 60% of the aggregate of the fence being visually permeable through the gate and through the proposed openings in the wall.

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The Applicant requests an exercise of its discretion to approve a minor variation to the Local Laws to enable the construction of fencing that provides for increased privacy and protection from headlight glare whilst still being visually permeable and not concealing the building from the street.

Considerations

LPP 143 states:

Part 3 - Fence Design

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

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

The Policy provides for special circumstances under which variations may be considered as follows:

Part 4 - Council Approval Required

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

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

It is considered that 4.2 is applicable to the subject site and are therefore arguably appropriate grounds to vary the requirements of Part 3 of this Policy. In addition, the design of the fence is appropriate for the contemporary building behind and has been supported by the Town Planning Advisory Panel.

This aside, the building has been constructed as a garage/workshop and its conversion to a residence is dependant on the approval of an application which is being considered concurrently and which would ultimately determine if the Preston Point Road building is to be classified as a dwelling and as such it could then be determined if a fence is appropriate.

In light of the above, the application seeking planning approval for a front fence with marginally reduced visual permeability at 19 Preston Point Road is supported subject to the concurrent planning approval for a four storey dwelling and conversion of the garage/workshop to a dwelling being approved by Council.

Should this not occur, it would be recommended that the application be deferred pending the outcome of that application.

RECOMMENDATION

- (A) Should Council approve the four storey residence and the conversion of the garage/loft to a dwelling, then it is recommended that Council exercise its discretion in granting approval for a variation to Local Planning Policy 143 for a front fence that has greater visual permeability than permitted under Local Planning Policy No. 143

at No.19 (Lot 35) Preston Point Road, East Fremantle as shown on plans received 31 August 2010 and subject to the following conditions:

1. the visual permeability of the fence to be increased above 1.2 metres to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
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. 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. 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).*

OR

- (B) Alternatively, should Council not approve the four storey residence and the conversion of the garage/loft to a dwelling then the application for the front fence/wall at No. 19 (Lot 35) Preston Point Road, East Fremantle be deferred pending the resolution of that application.

RECOMMENDATION TO COUNCIL

Cr Wilson – Cr de Jong

That the application for the front fence/wall at No. 19 (Lot 35) Preston Point Road, East Fremantle be deferred pending the outcome of Application No. 185/2010 for a four storey residence and the conversion of the garage/loft to a dwelling.

Footnote:

The Committee in deferring this application expressed concern with the lack of visual permeability, overall height and the proposed materials within the context of the prevailing streetscape.

CARRIED

T220. REPORTS OF OFFICERS – STATUTORY PLANNING

T220.1 Review of Statutory Planning Provisions

Author: *Jamie Douglas, Manager – Planning Services*

Date: *24 November 2010*

PURPOSE OF THIS REPORT

This report informs Council of the various recent State Government Planning Initiatives impacting upon future planning for the Town and seeks endorsement for a program to update and change many of the Town's current statutory planning provisions.

INTRODUCTION

It is apparent that a lack of planning resources over an extended period has necessitated a concentration on development control at the expense of maintaining and adapting the

town's planning framework. (This is not a criticism of past planning priorities but just an acknowledgement of necessity). Without appropriate guidance and control, development control will continue to consume an increasing and disproportionate amount of Council's resources.

Concurrent with the above, the Municipality is in many respects at the 'cross roads' in terms of its future direction. Several significant development proposals are currently, or will soon be, in the process of determination, including:

- .. Royal George Hotel
- .. 36-42 Duke Street
- .. Town Shopping Centre Redevelopment

The State Government has recently introduced a suite of planning reforms which will impact upon Council's future planning and necessitate change. The challenge from a planning perspective is how this change can be accommodated while preserving those essential elements which contribute to the town's 'Sense of Place' and to its attraction as a place to live and to the vibrancy of its community and culture.

