



AGENDA ATTACHMENTS

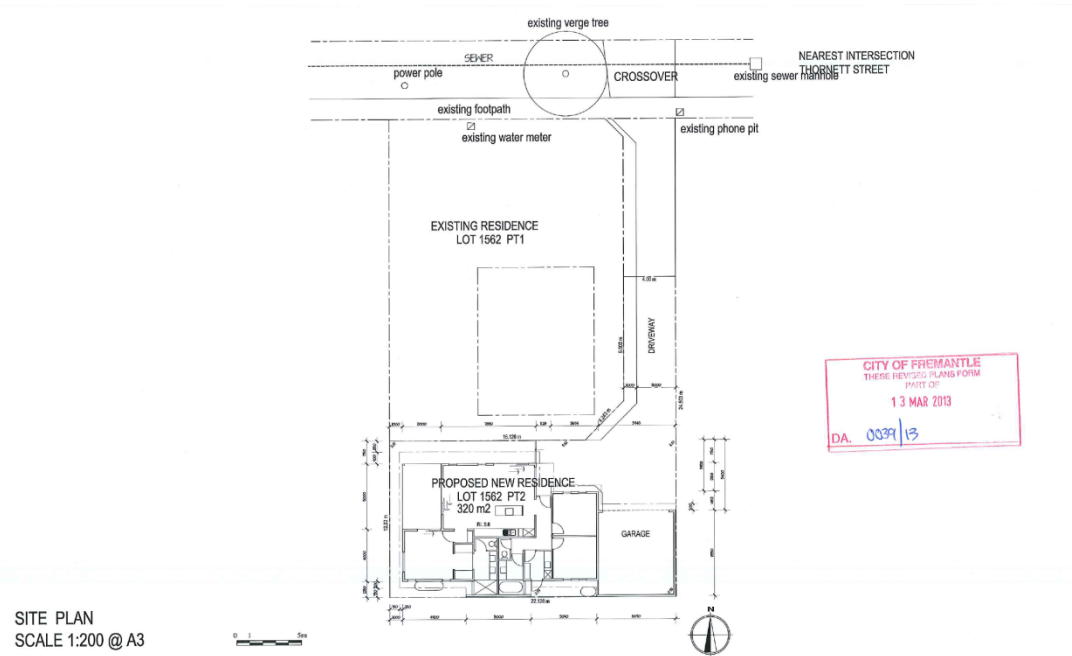
Planning Services Committee

Wednesday, 3 April 2013, 6.30 pm

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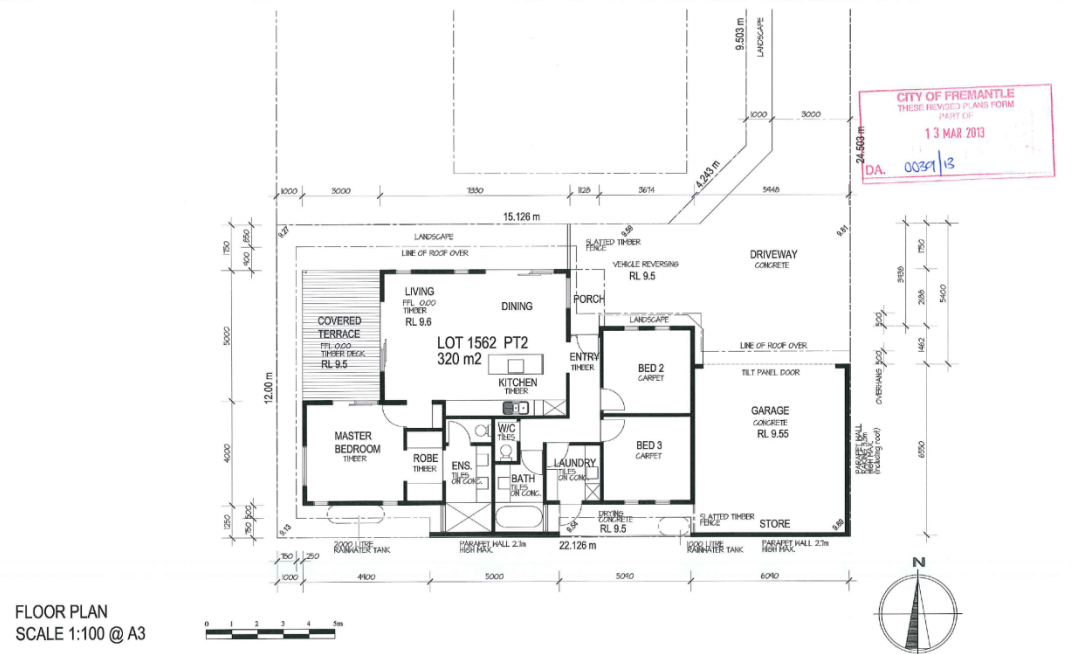
PSC1304-46 SOUTH STREET NO.349A (LOT 2) HILTON - SINGLE STOREY GROUPED DWELLING (JS DA0039/13)

