

9 November 2010

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 9 NOVEMBER, 2010 COMMENCING AT 6.33PM.

T198. OPENING OF MEETING

T198.1 Present

Cr Alex Wilson	Presiding Member
Cr Cliff Collinson	
Cr Barry de Jong	
Cr Siân Martin	
Cr Dean Nardi	
Mr Stuart Wearne	Chief Executive Officer (To 7.50pm)
Mr Jamie Douglas	Manager Planning Services
Ms Gemma Basley	Acting Town Planner
Mr Mario Ioppolo	Principal Building Surveyor
Ms Janine May	Minute Secretary

T199. WELCOME TO GALLERY

There were 15 members of the public in the gallery at the commencement of the meeting.

T200. APOLOGIES

Mayor Alan Ferris
Cr Rob Lilleyman
Cr Maria Rico

T201. CONFIRMATION OF MINUTES

T201.1 Town Planning & Building Committee (Private Domain) – 12 October 2010

Cr Collinson – Cr de Jong

That the Town Planning & Building Committee (Private Domain) minutes dated 12 October 2010 as adopted at the Council meeting held on 19 October 2010 be confirmed. CARRIED

T202. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

T203. REPORTS OF COMMITTEES

T203.1 Town Planning Advisory Panel – 26 October 2010

Cr Collinson – Cr Nardi

That the minutes of the Town Planning Advisory Panel meeting held on 26 October 2010 be received and each item considered when the relevant development application is being discussed. CARRIED

T204. REPORTS OF OFFICERS

T204.1 Receipt of Reports

Cr Nardi – de Jong

That the Reports of Officers be received. CARRIED

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T204.2 Order of Business

Cr Martin – Cr de Jong

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

**T204.3 Allen Street No. 19 (Lot 305), East Fremantle
Applicant & Owner: Andrew Sproat
Application No. P140/2010**

Gemma Basley Town Planner on 1 November 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for the construction of decking, steps, a swimming pool and boundary/retaining walls with respect to an existing single storey house located at No. 19 Allen Street, East Fremantle is the subject of this report.

The application is being referred to Council, as opposed to being dealt with under Delegated Authority, due to issues of discretions and because the property is included in the Town's Municipal Heritage Inventory.

Description of site

The subject site is:

- a 780m² front battleaxe block
- zoned Residential R12.5
- developed with a dwelling on-site
- located in the Woodside Precinct

Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : No impact

Documentation

Relevant forms date stamp received on 18 August 2010 and with amended plans being received on the 14 September 2010

Date Application Received

18 August 2010
14 September 2010 amended plans received

No. of Days Elapsed between Lodgement & Meeting Date

57 days

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

Nil

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Advertising

The subject application was advertised to adjoining landowners for a standard 2 week period between the 6 October 2010 and the 20 October 2010.

No comments or objections were received during the community consultation period.

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel

The subject application was not referred to the Town Planning Advisory Panel because it related to the rear setback area of the lot and the proposal does not propose to alter the character of the existing dwelling or alter the streetscape.

STATISTICS

File	P/ALL/19
Zoning	R12.5
Lot Area	780m ²
Heritage Listing	On the MI B+ Rating

Site:	Required	Proposed	Status
Site Works	Maximum 0.5m	>0.5m	Variation required
Open Space	55%	>50%	Acceptable
Overshadowing	>25%	>25%	Acceptable

Height:	Required	Proposed	Status
Wall	N/A	N/A	
Ridge	N/A	N/A	
Roof type	N/A		

Privacy/Overlooking	The western elevation of the proposed deck requires a variation to the privacy requirements of the R-Codes.
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REPORT

Comment

Approval is sought for additions at the rear of the existing dwelling located at No 19 Allen Street, East Fremantle. The application proposes to extend decking from the back of the house westwards toward the rear boundary and to then step down to a new below-ground swimming pool located adjacent to the rear/western boundary.

The finished floor level (FFL) of the proposed deck is 1.2 metres above natural ground level (NGL) and as such is subject to being assessed for potential privacy implications. More specifically the R-Codes requires that any outdoor living area with a FFL exceeding 0.5 metres above NGL and which overlooks any part of any other residential property behind the street setback line is to comply with certain setback requirements or to be provided with permanent vertical screening. This will be assessed further in the following section of this report.

The proposed pool is approximately 12.0 metres in length and 3.5 metres in width. The application proposes a 1.2 metre rear boundary setback and a setback of 2.16 metres to the northern boundary. The Town's Building Surveyor has conducted a preliminary assessment of the application and advises that there would be no building implications from the close location of the pool and the proposed retaining wall providing the wall is capable of carrying the surcharge load of the pool.

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As described above, the proposed deck area will be retained and will then step down to a lower level containing the swimming pool and boundary fence/screen wall. Retaining walls to a maximum height of 1.2 metres are required for this but occur predominantly within the subject site and not on the boundary. A new boundary fence/screen masonry wall is proposed along the western boundary and alongside the truncation of the adjoining driveway.

Considerations

The application has been assessed against the requirements of the R-Codes and LPP 142 above wherein it has been identified that the proposed setback of the decking to the boundaries does not meet the privacy requirements of the R-Codes and that proposed 1.2 metre high retaining wall exceeds the requirements of the R-Codes.

This will be assessed in the table below:

Requirement	Proposed	Planning Officer Comments
<p>R-Codes: <u>Retaining walls:</u> Not to exceed 0.5 metres in height.</p>	1.2 metres	<p>Supported – The retaining wall occurs within the property boundary and will provide for the lot to be stepped down and to make more efficient use of the site. The retaining wall will retain the visual impression of the NGL of the site from the street and from the battleaxe access leg.</p>
<p><u>Privacy Setbacks</u> 7.5 metres in the case of an unenclosed outdoor active habitable space</p>	5.0 metres to the western boundary and 5.2 metres to the northern boundary.	<p>Partially Supported– The privacy setback applies to the proposed decking because it is 1.2 metres above NGL. The subject side falls away from north to south and from east to west with the battleaxe access leg servicing the rear lot along the northern boundary and extending westwards parallel to the rear boundary of the application area where it accesses a garage.</p> <p>The rear battleaxe lot is developed in such a way that the outdoor living area is located in the north western area of the lot and is well separated from the proposed deck area. In this regard any overlooking that could occur from the deck would be over the battleaxe access leg and the turning area and entry to the rear house.</p> <p>Such a situation or variation can be supported under the R-Codes where the performance criteria can be met, which in the case of the application it does. This aside, there are increasing concerns regarding overlooking across the municipality and in this regard it is recommended that the applicant provide some fixed vertical screening and/or privacy screens to provide some screening to possible light overflow into the front of the rear house.</p> <p>A condition is included in the recommendation to address this.</p>

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Given the proposal meets the majority of the quantitative requirements of the Residential Design Codes and the Town's Local Planning Policies, the application can be supported.

Whilst variations are being pursued it is considered that the variations are minor in nature and the application is therefore recommended for approval.

RECOMMENDATION

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

- variation to the retained levels on the northern elevations being 1.2 metres in lieu of the required 0.5 metre;
- variation to the privacy requirements of the R-Codes to allow part of the western elevation of the deck to be unscreened and to be setback 5 metres from the rear boundary in lieu of the 7.5 metres required under the R-Codes.

for the construction of decking, steps, retaining walls, a boundary fence and below ground swimming pool at 19 Allen Street, East Fremantle in accordance with the plans date stamp received on 14 September 2010 subject to the following conditions:

1. The western elevation of the proposed deck is to be screened permanently with fixed screening to the height of 1.6 metres above FFL along at least 50% of the western elevation of the deck to the satisfaction of the CEO prior to the issue of a Building Licence.
2. Materials and finishes are to be of a high standard and to match the existing dwelling and a schedule of these to be submitted to the Chief Executive Officer for endorsement prior to the issue of the 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 storm water 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. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. 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.
9. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
10. Pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
11. 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.
12. 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

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and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.

13. Pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
14. 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) *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.*
- (b) *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.*
- (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) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Ms McBride (owner) addressed the meeting seeking reconsideration of the recommendation to require screening to 50% of the western elevation of the proposed deck given:

- there is proposed to be a low level of lighting to the deck. No light spill is anticipated.
- both neighbours have agreed to the shared boundary wall being increased in height to address privacy.
- the adjoining residence has no east facing windows.
- deck extends from laundry which already has lighting that is not an impact on neighbour.
- required screening will compromise a proposed glass pool fence

Cr Martin – Cr Nardi

That the application be deferred pending the provision of further information by the applicants for further consideration at the Council meeting on 16 November 2010. CARRIED

T204.4 Preston Point Road No. 56A (Lot 1), East Fremantle

Applicant: Kensington Design Australia

Owner: Hugh Wetters

Application No. P158/2010

By Gemma Basley Town Planner on 1st November 2010

BACKGROUND

Description of Proposal

A request for an extension of the term of Planning Approval for a 3-level house comprising an undercroft is the subject of this report.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Local Planning Strategy – Riverside Precinct (LPS)
Residential Design Codes 2008

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 17 September 2010

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Date Application Received

17 September 2010

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

17 October 2006 The Council granted the Owner(s) of No. 56A Preston Point Road Planning Approval for "a 3-level house comprising an undercroft with double garage, bedroom, guest room and cellar, ground floor with living, kitchen, study and balcony, and upper floor with lounge, bedroom and balcony" in accordance with plans date stamp received on 14 August 2006.

23 September 2008 The Council granted the Owner(s) of No. 56A Preston Point Road a request for an extension of the term of Planning Approval for "the request for an extension of the term of Planning Approval for a 3-level house comprising an undercroft with double garage, bedroom, guest room and cellar, ground floor with living, kitchen, study and balcony, and upper floor with lounge, bedroom and balcony" for a further 24 months.

Advertising

The subject application was not readvertised to adjoining landowners.

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel

The subject application was not referred to the Town Planning Advisory Panel because it related to an earlier approval.

STATISTICS

	<i>Required</i>	<i>Proposed</i>
Land Area		334m ²
Zoning		R12.5
Open space		64% Acceptable

Setbacks:		<i>Required</i>	<i>Proposed</i>
Front (west)	Undercroft		
	Garage/ Bed 3 Guest	7.50	6.00 Discretion Required
	Ground		
	Balcony/Study	7.50	6.00 Discretion Required
	Porch	7.50	9.70 Acceptable
	Upper		
	Bed 1	7.50	8.50 Acceptable
	Balcony	7.50	6.30 Discretion Required
	Stairs	7.50	9.80 Acceptable

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Rear (east)	Undercroft		
	Lobby	N/A	3.30
			Acceptable
	Storage	N/a	4.50
			Acceptable
	Ground		
	Laundry	Nil	Nil
			Acceptable
	Kitchen	6.00	1.10
			Discretion Required
	Living	6.00	4.50
			Discretion Required
	Upper		
	Stairs	6.00	3.60
			Discretion Required
Ensuite	6.00	1.20	
		Discretion Required	
Bed 1	6.00	4.50	
		Discretion Required	

Side (north)	Undercroft		
	Garage	N/A	1.10
			Acceptable
	Ground		
	Balcony/Living	7.50	1.50
			Discretion Required
	Kitchen	1.50	5.20
			Acceptable
	Upper		
	Ensuite	1.00	4.60
		Acceptable	
Bed 1	1.10	1.20	
		Acceptable	

Side (south)	Undercroft		
	Guest	1.00	4.00
			Acceptable
	Bath	1.00	1.90
			Acceptable
	Stairs	1.00	3.80
			Acceptable
	Ground		
	Study	1.00	4.00
			Acceptable
	Porch	1.00	2.00
			Acceptable
	Stairs	1.00	4.00
			Acceptable
	Upper		
	Balcony	1.10	7.70
		Acceptable	
Stairs	1.10	4.00	
		Acceptable	
Dress	1.10	7.80	
		Acceptable	

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Height:

Wall	5.60	5.40
		Acceptable
Building	8.10	8.10
		Acceptable

Overlooking from the Upper Floor Balcony

REPORT

The application was originally applied for in 2006. Council has previously approved this proposal for a 3-level house at 56A Preston Point Road at its meeting in October 2006 subject to a number of variations relating to boundary setbacks and wall heights. The approval is detailed below:

“That subject to confirmation of wall heights Council exercise its discretion in granting approval for the following:

- (a) variation to the front boundary setback pursuant to the Residential Design Codes for the undercroft wall for a garage, bedroom 3 and a guest room, and the ground floor wall for a balcony and study from 7.5m to 6m, and the upper floor balcony from 7.5m to 6.3m;*
- (b) variation to the rear boundary setback pursuant to the Residential Design Codes for the ground floor wall for a kitchen from 6m to 1.1m, a living room from 6m to 4.5m the upper floor wall for a stairwell from 6m to 3.6m, an en-suite from 6m to 1.2m and for bedroom 1 from 6m to 4.5m;*
- (c) variation to the north side boundary setback pursuant to the Residential Design Codes for a balcony from 7.5m to 1.5m;*
- (d) variation to wall height for an open turret pursuant to Local Planning Policy 142 from 5.6m to 5.8m;*

for the construction of a 3-level house comprising an under-croft with double garage, bedroom, guest room and cellar, ground floor with living, kitchen study and balcony, and upper floor with lounge, bedroom and balcony at 56A Preston Point Road (Lot 1), East Fremantle in accordance with the plans date stamp received on 14 August 2006 subject to the following conditions:

- 1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council’s further approval.*
- 2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.*
- 4. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.*
- 5. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.*
- 6. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant’s expense.*
- 7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.*
- 8. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across*

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the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.

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

Footnote:

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

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

Pursuant to condition 10 the above stated approval expired on 17 October 2008.

Extension of Planning Approval

The applicants did not proceed with the Planning Approval within the two year time frame and requested Council to support an extension to the term of the Planning Approval. At its Ordinary Meeting held on 23 September 2008 Council approved this application for a request for an extension of Planning Approval for a 3-level house at 56A Preston Point Road as follows:

"Council advises Kensington Design that it is prepared, pursuant to Town Planning Scheme No 3, sub clause 10.5.2. to grant a two year extension to the planning approval granted on 17 October 2006 for a 3-level house comprising an undercroft with double garage, bedroom, guest room and cellar, ground floor with living, kitchen, study and balcony, and upper floor with lounge, bedroom and balcony at 56A Preston Point Road (Lot 2), East Fremantle subject to the same terms and conditions applicable to that approval".

DISCUSSION

The application seeks a further 24 month extension to the planning approval dated 23rd September 2008, pursuant to Clause 10.5 of TPS 3. The approval of this request would subsequently grant a six year planning approval for the proposed development. The request for an extension to the Planning Approval has been considered and assessed against the current R-Codes 2008 and it is considered that the application should be reviewed to comply with the current requirements of the R-Codes 2008 and the energy efficiency requirements of the Building Code of Australia.

Several factors such as the new Local Planning Policies, updates to the Residential Design Codes and changes within the Town's Councillors are all additional elements which are considered to impact on the assessment of the application. Given the length of time since the original lodgement date of the application it is considered that such changes would impact on the assessment of the current proposal.

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Although the plans re-submitted by the applicant date stamp received 17 September 2010 do not propose any changes to the original approval, it is considered that a re-assessment of the proposal is needed against the current Local and State Policies.

RECOMMENDATION

That Council resolves to:

1. refuse the request for a 24 month extension to the term of the existing extension for planning approval for the construction of a 3-level house comprising an undercroft with double garage, bedroom, guest room and cellar, ground floor with living, kitchen, study and balcony, and upper floor with lounge, bedroom and balcony, at No. 56A Preston Point Road, East Fremantle with the plans date stamp received on 17 September 2010 subject to the conditions previously imposed; and
2. advise the applicant that any revised application should address the current requirements of the Residential Design Codes 2008 and Building Code of Australia (as amended).

Mr Whetters (owner/applicant) addressed the meeting in support of the application and requested Council grant a further extension of the planning approval.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr de Jong

That Council resolves to:

1. refuse the request for a 24 month extension to the term of the existing extension for planning approval for the construction of a 3-level house comprising an undercroft with double garage, bedroom, guest room and cellar, ground floor with living, kitchen, study and balcony, and upper floor with lounge, bedroom and balcony, at No. 56A Preston Point Road, East Fremantle with the plans date stamp received on 17 September 2010 subject to the conditions previously imposed; and
2. advise the applicant that any revised application should address the current requirements of the Residential Design Codes 2008 and Building Code of Australia (as amended). CARRIED

T204.5

Wolsely Road No. 38 (Lot 5)

Applicant: S Johnston & S McKercher

Owner: S Johnston & S McKercher

By Stuart Wearne, Chief Executive Officer, on 5 November 2010.

ATTACHMENTS

1. Officer's report dated 15 February 2010
2. Advice dated 14 June 2010 from applicants; together with landscaping plan, engineer's report and heritage consultant's report
3. Plan of Action submitted to SAT
4. Photo showing fencing – Osborne Road
5. Plan showing shade sails
6. Extract from Construction Drawings showing tiles
7. Letter from applicants dated 8 December 2008
8. Photo of tiling
9. Letter from CEO to applicants regarding awning dated 7 September 2006
10. Photos showing landscaping

BACKGROUND

In March 2010 Council considered a report on an application for retrospective approval for fencing, a spa and shade sails, which had been prepared by the former Town Planner, Rohan Doust.

This report is attached and should be read in conjunction with this report.

At the meeting of the Town Planning & Building Committee held on 9 March 2010 the decision was as follows:

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“That the application for retrospective planning approval for various works undertaken at No. 38 (Lot 5) Wolsely Road, East Fremantle be deferred to the Council meeting and in the meantime a site visit be scheduled for Saturday, 13 March commencing at 9.30am.”

At the Council meeting held on 16 March 2010 the outcome was that:

“That the application be deferred to allow:

1. *the applicants to:*
 - (i) *provide a landscaping plan for the area for both the Wolsely and Osborne Road frontages to the satisfaction of the CEO*
 - (ii) *obtain an engineering report on the structural integrity of the building and the options for reinstating a decorative awning to the satisfaction of the CEO*
 - (iii) *obtain advice from a heritage consultant in regard to the replacement of, or other options with respect to, the original tiles to the satisfaction of the CEO*
2. *advice from the CEO regarding any other outstanding issues in relation to the original planning approval.”*

With respect to the above issues, Council received advice from the applicants on 14 June 2010.

This advice is attached. Unfortunately, none of the advice received was to the satisfaction of the CEO.

Firstly the landscaping plan was very limited in detail and in subsequent discussion with a number of elected members it was clear all elected members spoken to concurred with that view. In addition some elected members questioned the choice of plants proposed.

Secondly the engineering report was significantly qualified. This was due to the fact the building works were essentially complete by the time the engineer inspected the building, (in the engineer’s words) “making it difficult for meaningful structural observations to be made”.

Thirdly the “advice from a heritage consultant” did not read as the normal style of objective heritage advice/recommendations which Council receives from heritage consultants, but rather read more as a descriptive report and comment on the finishes which the applicants proposed, rather than what the consultant was recommending, and why.

Whilst the issue of how to deal with the above concerns were being contemplated, prior to responding to the owners, the owners proceeded to soon carry out their proposed works, regardless that there had been no response from Council to their “proposal”, let alone Council approval. The rapidity with which this occurred is evident from the fact the completed property was submitted for auction on 7 August 2010, with advertising (which included the advice “if not sold prior”) taking place well before that date.

The owners were aware prior Council approval for some of the works in question was required.

For example, an email from the Mayor to the CEO concerning a site visit he made on 27 June 2010, which was attended by the applicants, advised in part “The property is likely to go on the market in the next few weeks *pending Council sign off*” (author’s italics).

Asked subsequently why they proceeded to complete the works without the necessary Council approvals, the applicants firstly cited what was in their view an unacceptable delay in Council responding to their “proposal” and secondly expressed the view that from comments made at the site visit which elected members attended on 13 March

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2010, they felt the works they had subsequently carried out were in accordance with the views of the elected members expressed at that site visit.

The Town Planning Advisory Panel, at their meeting of 27 July 2010, considered the matter after it was raised by the Presiding Member.

The Panel advised as follows:

“Panel members viewed recent advertising material involving this property, regarding the auction of the property, which is due to take place on the 7 August 2010.

Viewing the photographs of the property, the Panel was concerned that the external finishes to the ‘corner shop’ original element of the dwelling had not been finalised according to Council’s conditions of retrospective development approval moved earlier this year.

The panel reiterated their comments made in February of this year, in summary:

- *That the retention of heritage elements and significant aspects of the heritage fabric of the corner shop be reinstated to the satisfaction of the Council and in conjunction with the original heritage report of 2006.*

The panel strongly recommends that Council via the Chief Executive Officer, urgently gain some legal advice with respect to preventing the sale of 38 Wolsely Road until all planning requirements and conditions have been met to the satisfaction of Council.”