STATE GOVERNMENT INITIATIVES "Directions 2031 and Beyond"

The final draft of the Plan was released in August this Year. The document is a high level strategic plan which establishes the spatial framework for Metropolitan Perth and the Peel Region. The Plan provides for the accommodation of the estimated population increase from the current 1.7 million to an estimated 2.88 million within the period to 2031. This projected near doubling of the population within a 21 year time period will substantially change the City as we know it today and place increased burdens on community facilities, infrastructure and the achievement of a more sustainable urban environment. The Plan sets a target of 47% (or 154,000 new dwellings) of the required 328,000 new dwellings to be achieved through urban infill. Of this infill target an additional 121,000 new dwellings and a population increase of 205,000 persons are planned to be accommodated in the 'Central sub-region which is comprised of 19 local government areas including East Fremantle. (see pp77).

This strategic plan is already being given effect through a number of legislative and statutory planning changes discussed below. It is reasonable to predict that unless local governments move on their own to accommodate infill development they will be forced to accept change.

Multi-Unit Housing Code

The Code was implemented on 22 November 2010 and is incorporated as a variation to the R-Codes under State Planning Policy 3.1. The Code controls the development of apartments and is applicable in areas zoned R 30 and above. Some of the principle changes under the Code are the removal of 'acceptable development' standards so that all such development is now to be assessed against the revised 'performance criteria' in the Code. Site area minimums have been abolished and height set back and plot ratio controls now prevail. There is an encouragement for smaller one room apartments to be incorporated in all developments of 12 apartments or more. This is to respond to the growing single household demographic and smaller household sizes in general. For example the maximum development potential for a 1000m² R-30 Lot has now increased from 3 apartments to 7 apartments. It should be noted however that for the reasons previously mentioned this doubling in unit numbers will not necessarily equate to a doubling in people to be accommodated on site.

Private Certification for Building Permits

The Government has indicated that private certification of building applications will be introduced in the New Year. The precise detail and implications of this process is unknown at this time but it is considered it will raise issues of risk and compliance for local governments.

The Approvals and Related Reforms (No.4) (Planning) Act 2010

This Act came into force on 22 November 2010 and has the potential to affect local government planning more than any other legislation since 1928. The Act includes measures to:

- Establish Development Assessment Panels (DAPS)
These Panels will be comprised of 3 technical experts and 2 local government representatives and in the case of East Fremantle; the municipality is likely to be one of a number of municipalities to be serviced by a single Panel. The Panel will determine certain applications for development. Development assessment reports will still to be prepared by local governments and then submitted to the Panel for determination. Thresholds for referral of developments and the details of the Panels are to be prescribed by Regulations to be drafted in the New Year, however it is envisaged that commercial developments in excess of \$2 million dollars will likely be determined by the DAPS.
- Allow the Minister for Planning and the WAPC at various points to direct, compel or otherwise control the amendment of local planning schemes, where local governments previously had un-appealable discretion.
- Extend the use of strategic instruments, particularly Improvement Plans with the new powerful instrument of Improvement Schemes.
- Enable the State to collect data on local government decisions.

PROPOSED STRATEGY FOR CHANGE TO THE EXISTING STATUTORY PLANNING PROVISIONS

It is considered that a review program should in the first instance concentrate on the following in order of priority:

- Planning Policies
- Detailed Area Plans
- Demolition
- R-Coding Density Control
- Delegations
- Exempt Development

Planning Policies

An audit of the existing Planning Policies and a program for their review is the subject of a separate report in this agenda. It is considered that the Policies should be updated and re-written first because they are the most readily adaptive of the statutory provisions and change can be achieved within a relatively short time period. The adoption of a new policy to contain comprehensive design guidelines for residential development is also considered to be a necessary pre-cursor to scheme amendments in respect to density control. The Development Assessment Panel would also necessarily have due regard to policy provisions – this is one of a number of mechanisms open to Council to influence decisions of the Development Assessment Panel.

Detailed Area Plans

It is proposed that Detailed Area Plans should be prepared for specific strategic sites where re-development is imminent – for example the shopping centre site. The DAP are an effective mechanism to deliver prescribed development outcomes and to provide development certainty for developers and the community. It is suggested that these be given priority to facilitate the re-development process and to provide Council with the best opportunity to influence the development determination of the Development Assessment Panel.