ATTACHMENT 1



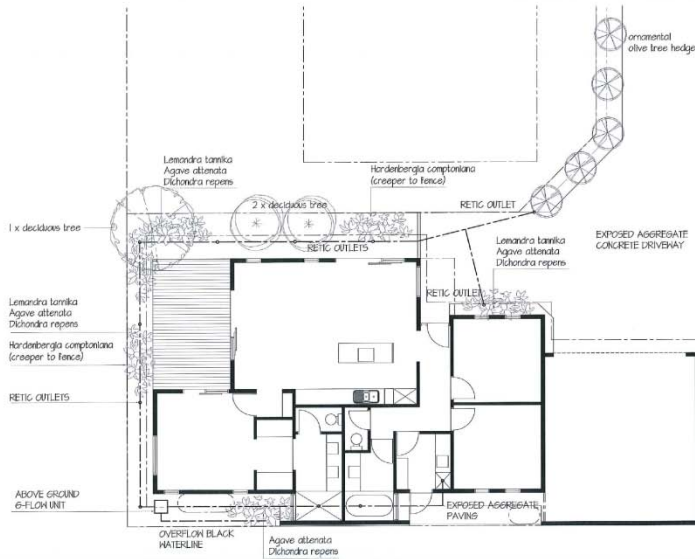
SITE PLAN
SCALE 1:200 @ A3

		PROPOSED TURNBULL RESIDENCE at HOUSE No 349 (lot 1562) SOUTH STREET HILTON		DRAWING NUMBER A01	
		PLANS		AMENDMENT c	
		ARCHITECT SCOTT BRADLEY Tel 0448993391			
C	GARAGE AND ROOF REVISED - ISSUED FOR PLANNING APPROVAL	13.03.13			
B	ISSUED FOR PLANNING APPROVAL	25.01.13			
A	FIRST ISSUE	27.11.12			
ISSUE	AMENDMENTS	DATE			



FLOOR PLAN
SCALE 1:100 @ A3

		PROPOSED TURNBULL RESIDENCE at HOUSE No 349 (lot 1562) SOUTH STREET HILTON		DRAWING NUMBER A02	
		PLANS		AMENDMENT D	
		ARCHITECT SCOTT BRADLEY Tel 0448993391			
D	NOTES ADDED - ISSUED FOR PLANNING APPROVAL	13.03.13			
C	GARAGE AND ROOF REVISED - ISSUED FOR PLANNING REVIEW	7.03.13			
B	ISSUED FOR PLANNING APPROVAL	25.01.13			
A	FIRST ISSUE	27.11.12			
ISSUE	AMENDMENTS	DATE			