(The CEO had at that stage already commenced action in regard to bringing relevant issues to the attention of the Licensee of the real estate agency concerned.)

At the auction held on 7 August 2010 the property was not sold, although it is noted it currently carries a sign “under offer”.

The Town Planning Advisory Panel again considered the matter at its meeting held on 28 September 2010 and resolved as follows:

- *Report to November Council meeting.*
- *Awning should be reinstated and a post supported awning is acceptable.*
- *Tiles should be reinstated as per original.*
- *Recommend the Town obtain an independent heritage assessment.*
- *Doorway should be retained in such a way that it can be reinstated in the future if the use of the building should change.*
- *Landscaping sparse and minimalist.”*

STATE ADMINISTRATIVE TRIBUNAL

In September 2010 the applicants lodged an application with the State Administrative Tribunal for a review of a decision to refuse. The “decision to refuse” presumably refers to a deemed refusal.

Whilst there are significant difficulties with interpreting the information submitted to SAT, as it is quite confused, the applicants appear to be effectively seeking retrospective approval for all of the works carried out which do not currently have Council approval.

However because the applicants recognise that there may be issues with SAT considering their application, or parts of their application, due to provisions in SAT legislation pertaining to conforming lodgement times, the applicants have, in addition to their SAT appeal, made an application to the Council for retrospective planning approval for “Shopfront including landscaping”.

It is further understood the applicants believe that, with respect to their application to SAT, if SAT consider the abovementioned issues are “out of time”, the application for

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retrospective planning approval will pave the way for a further SAT appeal if necessary, which is in time.

Following these applications, in discussion with the applicants, it has been agreed to attempt to resolve these matters outside of SAT in the first instance.

SAT needed to endorse this plan, and in fact required a "Plan of Action", agreed to by both Council and the applicants, and which SAT also needed to be in agreement with. This is attached.

Consistent with this Plan of Action, elected members are encouraged to make decisions on all outstanding issues at the 16 November 2010 Council Meeting ie to avoid deferring decisions on any of the issues, if at all possible.

SAT have scheduled a Directions Hearing for 25 November 2010, at which, ideally, the applicants will be in a position to indicate acceptance of (if not necessarily agreement with), Council's decision.

REPORT

It is intended to discuss each of the items referred to in the Action Plan, in the order given in the Plan.

Spa

A spa was installed within the outdoor living area and underneath the shade sails. The spa is approximately 2.1m x 2.1m in area and set back 1.4m from the side boundary.

As indicated earlier in the report, a decision on an earlier application for retrospective planning approval for the spa (and other matters) was deferred, pending clarification of other issues, notwithstanding an officer's report recommending approval.

As indicated in the previous officer's report, the spa accords with the relevant provisions of TPS3, the R Codes and the town planning policies. It is recommended Council grants retrospective planning approval for the spa.

Recommendation

Council grant retrospective planning approval for the spa at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.

Fencing

The fencing issue concerns the Osborne Road fencing. A photo of this fencing is attached. All other fencing is compliant.

The Osborne Road fencing as constructed is not consistent with the planning approval although is consistent with the subsequently issued building licence.

Previous advice on this issue, extracted from the former Town Planner's report of 9 March 2010, was as follows:

*"Height and Visual Permeability of Fence to Osborne Road
The subject site is a corner lot. The Fencing Policy states that:*

"This Policy applies to all fences/wall forward of the building line of a property or forward of the facade (or facades for a corner lot) of the main residence."

What this means is that for corner lots, fencing to both frontages is required to be visually permeable.

As stated above, the planning approval issued 21 February 2006 shows a 1.8m high, visually permeable fence to Osborne Road.

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However, this section of fence to Osborne Road has been constructed in accordance with the Building Licence which shows the fence being up to 2.9m in height and visually impermeable (ie Mini Orb infill panels have been used in place of the approved timber batons).

Normally, the Building Licence should accord with the Planning Approval. However, in this case it appears that the then Building Surveyor did not take into account the changes made to the fence in the drawings submitted for a Building Licence as required (perhaps because these changes weren't identified on the Building Licence plans as required), and accordingly a Building Licence was issued which shows fencing at odds with that shown on the Planning Approval.

Despite the fact that a Building Licence has been issued, this does not remove the requirement that the fencing needs to either:

- accord with the Planning Approval; or
- receive retrospective Planning Approval.

The applicants have chosen to seek retrospective planning approval for a visually impermeable fence up to 2.9m high along Osborne Road.

It is considered that such a fence is inappropriate in this locality, and is not supported for the following reasons:

- The subject site has a dual frontage, and accordingly its development has a significant impact on the streetscape in this locality. The Planning Approval issued 21 February 2006 was in part contingent upon there being a 1.8m-high, open fence along Osborne Road in order to help offset the additional bulk and scale associated with the redevelopment of the site. It is considered that a solid, over-height fence in this location significantly contributes to the bulk and scale of the development and accordingly detracts from the streetscape. Please refer to the photographs at Attachment 7.
- The Fencing Policy states that this section of fence is not to exceed 1.8m in height and is required to be visually impermeable.

The Fencing Policy does, however, state that a variation to the maximum permitted height of 1.8m can be considered under special circumstances, including the following:

- 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 the first three of the above provisions are not applicable to the subject site and therefore are not appropriate grounds to vary the Policy requirements. With respect to the last point regarding visual screening, this matter can be considered applicable to the subject site as the fencing encloses an outdoor living area to the secondary street (Osborne Road). However, there are alternative methods for providing privacy to the outdoor living area (such as using vegetation) that do not result in an over-height, visually permeable fence to Osborne Road.

Further, despite alternative options being available, the applicants have chosen to develop their property in the manner they have chosen, including consigning this

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outdoor living area to this location and it is not considered reasonable that the streetscape be compromised to accommodate their choices in this regard.

Further, the original planning approval was predicated, in part, on a conforming fence and it is not considered appropriate that, having gained that approval, significant changes to fencing are then sought in the manner which has occurred.

On the basis of the above it is recommended that any retrospective planning approval include a condition requiring the fence to Osborne Road be reduced in height to 1.8m and provided with visually permeable infill panels, as per the Fencing Policy and the Planning Approval issued 21 February 2006.”

The former Town Planner's recommendation had been that Council grant retrospective planning approval for the fencing at No. 38 Wolsely Road subject to:

“The fencing to Osborne Road is to be reduced in height to no more than 1.8m and is to be provided with visually permeable infill panels at least above 1.2m, in accordance with the Planning Approval issued 21 February 2006 and the requirements of the Fencing Policy (LPP143)”

The author concurs with the former officer's advice.

Nevertheless the author also believes that there is also an arguable case to support a variation to Council's Fencing Policy in this matter, on the grounds that the fence, as constructed, provides visual screening to an outdoor living area, particularly if the spa (referred to above) is approved and particularly if the landscaping plan (referred to below), which shows limited screening of the spa area, is approved.

Elected members may also consider it relevant that the fencing is in accordance with the building licence, notwithstanding that, with respect to planning requirements, and the relevant legal situation, this is a separate issue which in not way obviates the need to conform with the planning approval.

It should be noted the applicants have acknowledged this by applying for retrospective planning approval for the fencing.

Because of the subjective nature of the issues in question, two alternative recommendations are therefore proposed.

Recommendation

Council grant retrospective planning approval for the fencing at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009 subject to the following condition:

1. The fencing to Osborne Road is to be reduced in height to no more than 1.8m and is to be provided with visually permeable infill panels at least above 1.2m, in accordance with the Planning Approval issued 21 February 2006 and the requirements of the Fencing Policy (LPP143).

Alternative Recommendation:

Council grant retrospective planning approval for the fencing at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.

Shade Sails

Three shade sails have been erected over an outdoor living area facing the side street (Osborne Road). See plan attached. The shade sails have a combined area of approximately 21m² and an overall height of approximately 2.9 – 3.4m above the finished floor level of the outdoor living area. The shade sails have steel uprights and white plastic canopies. They are set back at least 1.0m from the side boundary.

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The sails accord with the provisions of TPS3, the R Codes and the Town's planning policies.

It is recommended Council grant retrospective planning approval for the shade sails.

Recommendation:

Council grant retrospective planning approval for the shade sails at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.

Shop Tiles

At the time the original application was being considered in 2006, Heritage advice from Heritage Consultant Rosemary Rosario, which was commissioned by the Town, noted, in part:

"Both street facades also feature glazed tiles of the type commonly used on shop fronts in the inter-war period".

Whilst the planning application had proposed removal of all of the tiles, both Rosemary Rosario's report and the officer's report, recommended all of the (then existing) wall tiles be retained. This was supported by elected members and the subsequent Council approval included the following condition:

"The façade of the existing building once used as a "corner shop", which includes two windows and a door is to be retained and restored in accordance with the Heritage Report. Council recognises that the sourcing of wall tiles for the front façade may be difficult and delegated this issue to the Chief Executive Officer in consultation with relevant officers, however, Council is of the opinion that the original tiles should be retained as much as is practicable".

The reference to the sourcing of wall tiles being difficult, which had not formed part of the officer's recommendation, followed an address by Ms McKercher to the meeting, in which, as recorded in Council's minutes, she advised the original wall tiles were not available for purchase and requested approval to install wall tiles of a similar type.

As a result, the officer's recommendation, which would simply have had the effect of requiring the existing tiles be retained and restored, was amended.

The clear intent of the Council condition was nevertheless that ideally, all of the existing wall tiles would be retained however if any replacements were needed, the applicants would source wall tiles of a similar type, with the CEO having delegated authority to approve the replacement tiles.

Reinforcing this intent was the fact the officer's report had noted that justification for allowing various relaxations with respect to setbacks relied on features such as the existing tiles being retained on this property, which had a high rating on the Town's Municipal Heritage Inventory.

The condition with respect to the tiles was not appealed by the applicants and the drawings subsequently submitted for the Building Licence clearly stated "existing tiling retained and restored where necessary". See extract from approved construction drawings (attached).

In October 2008, in writing to the applicants regarding compliance issues, the CEO wrote in part:

"Additionally, Council officers have observed that most of the tiles that had been fixed to the front walls of the 'old shop' at the corner have been smashed off.

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This is considered to be in breach of condition 2 of your Planning Approval, which states:

1. *the facade of the existing building once used as a “corner shop”, which includes two windows and a door is to be retained and restored in conformance with the Heritage Report. Council recognises that the sourcing of wall tiles for the front façade may be difficult and delegates this issue to the Chief Executive Officer in consultation with relevant officers, however, Council is of the opinion that the original tiles should be retained as much as is practicable.*

You are requested to explain why this action has occurred and to propose how the matter is to be rectified.”

Mr Johnson responded in a letter dated 8 December 2008, which is attached.

With reference to that letter, leaving aside the explanation as to how every one of the then existing tiles was either destroyed or disposed of (none were retained), to refer to a condition of planning approval, by Council, however worded, as merely an *opinion* of Council and thus, in the applicant’s view, not binding was completely unacceptable, as was the fact the loss of all of the tiles was not drawn to Council’s attention by the applicants.

Moreover, as indicated, even if none of the existing tiles could be saved, which is questioned, both the planning approval and the building licence required that Council approved replacement tiles would then be installed, to all of the areas shown on the approved building licence drawings.

As indicated above, this clearly is what Ms McKercher had indicated to the Council would occur in this circumstance.

The request by the applicants *“That the Town of East Fremantle rescind the previous determination with regard to the tiles”* was noted however not agreed to. In any event the request was not made in accordance with the required statutory processes as per the relevant provision of TPS 3.

Ultimately, the applicants only took further action on the matter when the application for retrospective approval of the spa, shade sails and fencing was deferred, in part, to allow the applicants to:

“(iii) obtain advice from a heritage consultant in regard to the replacement of, or other options with respect to, the original tiles to the satisfaction of the CEO.”

This decision was taken on 16 March 2010.

As indicated earlier in this report, advice from the applicants on the tile and other issues was received on 14 June 2010, however the nature of the advice was not considered satisfactory.

The advice was submitted by Rosemary Rosario and is attached.

Notwithstanding the lack of any Council approval, as indicated earlier in this report, the applicants proceeded to complete the tiling, in the limited manner unilaterally decided by themselves and as described in Rosemary Rosario’s report. That manner could be described as a “minimalist” approach. A photo of the tiling is attached.

The CEO has subsequently:

- spoken directly with the applicants on this issue, on more than one occasion;
- spoken with Rosemary Rosario on this issue;

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- convened a meeting on the issue which was attended by the applicants, Rosemary Rosario, Cr Wilson and the CEO.

From the abovementioned discussions, the CEO formed a the clear view that the tiling installed was not the approach recommended to the applicants by Rosemary Rosario and has likely been carried out on the grounds of being the cheapest option.

At the abovementioned meeting attended by Cr Wilson, Rosemary Rosario offered to prepare alternative options, based on conclusions which she reached at the meeting, with respect to what she considered would be more satisfactory to elected members.

The applicants declined Ms Rosario's offer (with the comment they had not liked any of the options she had originally submitted to them) and stated they wished the existing strip of tiling to remain as the only tiling on the building.

This position was notwithstanding advice to the applicants that the prevailing view of elected members appeared to be that the tiling as installed was unsatisfactory and further that the TPAP had, recently, again recommended that the "tiles should be reinstated as per original".

Council is unable to obtain formal advice from Rosemary Rosario regarding her recommendations due to her client relationship.

Having considered the issue the CEO has not sought other expert heritage advice on the matter because the applicants have made it clear they are not interested in considering alternative options.

As a result of the above considerations, the CEO has concluded that the most appropriate course of action is for Council to maintain the position that the tiling should be in accordance with the approved building licence drawings (which in turn reflect the original condition of Council approval).

If Council adopts this position the applicants would then have the choice of either:

- accepting that Council decision; (or)
- submitting an alternative proposal to Council (which could occur between the Committee and full Council meetings); (or)
- not accepting Council's decision and continuing with their application to the State Administrative Tribunal.

Alternatively elected members may choose to accept the tiling as installed or resolve to support an alternative application of tiling, or resolve that Council obtain further advice on the matter.

Recommendation

The tiling which has been installed on the former shopfront at No. 38 (Lot 5) Wolsely Road, East Fremantle in place of the original tiles, is not approved and Council requires that wall tiles of a similar type to the original tiles, which are to be to the satisfaction of the CEO, be installed to all of the areas shown on the approved building licence drawings, consistent with Council's planning approval.

Shop Awning

The original corner shop had had an over pavement awning which Rosemary Rosario, in her 2006 Heritage Advice to the Town, advised had probably replaced a former awning, was "not significant" and "may be removed".

Ms Rosario then went on to state:

"The reinstatement of a flat awning typical of the inter-war era would be appropriate. If photography of the original shop are available, these should be used as a guide for restoration".

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The applicants nevertheless proposed that the awning be removed.

For reasons which are unclear, though may have stemmed from comments made by the applicants to the meeting, the planning approval issued on 21 February 2006 did not state retention of the awning was a specific requirement, however did state:

- in Condition 2 that:
the facade of the existing building once used as a "corner shop", which includes two windows and a door is to be retained and restored in conformance with the Heritage Report".
(Advice in the Heritage Report is discussed above).
- in Footnote (f) that:
"(f) if at all possible the awning be refurbished and retained and this matter be considered further at the point of 'application for building licence'."

The applicants were advised of the above and did not object.

In September 2006 the applicants asked to remove the existing awning, claiming it was *"pulling down the façade and it is feared the whole lot may come down when the wall is demolished"*.

In response the CEO approved "the existing awning being temporarily removed for structural reasons".

The CEO's letter is attached.

The following month the building licence application and plans were received. The plans showed the existing awning, clearly indicating, with respect to the previous correspondence, an intention to temporarily remove, hold in safekeeping and then reinstall that awning.

These plans were approved by Council and are binding. The current lack of an awning is thus in breach of the building licence.

The manner in which the building was completed suggests there was no intention on the applicant's part to reinstate the awning.

It was only when the elected members deferred a decision on the application involving the spa, shade sails and Osborne Road fence, in part, "to allow the applicants to obtain an engineering report on the structural integrity of the building and the options for reinstating a decorative awning to the satisfaction of the CEO" that some action was taken by the applicants in this matter.

This consisted of an engineer's report, dated 11 June 2010 and received on 14 June 2010, together with a cover letter from the applicants dated 26 May 2010.

As indicated earlier in this report the engineering advice is significantly qualified as a result of the fact that at the time a site visit was carried out, the completion of the building was so advanced (even the external façade had been rendered) that it was "difficult for meaningful structural observations to be made".

A copy of the engineers report is attached.

The fact the applicants do not appear to have commissioned any engineering investigations into the structural elements required to support the canopy, which they were required to reinstall, when those elements would have been accessible during the construction, reinforces the view that the applicants had no intention of voluntarily reinstating the awning.

The CEO has spoken with the engineer concerned who, whilst expressing a number of concerns regarding the manner and timing of the brief he had been given, confirmed that

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he considered the two options for reinstating the awning, which are outlined in his report, to be feasible.

In subsequent discussions with the applicants on this issue, various comments were made, however in one of those discussions Mr Johnston stated that if Council required the awning to be reinstated, this would be done.

It is noted that the overwhelming view of elected members, as expressed to the author, is a desire for the awning to be reinstated.

The Town Planning Advisory Panel have consistently recommended that this occur and the CEO has received complaints from some members of the public that it has not occurred.

After careful consideration of the matter, the CEO has concluded that the most appropriate course of action is for Council to resolve that the awning, exactly as shown in the approved building licence drawings, should be reinstated in accordance with those drawings and the related building licence.

If Council adopts this position the applicants would then have the choice of either:

- accepting that Council decision; (or)
- submitting an alternative proposal to Council (e.g. an awning held up by external columns): (or)
- not accepting Council's decision and continuing with their application to the State Administrative Tribunal.

Council is not in a position, currently, to approve an alternative awning proposal because it has received no plans for such. The only plans received were in relation to the existing building licence, and, as indicated, these plans entailed the retention of the (then) existing awning.

Recommendation

With respect to the redevelopment of No. 38 (Lot 5) Wolsely Road, East Fremantle:

- (a) Council notes that the approved building licence drawings entailed the retention of the existing awning which was subsequently permitted to be temporarily removed for structural purposes in the course of other building works, subject to the awning being reinstated or replaced with another awning which was to Council's satisfaction.
- (b) Council requires that the original awning be reinstated, consistent with the approved building licence drawings. In the event that awning has been destroyed, Council requires an awning which replicates the original awning and is to the satisfaction of the CEO, be installed, with the method of installation also to be to the satisfaction of the CEO.

Landscaping

At the Council meeting held on 16 March 2010 a decision on an application for retrospective approval of Osborne Road fencing, a spa and shade sails was deferred, in part, to allow the applicants "to provide a landscaping plan for the area for both the Wolsely and Osborne Road frontages to the satisfaction of the CEO."

Whilst a landscaping plan had not been one of the original conditions of approval, the intent of elected members in this case is understood to firstly be a concern regarding whether, with respect to the original shop front façade, the outcome was in accordance with the original approval and whether, if certain outcomes, such as the non reinstatement of the awning was to be allowed, whether the landscaping would be a factor in that decision.

Secondly, the landscaping on Osborne Road had the potential to reduce overlooking of the spa area, which was relevant to the fencing issue.

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The landscaping proposal is attached, as are photos of the plantings in situ.

It was understood from Rosemary Rosario that the plantings carried out were suggested by her.

Whilst the plan submitted was unsatisfactory in quality this issue is now largely academic, as the plants are in place.

The plantings give rise to a number of issues:

- (i) The plantings do not appear fully in accord with the plan submitted.
- (ii) The planting on Wolsely Road is deemed to be in Council's verge and thus would have required Council approval in any event.
- (iii) Regarding the Wolsely Road plants, the CEO is advised the smaller leafed plants are sansevieria (or "Mother-in-law's tongue") which are waterwise and can grow to 1.5m. The taller of the cacti is already 1 metre high, covered in prickles and can be expected to increase in height and spread. The cacti are an inappropriate verge plant for safety reasons (noting this is also a school route). Also the use of blue metal on the Council's verge does not meet normal approval conditions.
- (iv) on the Osborne Road side are 5 pencil pines. It is not clear if they are the dwarf variety however if not it is understood they can grow to over 6m. The CEO is advised they are planted too close together, even if they are the dwarf variety, need a lot of water yet do not appear to be under reticulation and are likely to either die or certainly not thrive.

It is recommended these issues be dealt with administratively, although suggestions from elected members would be appreciated.