Demolition

The situation regarding Council's powers to control demolition requires clarification and if possible it's 'head of power' in this regard needs to be reinforced. The matter is addressed at some length in the associated report –Audit of Planning Policies. It has been recommended that legal opinion be sort in regard to this matter and the operation of the Planning Advisory Panel with the aim of developing appropriate scheme amendments and policy responses.

R-Coding Density Control

The majority of the residential zone under TPS No 3 is coded R12.5 which has a minimum lot area requirement of 700 m2 and an average lot area requirement of 800 m2. Accordingly only lots of 1600 m2 have subdivision infill potential. This density is more appropriately applied within a rural environment. As previously discussed, the Directions 2031 identifies the State Governments objective of accommodating 47% of new growth within the inner urban area which includes East Fremantle. In addition to the state government's planning objectives, consideration should be given to Council's objectives and responsibilities in respect to climate change and sustainability. Within this context the R-Coding of 12.5 within an inner urban environment conflicts with the principles of:

- efficient use of serviced land
- reducing vehicular transport movements
- reducing urban sprawl
- the provision of adaptive, diverse and affordable housing options

It is recognised that the 12.5 R Coding has contributed to the preservation of the streetscape character and heritage values which are held dearly. It is however noted that low density living was not applicable to the many heritage registered dwellings when they were built, indeed a closely formed urban environment supported by the need to walk to work and to facilities, was the underlying criteria upon which the Towns historic fabric was formed.

Increasing density is not necessarily mutually exclusive to the preservation of streetscape and heritage values. At Council's November meeting a proposal for the development of a scheme amendment to allow for infill subdivision subject to criteria to address unreasonable impact on heritage and streetscape values was endorsed. It is considered a general review of density provisions within the scheme would pre-empt a possible directive from the Minister for Planning to amend the Scheme.

Delegations

Improved turn around times for applications, reduction in the cost to ratepayers and freeing up of staff resources could flow from a review of the existing process for determining delegated items. The current system is almost similar to the process involved for items subject to full determination by Council. As a precursor to any review it is suggested that Councillors' would determine at what level they wish to retain involvement in respect to the determination of minor development.

Exemption Development

It is common practice within local government to specify by Regulation a range of minor works which are exempt from the definition of 'development' and hence do not require an application for planning approval. Typically this list of 'exempt' development contains only those works which it is determined do not raise any planning issues. For example local governments typically exempt works undertaken by a public authority (in the absence of such exempt provisions all works undertaken by council are legally required to be determined pursuant to the planning scheme).

The drafting of Regulations which contain a range of works which are exempt from the need for Planning Approval would assist the community by reducing the time and expense associated with undertaking minor works and would reduce the demand on resources of Council. It would also remove possible legal challenges to works undertaken by public authorities and council.

CONCLUSION

The Municipality is at the 'cross roads' in terms of its future direction. Urgent changes to Council's statutory planning provisions are required to meet development pressures and respond to State Government planning initiatives. The challenge from a planning perspective is how this change can be accommodated while preserving those essential elements which contribute to the town's 'Sense of Place' and to its attraction as a place to live and to the vibrancy of its community and culture. It is considered that the strategy

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for change outlined in this report should be initiated to address the following in the listed order of priority:

1. Planning Policies
2. Detailed Area Plans
3. Demolition
4. R-Coding Density Control
5. Delegations
6. Exempt Development

Should Council endorse this strategy for change, each of the six identified areas for change would be managed and delivered as discreet projects. It is intended to submit project briefs identifying the scope and time line for delivery of each of the above at subsequent meetings of Council for endorsement before proceeding.