CITY OF FREMANTLE
THREE DIMENSIONAL PLANS FORM
3/2012/03
13 MAR 2013
DA. 0039/13

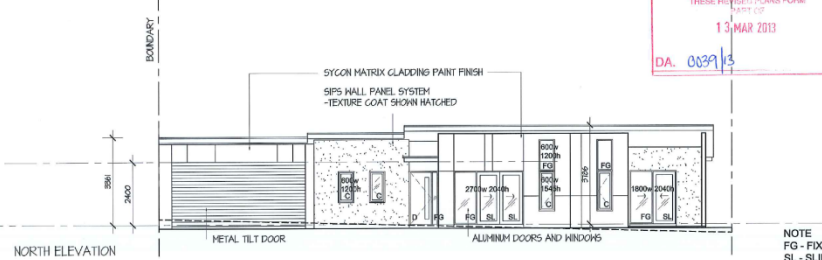
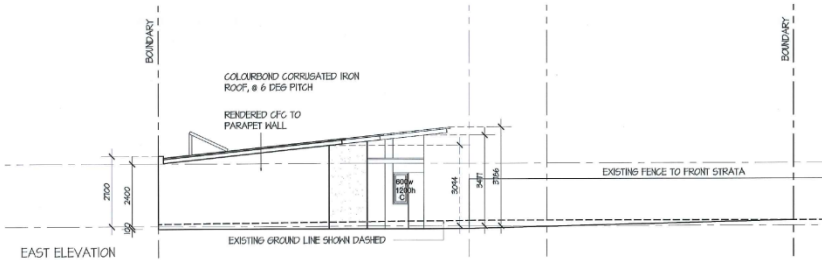
LANDSCAPE PLAN
SCALE 1:100 @ A3



ISSUE	AMENDMENTS	DATE
B	GARAGE AND ROOF REVISED - ISSUED FOR PLANNING APPROVAL	13.03.13
A	ISSUED FOR PLANNING APPROVAL	25.01.13
ISSUE	AMENDMENTS	DATE

PROPOSED TURNBULL RESIDENCE at
HOUSE No 349 (lot 1562) SOUTH STREET
HILTON
PLANS
ARCHITECT SCOTT BRADLEY Tel 0448993391

DRAWING NUMBER
A03
AMENDMENT B



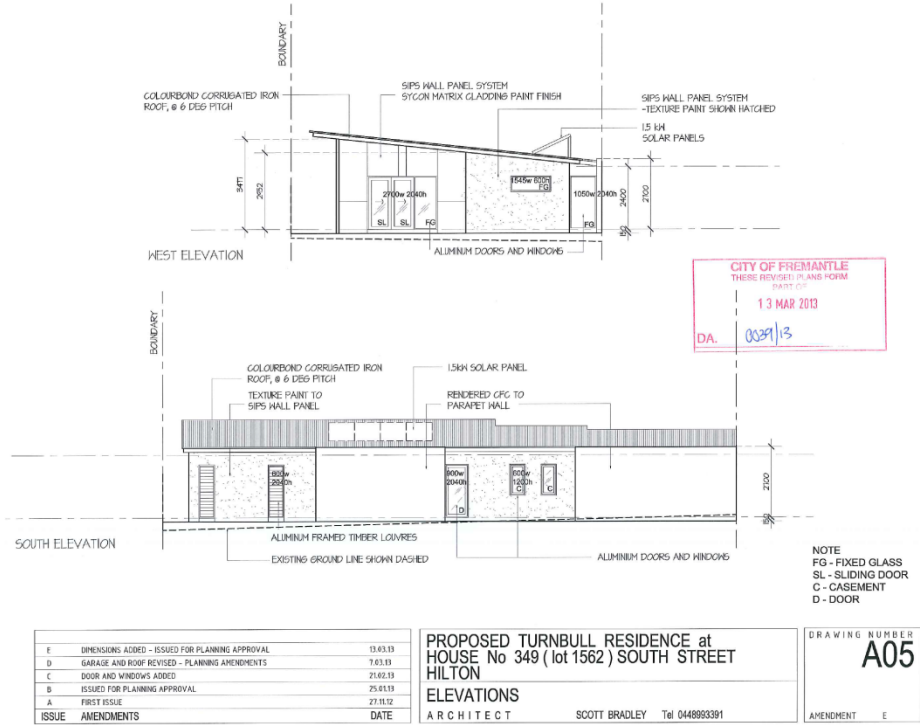
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THREE DIMENSIONAL PLANS FORM
3/2012/03
13 MAR 2013
DA. 0039/13