Verge plantings on Council land are an operational matter and whilst the applicants are entitled to plant within their boundaries, there may be issues with the pencil pines, should any survive, coming into conflict with Council's assets (eg obstructing footpath, root damage)

Recommendation

This issue of approval or refusal of all or any of the landscaping which has been carried out, or replacement plantings be delegated to the CEO.

CONCLUSION

There have been a number of unsatisfactory aspects in relation to this development, including a number of compliance issues.

These issues have consumed a large amount of officers' time and lead to a view that, in hindsight, it may have been more efficient, and decisive, to take legal action in the matters of deemed non compliance, rather than engage in the protracted debates which have occurred.

Nevertheless, the recommendations in this report are considered reasonable, and an effective means of resolving all of the outstanding issues.

RECOMMENDATION

That:

1. Council grant retrospective planning approval for the spa at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.
2. Council grant retrospective planning approval for the fencing at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009 subject to the fencing to Osborne Road being reduced in height to no more than 1.8m and provided with visually permeable infill panels at least above 1.2m, in accordance with the Planning Approval issued 21 February 2006 and the requirements of the Fencing Policy (LPP143).

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3. Council grant retrospective planning approval for the shade sails at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.
4. The tiling which has been installed on the former shopfront at No. 38 (Lot 5) Wolsely Road, East Fremantle in place of the original tiles, is not approved and Council requires that wall tiles of a similar type to the original tiles, which are to be to the satisfaction of the CEO, be installed to all of the areas shown on the approved building licence drawings, consistent with Council's planning approval.
5. With respect to the redevelopment of No. 38 (Lot 5) Wolsely Road, East Fremantle:
 - (a) Council notes that the approved building licence drawings entailed the retention of the existing awning which was subsequently permitted to be temporarily removed for structural purposes in the course of other building works, subject to the awning being reinstated or replaced with another awning which was to Council's satisfaction.
 - (b) Council requires that the original awning be reinstated, consistent with the approved building licence drawings. In the event that awning has been destroyed, Council requires an awning which replicates the original awning and is to the satisfaction of the CEO, be installed, with the method of installation also to be to the satisfaction of the CEO.
6. This issue of approval or refusal of all or any of the landscaping which has been carried out, or replacement plantings be delegated to the CEO.

ALTERNATIVE RECOMMENDATION

That:

1. Council grant retrospective planning approval for the spa at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.
2. Council grant retrospective planning approval for the fencing at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.
3. Council grant retrospective planning approval for the shade sails at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.
4. The tiling which has been installed on the former shopfront at No. 38 (Lot 5) Wolsely Road, East Fremantle in place of the original tiles, is not approved and Council requires that wall tiles of a similar type to the original tiles, which are to be to the satisfaction of the CEO, be installed to all of the areas shown on the approved building licence drawings, consistent with Council's planning approval.
5. With respect to the redevelopment of No. 38 (Lot 5) Wolsely Road, East Fremantle:
 - (a) Council notes that the approved building licence drawings entailed the retention of the existing awning which was subsequently permitted to be temporarily removed for structural purposes in the course of other building works, subject to the awning being reinstated or replaced with another awning which was to Council's satisfaction.
 - (b) Council requires that the original awning be reinstated, consistent with the approved building licence drawings. In the event that awning has been destroyed, Council requires an awning which replicates the original awning and is to the satisfaction of the CEO, be installed, with the method of installation also to be to the satisfaction of the CEO.
6. This issue of approval or refusal of all or any of the landscaping which has been carried out, or replacement plantings be delegated to the CEO.

Mr Johnston (owner) addressed the meeting with complaints about advice from Council officers, issues in relation to the building licence approval, unanswered correspondence and Council processes generally. Mr Johnston asked why all of these matters were not addressed in the officer's report.

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At the invitation of the Presiding Member, the Chief Executive Officer responded by commenting that it would not have been relevant, from both the statutory planning application process at issue and the application which had been made to the State Administrative Tribunal, to detail in the report the chronology of communications between the applicants and Council staff, except where these communications were relevant to the report's recommendations.

The Chief Executive Officer advised that if the applicants had complaints about Council's administrative processes, there were more appropriate forums in which these could be raised, which he would be happy to advise the applicants of outside of the meeting.

The Presiding Member acknowledged Mr Johnston's grievances however requested that he contain his comments at this meeting to the officer's report and in particular its recommendations.

Mr Johnston continued to blame Council processes for the problems which had occurred.

T205. ADJOURNMENT

Cr Collinson – Cr de Jong

That the meeting be adjourned at 7.20pm to allow further discussion regarding this matter. CARRIED

T206. RESUMPTION

Cr de Jong – Cr Martin

That the meeting be resumed at 7.40pm with all those present prior to the adjournment, in attendance. CARRIED

**T207. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN)
(CONTINUED)**

T207.1 Wolsely Road No. 38 (Lot 5) (Contd)

Applicant: S Johnston & S McKercher

Owner: S Johnston & S McKercher

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That:

1. Council grant retrospective planning approval for the spa at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.
2. Council grant retrospective planning approval for the fencing at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.
3. Council grant retrospective planning approval for the shade sails at No. 38 (Lot 5) Wolsely Road, East Fremantle as constructed and as shown on plans received 16 November 2009.
4. The tiling which has been installed on the former shopfront at No. 38 (Lot 5) Wolsely Road, East Fremantle in place of the original tiles, is not approved and Council requires that wall tiles of a similar type to the original tiles, which are to be to the satisfaction of the CEO, be installed to all of the areas shown on the approved building licence drawings, consistent with Council's planning approval.
5. With respect to the redevelopment of No. 38 (Lot 5) Wolsely Road, East Fremantle:
 - (a) Council notes that the approved building licence drawings entailed the retention of the existing awning which was subsequently permitted to be temporarily removed for structural purposes in the course of other

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- building works, subject to the awning being reinstated or replaced with another awning which was to Council's satisfaction.
- (b) Council requires that the original awning be reinstated, consistent with the approved building licence drawings. In the event that awning has been destroyed, Council requires an awning which replicates the original awning and is to the satisfaction of the CEO, be installed, with the method of installation also to be to the satisfaction of the CEO.
6. This issue of approval or refusal of all or any of the landscaping which has been carried out, or replacement plantings be delegated to the CEO.

CARRIED

T207.2 Moss Street No. 18 (Lot 5)
Applicant/Owner: Rob & Louise Pivac
Application No. P512/2010

By Gemma Basley, Town Planner on 4 November 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for restoration and extensions to the existing character residence located at 18 Moss Street, is the subject of this report.

The application proposes to restore the original residence as well as extending the verandah to create a return verandah on the southern side of the residence. The application proposes a brick pier and wrought iron front fence as well as the replacement of the roof and landscaping works. Finally, the application proposes to construct a garage on the northern boundary and to extend the house at the rear and construct an alfresco area.

The report seeks Council's endorsement for a recommendation to conditionally approve the proposed development.

Description of site

The subject site is:

- a 893m² block
- zoned Residential R12.5
- developed with a heritage residence
- located in the Woodside Precinct.
- Municipal Inventory 'C-^

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Restoration of the residence and the construction of a garage will alter the way the residence is viewed from the street but not in an adverse manner

Documentation

Plans and relevant forms date stamp received on 31 August 2010

9 November 2010

MINUTES

Date Application Received

31 August 2010

No. of Days Elapsed between Lodgement & Meeting Date

70 days

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

Nil.

CONSULTATION

Advertising

The application was advertised to adjoining neighbours for a two week period between the 13 September and the 27 September 2010. During the advertising period no submissions were received.

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 26 September 2010. The Panel made several comments about the proposal and these are detailed in the table below and responded to by the applicant.

Panel Comments	Applicant Response
Restoration of the residence supported.	Noted
Scale of the proposed garage is inconsistent with the rest of the development.	As we are aware that homes of this era would not have had large garages we wished to sympathetically create a separate garage, screened by trees, at the far boundary of the property. To make the garage larger would impinge on our small play area we wish to create in this location.
Potential to relocate garage further back to enable it to be widened and be more commensurate with the scale of the existing dwelling.	Our yard is filled with old fruit and nut trees. Moving the garage back would require the removal of a 50 year old pecan tree (approx) and a brick wood shed believed to be as old as the house circa 1925. At this time we also have established vegetable gardens which we wish to retain in this area. Our yard has no grass areas for our children to play and once large garage/shed is removed this will allow a small, sunny, grassed play area. There is no alternative place for this area as the remainder of the block is filled with trees and we do not wish to remove them.
Recommend greater differentiation between the original dwelling and proposed additions in keeping with the Burra Charter.	The original home is built of red brick and this will be tuckpointed once the render is removed- this is the front 80 sqr metre box. Behind this is a circa 1970's and a 2000 extension which will not have been built from same brick. These extended areas as well as our small extension will be rendered and therefore will be sympathetic to the original structure in terms of colour and texture but will be clearly differentiated from the original.
Request a heritage assessment to gain an understanding of the existing residence.	A heritage assessment has been prepared by Carrick and Wills.
Details of the proposed internal changes and impact on the original building.	We plan to retain the existing lounge room, removing a wall to add french doors to visually open up the house, linking the old with the new. The existing front bedroom will be retained. The adjoining bedroom will be altered to become a semi-ensuite and walk in robe for the main bedroom. The bathroom will become a small study to take advantage of the northern light.

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As detailed above the applicant's have commissioned a Heritage Impact Assessment Report which is included in the Appendices of this report and will be discussed in Section 3 of this report.

Principal Building Surveyor's Comment

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

Site Inspection

By Town Planner on 27 September 2010

ASSESSMENT

The application proposes to restore the original residence as well as extending the verandah to create a return verandah on the southern side of the residence. The application proposes a brick pier and wrought iron front fence as well as the replacement of the roof and landscaping works. Finally, the application proposes to construct a garage on the northern boundary and to extend the house at the rear and construct an alfresco area.

The application meets all of the requirements of the R-Codes and Council's LPP No. 142 and does not seek any variations or discretions.

A Heritage Impact Assessment Report has been prepared and concludes that the proposed conservation works will result in an improved contribution to the streetscape. The application is considered to be acceptable as the development retains the cultural heritage significance of the original building.

Given the proposal meets the requirements of the R-Codes, Council's Local Planning Policies and TPS No. 3 and that the application proposes to retain and restore a residence that is included on the Town's Municipal Inventory, it is supported and recommended for approval.

RECOMMENDATION

That Council grant approval for the renovations, alterations and additions at 18 Moss Street, East Fremantle in accordance with the plans date stamp received on 31 August 2010 subject to the following conditions:

1. a schedule of materials and finishes to be submitted to 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 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 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.
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. 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.
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.*

9 November 2010

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

Mr & Mrs Pivac (owners) addressed the meeting in support of their application and advised that following further consideration of the Town Planning Advisory Panel's comments they proposed to:

- increase the width of the proposed garage by 1m to facilitate the relocation of the laundry to this structure to increase the scale of the garage – allowing the retention of an existing mature avocado tree
- create a greater differential between the existing residence and the additions by using red brick and red render.

Following an indication by elected members that red brick would be preferred, it was agreed that this option would be used if possible.

The Chief Executive Officer left the meeting at 7.50pm.

Elected members thanked the applicants for taking on board the comments of Council's Town Planning Advisory Panel in amending the proposal.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr de Jong

That Council grant approval for the renovations, alterations and additions at 18 Moss Street, East Fremantle in accordance with the plans date stamp received on 31 August 2010 subject to the following conditions:

1. amended plans to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a building licence which incorporate:
 - (i) the widening of the garage by 1m
 - (ii) relocation of the laundry to increase the rear setback
2. a schedule of materials and finishes to be submitted to the CEO 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 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. 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.
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:

9 November 2010

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- (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).*
- CARRIED

T207.3

Glyde Street No. 46 (Lot 149), East Fremantle

Applicant: Chris Brook- Builder

Owner: Mr and Mrs J & G Parish

Application No. P142/2010

By Gemma Basley, Town Planner on 3 November 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for the replacement of the existing flat concrete verandah with a bullnose verandah at the property of No. 46 Glyde Street, East Fremantle is the subject of this report. More specifically, the application proposes to remove the existing concrete posts and roof and replace with a custom made bullnose verandah (Subiaco Restorations) and to match the materials of the main structure.

The proposed verandah treatment is the completion of a significant restoration of the dwelling from a 'European' style to its original form. The report seeks Council's endorsement for a recommendation to conditionally approve the proposed development.

Description of site

The subject site is:

- a 494m² block
- zoned Residential R20
- developed with a heritage residence
- located in the Plympton Precinct.
- Municipal Heritage Inventory 'C'

Statutory Considerations

Town Planning Scheme No. 3 –

Local Planning Strategy - Plympton Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact

Documentation

Plans and relevant forms date stamp received on 19 August 2010

Date Application Received

19 August 2010

9 November 2010

MINUTES

Advertising

The application was not advertised to adjoining neighbours because it related to replacement works rather than additions.

No. of Days Elapsed between Lodgement & Meeting Date

83 days

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

15 July 2008 Council resolves to approve additions and alterations to the existing residence at 46 Glyde Street

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 24 August 2010. The Panel believe a skillion roof would be more appropriate and would represent the original heritage roofline of the house.

In response to this the applicants commissioned a Heritage Impact Assessment Report by Heritage and Conservation Professionals which will be discussed in Section 3 of this report.

Principal Building Surveyor's Comment

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

Site Inspection

By Town Planner on 23 August 2010

ASSESSMENT

Approval is sought to replace the existing concrete verandah with a traditional bullnose verandah which will finalise extensive renovations and additions to the residence.

The application meets the requirements of the R-Codes in terms of boundary setbacks, site works, privacy and building heights.

The application requires assessment against Council's Local Planning Policy No. 66 - Roofing. This is because the roof form is an important element of the streetscape and in order to maintain the traditional historic character of the Town of East Fremantle, the Policy establishes certain design criteria. More specifically the Policy requires dominant elements to be greater than 28 degrees. The subject proposal only relates to the roof of the verandah and because this is not a dominant element there are no specific requirements relating to the pitch of the verandah.

The only issue that has been identified is the appropriateness of the bullnose verandah. As detailed above, the applicants commissioned the services of Heritage and Conservation Professionals to undertake a Heritage Impact Assessment Report to address this issue. The Heritage Impact Assessment Report is included in the Appendices to this report and makes a recommendation that from a heritage perspective, the construction of a hipped bullnosed verandah as shown on the photograph in the builders report is supported. The report further states that approval subject to the new bullnosed verandah being a hipped verandah is recommended.

The application has been assessed on its merits and taking into account the recommendation of the Heritage Impact Assessment Report. Given that the proposal meets all of the requirements of the R-Codes, TPS No. 3 and Council's LPP No. 66 the application is supported and recommended for approval.

9 November 2010

MINUTES

RECOMMENDATION

That Council grant approval for the replacement of the front verandah with a bullnosed verandah at 46 Glyde Street, East Fremantle in accordance with the plans date stamp received on 19 August 2010 subject to the following conditions:

1. prior to the issue of a Building Licence, revised plans, which are to the satisfaction of the CEO and which demonstrate the verandah being hipped, are to be submitted.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a 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.
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. 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.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Parish (owner) addressed the meeting in support of the officer's recommendation.

Elected members commended Mr Parish on the work carried out at the property to date.

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr de Jong

That Council grant approval for the replacement of the front verandah with a bullnosed verandah at 46 Glyde Street, East Fremantle in accordance with the plans date stamp received on 19 August 2010 subject to the following conditions:

- 1. prior to the issue of a Building Licence, revised plans, which are to the satisfaction of the CEO and which demonstrate the verandah being hipped, are to be submitted.**
- 2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**

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

Footnote:

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

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

CARRIED

T207.4 **Coolgardie Avenue No. 17 (Lot 17), East Fremantle**
Applicant & Owner: Paul Cattalini
Application No. P117/2010
By Gemma Basley Town Planner, 4 November 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for alterations and additions to the existing single storey residence located at No. 17 Coolgardie Avenue is the subject of this report.

Council has considered an earlier application for this site at its meeting of 21 September 2010. Council resolved to defer the application to allow the applicant the opportunity to submit revised plans which address concerns in relation to the compatibility of the design with respect to the existing streetscape.

The current plans before Council propose a contemporary two storey addition and extension to the existing character residence. The application proposes to retain the existing single storey residence with the exception of some windows being replaced and walls replaced. The application proposes an extension to the existing residence at the rear of the house and a second storey above this. The second storey has been reduced in size and scale and moved to the back of the building. The application also proposes an outdoor alfresco area and below ground swimming pool.

The report seeks Council's endorsement of a recommendation for conditional approval.

Description of site

The subject site is:

- a 954m² block
- zoned Residential R12.5
- developed with a dwelling
- located in the Richmond Precinct
- not included on the Town's Municipal Inventory

9 November 2010

MINUTES

Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : The streetscape will be impacted as a result of the second storey addition and substantial renovations to the front of the house however this is considered to be a positive contribution to the street

Documentation

Plans and relevant forms date stamp received on 26 August 2010

Date Application Received

2 July 2010
10 August 2010 revised plans received
26 October 2010 revised plans received

No. of Days Elapsed between Lodgement & Meeting Date

130 days (since initial lodgement)

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

10 January 1990 The Council granted the Owner(s) of No. 17 Coolgardie Avenue Planning Approval for the addition of a concrete, brick and tile verandah and carport to the existing residence.
19 October 2010 The Council resolved to defer the application to allow the applicants the opportunity to submit revised plans which address concerns in relation to the incompatibility of the design with respect to the existing streetscape.

CONSULTATION

Advertising

The revised plans were advertised to adjoining landowners including neighbours that objected to the earlier application for 5 days from the 29 October to the 3 November 2010. The plans were hand delivered to neighbours property by Council officers with a letter advising that there was an opportunity to peruse the plans and comment on these for the November round of Council meetings.

No submissions were received from neighbours and/or previous objecting neighbours.

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel Comments

The Panel viewed the revised proposal on the 26 October 2010 and made the following comments:

- Retention of existing dwelling presenting to the streetscape is commended.
- Plans considered being a more sensitive addition.

The Panels comments are supportive and the revised plans are considered to be suitable for Council consideration.

ASSESSMENT

Approval is sought for alterations and additions to the existing dwelling, located at No 17 Coolgardie Avenue, East Fremantle.

As detailed above, the plans have been revised substantially. In addition to this, the applicants have designed the additions in accordance with the building height requirements that form part of Council's LPP No. 142. This has resulted in the height of the structure being significantly reduced and being able to comply with the policy.

STATISTICS

File	P/COO/17
Zoning	R12.5
Lot Area	725m ²
Heritage Listing	Not listed

Site:	Required	Proposed	Status
Open Space	55%	57%	Acceptable
Overshadowing	Max 25%	Nil	Acceptable

Height:	Required	Proposed	Status
Wall	6.5 metres	6.343 metres	Acceptable
Ridge	7.0 metres	6.9 metres	Acceptable
Roof type			

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Side (east)							
Ground	Bed 2 & 3	2.443	8.2	Yes	1.5	2.58	Acceptable
	WIR, Laundry & Bathroom	2.443	8.2	No	1.0	1.51	Acceptable
Upper	WIR & Ensuite	6.3	8.2	No	1.2	1.51	Acceptable
Side (west)							
Ground	Garage existing	N/A	N/A	N/A	N/A	N/A	N/A
Upper	Void & Master	12.2	6.3	Yes	3.4	8.7	Acceptable
Rear (south)							
Ground	Whole	2.443	18	Yes	6.0	12+	Acceptable
Upper	Master Bed	6.3	5.08	Yes	6.0	12+	Acceptable
Front (north)	Whole Existing	N/A	N/A	N/A	N/A	N/A	M/A
Ground							

The revised application meets all of the requirements of the R-Codes, Council's LPP No. 142, Council's TPS No. 3 and is considered to have addressed the neighbours concerns about the earlier application and ensured they do not apply to this application. No variations are sought and the application is supported and recommended for approval

9 November 2010

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RECOMMENDATION

That Council approve the construction of alterations and additions at 17 Coolgardie Avenue, East Fremantle in accordance with the plans date stamp received on 26 October 2010 subject to the following conditions:

1. prior to the issue of a Building Licence a schedule of materials and finishes to be submitted to the satisfaction of the Chief Executive Officer.
2. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
3. 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.
4. 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.
5. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. the proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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).*
- (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.*

Mr Cattalini (owner) addressed the meeting in support of the officer's recommendation.