RECOMMENDATION

That Council receive the report and endorse the strategy for change to the current statutory planning provisions in respect to the following:

1. Planning Policies
2. Detailed Area Plans
3. Demolition
4. R-Coding Density Control
5. Delegations
6. Exempt Development

RECOMMENDATION TO COUNCIL

Cr de Jong – Mayor Ferris

That Council receive the report and endorse the strategy for change to the current statutory planning provisions in respect to the following:

1. **Planning Policies**
2. **Detailed Area Plans**
3. **Demolition**
4. **R-Coding Density Control**
5. **Delegations**
6. **Exempt Development**

CARRIED

T220.2 Audit of Local Planning Policies

By Jamie Douglas, Manager Planning Services on 23 November 2010

ATTACHMENTS

Attachment 1 : Detailed consideration of each policy.

Attachment 2 : Existing Local Planning Policies.

PURPOSE OF THIS REPORT

The report reviews the various Planning Policies currently applied by Council and makes recommendations for their;

- Revocation - where they have become superseded and redundant.
- Modification - where they require updating or amendment to remove ambiguity or conflict.
- Addition - where there is insufficient or no policy framework to address identified issues.

INTRODUCTION

Planning Policies are a statement of Councils direction in respect to the interpretation of the objectives and general provisions of the Scheme. Accordingly, they derive their 'Head of Power' from the Scheme and may only be given effect if adopted in accordance with the scheme provisions.

The Role of Planning Policies are to:

- provide guidance to applicants in the preparation of proposals.
- guide determinations in respect to specific elements of a planning application.

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- indicate development potential and desired outcomes.
- encourage consistency in development decision making.
- provide justification for Council's decision in the event of any appeal to the State Administrative Tribunal.

STATUTORY BASIS FOR THE APPLICATION OF LOCAL PLANNING POLICIES

Local Planning Policies are adopted by Council under the provisions of Part 2 of the Town Planning Scheme No. 3. The Policies may only be adopted or revoked in accordance with the procedure identified in Clause 2.4.2 of the Scheme. Additionally Clause 2.6 of the Scheme allows for Policies adopted under the previous Scheme No. 2 to continue to have effect. The provisions of Clause 3.10.2 of the TPS No 2 state – “the policies included in the Council’s Policy manual are deemed to be adopted by the Council under this clause”.

Council is not bound by a Policy but is to have regard to the objectives and provisions of the Policy before making a decision. In the event of an inconsistency between a Policy and the Scheme, the Scheme prevails.

AUDIT OF EXISTING POLICY FRAMEWORK

The following is a list of Policies relating to Town Planning which are extracted from Council’s Policy Register. For each policy the following is shown; its adoption date (age), when it was last amended and the recommendation for the future application of the policy (retain, revoke or modify).

No.	Policy No.	Description	Adoption Date	Amend-ments	Recommendation
1	002	STRATA TITLES	18/10/76	21/10/97	REVOKE
2	005	ADVERTISING SIGNS	20/02/78		REPLACE & REVOKE
3	011	ELECTRONIC AMUSEMENT MACHINES	23/04/81		REVOKE
4	012	PERGOLAS	15/02/82		RETAIN
5	022	SIGNS	15/09/86		REPLACE & REVOKE
6	023	REFLECTIVE ROOFING MATERIAL	17/11/86		REPLACE & REVOKE
7	024	DEMOLITION PERMITS-PROPERTIES ON HERITAGE LIST	16/03/87		REPLACE & REVOKE
8	026	RETAINING EAST FREMANTLE AS A RESIDENTIAL AREA	21/09/07		REVOKE
9	030	HEIGHT CONTROL AMENDMENT	17/04/89		REVOKE
10	031	CONSENT FOR OUTBUILDINGS WITH BOUNDARY WALLS	15/5/89		REVOKE
11	038	ADDITIONAL UNIT POLICY – STRATA TITLE ACT NO 35-1985	22/05/90		REVOKE
12	043	TELEVISION RECEPTION ANTENNAE	23/03/92		REPLACE & REVOKE
13	045	PLOT RATIO	25/05/92	25/02/98	REVOKE
14	046	DESIGN POLICY LOTS 507/8/9/10 DUKE STREET	25/05/92		REVOKE
15	047	DESIGN PRECINCT NO 5 SURBITON			REPLACE & REVOKE
16	054	CONVERSION OF EXISTING RESIDENCE CLASS 1 TO CLASS 1A	21/09/02	21/10/97	REVOKE
17	057	ADVISORY PANEL ON TOWN PLANNING & BUILDING MATTERS	20/09/93		REPLACE & REVOKE
18	058	ISSUE OF DEMOLITION PERMIT – PLACES OF HERITAGE VALUE AND PLACES DEEMED TO BE OF HERITAGE VALUE	20/09/93		REPLACE & REVOKE
19	061	SOLAR ACCESS AND SHADE	18/10/93		REVOKE
20	063	DEVELOPMENT OF 15 RIVERSIDE ROAD	21/10/94		REVOKE
21	064	RICHMOND RACEWAY AREA 7 – DESIGN GUIDELINES POLICY AND POLICY PLAN	21/03/94		RETAIN
22	066	ROOFING	21/03/94	08/04/97 21/05/02	REPLACE & REVOKE
23	069	ELECTION SIGNS	30/5/94		REPLACE & REVOKE