NOTE
FG - FIXED GLASS
SL - SLIDING DOOR
C - CASEMENT
D - DOOR

ISSUE	AMENDMENTS	DATE
E	DIMENSIONS ADDED - ISSUE FOR PLANNING APPROVAL	03.03.13
D	GARAGE AND ROOF REVISED - PLANNING AMENDMENTS	3.03.13
C	DOORS AND WINDOW REF ADDED	21.02.13
B	ISSUE FOR PLANNING APPROVAL	25.01.13
A	FIRST ISSUE	27.11.12
ISSUE	AMENDMENTS	DATE

PROPOSED TURNBULL RESIDENCE at
HOUSE No 349 (lot 1562) SOUTH STREET
HILTON
ELEVATIONS
ARCHITECT SCOTT BRADLEY Tel 0448993391

DRAWING NUMBER
A04
AMENDMENT E



ATTACHMENT 2



Photograph 1: Hardstand car parking located adjacent to where the eastern boundary wall is proposed.



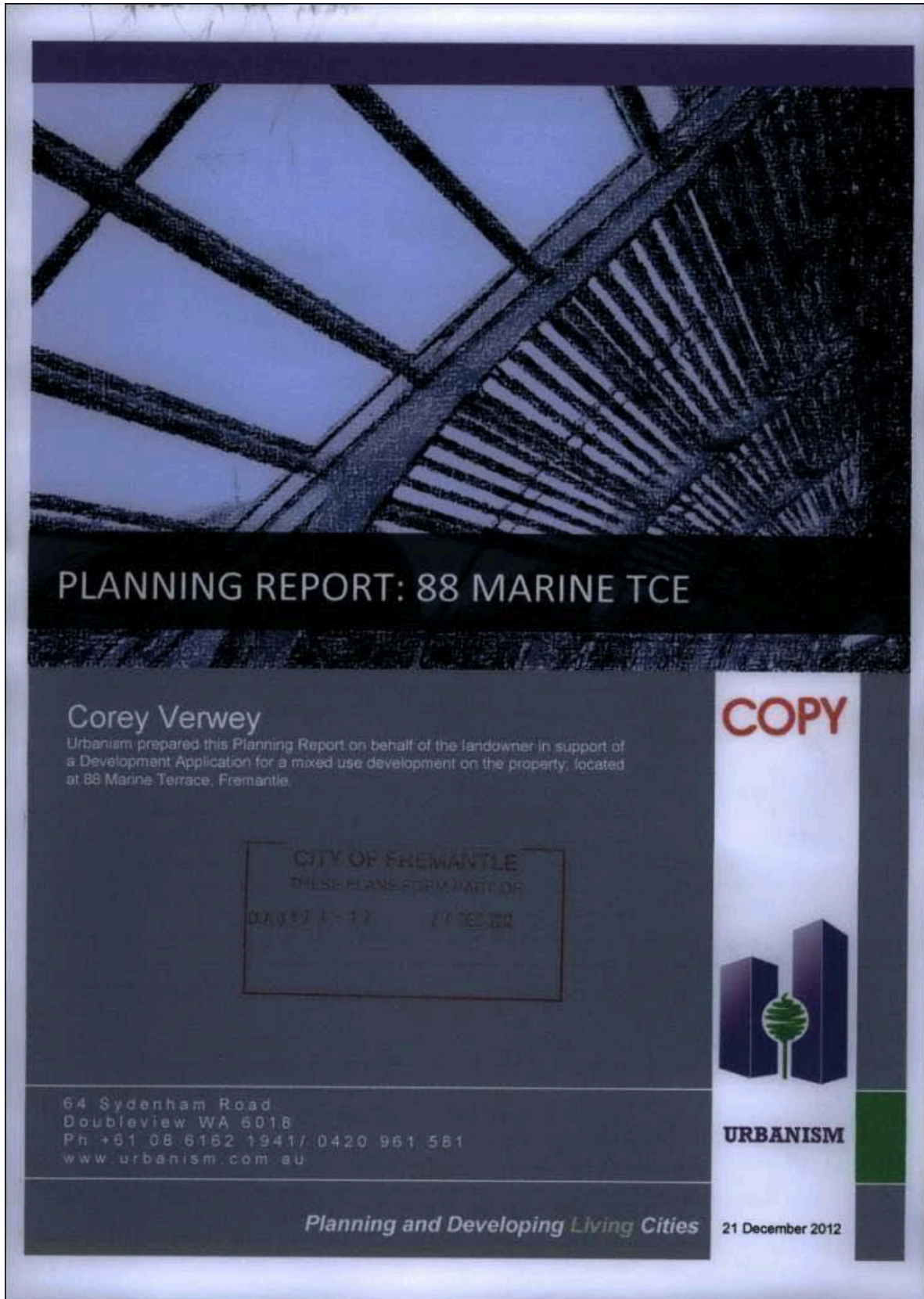
Photograph 2: Rear non active area of southern neighbouring property located adjacent to where the southern boundary walls are proposed.