Elected members thanked Mr Cattalini for amending his previous proposal, in line with Council's recommendation, and commended him on an excellent design which retained the existing streetscape.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That Council approve the construction of alterations and additions at 17 Coolgardie Avenue, East Fremantle in accordance with the plans date stamp received on 26 October 2010 subject to the following conditions:

9 November 2010

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1. prior to the issue of a Building Licence a schedule of materials and finishes to be submitted to the satisfaction of the Chief Executive Officer.
2. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
3. 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.
4. 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.
5. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. the proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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).***
- (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.***

CARRIED

Cr Martin made the following impartiality declaration in the matter of 31 Alexandra Road: "As a consequence of the applicant, Mr Gerard McCann, being a former Board Member of a Board on which I also served, 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".

9 November 2010

MINUTES

T207.5 **Alexandra Road No. 31 (Lot 440)**
Applicant: Gerard McCann Architect
Owner: Yalena Pty.Ltd.
Application No. P147/10

By Jamie Douglas, Manager – Planning Services on 1 November 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for;

1. Restoration and extension of existing dwelling.
2. Inclusion of the existing dwelling on TPS Heritage List.
3. Development of three additional grouped dwellings at the rear of the existing dwelling with access from Staton Road.

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy No. 142 : Residential Development (LPP 142)
Local Planning Policy No. 023 : Use of Reflective Metal Roofing Material (CP 023)
Local Planning Policy No. 66 : Roofing

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : Will utilise existing crossovers to Alexandra and Staton Road
Footpath : No impact
Streetscape : Alexandra and Staton streetscape will be impacted by proposed development

Documentation

Plans and relevant forms date stamp received on 25 August 2010

Date Application Received

25 August 2010

Advertising

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

Date Advertised

19 October 2010

Close of Comment Period

2 November 2010

No. of Days Elapsed between Lodgement & Meeting Date

76 days

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

On 16 September 2010 the CEO wrote to the applicants advising that a Building Licence and Planning Permit were required for unauthorised works involving (restoration of the existing dwelling) which had been undertaken. The applicants were also advised that the property had been included on the Council's Heritage List. Consequentially restoration works were suspended pending the outcome of this application.

9 November 2010

MINUTES

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 28 September 2010 and the following comments were made:

- Council would need to establish conditions upon which to measure the restoration against.
- Restoration details required.
- Intent of unit development i.e. build and strata or strata and on sell – should be a requirement for a comprehensive development.
- Significant increase in density that should only be considered based on planning merit and benefit to the Town.

In respect to the above comments:-

- the additional information necessary to meet the identified issues has been obtained from the applicant.
- The concerns in respect to the possible “on selling” of the development concept or selling off all or part of the development are acknowledged. To a large degree the merit of the proposal rests upon it being an integrated plan for subdivision and development. To this end it is considered that a condition on any approval should be that strata subdivision will not be supported by Council until substantial completion of the development and the clearance of all Planning Permit conditions by Council is achieved.

Principal Building Surveyor’s Comment

No comment at this time.

Other Agency/Authority

NA.

Public Submissions

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

Site Inspection

By Manager – Planning Services on 1 November 2010.

R-CODE ASSESSMENT -SUMMARY

The applicant submits that overall the proposed density would be equivalent to Residential density R-20. While in practice the density proposed for the three additional dwellings exceeds this (refer discussion below) the provisions for R-20 have been adopted for the purpose of this statistical assessment.

R-Code Design Element	Required	Proposed
Min Site Area per dwelling	Min 440 m ² Average 500 m ²	Min 278 m ² Average 467 m ² Equates to R-30
Open Space	50% of the site	50% for lot 3, all other lots exceed minimum.
Min 0/door living	30m ²	Min provision 52m ² (lot 3 all other lots exceed this minimum).
Setbacks		
Front (from Staton Rd.)	6 m.	6m.
Side		
(northern)	1.5m min for all lots	3.5m (min) lots 2,3,4 1.65m (existing) lot 1
(Southern)	3.2 m min. Lots 3&4 1.5 m min. Lot 2	5m (min) Lots 3 & 4 1.6m (min) for garage Lot 2

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	1.5m min.	6.1 m (min) from elevated deck, existing dwelling
Building Height	9m to top of pitched roof	Building height max average above natural ground level 7.6 metres

The proposal meets the 'Acceptable Development Standards' for R-20 in terms of open space, outdoor living area, front and side boundary setbacks. The minimum site area per dwelling for Lots 2, 3 & 4 accords with the minimum requirements for R-30.

ASSESSMENT

The proposal seeks to invoke the provisions of Clause 7.5 in order to permit a total of four grouped dwellings (including the existing dwelling) on the subject site. Clause 7.5 enables Council to consider variations to any site or development requirement specified in the Scheme or the R-Codes to facilitate the conservation of a heritage place listed in the Heritage List under clause 7.1.1. The proposal raises the following issues.

Land Use

The proposal constitutes four detached dual storey grouped dwellings. A Grouped Dwelling is designated as a 'D' use in the Zoning Table which means the use *is not permitted unless the local government has exercised its discretion by granting planning approval*. In assessing the merit of an exercise of discretion in terms of this proposal it is appropriate to consider the Objectives of the Local Planning Strategy and the zone objectives of the Scheme as well as the streetscape impact, neighbour amenity and heritage significance associated with the proposal.

- o Local Planning Strategy

The Strategy includes the following in respect to the Richmond Precinct which contains the subject site.

'There was some objection to battleaxe developments at the community workshops. However, this is a precinct where some battleaxe development may be suitable given the great variety of development, lot sizes and shapes which currently exist. Certainly, battleaxe subdivision would be preferable for large deep lots such as those of 2000m2 located between Alexandra and Osborne Roads if these were to be developed, in order to protect historical housing'.

The subject Lot is 2023 m2 with a significant heritage property addressing the Alexandra Road frontage. The subject site however enjoys dual road frontages and the proposal is an integrated development and strata subdivision which will accordingly provide a superior development outcome in comparison to a battleaxe subdivision. In addition it will not only protect "historical housing" but will restore and improve upon the existing heritage significance of the property.

- o Objectives of the Residential Zone (TPS No. 3 Clause 4.2)

The proposal is considered to meet the zone objectives for the following reasons;

- o It provides for a range and variety of housing within the context of predominately low density detached single dwelling development in the vicinity.
- o The design of the proposed new dwellings is sympathetic with the character and scale of the existing built form.
- o Neighbours are not unreasonably impacted in terms of loss of privacy or solar access.
- o The heritage significance of a substantial existing property which is currently uninhabitable will be enhanced.

Development Density

The planning submission supporting the proposal states the overall proposed density would be equivalent to Residential R-20. However, it is proposed to retain 939m2 for the curtilage of the existing dwelling, leaving 1084 m2 to accommodate the three proposed

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dwelling and access driveway. The areas proposed for the three new lots are Lot 4- 323m², Lot 3 - 278m², Lot 2 - 331m². The new lots are therefore to be developed at a density equivalent of R-30. This is a substantial increase on the R12.5 density nominated by the Scheme. However, the density is considered to be appropriate for the following reasons

- the proposal affords sufficient area to the existing heritage property to allow for access and parking to the rear of the building which will enhance its heritage and streetscape value;
- the proposed dwellings still meet the on site density provisions for R-20;
- the proposed development density does not detrimentally impact upon, neighbour amenity or streetscape.

Building Design and Streetscape Impact

The three new dwellings have been designed with loft style upper floor roof designs to minimise building height, and the upper floors have been located to the rear of each dwelling and occupy approximately half the area of the lower floor of each new dwelling. This design treatment ameliorates the mass and visual impact which otherwise would have been associated with a two storey development. The proposed new dwelling on Lot 4 addresses the Staton Street frontage and has been designed to be effectively read as a single storey development when viewed from street level.

The form and detailing of the proposed new dwellings is sympathetic to the existing house and the prevailing built form of neighbouring properties. The proposed materials are;

New walls – rendered and face brickwork

Dressed and chamfered weatherboards to upper storeys

Roofs: Zinalume – custom orb to match existing dwelling

Retaining walls, garden walls. – Face limestone blockwork

Driveway paving – cracked pea gravel asphalt

The proposed designs are considered to conform with the “Local Planning Policy – Residential Development”. However the “Council Policy on use of Reflective Metal Roofing Material ” (see below) also applies

“That it be Council’s Policy that all building permits for projects which seek to use Zinalume sheeting contain a special condition that the Zinalume will be painted upon request by Council within a period of two years after construction.”

Any approval should be conditioned accordingly.

Neighbour Amenity

Privacy/Overlooking.

The proposed addition of the west facing verandah and deck to the existing heritage dwelling is elevated approximately 2.1 metres above natural ground level at the southern end and setback 6.1 metres from the southern boundary at this point. The applicant requests ‘a concession be granted to not provide a privacy screen to the veranda to 1.6 metres in height’. This relates to R-Code Design Element 6.8 which requires balconies to be screened to restrict views within the cone of vision from any major opening of an active habitable space in order to meet the ‘Acceptable Development’ criteria. However a site visit has confirmed the submitter’s proposition that given the orientation and alignment of the neighbouring house at 29 Alexandra Road and the proposed setback there will not be a material impact upon the principal living areas and outdoor living areas of this property.

The upper floors of the three proposed dwellings have been designed so that only non-habitable rooms and stairwells are sited on the south side of the houses and given their setback of 5.5 metres to the southern boundary they will not materially impact upon the privacy of the adjacent neighbour to the south at 28 Staton Road. The design and orientation of the adjacent lot to the north means that the bedroom windows will only

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overlook a driveway, garage, a shed and screening vegetation and will not overview habitable areas.

There have been no neighbour submissions made in respect to the proposal.

Overshadowing

Based on the shadow data provided the total shadow area to the southern Staton Road neighbour is 13% of lot area and the additional overshadowing onto the southern property with frontage to Alexandra Road is an increase of 2.8% of the lot area to 12.6% attributed to the existing and proposed developments. Given the amount of shadow cast is substantially below the 25% to each property (which is the maximum under the accepted development requirements of the R-Codes) and that the shadows cast will not impact the windows of any habitable rooms or outside living areas, this outcome is considered acceptable.

There have been no neighbour submissions made in respect to the proposal.

Site Works and Landscaping

The proposed site works incorporate cut and fill and the establishment of retaining walls. In addition a sewer currently runs diagonally across the parent lot centrally between Alexandra and Staton Roads. Preliminary approval has been obtained by the applicant from the Water Corporation for the diversion of this sewer in a series of right angled legs accessed with manholes to facilitate the development of proposed Lot 2. Given the substantial proposed site works and the importance of proposed landscaping to support the heritage significance of the existing dwelling, it is considered that the submission of a detailed landscape plan should be submitted to the satisfaction of the Chief Executive Officer prior to the issue of any Building Licence.

Variation to Scheme to facilitate the conservation of a heritage place.

The existing dwelling has a category B+ rating in the Municipal Heritage Inventory, which is described as "places of considerable local heritage significance. In support of the application the following have been submitted in respect to the existing dwelling;

- Heritage Report
- Detail Photographic Record; and a
- Measured Drawing and Photographic Survey.
- Request for the property to be included on the Heritage List under TPS No. 3

The dwelling is in a very decadent and uninhabitable state, notwithstanding the already substantial and urgent (re-roofing etc.) restoration works. The further works proposed are comprehensive and sympathetic to the historic significance of the structure. These further works will incur considerable cost to restore the dwelling to a very high standard of authenticity (it is proposed to incorporate the works already undertaken within this determination).

The significance of the dwelling is considered as being both aesthetic and representative of the Federation period and its restoration will significantly contribute to the streetscape character. To this end, in order to ensure the retention and preservation of the existing dwelling, any planning approval should be conditional upon the application of a restrictive covenant to ensure that any future development or demolition of all or part of the property will require Council's prior approval.

In light of the above it is considered an exercise of discretion to vary the density provisions of the Scheme pursuant to clause 7.5 of TPS No. 3 is warranted.

CONCLUSION

The proposal represents a substantial increase in the prevailing density provisions of the Scheme. However it is considered that the density proposed can be accommodated without a detrimental impact upon the amenity of neighbours or the streetscape. The development and sale of the proposed grouped dwellings will assist in facilitating a high level of restoration and conservation works associated with an existing dwelling which

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has significant heritage value and streetscape impact. The proposed development can be approved at the discretion of Council pursuant to Clause 7.5 of TPS No. 3.

It is considered the proposal represents a positive contribution to the streetscape and building diversity within the Richmond Precinct and merits an exercise of discretion for its approval.

RECOMMENDATION

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

- variation to the Visual Privacy provisions of Design Element 6.8 of the Residential Design Codes to not require screening of the south facing veranda of the existing dwelling and,
- the density provisions of the Residential Design Codes from 12.5 to R 30 pursuant to the requirements of clause 7.5 of Town Planning Scheme No. 3 and variation of Design Element 6.5

for the restoration and extension of an existing dwelling and the development of three additional grouped dwellings at Lot 44, 31 Alexandra Road, East Fremantle in accordance with the plans date stamp received on 25 August 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. the existing and proposed dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. 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.
10. that a detailed landscape plan and planting schedule be submitted and approved to the satisfaction the Chief Executive Officer prior to the issue of a Building Licence.
11. that the existing dwelling, proposed additions and alterations and curtilage off 939 m² at 31 Alexandra Road, East Fremantle be included on the Heritage List pursuant with Clause 7.1 of TPS No. 3.

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12. that Council will not support an application for a strata subdivision of Lot 44, 31 Alexandra Road, East Fremantle until substantial completion of the development and the clearance of all Planning Permit conditions by Council is achieved.
13. a schedule of materials and finishes for the proposed and existing dwellings and a detailed schedule of all restorative works in respect to the existing dwelling on proposed Lot 1 are to be submitted and approved to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
14. to ensure the heritage values of the existing dwelling on proposed Lot 1 are not adversely impacted upon at any time in the future; that the owners agree to the implementation of a Restrictive Covenant, the costs of which are to be met by the owners, and which will be between themselves, Council and the National Trust and which is to Councils' satisfaction and designed to ensure that any proposed action which impacts on the heritage values of the property, including any development or demolition of all or part of the property, will require Council's express approval before that proposed actions can be implemented.
15. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr McCann (applicant) addressed the meeting in support of the proposal.

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Martin

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

- **variation to the Visual Privacy provisions of Design Element 6.8 of the Residential Design Codes to not require screening of the south facing veranda of the existing dwelling and,**
- **the density provisions of the Residential Design Codes from 12.5 to R 30 pursuant to the requirements of clause 7.5 of Town Planning Scheme No. 3 and variation of Design Element 6.5**

for the restoration and extension of an existing dwelling and the development of three additional grouped dwellings at Lot 44, 31 Alexandra Road, East Fremantle in accordance with the plans date stamp received on 25 August 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.**

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2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. 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 existing and proposed dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. 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.
10. that a detailed landscape plan and planting schedule be submitted and approved to the satisfaction the Chief Executive Officer prior to the issue of a Building Licence.
11. that the existing dwelling, proposed additions and alterations and curtilage off 939 m2 at 31 Alexandra Road, East Fremantle be included on the Heritage List pursuant with Clause 7.1 of TPS No. 3.
12. that Council will not support an application for a strata subdivision of Lot 44, 31 Alexandra Road, East Fremantle until substantial completion of the development and the clearance of all Planning Permit conditions by Council is achieved.
13. a schedule of materials and finishes for the proposed and existing dwellings and a detailed schedule of all restorative works in respect to the existing dwelling on proposed Lot 1 are to be submitted and approved to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
14. to ensure the heritage values of the existing dwelling on proposed Lot 1 are not adversely impacted upon at any time in the future; that the owners agree to the implementation of a Restrictive Covenant, the costs of which are to be met by the owners, and which will be between themselves, Council and the National Trust and which is to Councils' satisfaction and designed to ensure that any proposed action which impacts on the heritage values of the property, including any development or demolition of all or part of the property, will require Council's express approval before that proposed actions can be implemented.

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

Footnote:

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

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

CARRIED

T207.6 **No. 62 (Lot 1) Staton Road, East Fremantle**

Owner: Phil & Elda Bertollini

Applicant MyM Architecture

Application No. P101/2010

By Gemma Basley, Town Planner on 5 November 2010

BACKGROUND

Purpose of this Report

An application for Planning Approval for ground floor and upper floor additions to the existing character residence located at 62 Staton Road, East Fremantle is the subject of this report.

The application proposes to extend the ground floor to the rear boundary to provide additional floor area for an extension to the garage, kitchen and dining room as well as a second storey addition comprising a parapet wall.

The report seeks Council's endorsement for a recommendation to conditionally approve the proposed development.

ASSESSMENT

The application proposes to extend the ground floor to the rear boundary to provide additional floor space for an extension to the garage, kitchen and dining room. This would create a parapet wall on the eastern boundary with a length in the order of 16 metres. The plans also propose to extend the house to the southern boundary creating a parapet wall with a length of 7.75 metres for an Ensuite to Bed 1 and Bed 2.

The application also proposes a second storey addition to accommodate a Master Bedroom, Ensuite, Living Room, Study and balcony. The second floor addition proposes a parapet wall to the eastern boundary which would extend for some 5.5 metres.

Description of site

The subject site is:

- a 647m² block
- zoned Residential R12.5

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- developed with a heritage residence
- located in the Richmond Precinct.
- Municipal Heritage Inventory 'B+'

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Additions at the rear and upstairs will alter the way the residence is viewed from the street and will be discussed in Section 3 of this report.

Documentation

Plans and relevant forms date stamp received on 14 June, 15 July and 5 October 2010

Date Application Received

14 June 2010

No. of Days Elapsed between Lodgement & Meeting Date

148 days

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

15 June 2004 Council resolved to advise the Western Australian Planning Commission that the survey strata subdivision of Lot 1 Staton Road is conditionally supported.
15 February 2004 Council resolved to approve an application for the construction of a garage with a zero setback to the eastern/rear boundary.

CONSULTATION

Advertising

The application was advertised to adjoining neighbours for a two week period between the 6 July and the 21 July 2010. During the advertising period one submission was received from the eastern/rear adjoining neighbour. The submission objects to the proposed additions and is detailed and responded to below.

Neighbour Submission	Applicant Response
Ms Renata Stazonelli of 18 Wolsely Road	
Excessive size of the property's eastern parapet detrimental to my 1 st Floor views.	The position of the new parapet wall will not sit within any area of 18 Wolsely Rd. with access to views (refer to attached diagram No.1). First floor views will be north from 18 Wolsely, with some views across the front of 62 Staton Rd. which already exist and will not be altered within this proposal.
The excessive size and positioning of the property's eastern parapet restricts sunlight and ventilation to the Family room and outdoor living area on my ground floor level (State Planning Policy 3.1, reference code 6.3.2 and 6.9.1).	The two rooms which abut the western boundary of 18 Wolsely at ground level have secondary windows facing an existing limestone wall.(Refer to diagram No.3) These rooms have substantial openings facing north and south (better solar orientation) and ventilation to these spaces would be afforded from these opening without reliance on the smaller west facing windows. There will be no restriction of airflow to these windows, as access to prevailing breezes is from the south west and not inhibited by the parapet wall proposed.