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No.	Policy No.	Description	Adoption Date	Amendments	Recommendation
24	071	VIEWS	18/07/94		REVOKE
25	077	LANDSCAPING/ACCESS DRIVEWAY/CAR PARKING			REVOKE
26	079	FORESHORE POLICY, POLICY PLAN & DESIGN GUIDELINES	19/6/1998		REVOKE
27	092	NOTICE OF APPLICATION FOR DEVELOPMENT	22/10/96		REVOKE
28	100	TOWN PLANNING ADVISORY PANEL	11/03/97		REPLACE & REVOKE
29	116	CONSERVATION OF TREES IN THE PRIVATE DOMAIN	21/10/97	21/04/98	RETAIN
30	126	HERITAGE - BURRA CHARTER REFERENCE DOCUMENTS	21/07/98		RETAIN
31	128	RESTAURANT LIQUOR LICENCES			REVOKE
32	129	VERANDAHS	18/08/98		REVOKE
33	132	CAR PARKING - (NUMBER OF BAYS PER DEVELOPMENT)	19/10/99		REVOKE
34	135	DOMESTIC SATELLITE DISHES, MICROWAVE ANTENNAE, AIR CONDITIONERS AND TOWER MASTS	17/09/02		RETAIN
35	140	FREMANTLE PORT BUFFER DEVELOPMENT GUIDELINES	15/06/04		RETAIN
36	142	LOCAL PLANNING POLICY - RESIDENTIAL DEVELOPMENT	16/11/04	15/09/09 20/09/05	REPLACE & REVOKE
37	143	LOCAL LAWS RELATING TO FENCING	21/12/04		RETAIN
38	144	LOCAL PLANNING POLICY RAINWATER TANKS	19/04/05		RETAIN

CONSIDERATION

The audit shows that over the last thirty four years, a total of thirty eight (38) different policies have been adopted which are currently applicable to statutory planning functions. These represent a myriad of various controls outside and in addition to, the Local Planning Strategy, Planning Scheme Provisions, State Planning Policies and the R-Codes. This situation is complex and confusing for both applicants and assessors and accordingly consideration has been given to opportunities to revoke and consolidate the existing policies wherever possible. Of the policies which it is proposed be retained, these should be re-formatted into a standard format, updated and modified where necessary to avoid conflict and ambiguity in their provisions.

There have also been a number of emerging issues (some of which are fundamental to attaining Council's stated planning objectives and quality development outcomes) - which the current suite of policies does not address. It is proposed that new policies be developed to address these issues.

In Respect to the Existing Policies

- i) It is considered that:
 - eighteen (18) of the existing policies should be revoked immediately.
 - eight (8) policies should be retained but with only formatting changes.
 - twelve (12) policies should be amended and/or consolidated and the existing policies revoked once alternative policy provisions have been adopted.
- ii) There is currently very limited knowledge as to the existence and application of the various policies. The policies to be retained and those to be modified should be produced in a consistent format and circulated on the website etc. as guidance documents for designers and residents.