Photograph 3: Subject site

**PSC1304-47 MARINE TERRACE, NO. 88 LOT 3 FREMANTLE -
RETROSPECTIVE PLANNING APPLICATION FOR
UNAUTHORISED WORKS AND APPROVAL FOR CHANGES TO
PREVIOUS APPROVAL (SS DA624/12)**

ATTACHMENT 1




PLANNING REPORT: 88 MARINE TCE

Corey Verwey
Urbanism prepared this Planning Report on behalf of the landowner in support of a Development Application for a mixed use development on the property, located at 88 Marine Terrace, Fremantle.

CITY OF FREMANTLE
THESE PLANS FORM PART OF
DA 624/12 DATED 2012

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URBANISM

Planning and Developing Living Cities 21 December 2012



DA Report: Mixed Use Development

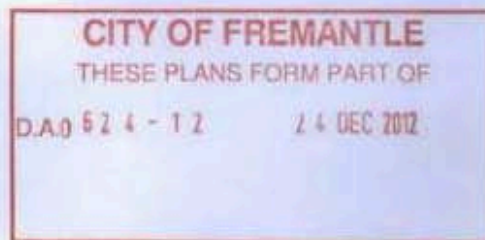
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Attachment A: Support Documents

- Certificate of Title
- Survey Diagram
- Neighbour's Consent
- Plan Overlays

Attachment B: Architectural Drawings





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DA Report: Mixed Use Development

1 BACKGROUND

This planning report is submitted to clarify the deviations from an approved DA, dated 12 March 2012, as a Retrospective Planning Approval under ~~Local Planning Scheme No 4~~. The proposal accommodates a mixed-use development consisting of an Office, Tourist Accommodation and Multiple Dwellings for a building, currently under construction at 88 Marine Terrace, Fremantle. The report outlines the planning framework for this Mixed-Use area and provides the details of this proposal and its compatibility within the planning framework and surrounding urban context.

1.1 Locality and Legal Description

The property is located at 88 Marine Terrace in Fremantle, along its eastern alignment. The Site is located less than 100m from the Fremantle foreshore business area.



The property in question is described as Lot 3 on Diagram 570 and measures 433m² in extent. A Copy of the Certificate of Title and Diagrams are provided in Attachment A.

1.2 Land Use

The development along Marine Terrace has a mixed-use character with several professional offices and services and short stay accommodation establishments operating from some of the properties along this street.

Marine Terrace is a divided road and offers substantial public parking in this locality. It separates the Site from the railway line and the service commercial development between Mews Road and the foreshore.