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	<p>The second level has access to light and ventilation from the north and south, similar to downstairs. Viewing the approved plans from the planning application there is no evidence of an opening facing west which would be impacted by this parapet. Since the approval of this plan a window has appeared during construction which overlooks 62 Staton Rd. (See attached approved attached plans and photo of construction)</p>
<p>The positioning of the property's eastern parapet wall will most likely cast a shadow at midday 21 June exceeding 25 percent of my site area.</p>	<p>A shadow diagram has been attached with this document (and at the time of application) which shows that at midday 21 June the shadow cast by 62 Staton Rd. does not impact at all on 18 Wolsely Rd. (Refer to diagram No.2). It is in actual fact the reverse showing that shadow is cast by 18 Wolsely Rd. onto my client's property.</p>
<p>The street set back of the property's new balcony is only 4.12m and will be detrimental to my 1st Floor views.</p>	<p>The street set back of 4.12m (on the secondary street setback) is no different to the existing building line, as it is proposed to build the balcony directly over the existing lounge room. Diagram one attached to this document clearly shows that the new balcony does not encroach on any view opportunities for 18 Wolsely Rd. The diagram illustrates that with the opening up of the balcony, after removal of the roof to this area and the increased setback of the new kitchen with master bedroom above; there is a wider view opportunity than currently exists. My client will be seeking to ensure there is no overlooking from 18 Wolsely Rd., given that the living room balcony is 1.3m from the Western boundary and there are some serious concerns with overlooking from their development. We will be seeking that the council ensure adequate screening to avoid overlooking into 62 Staton Rd.</p>
<p>The design and position of the property's new balcony will directly overlook my upper floor dining area and will impact on my visual privacy (State Planning Policy 3.1, reference code 6.8.1).</p>	<p>My client would argue the reverse as the balcony on 18 Wolsely Rd. is actually closer to the western boundary (1.3m) than their balcony which is 6.15m from the same boundary. In addition the balcony on 18 Wolsely Rd. encroaches into the front boundary setback by 1.2 m (primary street setback 6m), which exacerbates the overlooking towards my clients property.</p>
<p>Council approved an overall development height limit of 8.1m for my property. Given the natural downward fall of the land and street from East to West, I would assume Council would limit the property's development height to 8.1m at the land level of the property. However, the proposed addition has an overall development height of 8.6m.</p>	<p>A concession is being sought to allow additional height given the nature of the existing building. The existing Federation style house has high ground floor ceilings (3.57m) which are proposed to be maintained. The upper level addition has a reduced floor to ceiling height of 2.7m to reduce overall height but maintain appropriate formal proportions.</p> <p>Revised plans have since been submitted which reduce the pitch over the upper floor addition thereby reducing the overall height.</p>
<p>Council's enforced height restrictions on my property's South, East and West walls is a maximum height of 5.6m, with the East and West walls having no major openings. However, the proposed parapet on my boundary (therefore 0.0m setback) is a maximum height of 8.3m (2.7m higher than my allowed maximum wall height of 5.6m).</p>	<p>A request for the relaxation of this height requirement is sought within the current application, as described above.</p>
<p>The council restrictions I adhered to has restricted my building capacity (i.e. lower ceiling heights on ground level) whereas the owners of</p>	<p>The ceiling heights dictate the constraints of additions to this federation style house. (The existing floor to ceiling height is already 1m higher than current minimum domestic standard).</p> <p>My client is obviously determined to maintain this internal</p>

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No. 62 (Lot 1) Staton Road have blatantly exceeded these wall height restrictions (via the proposed parapet)	dimension as representative of the federation style era, as well as the significant original ceiling details currently in the front portion of the house.
The proposed North Elevation shows a new Colorbond double garage door on the boundary (0.0m set back) which I believe contravenes council regulations in regards to Occupational Health and Safety regulations for safe vehicular and pedestrian movement along Wolsely Road.	The proposed location of the garage is the same as existing. Currently the garage has space enough for a single vehicle, with the entry door perpendicular to the street boundary. This planning proposal slightly widens and lengthens the current garage to face Wolsely Street (secondary street frontage boundary) allowing for two vehicles to be parked off street. The footpath along Wolsely Rd. is on the opposite side of the street (North) and the impact to pedestrians does not change. The existing crossover will move east by 5m to accommodate the altered approach to the garage door, but as there is already a crossover, the impact would be considered to be unchanged.
The proposed North elevation, including an excessively high parapet wall, together with a double garage door on the boundary is aesthetically concerning and offensive to the street-scape which I believe is in direct contrast to what the City of East Fremantle wants to achieve for its visual street architecture. In contrast, I have earnestly tried to meet Council's ethos for street scaping in all aspects of my building design and street appeal.	62 Staton Rd. is the only house left for the entire block fronting Wolsely, between Staton Road and Alexandra Rd., apart from Ms Stazonelli's new house which is under construction. We would argue that the Bertolini's are in fact trying to maintain one of the remaining pieces of East Fremantle's building history intact and relevant to the new street scape which is about to be created in this block. Attached is a photographic record of the original state of 62 Staton Rd. and the tireless work done to restore and enhance the architectural value of the property. It is obviously mine and the Bertolini's intention with the new addition, to continue the process of developing and enhancing this old house's cultural character.
The proposed basement store and cellar which will be at - 2.645 RL and will be situated along the boundary for 9.930m. This provides a number of concerns. What will underpin or strengthen my foundations?	During the development of the working drawings and prior to lodgement for building licence my client will engage the services of a suitably qualified structural engineer to thoroughly document the building methodology and system required to allay any such concern.
A dilapidation report will need to be provided on my building at the expense of the owners of Lot 1, 62 Staton Road	This can be provided at the applicant's expense. (As an aside a dilapidation report wasn't provided by Ms Stazonelli before commencement of works on 18 Wolsley Rd. Subsequent structural damage has been recorded by my client, created from the rock breaking required to prepare foundations)
A structural engineers report will need to be provided regarding the impact of vibration on my property during excavation	The comment above addresses this item. A report will be provided

The neighbours objections have been comprehensively addressed in the applicant's response above and the outcome of these objections will be further considered in Section 3 of this report.

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 27 July 2010 and made the following comments:

- Inappropriate and overbearing addition to an existing high quality heritage property.
- Panel recommends a heritage assessment of proposal.
- Any additions need to occur as separate/distinct from original residence.
- Original form of the heritage residence must be easily identified.

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In response to the Panel's comments and after seeking advice from an independent heritage consultant, the applicants submitted a demolition application on the 23 August 2010.

The CEO advised the applicants by way of letter dated 1 September 2010 of the Town's intention to include the property on the Town of East Fremantle's Heritage List.

On the evening of the 10 September 2010 Councillor Wilson and the Town Planner Gemma Basley met with the owners at their residence to discuss the CEO's correspondence, the demolition application, the Town Planning Advisory Panel comments and to discuss a way forward with an application for additions to the existing residence.

The applicants responded to the CEO in a letter dated 19 September 2010 and requested that the inclusion of 62 Staton Road is deferred pending a resolution of the current addition and alterations proposal. The applicants further commissioned a Heritage Impact Assessment Report by Carrick and Wills which assessed the significance of the existing residence and the impact of the proposed additions. This report is included in the Appendices and will be discussed in Section 3 of this report.

Revised plans have also been submitted which responded to the discussion of the 10th September between Councillor Alex Wilson and The Town Planner Gemma Basley. More specifically on the 5 October 2010 revised plans were submitted which simplified the proposed upper floor addition to distinguish the additions from the existing residence in accordance with the principles in the Burra Charter. The revised plans, which are the subject of this report propose the same additions and floor layout as the original application but propose a different roof pitch and different and more modern detailing to the additions.

The revised plans were presented to the Panel at its meeting of 26 October 2010 where the following comments were made. A response to these has also been provided by the applicant below:

Panel Comments	Applicant Response
Panel strongly object to proposal.	No comment
Query R-codes compliance of upper storey constructed on boundary.	The parapet wall which is proposed is on the boundary of a survey strata block. the upper storey is 5.44m long, with no openings. This boundary is also treated as an 'internal boundary' between dwellings in strata lots.
Overdevelopment of the site.	The site development is within the requirements of site coverage and open space requirements as outlined in the relevant R-Codes (It is the imposing building mass which is next to the Bertolini's in Wolseley Rd, this is far more imposing in relation to its site that this proposed addition)
New house extension still needs to be structurally distinguished from existing residence.	Perhaps they mean aesthetically distinct. The existing structure is required to support the proposed additions. The Bertolinis are not interested in having some contemporary box attached to their house. They appreciate the existing Federation building and understand that they cannot replicate this but would like to have a similar feel and aesthetic, which they feel is much more in keeping with both the area and the existing build fabric as well as the way they enjoy their existing lifestyle in East Fremantle.
Room for a new contemporary extension architecturally distinct	The weight of the heritage impact assessment report should be reiterated. This report supported the application and is

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from existing residence.	an independent assessment.
Consider setting new extension forward of existing building line facing Wolseley Road.	Does this mean we can sit the addition on the boundary? Doesn't that comment go against the third comment on this list? Putting any addition closer to the Wolseley Rd boundary will completely block any of the northward views of the adjoining neighbour.
Plans need to distinguish between existing residence and proposed additions.	The plans have been presented previously to show the existing house and new plans show clearly the additional new walls shaded in grey, whereas the existing walls to remain are outlined only.

Principal Building Surveyor's Comment

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

Site Inspection

By Town Planner on 27 September 2010

ASSESSMENT

The application proposes to extend the ground floor to the rear boundary of the lot to provide room for restore the original residence as well as extending the verandah to create a return verandah on the southern side of the residence. The application proposes a brick pier and wrought iron front fence as well as the replacement of the roof and landscaping works. Finally, the application proposes to construct a garage on the northern boundary and to extend the house at the rear and construct an alfresco area.

STATISTICS

File	P/STA/62
Zoning	R12.5
Lot Area	648m ²
Heritage Listing	B+ Management Category

Site:	Required	Proposed	Status
Open Space	55%	55.9%	Acceptable
Overshadowing	25%	<25%	Discretion Required

Height:	Required	Proposed	Status
Wall	5.6	6.4 maximum	Discretion Required
Ridge	8.1	8.63 maximum	Discretion Required

Roof type

Setbacks:

Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Front(west)	<i>Existing residence</i>	N/A	N/A	N/A	7.5	13.5	Acceptable
<i>Upper</i>	<i>Additions</i>	12.5	7.8	Yes	7.5	22.5	Acceptable
Rear (east)	<i>Garage & Kitchen extension</i>	3.6	16	No	1.6	Nil	Discretion Required

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Upper	WIR	6.5	4.5	No	1.2	Nil	Discretion Required
Side (north) Ground	Existing Garage	N/A	N/A	N/A	N/A	N/A	N/A
Upper	Balcony	7.6	4.95	N/A	2.0	4.12	Acceptable
Side (south) Ground	Ensuite/WC	3.0	7.5	No	1.0	Nil	Discretion Required
	Laundry/Bath	3.6	7.1	No	1.0	1.0	Acceptable
Upper	Ensuite and Study	6.6	7.1	Yes	3.0	1.2	Discretion Required

The application seeks several variations to the requirements of the R-Codes and Council's Local Planning Policies and these will be assessed later in this report. There are however other issues that need to be addressed before looking at the compliance of the development application. This relates to the issues that have been raised by the Town Planning Advisory Panel in relation to the impact of the proposed additions on the heritage residence.

The applicants have indicated that they do not wish to submit revised plans for the application and seek Council's determination and decision. The applicants have indicated that they will pursue demolition if they cannot get approval for additions to their residence.

The Panel's comments have been looked at in further detail and it is recognised that the location of the existing residence on the lot with a generous setback to Staton Road of some 13 metres provides little opportunity for additions at the rear of the existing house. This has occurred as a result of the lot being subdivided. The large setback to Staton Road is part of the appeal of the residence but is also a major limiting factor as it restricts opportunities for additions.

It is believed that the Panel's main concerns relate to the bulk and scale of the upper floor addition and the detrimental impact this has on the Staton and Wolsely streetscapes. It is considered that a conditional approval that requires the upper floor area to be reduced (to a maximum of 30% of the floor area of the original residence) and to only occur over the existing residence will result in a significant reduction of the upper floor area which will reduce the bulk and scale and streetscape impact.

The requirement to reduce the upper floor area stems from Council's LPP No. 142 in relation to battleaxe development and reducing the impact of the upper floor on adjoining neighbours. The imposition of such a requirement is considered appropriate to the subject site that has been survey strata subdivided. This requirement would still enable the applicants to extend the residence on the ground floor as well as to extend the residence upstairs however would require the floor area of up stairs to be significantly reduced and only to occur over the existing dwelling. This would further result in the proposed second storey boundary wall being removed and the ensuite being pulled away from the southern boundary. This would have the result of significantly reducing the upper floor footprint as viewed from both streets.

Taking the above into consideration, the variations sought by the applicants will now be assessed.

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Requirement	Proposed	Planning Officer Comments
<u>Building Height</u> LPP 142 8.1 metres to the top of the pitched roof 5.6 metres to the top of the external wall.	(Pitched roof to 8.63m) Wall height to 6.4 metres.	<p>Not Supported – The proposed pitch of the upper floor additions are not supported and a reduced pitch or skillion roof are recommended and could satisfy the height requirements.</p> <p>The increased wall height is a continuation of the existing wall heights of the original residence, which extend to 3.6 metres. To make the wall heights compliant they would need to be limited to 2 metres, which is not acceptable.</p> <p>An increased wall height can be supported with the use of a flat or skillion roof, which would accommodate the proposed wall heights sought by the application. The recommendation will include a condition to address this</p>
<u>Building Setbacks</u> East 1.0 metres	Nil	<p>Supported – The lot the subject of this application has been subdivided and only provides for a 1.0 metre separation between the rear of the house and the rear boundary. The use of a boundary wall at this point makes efficient use of space. The boundary wall will not result in any overshadowing or restriction to sunlight ventilation because of the orientation of the lot. The proposed nil setback to the eastern boundary is therefore considered to meet the performance criteria of the R-Codes.</p>
Upper floor setback to the east 1.2 metres	Nil	<p>Not supported – The proposed second storey upper floor boundary wall is considered to have an adverse impact on the Wolsley Road streetscape. In addition the requirement to reduce the upper floor area and to provide for this to be only above the existing residence will restrict this boundary wall being developed.</p>
South 1.0m	Nil	<p>Supported – the nil setback and boundary wall on the southern boundary are supported because it makes efficient use of space and because it will not impact adversely on the adjoining property.</p>
South upper floor 3.0 metres	1.2 metres	<p>Not Supported – because these additions extend further than the original residence.</p>

HERITAGE IMPACT ASSESSMENT REPORT

A heritage impact assessment has been prepared by Carrick and Wills and concludes that overall, the proposal is considered acceptable based on the following:

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- The impact on the primary street frontage, Staton Road, has been minimised
- The secondary street frontage, Wolsely Road has been considerably compromised over time and these proposals are in keeping with the current streetscape and allow for the retention of this heritage property
- The proposals will allow the heritage building to be retained for future generations to experience, but be adapted for the needs of family life today.
- The proposal has minimal internal impact of the original and unaltered parts of the building.
- The original form of the residence can still be identified and understood.
- The simplified detailing, rendered wall finish and proposed neutral colour scheme of the additions allows a distinction between the original building and the additions and has responded in a restrained manner to create an addition that is in keeping with but does not mimic the original.
- The Burra Charter principles have been followed in terms of Use, Adaptation, New work, Retaining associations and meanings, Managing change, Knowledge, skills and techniques.
- The proposal is in keeping with the Town of East Fremantle's Management Recommendations for Category B+ places on their Municipal Heritage Inventory.
- The historical research undertaken for this report could form the basis of interpretation for the place and this information should be provided to the Town of East Fremantle and the Local History Collection at the City of Fremantle Library.

CONCLUSION

An application for Planning Approval for additions to the residence at 62 Staton Road deals with a prominent corner site. The presentation to Staton Road is largely due to the substantial setback of some 13 metres. This however places significant constraints on the existing design opportunities available for 62 Staton Road.

It is considered that subject to the recommended reduction in the scale of the upper floor and for this to be proportionate to the original residence that on balance there is more merit in a conditional approval than a refusal of the application.

The application is therefore recommended for Conditional Approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for:

- variation to the privacy requirements of the R-Codes to allow the eastern elevation of the balcony to be unscreened;
- variation to the setback requirements of the R-Codes to allow a nil setback to the southern and eastern boundary in lieu of the 1.0 metre setback requirement.

approval for additions including an upper floor extension at 62 Staton Road, East Fremantle in accordance with the plans date stamp received on 14 June, 15 July and 5 October 2010 subject to the following conditions:

1. prior to the issue of a Building Licence revised plans are to be submitted to the satisfaction of the CEO which demonstrate the following:
 - (i) the maximum wall height not to exceed 6.5 metres in height and is subject to the use of a flat/skillion roof;
 - (ii) a maximum of 30% of the ground floor area of the existing residence being contained in all upper level portions of the dwelling.
2. a schedule of materials and finishes to be submitted to the CEO 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 demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

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

Footnote:

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

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

Mr Swinyard (representing adjoining owner) addressed the meeting detailing the significant impact the proposal will have on the under construction residence at 18 Wolsely Road (as per previous correspondence to Council).

Mr Monger (architect) and Ms E Bertolini (owner) addressed the meeting in support of the proposal.

Cr de Jong – Cr Martin

That Council exercise its discretion in granting approval for:

- *variation to the privacy requirements of the R-Codes to allow the eastern elevation of the balcony to be unscreened;*
- *variation to the setback requirements of the R-Codes to allow a nil setback to the southern and eastern boundary in lieu of the 1.0 metre setback requirement.*

approval for additions including an upper floor extension at 62 Staton Road, East Fremantle in accordance with the plans date stamp received on 14 June, 15 July and 5 October 2010 subject to the following conditions:

1. *prior to the issue of a Building Licence revised plans are to be submitted to the satisfaction of the CEO which demonstrate the following:*
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 - (ii) *a maximum of 30% of the ground floor area of the existing residence being contained in all upper level portions of the dwelling.*
2. *a schedule of materials and finishes to be submitted to the CEO 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 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.*

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

Footnote:

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

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

Amendment

Cr Collinson – Cr Nardi

That Condition 1a be deleted from the recommendation.

LOST

Elected members commended the owners on the previous restoration to the residence.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That Council exercise its discretion in granting approval for:

- variation to the privacy requirements of the R-Codes to allow the eastern elevation of the balcony to be unscreened;
- variation to the setback requirements of the R-Codes to allow a nil setback to the southern and eastern boundary in lieu of the 1.0 metre setback requirement.

approval for additions including an upper floor extension at 62 Staton Road, East Fremantle in accordance with the plans date stamp received on 14 June, 15 July and 5 October 2010 subject to the following conditions:

1. prior to the issue of a Building Licence revised plans are to be submitted to the satisfaction of the CEO which demonstrate the following:
 - (i) the maximum wall height not to exceed 6.5 metres in height and is subject to the use of a flat/skillion roof;
 - (ii) a maximum of 30% of the ground floor area of the existing residence being contained in all upper level portions of the dwelling.
2. a schedule of materials and finishes to be submitted to the CEO 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 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. 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.

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

Footnote:

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

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

CARRIED

T207.7

Pier Street No. 7 (Lot 188)

Applicant & Owner: T & R Mascaro

Application No. P160/2010

By Jamie Douglas, Manager Planning Services on 28 October 2010

PURPOSE OF THIS REPORT:

This report considers an application to rezone the subject site from R12.5 to R 20 to facilitate its subdivision. Council's endorsement is sought for a recommendation in respect to the following;

- not to initiate the proposed amendment;
- consider whether a general review of the density provisions in respect to the Residential R12.5 zone is appropriate.

BACKGROUND

Description of Proposal

An application to amend Town Planning Scheme No 3 to alter the coding of 7 (Lot 188) Pier Street from Residential R12.5 to facilitate the subdivision of the subject land into two lots of 500 m² and 501m² was received on 6 September 2010. The proposal does not identify a proposed R- Coding but it has been interpreted that the requested change is to R 20 as this would be necessary to facilitate the subdivision proposal.

Statutory Considerations

Planning and Development Act 2005, Part 5, Division 2, 3 and 4

Town Planning Scheme No. 3 – Residential R12.5

Strategic Planning Considerations

Local Planning Strategy - Richmond Hill Precinct (LPS)

Directions 2031- Spatial Framework for Perth and Peel

Date Application Received

6 September 2010

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

- | | |
|-------------|--|
| Amendment 6 | Rezoning Lot 10 (No. 8) Preston Point Road, from Residential R12.5 to Residential R25 approved by Council on 20/10/2009 and subsequently refused by Minister for Planning, Culture and the Arts. |
| Amendment 7 | Rezoning Lot 20 (No. 33) Osborne Road, East Fremantle from Residential R12.5 to Residential R17.5 approved by Council on 20/10/2009 and subsequently refused by the Minister for Planning, Culture and the Arts. |

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- Amendment 8 Rezoning 15 Pier Street from R12.5 to R25 and resolves to initiate an Amendment to TPS No. 3 to rezone the site to R25 subject to the submission of appropriate amendment documentation on 21 April 2009. The Minister for Planning, Culture and the Arts is yet to make a determination on the proposed amendment.

STATUTORY PROCESS TO AMEND THE PLANNING SCHEME

The process for Scheme Amendments under the Planning and Development Act 2005 is as follows:

- A Local Government may at its sole discretion decide whether or not to initiate an amendment (sec75). There are no appeal provisions associated with this decision.
- The Minister may direct a Local Government to make an amendment or adopt a new Scheme (sec 76).
- A Local Government must have due regard to any State Planning Policy (such as 'Directions 2031'etc.) in preparing an amendment (sec77)
- Proposed Scheme amendment to be referred to the Heritage Council (sec79)
- Proposed Scheme amendment to be referred to the EPA (sec81)
- Proposed Scheme amendment to be referred to relevant public authorities such as Water Corporation, Western Power, the Western Australian Planning Commission (sec 83)
- Subsequent to the above, the amendment is publicly advertised (sec 84).
- The amendment is submitted for the Final Approval of the Minister (sec87) and if approved published in the Gazette (sec 87 (3))

CONSIDERATION

The site has been the subject of a Subdivision Approval issued by the WAPC under the provisions of the former TPS No 2. However the owner did not act on this approval within the specified time period and the approval has lapsed. Subsequently, TPS No 3 was Gazetted in December 2004 which introduced an R-Coding density control of 12.5 (lot average of 800m²) in respect to the subject land. The owner is now pursuing the subdivision again and requests the site to be rezoned to a higher density coding to facilitate the proposed subdivision.