In Respect to New Policies

There appears four major short falls in statutory control at this time:

- A comprehensive signage policy is required. The control of signage to provide for reasonable commercial opportunities while limiting the proliferation of inappropriate signage is a major element in preserving the visual amenity of the town.

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- Noise abatement policy for mixed use developments. Such controls are common place in towns such as Victoria Park where commercial and mixed uses reside in close proximity to residences. With two major commercial developments proposed which incorporate entertainment venues and the redevelopment of the shopping centre proposed in the near future, provisions to require noise abatement measures incorporated in building design are a necessary adjunct to the 'nuisance' provisions of the Environmental Health Act. A proposed policy has been drafted and is the subject of a separate report on this agenda.
- A Policy on Solar Collectors is urgently required to respond to the volume of enquiries currently being received. Over the next few years the proliferation of solar collectors – (hot water heaters and photo-voltaic panels) will have a dramatic impact on the streetscape. A proposed policy has been drafted and is the subject of a separate report on this agenda.
- A comprehensive and integrated residential design guideline policy incorporating many of the 'single issue' policies identified for consolidation and which provides distinct design 'cues' will greatly assist designers and will aid in consistent decision making.

PROGRAM FOR POLICY DEVELOPMENT

Subject to Council approval, the following program for policy development is proposed:

- Solar Collectors Policy submitted for Council consent to advertise 14 December 2010.
- Noise Abatement Policy submitted for Council consent to advertise 14 December 2010.
- Signage Policy submitted for Council consent to advertise 15 February 2011.
- Residential Design Guideline Policy submitted for Council consent to advertise 19 April 2011.
- Reformatting and distribution of retained and adopted policies submitted for Council endorsement 19 April 2011.

The development of statutory provisions in respect to demolitions and the operation of the Advisory Panel will be subject to the attainment of legal advice.

RECOMMENDATION

That Council:

1. Receive the report –'Audit of Planning Policies'.
2. Endorse the Program for Policy Development identified in the above report.
3. Pursuant with the provisions of Clause 2.5 (b) of the Town of East Fremantle Town Planning Scheme No. 3, (3 December 2004) revoke the following Planning Policies by advertising a formal notice of revocation once a week for two consecutive weeks in a local newspaper.

Policy No.	Description	Adoption Date	Amendments
002	STRATA TITLES	18/10/76	21/10/97
011	ELECTRONIC AMUSEMENT MACHINES	23/04/81	
026	RETAINING EAST FREMANTLE AS A RESIDENTIAL AREA	21/09/07	
030	HEIGHT CONTROL AMENDMENT ,	17/04/89	
031	CONSENT FOR OUTBUILDINGS WITH BOUNDARY WALLS	15/5/89	
038	ADDITIONAL UNIT POLICY – STRATA TITLE ACT NO 35-1985	22/10/90	
045	PLOT RATIO	25/05/92	25/02/98
046	DESIGN POLICY LOTS 507/8/9/10 DUKE STREET	25/05/92	
054	CONVERSION OF EXISTING RESIDENCE CLASS 1 TO CLASS 1A	21/09/02	21/10/97
061	SOLAR ACCESS AND SHADE	18/10/93	
063	DEVELOPMENT OF 15 RIVERSIDE ROAD	21/10/94	
071	VIEWS	18/07/94	
077	LANDSCAPING/ACCESS DRIVEWAY/CAR PARKING		
079	FORESHORE POLICY, POLICY PLAN & DESIGN GUIDELINES	19/6/1998	
092	NOTICE OF APPLICATION FOR DEVELOPMENT	22/10/96	
128	RESTAURANT LIQUOR LICENCES		
129	VERANDAHS	18/08/98	
132	CAR PARKING – (NUMBER OF BAYS PER DEVELOPMENT)	19/10/99	

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RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council:

1. Receive the report – ‘Audit of Planning Policies’.
2. Endorse the Program for Policy Development identified in the above report.
3. Pursuant with the provisions of Clause 2.5 (b) of the Town of East Fremantle Town Planning Scheme No. 3, (3 December 2004) revoke the following Planning Policies by advertising a formal notice of revocation once a week for two consecutive weeks in a local newspaper.