1.3 Existing Development Approval

The City of Fremantle issued a Development Approval (DA 52/08) over the Site to accommodate a Mixed Use Development consisting of Office, Tourist Accommodation and Multiple Dwellings on 12 March 2010. The Development Approval required several mediations between the Applicant, City of Fremantle and surrounding landowners to achieve an acceptable outcome. Key issues of the development included overlooking of neighbouring properties and overshadowing of the courtyards of the properties to the immediate south of the site.

DA Report: Mixed Use Development

Building works commenced on the Site. However, these works were not carried out in accordance with the Development Approval and this Planning Application is for Retrospective Approval of the Development to address changes in the design.

2 STATUTORY CONTROLS

2.1 Scheme Requirements

The site is zoned "Urban" under the Metropolitan Regional Scheme and "Mixed Use" under the City of Fremantle Local Planning Scheme no 4 and has a density coding of R35. This zoning allows a variety of uses to co-exist with a residential use within a single site and requires a sympathetic approach to development control to reduce the impact on adjacent development and heritage items.

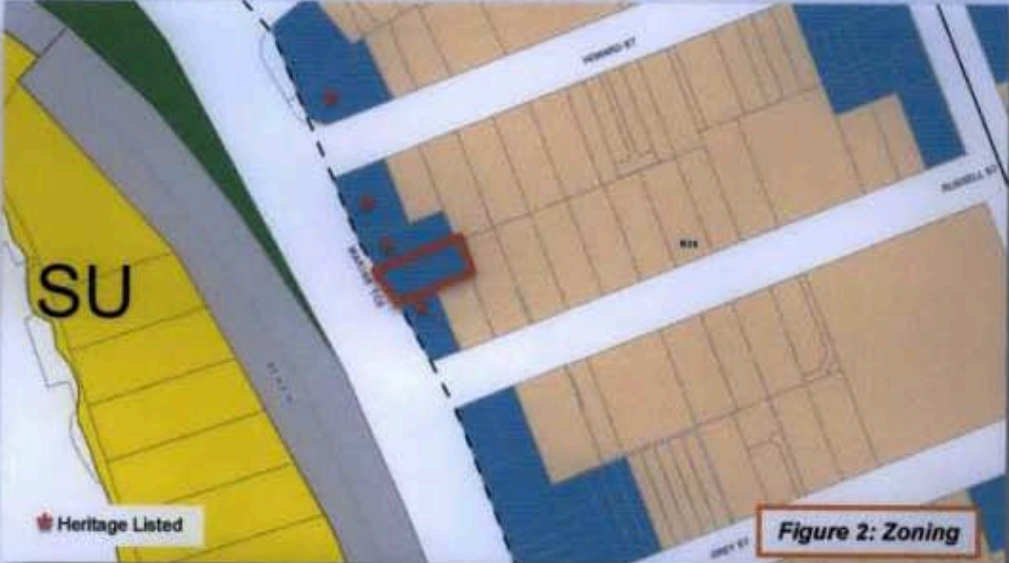


Figure 2: Zoning

The following uses represent some of the land uses that require Planning Approval and public notification before the use may be exercised in the Mixed- Use zone:

- Single House
- Multiple Dwellings
- Short Stay Dwelling

An Office is a Permitted use within the Mixed Use zone.

The surrounding zoning reflects R35 Residential to the east, Mixed-Use, Public Open Space along Marine Terrace and Special Uses along the foreshore. A number of properties have been heritage listed in this locality to include street numbers 82, 84, 86 and 90 Marine Terrace.

Relevant parking standards under the Planning Scheme requires the following parking rations:

- Residential, as per the R Codes
- Tourist accommodation: 1 per unit and 1 delivery bay per administration centre
- Office: 1 per 30m² of GLA with a minimum of 3 bays plus a bicycle rack for every 200m² GLA.

Mixed-Use development is subject to the provisions of Clause 7.2 of the R-Codes.

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2.2 Local Planning Area

The Site falls within the boundaries of Local Planning Area 4 (South Fremantle) under the City of Fremantle Local Planning Scheme no 4. This Planning Policy restricts development to a height of three storeys (maximum external wall of 10m measured from Ground Level) with a maximum roof pitch of 33°.