The proposal constitutes 'spot zoning' and is similar in this regard to previously proposed amendments 6 & 7 which have been refused by the Minister and amendment 8 which is yet to be determined by the Minister. It is considered the proposed spot zone will conflict with the principles of sound planning practice for the following reasons;

The proposed spot zone;

- Conflicts with the land use strategy and nominated density for residential development and specifically the Richmond Hill Precinct as stated in the Local Planning Strategy. Pursuant to Clause 10.2 Council is required to give due regard to the Local Planning Strategy and the aims and objectives of the Scheme.
- Is not supported by the zone objectives of the Scheme contained in clause 4.2.
- Would create a precedent for further applications which would undermine the integrity of the zone provisions and Scheme objectives.
- Creates inequities in respect to similarly zoned properties.
- Prejudices the achievement of prescribed planning outcomes and development potential in respect to residential development within the Scheme area.

It is noted that previous attempts to achieve similar spot zonings pursuant to TPS No 3 have ultimately been refused by the Minister. Accordingly in light of the above there seems little merit in initiating the amendment as proposed and exhausting considerable resources on the statutory amendment process.

However, Council may consider there is merit in providing for limited infill redevelopment in a form that can effectively control the extent of infill and where the fundamental planning objectives to protect significant heritage and streetscape values and promote high quality urban form are not prejudiced. Such an approach would include:

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- Review the landuse strategy and Scheme objectives to support the Scheme amendment.
- Provide for the uniform application of provisions for re-subdivision on appropriate sites and where stated criteria are met.
- Address the requirements of 'Directions 2031' (the Spatial Framework Plan for Perth and Peel recently adopted by the WAPC) to promote infill development opportunities within established urban areas.
- Accord with relevant Scheme provisions and objectives.
- Delineate the extent of areas where re-subdivision proposals may be considered.

It is considered that the 'split coding' provisions of the Scheme could be appropriately applied within designated areas determined by a review of existing tenements and built form within the various precincts. The criteria for consideration of 'up-zoning' of specific sites may be included within an elaboration of existing clause 5.2.4 (see below) and Schedule 2 of the Scheme. Criteria for 'up-zoning' would address issues of heritage significance and streetscape impact etc. This approach would enable Council to consider the individual merit of each application before amending the Scheme to incorporate a site within Schedule 2. As previously noted some consequential changes to the Scheme and zone objectives and the landuse strategy would be necessary to support this approach.

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

CONCLUSION

It is necessary to consider any proposal for a Scheme amendment within the context of the established strategic and statutory planning framework. The current proposal for a spot zoning of a single Lot is not supported by this framework. If approved the proposal would create a precedent for further applications which would undermine the integrity of the zone provisions and Scheme objectives, create inequities in respect to similarly zoned properties and prejudice the achievement of development certainty. Accordingly it is considered the application should be refused.

Should Council wish to make provision for prescribed infill /subdivision opportunities this can be achieved through an alternative series of amendments to the Scheme and changes to the landuse strategy to allow for proposals which would not detrimentally impact upon heritage values and the streetscape and would conform to relevant strategic and statutory planning framework. It is considered that such provisions would address state planning policies and 'Directions 2031' requirements for infill provision within established residential areas and would promote efficient use of land and infrastructure in accordance with the principles of 'Sustainable Development'.

It is proposed that a comprehensive review of the landuse strategy and Scheme amendment proposals be submitted to a subsequent meeting of Council.

RECOMMENDATION

That:

1. Council not initiate the proposed rezoning of Lot 188 (No. 7) Pier Street, East Fremantle from the R12.5 zone to the R20 zone.
2. Council endorse the preparation of a comprehensive review of the Local Planning Strategy and relevant provisions of Town Planning Scheme No.3 to support prescribed infill/ re-subdivision opportunities where it will not detrimentally impact upon the streetscape and heritage values.
3. the applicants be advised that Council is to consider an alternative series of Scheme Amendments to provide for infill/re-subdivision on appropriate sites.

Cr Collinson left the meeting at 9.20pm, returning at 9.22pm.

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RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

That:

1. Council not initiate the proposed rezoning of Lot 188 (No. 7) Pier Street, East Fremantle from the R12.5 zone to the R20 zone.
2. Council endorse the preparation of a comprehensive review of the Local Planning Strategy and relevant provisions of Town Planning Scheme No.3 to support prescribed infill/ re-subdivision opportunities where it will not detrimentally impact upon the streetscape and heritage values.
3. the applicants be advised that Council is to consider an alternative series of Scheme Amendments to provide for infill/re-subdivision on appropriate sites.

CARRIED

T207.8 *Munro Street No. 4 (Lot 5056), East Fremantle*
Applicant & Owner: Stephen and Alison Barnden
Application No. P154/2010 and P178/2010
By Gemma Basley Town Planner, 3 November 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for the alterations and additions to the existing two-storey residence at 4 Munro Street, East Fremantle is the subject of this report.

A second application for a shed in the south east corner of the lot is also included in this report.

The application is being referred to Council for consideration of streetscape issues and for consideration of variations to the requirements of the Residential Design Codes and Council's Local Planning Policy. The report seeks Council's endorsement of a recommendation for conditional approval.

Description of site

The subject site is:

- a 737m² block
- zoned Residential R12.5
- developed with a dwelling on-site
- located in the Richmond Hill Precinct

Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : The additions and alterations to the residence will have an impact on the streetscape but this is considered to be a positive impact

Documentation

Plans and relevant forms date stamp received on 3rd September 2010

Date Application Received

3 September 2010 - Additions and alterations

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4 October 2010 - Shed

No. of Days Elapsed between Lodgement & Meeting Date

67 days

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

Nil

CONSULTATION

Advertising

The subject application was advertised to adjoining landowners for 2 weeks between the 15 and the 29 September 2010. There was one submission received from the neighbour during this time which will be detailed below.

The shed application was advertised separately to neighbours from the 19 October to the 2 November with no comments or objections being received.

Neighbour Submission	Applicant Response
<p>Leanne & Bruce Jaeger of 6 Munro Street, East Fremantle object to the proposal on the following grounds:</p> <ol style="list-style-type: none"> 1. proposed upper floor rear decking at the NW corner of the house will fully overlook entire backyard of 6 Munro especially patio and pool area and will be worse than the overlooking that occurs from the existing deck. 2. The removal of vegetation along the northern boundary of 4 Munro Street has resulted in overlooking occurring. 3. Request that the upper floor decking not extending to the north west edge of the house. 4. Request screening to be of a solid construction the same as the house walls. 5. Request that the dining room window be repositioned or screened to prevent 	<ol style="list-style-type: none"> 1. We believe that privacy is a two way issue. We are just as sensitive to our neighbours looking up at us as they might be us looking down at them. The present situation is not particularly satisfactory. We have previously submitted photographs which highlight the extent of overlooking that already exists and we believe that our proposal will greatly enhance privacy for both parties. 2. When we purchased the property approximately 16 months ago there were no trees between the rear yards of our homes. We recognized that vegetation is an effective and desirable form of screening and have planted fruiting trees on the boundary causing concern. We note that Bruce and Leanne have not done the same despite having ample time to do so. 3. Relocating the deck will limit our views to Blackwall Reach and this is not desirable. The application proposes vertical screening to enable the deck to extend the width of the house. 4. Utilising solid screening as an alternative is also not desirable because of impacts on access to sunlight and ventilation and it would look bulky and heavy. This is not practical or desirable and would prevent sunlight and ventilation to this area. The proposed screening is compliant with the requirements of the R-Codes. 5. The house at 6 Munro is aligned similarly to ours such that the south west wall of their home will align with the proposed parapet wall,

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<p>overlooking into the family room of 6 Munro Street.</p>	<p>our laundry and our dining room. Our dining room is in alignment with the most rear structure of their home, a single story addition which appears to be an undercover outdoor area which has been enclosed with glazing. Any overlooking from the dining room will occur over the roof of the outdoor living area as is the current situation.</p> <p>There is no change proposed to our dining room window as part of this application. We presently overlook the area described as their family room but once again it would appear that this room is also an enclosed outdoor area and overlooking therefore only occurs over a roof area. We have already planted fruit trees on our boundary that will grow to about 3 metres in height and will ultimately restrict overlooking between the two properties. We favour vegetation as a screening feature on the basis of functionality and aesthetics.</p>
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CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel Comments

The Panel viewed the proposal on 28 September 2010. The Panel advised that the setback of the proposed studio was acceptable and that there was no objection to the application.

Panel Comment	Response
<p>Clarification required on roofing of proposed garage.</p>	<p>The roof structure has been revisited. Amended plans have been submitted which propose a hip at the front and the rear with a more traditional slope to match the existing.</p>
<p>Parapet wall height and front wall height – impact on adjoining neighbour.</p>	<p>The parapet wall will not overshadow 6 Munro because of the orientation of the lot being predominantly east-west. The existing residence on 6 Munro is also set back some 3 metres from the proposed parapet wall so there will be no loss of ventilation or sunlight as a result of the parapet wall location or height.</p> <p>The proposed parapet wall makes effective use of a lot with limitations because of the existing development that is being retained.</p> <p>The height of the parapet wall is proposed to be 2.57 metres and will sit on a retaining wall with a maximum height of 1.0 metre. The total height of the wall proposed to be 3.57 metres, will not impact 6 Munro Street.</p>
<p>Portico element considerably bold/heavy.</p>	<p>The original plans show a heavy stone cladding over the portico. It is now proposed to utilise a limestone cladding on the portico, which will tie in with other limestone features and will soften the façade of the proposed dwelling.</p>

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Concerns with overlooking from rear deck.	Our application proposes privacy screens along the north western opening of the balcony to prevent overlooking. Only a small portion of the neighbouring pool will be visible beyond the screening. This is a significant improvement to the existing situation where the entire rear deck overlooks the neighbouring property.
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The applicant has responded to the Town Planning Advisory Panel comments by the submission of revised plans which alter the roof form of the garage and which address the presentation of the house to the streetscape.

In addition to the above, it is recommended that additional screening be provided on the north eastern opening of the rear deck to prevent any overlooking of 6 Munro Street. In this regard a condition is included in the recommendation.

STATISTICS

File	P/MUN/4
Zoning	R20
Lot Area	508.96m ²
Heritage Listing	Municipal Inventory 'B-Management Category'

Site:	Required	Proposed	Status
Open Space	50%	<50%	Acceptable
Overshadowing	n/a	n/a	n/a

Height:	Required	Proposed	Status
Wall	2.4m	2.6m	Discretion Required
Ridge	n/a	n/a	n/a
Roof type	Pitched		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Front (east)	<i>Studio</i>	2.143	3.0	No	6.0	18	Acceptable
Side (north)	<i>Studio</i>	2.143	4.0	No	1.0	1.0	Acceptable
Side (south)	<i>Studio</i>	2.143	4.0	No	1.0	8.27	Acceptable
Rear (west)	<i>Studio</i>	2.143	3.0	No	1.0	18	Acceptable

**REPORT
Comment**

Approval is sought for the construction of alterations and additions to the existing two storey residence at 4 Munro Street, East Fremantle. A second application forms part of this report and relates to a shed in the south eastern area of the lot.

The application proposes major alterations and additions to the existing residence including providing for a double garage and creating a portico area forward of the existing building line. The planned improvements also include two deck areas over the garage/entry and at the rear of the residence above a new theatre room, respectively.

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The proposal to construct a double garage has necessitated the need for a parapet wall on the north eastern boundary that is shared with 6 Munro Street. This would appear to be unavoidable because of the current location of the dwelling in relation to the boundary.

Considerations

The application has been assessed against the requirements of the R-Codes and LPP No.142 wherein it has been identified that the proposed setback of the decking (at the front and at the rear of the dwelling) to the boundaries does not meet the privacy requirements of the R-Codes and that the proposed retaining wall exceeds the height requirements of the R-Codes. The application also proposes to extend the garage forward of the existing building line and to extend the portico area to be in line with this and needs to be considered against LPP No.142

This will be assessed in the table below:

Requirement	Proposed	Planning Officer Comments
<p>R-Codes: <u>Retaining walls:</u> Not to exceed 0.5 metres in height.</p>	1.0 metres	<p>Supported – The retaining wall occurs within the property boundary and retains the existing site. The retaining wall retains the visual impression of the NGL of the site from the street.</p>
<p><u>Privacy Setbacks</u> 7.5 metres in the case of an unenclosed outdoor active habitable space.</p> <p>6.0 metres in the case of habitable rooms other than bedrooms and studies.</p>	<p>2.413 metres to the north eastern and north western boundary from the rear deck and the front deck, respectively</p> <p>2.413 metres from the dining room window to the north eastern boundary.</p>	<p>Partially Supported– The privacy setback applies to the proposed front and rear decking/balcony because they are located closer to the boundary than the required 7.5 metre setback. The privacy setback could also be applied to the dining room window but this window exists and no changes are proposed as part of this application. In addition, the applicants have planted trees along the north eastern boundary to provide screening.</p> <p>The application proposes to provide permanent fixed privacy screening on the north eastern opening of the decking and this is deemed to be acceptable development under the R-Codes. The application does not however, propose any privacy screening on the eastern opening of the rear deck and as such overlooking will occur from here over a small portion of the neighbours swimming pool and back yard. This is not supported and a condition is included in the recommendation to require the provision of screening along at least 25% of the length of the eastern opening of the deck.</p> <p>The setback of the front deck to the boundary does not meet the privacy requirements of the R-Codes however overlooking will only occur over the front setback area of the neighbouring property and this is already open (not private) to the street. The setback of the front deck is</p>

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Requirement	Proposed	Planning Officer Comments
		therefore deemed to meet the performance criteria of the R-Codes.
LPP No. 142 <u>Garages to be located at or behind the main building line.</u>	Application proposes to extend the garage forward of the building line	Supported – whilst the application extends the garage forward of the existing building line it also proposes to pull forward and enlarge the portico area. This situation is considered to be satisfactory and will ensure that the garage does not dominate the streetscape. In addition, the applicants propose a different material for the portico to detract from the significance (if any) of the garage)

Given the proposal meets the majority of the provisional requirements of the Residential Design Codes and the Town's Local Planning Policies, the application can be supported.

Whilst variations are being pursued it is considered that the variations are minor in nature and the application is therefore recommended for approval.

RECOMMENDATION

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

- variation to the retained levels on the northern elevations being 1.0 metres in lieu of the required 0.5 metre;
- variation to the privacy requirements of the R-Codes to allow the dining room window to remain unscreened and to be setback 2.413 metres from the rear boundary in lieu of the 7.5 metres required under the R-Codes;
- variation to the privacy requirements of the R-Codes to allow the front deck/balcony to be unscreened and to be setback 2.413 metres from the boundary in lieu of the 7.5 metres required under the R-Codes.

for the alterations and additions to the existing residence and the construction of a shed at 4 Munro Street, East Fremantle in accordance with the plans date stamp received on the 3 September, 4 October and 4 November 2010 subject to the following conditions:

1. the provision of fixed vertical screening to a height of 1.65 metres for at least 25% of the length of the eastern opening of the rear deck and to prevent overlooking into 6 Munro Street.
2. materials and finishes are to be of a high standard and to match the existing dwelling and a schedule of these to be submitted to the Chief Executive Officer for endorsement prior to the issue of the building licence.
3. 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.
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. 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 alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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.

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8. 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.
9. the proposed shed is not to be occupied for residential purposes.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

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

- **variation to the retained levels on the northern elevations being 1.0 metres in lieu of the required 0.5 metre;**
- **variation to the privacy requirements of the R-Codes to allow the dining room window to remain unscreened and to be setback 2.413 metres from the rear boundary in lieu of the 7.5 metres required under the R-Codes;**
- **variation to the privacy requirements of the R-Codes to allow the front deck/balcony to be unscreened and to be setback 2.413 metres from the boundary in lieu of the 7.5 metres required under the R-Codes.**

for the alterations and additions to the existing residence and the construction of a shed at 4 Munro Street, East Fremantle in accordance with the plans date stamp received on the 3 September, 4 October and 4 November 2010 subject to the following conditions:

1. **the provision of fixed vertical screening to a height of 1.65 metres for at least 25% of the length of the opening of the rear deck and to prevent overlooking into 6 Munro Street to the satisfaction of the CEO prior to the issue of a building licence.**
2. **materials and finishes are to be of a high standard and to match the existing dwelling and a schedule of these to be submitted to the Chief Executive Officer for endorsement prior to the issue of the building licence.**
3. **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.**
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. **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 alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**

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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. 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.
9. the proposed shed is not to be occupied for residential purposes.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

T207.9 **Sewell Street No. 90 (Lot 293), East Fremantle**
Applicant: John Chisholm
Owner: Tony Harris & Bruce Dries
Application No. P164/2010
By Gemma Basley Town Planner on 1 November 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for alterations and additions to the existing single house located at No. 90 Sewell Street is the subject of this report.

The application includes the addition of a new alfresco area towards the rear of the property; an internal renovation to include a bathroom, as well as a proposed new front verandah. The application is being referred to Council, as opposed to being dealt with under Delegated Authority as the verandah aspect of the application involves an impact on streetscape to Sewell Street.

Description of site

The subject site is:

- a 508m² block
- zoned Residential R20
- developed with a dwelling on-site
- located in the Plympton Precinct
- not included in Municipal Heritage Inventory

Statutory Considerations

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

Relevant Council Policies

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

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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 : No impact

Documentation

Plans and relevant forms date stamp received on 15 September 2010

Date Application Received

15 September 2010

No. of Days Elapsed between Lodgement & Meeting Date

56 days

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

Nil.

Advertising

The application was advertised to adjoining landowners for the standard 2 week period from the 7/10/2010 to the 21/10/2010. There were no comments received during this time.

CONSULTATION

Principal Building Surveyor's Comment

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

STATISTICS

File P/SEW/90
Zoning R20
Lot Area 508m²
Heritage Listing N/A

Site:	Required	Proposed	Status
Site Works	Maximum 0.5m	<0.5m	Variation Required
Open Space	55%	<55%	Acceptable
Overshadowing	>25%	>25%	Acceptable

Height:	Required	Proposed	Status
Wall	N/A	N/A	
Ridge	N/A	N/A	
Roof type	N/A		

Privacy/Overlooking The proposed alfresco area has incorporated screening to the height of 1.6 metres above the finished floor level therefore, addressing this requirement.

Setbacks:		Wall height (m)	Wall length (m)	Major opening	Required Setback (m)	Proposed Setback (m)	Compliance
Wall Orientation	Wall Type						
Front (West)							
Ground	N/A	N/A	N/A	N/A	N/A	N/A	
Rear (East)							
Ground	Proposed Deck	6.0	9.0	Y	2.8	24.4	Acceptable

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Side (North)							
<i>Ground</i>	<i>Dwelling & Additions</i>	Ave:	13.1	N	1.7	0.2	Variation required
			5.1				

Side (South)							
<i>Ground</i>	<i>Dwelling & Additions</i>	Ave:	13.1	N	1.6	1.35	Variation required
			4.6				

Town Planning Advisory Panel Comments

The Panel viewed the proposal on 28 September 2010 and provided the following comments:

- Proposed front windows improvement to the existing.
- Reinstatement of the stone wall supported.

The above comments are supportive of the application and do not recommend any design changes.

**REPORT
Comment**

Approval is sought for alterations and additions to the existing dwelling, located at No 90 Sewell Street, East Fremantle. The proposed addition does not have an adverse impact on the adjoining neighbours or on the Sewell Street streetscape appearance due to its location at the rear of the property.

There are two major components to this application being external additions/renovations and internal renovations and works. Firstly the decking additions to the rear of the dwelling, which involve the demolition of the existing bathroom, are proposed adjacent to the northern boundary of the lot. The narrow width of the lot means that the decking will be as close as 0.5 metres to the northern boundary. To address the privacy requirements of the R-Codes the application proposes to provide permanent vertical screening to the northern elevation of the decking area to prevent overlooking. The application does not however address the potential for overlooking from the eastern opening of the decking to the north and requires a variation. This will be discussed in the next section of this report.

The second component of the application proposes internal renovations to the existing study in order to incorporate a bathroom. These additions are considered minor and are completely contained within the existing dwelling. Other renovation and restoration works are proposed that will lift the appearance of the dwelling considerably.

The proposed addition does seek a minor variation to the building setback and the privacy setback requirements of the R-Codes. This will be discussed in the following section of this report.