Policy No.	Description	Adoption Date	Amendments
002	STRATA TITLES	18/10/76	21/10/97
011	ELECTRONIC AMUSEMENT MACHINES	23/04/81	
026	RETAINING EAST FREMANTLE AS A RESIDENTIAL AREA	21/09/07	
030	HEIGHT CONTROL AMENDMENT ,	17/04/89	
031	CONSENT FOR OUTBUILDINGS WITH BOUNDARY WALLS	15/5/89	
038	ADDITIONAL UNIT POLICY – STRATA TITLE ACT NO 35-1985	221/05/90	
045	PLOT RATIO	25/05/92	25/02/98
046	DESIGN POLICY LOTS 507/8/9/10 DUKE STREET	25/05/92	
054	CONVERSION OF EXISTING RESIDENCE CLASS 1 TO CLASS 1A	21/09/02	21/10/97
061	SOLAR ACCESS AND SHADE	18/10/93	
063	DEVELOPMENT OF 15 RIVERSIDE ROAD	21/10/94	
071	VIEWS	18/07/94	
077	LANDSCAPING/ACCESS DRIVEWAY/CAR PARKING		
079	FORESHORE POLICY, POLICY PLAN & DESIGN GUIDELINES	19/6/1998	
092	NOTICE OF APPLICATION FOR DEVELOPMENT	22/10/96	
128	RESTAURANT LIQUOR LICENCES		
129	VERANDAHS	18/08/98	
132	CAR PARKING – (NUMBER OF BAYS PER DEVELOPMENT)	19/10/99	

CARRIED

T220.3

Proposed Local Planning Policy - Guidelines for Solar Collectors

By Jamie Douglas, Manager Planning Services on 22 November 2010

ATTACHMENT

Local Planning Policy – Guidelines for Solar Collectors

PURPOSE OF THIS REPORT

This report recommends that the proposed Local Planning Policy – Guidelines for Solar Collectors be endorsed and that the procedures for ‘Making a Local Planning Policy’ specified in Clause 2.4 of Town Planning Scheme No. 3 are implemented.

BACKGROUND

Council is currently fielding a large volume of enquiries regarding the installation of solar panels. This trend will continue as the cost of electricity and the community’s desire to address climate change increases. Over the next few years the proliferation of solar collectors will have a dramatic impact upon the streetscape and heritage character within the Town. Accordingly, guidance and control is needed in the location of solar collectors on heritage listed properties and where the streetscape and visual amenity will be impacted.

POLICY OBJECTIVES

The objectives of this policy are:

1. To provide guidance on the location of solar collectors.
2. To determine when an application for a Planning Permit is required.
3. To specify the criteria for the determination of applications for Planning Approval.

STATUTORY PROCESS FOR THE ADOPTION OF A LOCAL PLANNING POLICY

Local Planning Policies are adopted under the Part 2 of TPS No. 3. Clause 2.4 of the Scheme requires that a proposed Policy is advertised for 2 consecutive weeks in a local

newspaper and that submissions may be made during a period of not less than 21 days. Subsequent to the closure of the submission period, Council is then required to review the proposed Policy in the light of any submissions made and resolve whether or not to adopt the Policy with or without modification. If the Policy is adopted, a notice of the Policy must be advertised once in a local paper and it comes into force on the date of this advertisement. The Policy should also be forwarded to the Western Australian Planning Commission if Council decides it affects the interests of the Commission.