2.3 Other Local Planning Policies

The Urban Design and Streetscape Guidelines contains a number of general principles for the conservation and enhancement of historic character, provision of accommodation for present day needs, , overdevelopment of sites and particular characteristics for sites that require a specific design response. The policy specifically addresses infill development and additions and extensions and has little influence over the proposed development.

The Marine Terrace Policy encourages an inner city and sea-front character between the City and the ocean. The intent is retain a hard edge character onto Marine Terrace and focus the activities away from the neighbouring residential side streets. The Site falls within the Norfolk Street to South Street precinct, which is intended to establish a mixed-use commercial/ residential character. Acceptable uses include serviced apartments, residential, marine industry and offices. The policy states that building heights exceeding three storeys would be detrimental to the scale of development within this precinct. The policy also encourages the retention and restoration of buildings of local historic significance.

3 PROPOSAL

Section 2.3 of the report states that this Planning Application is for Retrospective Approval for works carried out not in accordance with the Development Approval (DA 52/08). This report will therefore address the deviances from the Planning Approval in Section 4.

The proposed uses in this Retrospective Planning Application remains the same as the approved Development Application and will accommodate a Mixed Use Development consisting of Office, Tourist Accommodation and Multiple Dwellings on the Site.

The Plans for this Retrospective Planning Application are presented in Attachment B.

The development extent is summarised in the following table:

USE	COMMENT	FLOOR SPACE			TOTAL
		GROUND FLOOR	FIRST FLOOR	SECOND FLOOR	
Office	Office, Kitchen & Ablution	74.3 m ²	0 m ²	0 m ²	74.3 m ²
Unit 1	3 Bedrooms & 2 Bathrooms	0 m ²	127 m ²	0 m ²	127 m ²
Unit 2	1 Bedroom & 1 Bathroom	0 m ²	53.8 m ²	0 m ²	53.8 m ²
Unit 3	4 Bedrooms & 1 Bathrooms	0 m ²	40.9 m ²	198.8 m ²	239.7 m ²
Balconies	All Balconies & Planter Boxes	0 m ²	22.3 m ²	32.4 m ²	55.7 m ²
Other	Circulation & storage	26.3 m ²	17.3 m ²	0 m ²	43.6 m ²
Total		100.6m²	261.3m²	231.2 m²	594.1 m²



DA Report: Mixed Use Development

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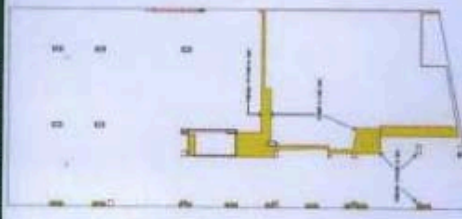
4 PLANNING JUSTIFICATION

The following section of the report provides relevant planning argument in support of the proposal. It is not intended to offer a full assessment of the proposal, but rather to address relevant planning argument to assess the deviation from the Development Approval (DA 52/08). The interpretation of changes to construction plans and the initiatives to achieve an acceptable level of compliance are presented in the revised DA Plans (Retrospective) in Attachment B.

As Constructed plans were submitted to the City of Fremantle for certification. These plans deviate from the Development Approval and the City identified a number of compliance conflicts. This section addresses all issues. An overlay between the approved DA Plans and the As Constructed Plans are provided in Attachment A.

4.1 Ground Floor

The table below addresses the non-compliance issues in respect of changes to the "As Constructed" plans and the "Development Approval" plans (DA 52/08). The issue numbers are referenced against overlay Plan UP12/16/1 in Attachment A.