Considerations

The application has been assessed against the requirements of the R-Codes and LPP 142 and it has been identified that the proposed setback of the decking to the northern boundary requires a variation to the setback requirements of the R-Codes and that a variation is also sought to the privacy requirements of the R-Codes in relation to the eastern opening of the decking area.

This will be assessed in the table below:

Requirement	Proposed	Planning Officer Comments
R-Codes: <u>Building Setbacks</u> North 1.7 metres	0.2 metre	Supported – The lot the subject of this application is narrow in width (12.3 metres) and is currently

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Requirement	Proposed	Planning Officer Comments
		<p>developed with a minimal setback to the northern boundary. The proposed decking at the rear of the house and abutting the northern boundary is proposed to be screened which will provide a visual separation/setback between the boundary and the proposed deck. No objections were received from the neighbouring land owner during the community consultation process.</p> <p>In addition, the proposed northern setback variation is considered to meet the performance criteria of the R-Codes relating to adequate sun and ventilation exposure to the subject and neighbouring property as neither property are adversely affected in this respect. Additionally, the proposed setback maintains the building line of the existing dwelling.</p>
<p><u>Privacy Setbacks</u> 7.5 metres in the case of an unenclosed outdoor active habitable space</p>	<p>Eastern elevation 0.5 metres from the northern boundary.</p>	<p>Not Supported – It is acknowledged that the application proposes to screen the northern opening of the decking however no screening is proposed on the eastern elevation. Overlooking to the east is not an issue because of the length of the block but potential overlooking from the eastern opening of the deck to the northern neighbour is a concern that could be partially addressed by the provision of fixed vertical screening on a portion of the eastern opening.</p> <p>A condition has been included in the recommendation to address this.</p>
<p><u>Minor Incursion to the front setback area.</u> A porch, balcony, verandah, chimney or the equivalent may not project more than 1.0 metre into the FSA.</p>	<p>Proposed verandah encroaches more than 1.0 metre into the FSA.</p>	<p>Supported – the incursion into the front setback area is no greater than the existing incursion into the setback area and is considered to be minor and to pose no undue impact on the Sewell Street streetscape. The application has proposed. Additionally, the Town Planning Advisory Panel supports the proposed addition, and suggests the proposal is an improvement to the existing.</p>

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Given the proposal meets the majority of the provisional requirements of the Residential Design Codes and the Town's Local Planning Policies, the application can be supported. Whilst variations are being pursued it is considered that the variations are minor in nature and the application is therefore recommended for approval.

RECOMMENDATION

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

- variation to the building setback on the northern elevation being 0.2 metres, in lieu of the required 1.7 metres of the R-Codes 2008; and
- variation to the privacy requirements of the R-Codes to allow part of the eastern elevation of the deck to be unscreened and to be setback 1.5 metres from the northern boundary in lieu of the 7.5 metres required under the R-Codes;

for the construction of alterations and additions at 90 Sewell Street, East Fremantle in accordance with the plans date stamp received on 15 September 2010 subject to the following conditions:

1. Permanent vertical screening to be provided for a length of at least 1.3 metres along the eastern opening of the decking area and to commence from the north eastern corner of the deck area.
2. Materials and finishes are to be of a high standard and to match the existing dwelling and a schedule of these to be submitted to the Chief Executive Officer for endorsement prior to the issue of the 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. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention;
5. the proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers;
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).*
- (d) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

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

- **variation to the building setback on the northern elevation being 0.2 metres, in lieu of the required 1.7 metres of the R-Codes 2008; and**

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- variation to the privacy requirements of the R-Codes to allow part of the eastern elevation of the deck to be unscreened and to be setback 1.5 metres from the northern boundary in lieu of the 7.5 metres required under the R-Codes;
- for the construction of alterations and additions at 90 Sewell Street, East Fremantle in accordance with the plans date stamp received on 15 September 2010 subject to the following conditions:
1. Permanent vertical screening to be provided for a length of at least 1.3 metres along the eastern opening of the decking area and to commence from the north eastern corner of the deck area to the satisfaction of the CEO prior to the issue of a building licence.
 2. Materials and finishes are to be of a high standard and to match the existing dwelling and a schedule of these to be submitted to the Chief Executive Officer for endorsement prior to the issue of the 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. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention;
 5. the proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers;
 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).***
- (d) It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.***

CARRIED

Cr Nardi made the following impartiality declaration in the matter of 82 King Street: "As a consequence of the owner, Mr Nick Jones, being the father on one of my son's soccer team mates, 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".

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T207.10 King Street No. 82 (Lot 354), East Fremantle

Applicant: Westral Outdoor Centre

Owner: Nick Jones

Application No. P172/2010

By Jamie Douglas Manager – Planning Services on 3 November 2010

BACKGROUND

Purpose of this Report

The report assesses an application for Planning Approval for two patios and a gym for an existing dwelling at 82 King Street and recommends approval subject to conditions.

Statutory Considerations

Town Planning Scheme No. 3 –

Local Planning Strategy - Plympton Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

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

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

Local Planning Policy No. 145 : Neighbourhood Consultation (LPP 145)

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : There will be a minor non-detrimental impact to the King Street streetscape

Municipal Heritage Inventory

Management Category B. Representative of Federation Period with aesthetic significance.

Documentation

Plans and relevant forms date stamp received on 22 September 2010

Date Application Received

Plans and relevant forms date stamp received on 22 September 2010

Additional information

21 October 2010

No. of Days Elapsed between Lodgement & Meeting Date

49 days

CONSULTATION

Advertising

Adjoining land owners only

Date Advertised

6 October 2010

Public Submissions

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

Close of Comment Period

20 October 2010

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 26 October 2010 and the following comments were made:

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'The Panel supports the application'.

Principal Building Surveyor's Comment

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

Site Inspection

By Manager –Planning Services on 3 November 2010

ASSESSMENT

R-Code Assessment

Front Setback	Height	Length	Major Opening	Required	Proposed	Variation Required/Comment
Gym Addition	2.41 m.	3.0m	Yes	6m	17.2m	No
Rear Setback						
Rear Patio	3.4m	5.0m	Yes	1.5	11.5	No
Side - South						
Patio	3.4m	5.9m	No	1.0m	nil	Variation required/ parapet coincides with neighbours wall with no openings – variation supported
Addition	2.41m	7.1m	No	1.0	1.0	No
Side North						
Patio	2.7m	2.99m	Yes	1.5m	1.28m	Variation required to reduce setback by 0.22m. Enclosure of existing courtyard will not impact neighbours
Open Space				50%	54%	

Neighbours amenity

The adjacent neighbours have been advised of the proposal and have raised no objections. It is considered the adjacent neighbour to the south at 84 King Street will not be materially impacted in terms of overshadowing or privacy since the proposed parapet wall for the rear patio is adjacent to the wall of their recent extension which has no openings. The proposed addition has a small window which is not in direct line of sight of neighbouring windows. The additional shadows cast by the proposed addition and parapet wall would be minimal and would not impact upon the living areas of the adjacent dwelling.

Streetscape impact

The proposed addition will have a negligible impact upon the street due to its scale and distance behind the building line.

CONCLUSION

The proposed additions are modest and are sympathetic to the original dwelling which has some heritage significance and is representative of the Federation period. There will be no material impact upon the streetscape or amenity of neighbours.

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RECOMMENDATION

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

- variation to the south side boundary setback pursuant to the Residential Design Codes from 1.0m to nil m
- variation to the north side boundary setback pursuant to the Residential Design Codes from 1.50m to 1.28 m

for the construction of an addition and two patios at 82 King Street 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all storm water 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 parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
9. this planning approval to remain valid for a period of 24 months from date of this approval.
10. the additions (gym) are to be used solely by the occupants of the house. Any commercial use will require a planning application and the consent of Council for a change of use.

Footnote:

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

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

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- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *the patio may not be enclosed without the prior written consent of Council.*

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Collinson

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

- **variation to the south side boundary setback pursuant to the Residential Design Codes from 1.0m to nil m**
- **variation to the north side boundary setback pursuant to the Residential Design Codes from 1.50m to 1.28 m**

for the construction of an addition and two patios at 82 King Street 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
4. **the proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
5. **all storm water 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 parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
7. **where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
8. **in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.**
9. **this planning approval to remain valid for a period of 24 months from date of this approval.**
10. **the additions (gym) are to be used solely by the occupants of the house. Any commercial use will require a planning application and the consent of Council for a change of use.**

Footnote:

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

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

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- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) the patio may not be enclosed without the prior written consent of Council.

CARRIED

T207.11 **Woodhouse Road No. 15 (Lot 292), East Fremantle**
Owner: Richard & Judith Sterrett
Applicant: Reuben Filsell (The Cottage Handyman)
Application No. P131/2010
By Gemma Basley, Town Planner on 3 November 2010

BACKGROUND

Purpose of the Report

An Application for Planning Approval to construct a shade sail at the front of the property at No. 15 Woodhouse Road, East Fremantle is the subject of this report.

The application is being referred to Council due to the location of the shade sail within the front setback area. The report seeks Council's endorsement for a recommendation to refuse the proposed development.

Description of site

The subject site is:

- a 746m² block
- zoned Residential R12.5
- developed with a dwelling on-site
- located in the Richmond Hill Precinct

Statutory Considerations

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

Relevant Council Policies

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

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 shade sail over the driveway.

Documentation

Plans and relevant forms date stamped received on 4 August 2010

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Date Application Received

4 August 2010

No. of Days Elapsed between Lodgement & Meeting Date

70 Days

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

Nil.

Advertising

The subject application was advertised to adjoining landowners for the standard 2 week period from the 30/8/2010 to the 15/9/2010. There were no comments received during this time.

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel Comments

The Panel viewed the proposal at the meeting held on the 24 August 2010. The Town Planning Advisory Panel advised that the Panel does not support the coverage of the driveway forward of the building line.

In the applicant's response the applicant claimed that due to the location of the site and the northern orientation of the drive way, the shade sail was considered a necessity to protect vehicles from the sea breeze and sun exposure.

Further highlighted by the applicant was the view that the nature of the site will ensure that the sail as designed will blend into the existing dwelling. It is suggested the sunken driveway masks the height of the structure and the colour matching of all fittings and fabric will ensure that the structure is unobtrusive and will complement the existing building.

The Acting Town Planner acknowledges the applicant's reasons and justifications for requesting the shade sail structure however has identified other matters that should be considered including, streetscape impact, undesirable precedent and the requirements of Local Planning Policy No. 142 and will discuss these later in this report.

STATISTICS

File	P/WOO15
Zoning	R12.5
Lot Area	7464m ²
Heritage Listing	Not listed

Site:	Required	Proposed	Status
Open Space	n/a	n/a	n/a
Overshadowing	n/a	n/a	n/a

Height:	Required	Proposed	Status
Wall	n/a	n/a	n/a
Ridge	n/a	n/a	n/a
Roof type	n/a		

Setbacks:		Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Front (north)							
Ground	Shade Sail	3.1-4.0	4.9	No	7.5	6.1	Discretion required

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Rear (south)								
Ground	Shade Sail	2.4	4.64	No	7.5	<7.5	Acceptable	
Side (west)								
Ground	Shade Sail	2.4-3.1	4.7	No	1.0	1.9	Acceptable	
Side (east)								
Ground	Shade Sail	2.4-4.0	4.7	No	1.0	<1.0	Acceptable	

NB: (* denotes habitable room)

Privacy/Overlooking: No overlooking from subject property

ASSESSMENT

Approval is sought to construct a shade sail in the front setback area of No. 15 Woodhouse Road East Fremantle. More specifically it is proposed to construct a shade sail over the driveway entrance in front of an existing double undercroft garage.

The applicant states that the subject site is a licensed Bed and Breakfast premises. Issues related to this reported use, and a further reported use of a home office, are given as one reason for requesting the shade sails, as these state uses are said to limit the use of the garage. The Town has investigated the Bed and Breakfast issue and confirms that the property has not been approved by the Town for a Bed and Breakfast or any other form of short stay accommodation. The landowners have been approached with regard to this matter and advise that the Bed and Breakfast is not operational. However in addition to being contrary to the advice of the applicant, it is noted the property continues to be advertised as same. See for example attachment of advice taken from web at the time of this report.

This matter will require further investigation in due course.

Whilst a home office is a "permitted development" under TPS3, under TPS3 a home office is not to entail clients or customers travelling to and from dwelling, which is in conflict with the advice given by the operator.

The application seeks a variation to the R-Codes requirement relating to minor incursions within the street setback area and a variation to LPP No. 142 with regard to the development of carport/garages forward of the building line. The table below will detail the proposed variations.

Requirement	Proposed	Planning Officer Comments
<p>R-Codes: <u>Minor Incursion to the front setback area.</u> A porch, balcony, verandah, chimney or the equivalent may not project more than 1.0 metre into the FSA.</p>	<p>1.4 metres within the front setback area.</p>	<p>Not Supported – the incursion into the front setback area is a minor intrusion and would normally pose no undue impact on the Woodhouse Road streetscape. The intrusion of a parking structure however as an intrusion into the front setback is not supported on the basis of the intent of Council's LPP No. 142.</p>

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<p>LPP No. 142 Garages and carports located at or behind the main building line.</p>	<p>Shade sail parking structure forward of the main building line of the house.</p>	<p>Not Supported – the construction of a secondary parking structure in front of the garage is not considered justifiable on the basis that there are already two covered parking bays available on the site in the form of the garage.</p> <p>The Woodhouse streetscape is characterised by development that is setback consistently from the street. It is considered that any approval for a structure within this front setback area would disrupt the rhythm of the street. It is also considered that approval to an additional parking structure could set an undesirable precedent for similar structures elsewhere within the Town.</p> <p>LPP No. 142 is Council's only policy relating to residential development and therefore its implementation consistently across the Town is imperative. Support for the shade sail structure forward of the house goes against the intent and requirements of this policy.</p>
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The application has been assessed on its merits, taking into account the justifications put forward by the applicant and the requirements of LPP No. 142. It is considered that the merits of the proposal and the justifications in support of the proposal do not outweigh the objectives and requirements of LPP No. 142. It is further noted that the subject property is already afforded with two covered parking bays that can offer the wind/heat/sun protection the applicants pursue and that approval to an additional shade sail parking structure in the front setback area could set an undesirable precedent.

It is on the grounds above, that it is recommended that the subject application be refused.

RECOMMENDATION

That Council refuse the construction of a shade sail at 15 Woodhouse Road, East Fremantle in accordance with the plans date stamp received on 4 August 2010 for the following reasons:

1. The proposed structure is forward of the main building line and does not therefore comply with the requirements of Local Planning Policy No. 142.
2. The proposed structure is inconsistent with the Woodhouse streetscape, which is characterised by wide setbacks to the street which do not contain parking structures.
3. The proposed structure could set an undesirable precedent for similar development along the street and in the locality.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr de Jong

That Council refuse the construction of a shade sail at 15 Woodhouse Road, East Fremantle in accordance with the plans date stamp received on 4 August 2010 for the following reasons:

- 1. The proposed structure is forward of the main building line and does not therefore comply with the requirements of Local Planning Policy No. 142.**

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2. The proposed structure is inconsistent with the Woodhouse streetscape, which is characterised by wide setbacks to the street which do not contain parking structures.
3. The proposed structure could set an undesirable precedent for similar development along the street and in the locality. CARRIED

Cr Martin declared an interest in the following item as her property abuts the subject property and left the meeting at 9.50pm

T207.12 Sewell Street No. 18 (Lot 411), East Fremantle
Applicant & Owner: Belinda Doonan
Application No. P157/2010
By Gemma Basley Acting Town Planner, 1 November 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for the construction of a detached studio in the rear area of No.18 Sewell Street, East Fremantle is the subject of this report.

The subject application is being referred to the Council meeting, as opposed to being dealt with under Delegated Authority, because of the property being included in the Municipal Heritage Inventory.

Description of site

The subject site is:

- a 508.96m² block
- zoned Residential R20
- developed with a dwelling on-site
- with an MI rating of B-
- located in the Plympton Precinct

Statutory Considerations

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

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : The studio could be visible from the street but being set back 19 metres its impact is considered to be negligible.

Documentation

Plans and relevant forms date stamp received on 7th September 2010

Date Application Received

7 September 2010

No. of Days Elapsed between Lodgement & Meeting Date

64 days

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

Nil

Advertising

The subject application was advertised to adjoining landowners for a 2 week period between the 14 and the 28 October 2010.

There were no comments or objections received during the advertising period.

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel Comments

The Panel viewed the proposal on 28 September 2010.

The Panel advised that the setback of the proposed studio was acceptable and that there was no objection to the application.

STATISTICS

File	P/SEW/18
Zoning	R20
Lot Area	508.96m ²
Heritage Listing	Municipal Inventory 'B- Management Category'

Site:	Required	Proposed	Status
Open Space	50%	<50%	Acceptable
Overshadowing	n/a	n/a	n/a

Height:	Required	Proposed	Status
Wall	2.4m	2.4m	Acceptable
Ridge	4.2m	3.6m	Acceptable
Roof type	Pitched		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Front (east)	<i>Studio</i>	2.4	3.0	No	6.0	18	Acceptable
Side (north)	<i>Studio</i>	2.4	4.0	No	1.0	1.0	Acceptable
Side (south)	<i>Studio</i>	2.4	4.0	No	1.0	8.27	Acceptable
Rear (west)	<i>Studio</i>	2.4	3.0	No	1.0	18	Acceptable

No overlooking will occur. The proposed boundary fence provides adequate screening.

REPORT

Comment

Approval is sought for the construction of a detached studio in the rear setback area of 18 Sewell Street, East Fremantle. The application meets all of the acceptable development requirements of the R-Codes, Council's TPS No. 3 and Council's Local Planning Policies and no discretions are sought by the applicant.

The proposed studio/outbuilding will not significantly detract from the streetscape or the visual amenity of residents or neighbouring properties because of it being set back from the street and from the neighbouring properties.

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The only potential area for concern is the ultimate use of the studio/outbuilding and that it is not utilised for residential or short stay accommodation. Two conditions are included in the Recommendation to address this matter.

In light of the above, the proposed studio addition is considered to be acceptable and is recommended for approval.

RECOMMENDATION

That Council grant approval for the construction of a studio at 18 Sewell Street, East Fremantle in accordance with the plans date stamp received on 7 September 2010 subject to the following conditions:

1. the proposed studio is to be used as an incidental component of the approved predominant residential activity only and shall not be let or sold as a separate residential or short stay tenancy.
2. The proposed studio shall not be used for any form of habitable or residential purposes.
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. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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

Cr de Jong – Cr Collinson

That Council grant approval for the construction of a studio at 18 Sewell Street, East Fremantle in accordance with the plans date stamp received on 7 September 2010 subject to the following conditions:

1. **the proposed studio is to be used as an incidental component of the approved predominant residential activity only and shall not be let or sold as a separate residential or short stay tenancy.**
2. **The proposed studio shall not be used for any form of habitable or residential purposes.**
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. **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. the proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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).*

CARRIED

Cr Martin returned to the meeting at 9.52pm and it was noted that she neither spoke nor voted on the foregoing item.

T207.13 **Angwin Street No. 14 (Lot 3)**
Applicant & Owner: Mr. Les Archibald
Application No: P170/20100

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

BACKGROUND

Description of Proposal

The application is for Planning Approval for a Shade Structure. The Sun Shade is a rigid steel structure standing approximately 3.8 metres above ground level and supporting a cantilevered roofed area of 6.8 metres by 4.2 metres which is to be clad in corrugated colourbond roofing.

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy No. 142 : Residential Development (LPP 142)
Local Planning Policy No. 145 : Neighbourhood Consultation (LPP 145)
Council Policy No. 012 : Pergolas (CP 012)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Angwin streetscape will be impacted by the proposed development

Documentation

Plans and relevant forms date stamp received on 23 September 2010

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Date Application Received

23 September 2010

Additional information

1 November 2010

Advertising

Adjoining land owners only

Date Advertised

5 October 2010

Close of Comment Period

20 October 2010

No. of Days Elapsed between Lodgement & Meeting Date

41 days

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

Nil

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 26 October 2010 and the following comments were made:

- Structurally and materially inappropriate in relation to existing residence
- Applicant should provide drawings depicting streetscape elevation of proposal in relation to front wall.
- A tree would be better.

The applicant has responded to these comments as follows:

- There seems confusion regarding the type of shade structure – it is not a shade sail – the structure is made of steel and corrugated sheet metal roofing.
- Structure approved by a qualified engineer.
- Suggestion that “A tree would be better” is simplistic – not a viable alternative – it would take ten years for a tree to grow

Public Submissions

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

Site Inspection

By Manager Planning Services on 3 November 2010

ASSESSMENT

The proposal is for the roofing of an existing sundeck. The deck is in close proximity to the front boundary and in front of the building line. The property is in an elevated and prominent position with an approximate level difference of 2 metres between the deck height and the footpath. The proposal will accordingly have a significant visual impact upon the streetscape when viewed from Angwin Street and surrounding areas.