CONCLUSION

The Policy will support the installation of Solar Collectors by providing guidance on the optimum and sub-optimum locations for their installation and methods to conceal their visual impact. The Policy specifies when a planning application is required and promotes the preservation of streetscape and heritage values by the requirement to minimise (where practical means exist) the visibility of a solar collector from the street or public recreational reserve and limit the impact on significant heritage properties.

RECOMMENDATION

That Council endorse the proposed Local Planning Policy - Guidelines for Solar Collectors for the purpose of public advertising, pursuant with Clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3 (3 December 2004).

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That Council endorse the proposed Local Planning Policy - Guidelines for Solar Collectors for the purpose of public advertising, pursuant with Clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3 (3 December 2004).

CARRIED

T220.4 *Proposed Local Planning Policy - Noise Attenuation*
Author: Jamie Douglas, Manager – Planning Services
Date: 30 November 2010

ATTACHMENT

Local Planning Policy – Noise Attenuation

PURPOSE OF THIS REPORT

This report recommends that the proposed Local Planning Policy – Noise Attenuation Policy (Attachment 1) be endorsed and that the procedures for 'Making a Local Planning Policy' specified in clause 2.4 of Town Planning Scheme No. 3 are implemented.

Background

In providing for the sustainable co-existence of a mix of land uses (including residential, retail, recreational, commercial and entertainment uses) within, or adjacent, to areas that are likely to be subject to ambient environmental noise, measures need to be taken in the design and construction of buildings to minimise the adverse impacts of noise.

This policy is intended to reduce the potential for 'nuisance' occurring from noise by providing for the appropriate assessment and design responses to be incorporated within development proposals. The Policy will clarify the Council's approach to noise-generating and noise-sensitive developments within the Town of East Fremantle.

The objectives of the Policy are to:

- Provide a clear framework for addressing noise concerns in (and near) mixed-use areas and areas subject to ambient environmental noise, that may be subject to higher levels of noise than average suburban areas.
- Establish appropriate criteria for measuring and identifying potential noise impacts before they occur.
- Clarify the process and extent of reporting required in certifying proposed noise attenuation measures.

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MINUTES

- Protect the amenity of existing and future residents within (and near) mixed-use precincts and areas subject to ambient environmental noise, through enhanced building design and construction.

STATUTORY PROCESS FOR THE ADOPTION OF A LOCAL PLANNING POLICY

Local Planning Policies are adopted under the Part 2 of TPS No. 3. Clause 2.4 of the Scheme requires that a proposed Policy is advertised for 2 consecutive weeks in a local newspaper and that submissions may be made during a period of not less than 21 days. Subsequent to the closure of the submission period, Council is then required to review the proposed Policy in the light of any submissions made and resolve whether or not to adopt the Policy with or without modification. If the Policy is adopted, a notice of the Policy must be advertised once in a local paper and it comes into force on the date of this advertisement. The Policy should also be forwarded to the Western Australian Planning Commission if Council decides it affects the interests of the Commission.

CONCLUSION

The policy will reduce the potential for 'nuisance' occurring from noise by providing for the appropriate assessment and design responses to be incorporated within development proposals. The Policy establishes appropriate criteria for measuring and identifying potential noise impacts and will result in enhanced building design and construction to protect the amenity of residents within (and near) mixed-use precincts and areas subject to ambient environmental noise.

RECOMMENDATION

That Council endorse the proposed Local Planning Policy – Noise Attenuation for the purpose of public advertising, pursuant with Clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3, gazetted 3 December 2004.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That Council endorse the proposed Local Planning Policy – Noise Attenuation for the purpose of public advertising, pursuant with Clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3, gazetted 3 December 2004. CARRIED

T221. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T221.1 Duke Street No. 34 (Lot 303) – Royal George Hotel – Site Visit

Following discussion elected members resolved to schedule a site visit for Saturday, 18 December, 2010 between the hours of 10am to 11am. CARRIED

T222. CLOSURE OF MEETING

There being no further business the meeting closed at 11.45pm.

*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 **7 December 2010**, Minute Book reference **T210. to T222.** were confirmed at the meeting of the Committee on*

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Presiding Member