The following Scheme provisions are relevant to the consideration of the proposal;

Clause 1.6 (b) which states (inter alia) the aims of the Scheme are to; “*enhance the character and amenity of the Town...*”

Clause 4.2 Objectives of the zones

General - “*To recognise and respect the desired future character of each precinct and to ensure future character is sympathetic with that character*”.

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Residential Zone – “To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of existing built form”.

The Local Planning Strategy for the Riverside Precinct which contains the subject site states;

“Development will reflect the topography, heritage and general character of its surroundings.”

“Front setback: A setback of 7.5 metres is proposed for this precinct, although there will be circumstances in which this will require variation due to topography and the street mode. Additional setback will normally be required for buildings or parts of buildings in excess of one storey in height, so as to maintain the existing scale of development at street level.”

There may be cases in which boundary setbacks should be increased, and Council should retain this option to ensure consistency with the street ‘modality’.

It is considered the proposed sun shade structure does not meet the above requirements of the Scheme or the Planning Strategy since it would be a discordant element which is not supported by the prevailing built form character in the vicinity. Its location on the elevated frontage of the property would have a substantial visual impact when viewed from the street and would not adhere to the established building line within the vicinity.

The proposal is considered not to meet the Acceptable development requirements or the ‘Performance Criteria of the R-Codes. Section 6.2.2 – *Minor incursions into the street setback area*- which provides that balconies, verandas, or the equivalent should project not more than 1 metre into the street setback from the building frontage and/or should not detract from the streetscape character.

CONCLUSION

The proposal is for a substantial structure standing approximately 3.8 metres above ground level in close proximity to the front boundary on what is a prominent and elevated site. It is considered to be a discordant element within the context of the prevailing streetscape character which will have a substantial visual impact. The proposal conflicts with the provisions of the Scheme, Planning Strategy and the R Codes in respect to its form and location within the street setback area.

RECOMMENDATION

It is recommended that Council refuse the application for Planning Approval for the construction of a sunshade structure at 14 Angwin Street, East Fremantle as proposed sun shade structure does not meet the:

1. Objectives of the Town Planning Scheme No.3 or the Local Planning Strategy since it would be a discordant element which is not supported by the prevailing built form character in the vicinity and its location on the elevated frontage of the property would have a substantial visual impact when viewed from the street and would not adhere to the established building line within the vicinity.
2. ‘Acceptable development’ requirements or the ‘Performance Criteria of the R-Codes. Section 6.2.2 – ‘Minor incursions into the street setback area’ because it intrudes more than one metre into the street setback area from the building frontage and would detract from the character of the streetscape.

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Martin

It is recommended that Council refuse the application for Planning Approval for the construction of a sunshade structure at 14 Angwin Street, East Fremantle as proposed sun shade structure does not meet the:

1. **Objectives of the Town Planning Scheme No.3 or the Local Planning Strategy since it would be a discordant element which is not supported by the prevailing**

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built form character in the vicinity and its location on the elevated frontage of the property would have a substantial visual impact when viewed from the street and would not adhere to the established building line within the vicinity.

2. 'Acceptable development' requirements or the 'Performance Criteria of the R-Codes. Section 6.2.2 – 'Minor incursions into the street setback area' because it intrudes more than one metre into the street setback area from the building frontage and would detract from the character of the streetscape. CARRIED

T207.14 Philip Street No. 19 (Lot 807)

Applicant: Marcus Burt

Owner: Robert & Karen Walker

Application No. P159/2010

By Gemma Basley, Town Planner on 4 November 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for the construction of a boundary fence at No. 19 Philip Street, East Fremantle is the subject of this report. The application also proposed a new crossover to Philip Street but this has since been withdrawn from the application.

The application is being referred to Council for consideration of streetscape issues and because of the high rating of the existing dwelling under the Town's Municipal Inventory. The report seeks Council's endorsement of a recommendation for conditional approval.

Description of site

The subject site is:

- a 725m² block
- zoned Residential R12.5
- developed with a dwelling on-site
- Registered on the Town's MI with a rating of A-
- located in the Richmond Hill Precinct

Statutory Considerations

Town Planning Scheme No. 3

Local Planning Strategy - Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy No. 143 : Policy on the Local Laws relating to Fencing

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : Fencing around the property will alter the streetscape however, the impact is not considered to be adverse.

Documentation

Plans and relevant forms date stamp received on 3 August 2010 and 7 October 2010

Date Application Received

3 August 2010

No. of Days Elapsed between Lodgement & Meeting Date

63 days

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

19 October 2010 Council exercised its discretion and granted approval for the construction of alterations and additions at 19 Philip Street, East Fremantle

Advertising

The subject application was advertised to adjoining landowners for the standard 2 week period from the 30/8/2010 to the 15/9/2010 as part of the earlier application. There were no comments received during this time.

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel Comments

The Panel viewed the proposal on 21 September 2010 and made the following comments:

- Fencing inappropriate to the existing style of the dwelling (art deco).
- Municipal Inventory Management Category – 'A'.
- Not consistent with the streetscape which is predominantly void of fencing on northern side of the road.
- Fencing style to suit dwelling.
- Heritage assessment of the fencing proposal required.

In response to the Panel's comments the Applicants have prepared and submitted revised plans which are the subject of this report and which are more suited to the existing residence. The applicants have further advised that it is desirable to have fencing for safety and security reasons. The applicant advised that the landowners have two children who utilise the front yard as their main recreation area and without fencing they are at risk from the road.

The revised plans propose a limestone base/dwarf wall to match the footings of the existing dwelling and rendered white piers with brick corbelling at the top and a wrought iron infill. These plans were presented to the Panel at its meeting of the 26 October 2010 where the following comments were made:

- Corbelling not supported.
- Wall should be uniform in material finish.
- Fence needs to be in sympathy with curves and simple lines of existing residence.
- Overall fence height too high in scaled relationship to existing residence.

In response to the Panel's comments above the applicant has advised the following:

- Corbelling will be removed if Council deems this to be appropriate.
- The entire fence will be constructed of rendered brickwork and will have a uniform finish.
- The owners will investigate including a curved landing and steps at the pedestrian gate that fronts Philip Street. This will reflect the curved steps and portico of the dwelling.
- The overall fence height does not exceed 1.8 metres as is permitted under LPP No. 143. The proposed fence will align with and below the front windows and is considered to be in scale with the existing residence. The streetscape perspectives included as part of this application do not illustrate this well however, the elevation plans specify maximum building heights and will ensure that the fence is not over height.

In order to address the above, any approval should include conditions to require a maximum fence height, finish and style.

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ASSESSMENT

Approval is sought for boundary fencing at No 19 Philip Street, East Fremantle. The proposed fence has been assessed against the requirements of LPP No. 143 and is determined to be a compliant fence proposal based on the following:

- The maximum height of the fence does not exceed 1.8 metres.
- The fence is proposed to be visually permeable above 1.2 metres and will utilise wrought iron for this.
- The proposed materials being rendered brickwork is an acceptable material listed in the policy.
- The fence design and materials are uniform on both the Clayton Road elevation and the Philip Street elevation and will complement the existing art deco residence.

The only matter that requires further consideration is streetscape and the appropriateness of the proposed fence on the streetscape. This issue was raised by the Panel when it originally viewed the application. This has been assessed and it is considered that being a corner lot, the potential impact of the proposed fencing on the streetscape will be reduced. Further, the house at No. 20 Philip Street (opposite the application area) whilst the front setback area has not been fenced the front yard has been retained (below the road level) effectively creating an enclosed area. It is considered that approving fencing at 19 Philip Street will not be in conflict with the development opposite.

Noting the proposal meets the requirements of LPP No. 143 and the R-Codes, the application can be supported. The streetscape impact has been assessed separately and it has been determined that being a corner lot and in recognition of the development across the road that fencing of the subject lot will not impact negatively on the streetscape of Philip or Clayton Street.

RECOMMENDATION

That Council exercise its discretion in granting approval for front fencing in accordance with the plans date stamp received on 7 October 2010 subject to the following conditions:

1. amended plans are to be submitted prior to the issue of a Building Licence to the satisfaction of the CEO, which show the following:
 - a) The entire fence being constructed of rendered masonry material with a uniform white paint finish with no corbelling or use of alternative materials.
 - b) A curved landing and steps at the pedestrian gate that fronts Philip Street (if this is achievable).
2. the maximum height of the fence to be 1.8 metres.
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. 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. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid;
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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

RECOMMENDATION TO COUNCIL

Cr Martin – Cr de Jong

That Council exercise its discretion in granting approval for front fencing in accordance with the plans date stamp received on 7 October 2010 subject to the following conditions:

1. **amended plans are to be submitted prior to the issue of a Building Licence to the satisfaction of the CEO, which show the following:**
 - c) **The entire fence being constructed of rendered masonry material with a uniform white paint finish with no corbelling or use of alternative materials.**
 - d) **A curved landing and steps at the pedestrian gate that fronts Philip Street (if this is achievable).**
2. **the maximum height of the fence to be 1.8 metres.**
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. **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. **where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid;**
6. **this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

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

CARRIED

T207.15 Pier Street No. 3A
Applicant & Owner: WJ & FS Enright
Application No. P76/2009

By Jamie Douglas, Manager- Planning Services on 3 November 2010

BACKGROUND

Description of Proposal

The application is for the renewal of an existing Planning Permit for a Bed and Breakfast Use at 3A Pier Street, East Fremantle.

Statutory Considerations

Town Planning Scheme No. 3 – Part 8: Development of Land, Clause 8.4
Local Planning Strategy - Richmond Precinct (LPS)

Relevant Council Policies

Nil.

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

Council approves Bed and Breakfast Use subject to review after 12 months.

CONSULTATION

Neighbouring property owners were advised of the application. No submissions have been received.

STATUTORY PROVISIONS

The subject site is zoned Residential under TPS 3.

The Scheme defines a "bed and breakfast" use as follows;

"means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast".

The use "bed and breakfast" is listed as an "A" use in the Residential zone in the zoning table in the Scheme, which means "that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4"

REPORT

The subject dwelling comprises three levels and an under-croft double garage. The existing application allows for guest accommodation in two double rooms each with a private bathroom and there is a guest's sitting room. There is jockey parking for four vehicles on-site. There is no signage associated with the use of the property.

It was previously determined that:

- given the relatively low key nature of the proposed use,
 - the amenity afforded by the subject property both for owners and guests,
 - its proximity to public recreation areas, the Swan River and public transport
- that the application should be supported. Accordingly, at its meeting on 21 July 2009 Council granted approval for a 'bed and breakfast' Use for the subject property subject to the following conditions:
- (i) the location of the activity and operation of the Bed and Breakfast being conducted in a clean and hygienic manner to the satisfaction of the Chief Executive Officer in consultation with the Principal Environmental Health Officer; and
 - (ii) the approval being for 12 months and then subject to review.

The applicant has applied for a renewal of this Development Permit in accordance with condition 2. The extent and nature of the use remains unchanged.

CONCLUSION.

The "bed and breakfast use" has operated without incident throughout the review period of twelve months. There have been no objections from neighbours to the current application for a renewal of the Development Permit. It is important that the extent of the use be controlled to the areas nominated on the original application plan and that an upper limit of guests be set at four. However there is no apparent impediment to allowing the use to establish on a permanent basis.

It is noted that the previously applied condition 1 is otherwise controlled by the provisions of the Environmental Health Act which is the appropriate 'Head of Power' in respect to compliance regarding hygienic operation of the facility; accordingly this condition is considered to be redundant.

It is concluded it would be reasonable therefore to support the proposed extension of use, subject to the following conditions.

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RECOMMENDATION

It is recommended that Council exercise its discretion pursuant to clause 4.3 of the Town Planning Scheme No.3 in granting approval for a 'bed and breakfast' use at 3A (Lot2) Pier Street, East Fremantle subject to the following conditions,

1. the "bed and breakfast" use is limited to the floor areas designated in yellow for that purpose on the Approved Plan dated 21 July 2009
2. a maximum of four guests may be accommodated on-site at any one time
3. no signage is to be erected associated with the "bed and breakfast" use unless it has been the subject of a separate application for Planning Approval and approved by Council.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Nardi

It is recommended that Council exercise its discretion pursuant to clause 4.3 of the Town Planning Scheme No.3 in granting approval for a 'bed and breakfast' use at 3A (Lot2) Pier Street, East Fremantle subject to the following conditions,

1. the "bed and breakfast" use is limited to the floor areas designated in yellow for that purpose on the Approved Plan dated 21 July 2009
2. a maximum of four guests may be accommodated on-site at any one time
3. no signage is to be erected associated with the "bed and breakfast" use unless it has been the subject of a separate application for Planning Approval and approved by Council.

CARRIED

T207.16 *May Street No. 43 (Lot 612)*
Applicant: Officer Woods Architects
Owner: Glenda Blake
Application No. P166/2010

By Gemma Basley, Town Planner on 1 November 2010

BACKGROUND

Purpose of this Report

An Application for Planning Approval for alterations and extensions to the existing character residence located at 43 May Street, is the subject of this report.

The application proposes single storey additions to the rear of the existing residence as well as the construction of a carport on the northern boundary and a studio in the back yard area.

This report seeks Council's endorsement for a recommendation to conditionally approve the proposed development.

Description of site

The subject site is:

- a 511m² block
- zoned Residential R20
- developed with a heritage residence
- located in the Woodside Precinct.
- Municipal Inventory 'B-^'

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)
Local Planning Policy 142 : Residential Development

Impact on Public Domain

Tree in verge : No impact

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Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Restoration of the residence and the construction of a carport will alter the way the residence is viewed from the street but not in an adverse manner

Documentation

Plans and relevant forms date stamp received on 20 September 2010

Date Application Received

20 September 2010

No. of Days Elapsed between Lodgement & Meeting Date

50 days

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

Nil

CONSULTATION

Advertising

The application was advertised to adjoining neighbours for a two week period between the 7 and the 21 October 2010. During the advertising period no submissions were received.

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 26 September 2010. The Panel made several comments about the proposal and these are detailed in the table below and responded to by the applicant.

- Design of the carport being different in style to the original dwelling is supported.
- Carport could be pulled back to align with the main building dwelling.
- Simple roof is contextually appropriate for the locality.

The applicants have indicated that it is not practical or desirable to move the carport westwards behind the main building line because this will block the northern light into the pantry and kitchen windows. The applicants' design of the carport to be stylistically different to the existing character residence and this has been done to assist in differentiating between the existing residence and the proposed new carport structure.

The location of the carport forward of the building line is highly desirable however based on the Panels comments on the design and the applicants' justification for the location of the carport, the application as presented is supported.

Principal Building Surveyor's Comment

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

Site Inspection

By Town Planner on 27 September 2010

STATISTICS

File P/MAY/43
Zoning R20
Lot Area 511m²
Heritage Listing Municipal Inventory 'B-
Management Category'

Site:	Required	Proposed	Status
Open Space	50%	<50%	Acceptable

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STATISTICS

Overshadowing 25% >25% Acceptable

Height:		Required	Proposed	Status			
Wall		3.0	3.5	Discretion Required			
Ridge		4.0	6.6	Discretion Required			
Roof type		Pitched					
Setbacks:							
Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Actual Setback	Status
Front (east)	<i>Existing Residence</i>	N/A	N/A	N/A	N/A	N/A	N/A
	<i>Proposed Carport</i>	2.7	2.6	N/A	5.5 (existing streetscape)	5.5	Discretion Required
Side (north)	<i>Carport</i>	2.7	5.2	No	1.0	Nil	Acceptable
Side (south)	<i>Laundry</i>	2.7	4.7	No	1.0	0.86	Discretion Required
	<i>Studio</i>	2.7	5.0	No	1.0	0.86	Discretion Required
Rear (west)	<i>Studio</i>	2.7	5.5	Yes	1.5	5.0	Acceptable

ASSESSMENT

The application proposes to extend the house at the rear and construct a studio in the south western area of the lot. The application also proposes a carport on the northern boundary.

There are two major issues to address in this application being the location of the carport forward of the main building line and the potential use of the studio for accommodation. These will be discussed separately. In addition there are a number of small variations that are sought by this application which will also be addressed below.

The proposed carport is in line with the existing verandah. The carport design is very different to the existing residence and because of this its location parallel with the verandah is not considered to be significantly adverse. In addition to this, the applicants' arguments for not being able to relocate the garage are warranted and supported.

The second matter is the potential use of the studio for residential accommodation. This raises concerns about the potential to then lease out as a rental premises or short stay accommodation. To overcome this, a condition is included in the Recommendation to require that the studio not be used for any form of habitation of accommodation.

As detailed in the statistics above, several variations to the R-Code requirements are sought under this application and are addressed and justified in the table below:

Requirement	Proposed	Planning Officer Comments
Building Height Building Height Category A (Single storey development): Top of external wall: 3m Top of pitched roof: 6m	(External Walls) up to 3.5m	Supported – The proposed wall heights are based on the continuation of the existing wall heights of the original residence. No increase to the existing wall heights is proposed. The additions are at the rear of the existing dwelling and as such have no overall impact on building height. As seen from the street.

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Requirement	Proposed	Planning Officer Comments
<p><u>Building Setbacks</u> North 1.0 metres</p>	0.86 metres	<p>Supported – The lot the subject of this application is narrow in width (14.5 metres) and is currently developed with a minimal setback of 0.865 metres to the southern boundary. The proposed laundry extension and studio propose to be setback the same distance as the existing house being 0.86 metres. No objections were received from the neighbouring land owner during the community consultation process.</p> <p>In addition, the proposed southern setback variation is considered to meet the performance criteria of the R-Codes relating to adequate sun and ventilation exposure to the subject and neighbouring property as neither property are adversely affected in this respect. Additionally, the proposed setback maintains the building line of the existing dwelling.</p>
<p>LPP No. 142 Garages and carports located at or behind the main building line.</p>	Proposed carport is in line with the verandah and Bedroom 1.	<p>Supported – based on the design of the carport being simplistic and lower in height than the existing residence its potential impact is lessened.</p> <p>The Panel has supported the design of the carport however recommended it be pulled back. The applicant has provided an explanation for the location of the carport and it is accepted. This however is only on the basis that whilst the carport may not be behind the main building line it is in line with the verandah and Bedroom 1 and as such is not considered to dominate the streetscape or to detract from the significance of the residence</p>

The heritage and streetscape impact is considered to be minor, firstly because of the nature of the carport and secondly because of all the other changes to occur at the rear of the residence and because the carport that will be visible from the road has been designed to be minimalist and different to the original residence this means that the carport will not compete with the heritage significance of the house or the street.

Given the proposal meets the requirements of the R-Codes, Council's Local Planning Policies and TPS No. 3 and that the application proposes to retain and restore a residence that is included on the Town's Municipal Inventory, the application is supported and recommended for approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for:

- (i) the positioning of the carport not entirely behind the main building line in lieu of the requirements of LPP No. 142;
- (ii) the wall height to extend to a height of 3.5 metres in lieu of the R-Code requirement;
- (iii) a reduced setback of 0.86 metres to the southern boundary for the studio and additions in lieu of the 1.0 metre required under the R-Codes

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additions to the rear of the existing residence, a new carport and a studio in the back yard at 43 May Street, East Fremantle in accordance with the plans date stamp received on 20 September 2010 subject to the following conditions:

1. a schedule of materials and finishes to be submitted to the CEO prior to the issue of a Building Licence.
2. the proposed studio is not to be occupied for residential purposes.
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. 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.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Collinson – Cr Nardi

That Council exercise its discretion in granting approval for:

- (i) **the positioning of the carport not entirely behind the main building line in lieu of the requirements of LPP No. 142;**
- (ii) **the wall height to extend to a height of 3.5 metres in lieu of the R-Code requirement;**
- (iii) **a reduced setback of 0.86 metres to the southern boundary for the studio and additions in lieu of the 1.0 metre required under the R-Codes**

additions to the rear of the existing residence, a new carport and a studio in the back yard at 43 May Street, East Fremantle in accordance with the plans date stamp received on 20 September 2010 subject to the following conditions:

1. **a schedule of materials and finishes to be submitted to the CEO prior to the issue of a Building Licence.**
2. **the proposed studio is not to be occupied for residential purposes.**
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**

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

Footnote:

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

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

CARRIED

T208. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil

T209. CLOSURE OF MEETING

There being no further business the meeting closed at 10.20pm.

*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 **10 November 2010**, Minute Book reference **T198. to T209.** were confirmed at the meeting of the Committee on*

.....

Presiding Member