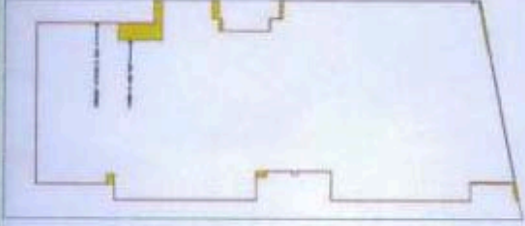



ISSUE #	CHANGE	ILLUSTRATION	COMMENT
G1	Office window is recessed and the window removed to accommodate service infrastructure.		The electrical mechanical design for the building required the location of electrical metering for all units in a publically accessible place. A service area is located within this building recess area to replace the second window to the office. Please note that the approved Development Application already indicated Water Meters in this location.
G2	Entry and storeroom layout is amended.		This Retrospective DA submission proposes to screen this service area with a powder coated louvered aluminium screen to create a secure service area and screen this service area from the street. The screen is 2.4m high and includes two opening doors for secure access to infrastructure (Refer to Section 4.8). This initiative reduces the activated street frontage at ground level. However, street activation is maintained from the office with a window directly onto the footpath, as well as active balconies along the street frontage on the levels above.
G3	Levels of driveway is lowered		Changes in the ground floor plans improves the internal circulation and these efficiencies ultimately reduces circulation and storage areas. These changes impacted on the office use, reducing its Floor Area by 5.6m ² . This reduction in Floor Area has no impact on the bulk of the building as all savings are used to accommodate additional structural elements and to increase the parking and service areas.
G4	Additional number of columns added to side boundaries.		The project required a more robust structural design, which required additional supporting columns and reinforcing in floors slabs. These issues are addressed after the Development Application phase during Detail Design. The lowering of the driveway accommodates increases in structural elements of the building to maintain the buildings height under the approval. Please note that the adjacent landowner's consent for the amended structural design along the northern boundary has been provided in Attachment A.

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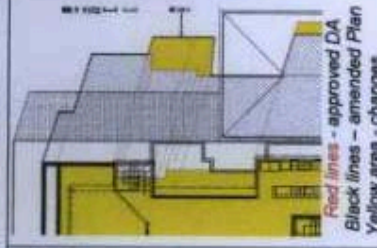
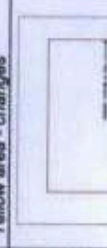

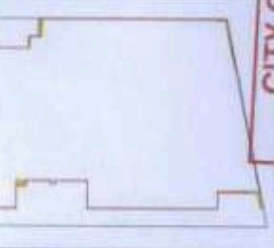
4.2 First Floor

The table below addresses the non-compliance issues in respect of changes to the "As Constructed" plans and the "Development Approval" plans (DA 52/08). The issue numbers are referenced against overlay Plan UP12/16/1 in Attachment A.

ISSUE #	CHANGE	ILLUSTRATION	COMMENT
F1	<p>Facade of first floor not as long as originally approved</p>	 <p>Red lines - approved DA Black lines - amended Plan Yellow area - changes</p>	<p>The width of the balcony on the street boundary has been marginally reduced, but the front balcony screening has been increased by 0.89m to align more closely to the roof form above – refer to the West Elevation on the Retrospective DA plans. <i>The change is considered to be an aesthetic improvement to the front facade.</i></p>
F2	<p>Awning windows replaced fixed obscure windows. in northern light well.</p>	 <p>Side window of 88 Marine Terrace is obscured</p>	<p>The opaque awning windows replace fixed and smaller opening windows to improve cross ventilation in the unit on the second floor.</p> <p>There are no overlooking issues from these windows to the adjacent dwelling, due to the obstruction of a structural column. The rear garden of neighbouring 86 Marine Terrace is mostly obscured by the setback of the awning windows in the light well. Notwithstanding this, the amended plans specify a limitation of 50mm to the opening of these awning windows and there should therefore be no visibility from these windows beyond the windowsills.</p> <p><i>This initiative suitably addresses overlooking whilst improving the sustainable design outcome.</i></p>
F3	<p>Height of privacy screen to the rear balconies are reduced below 1.8m</p>	 <p>View from rear balconies</p>  <p>Unit 1 balustrade 1.8m high</p>	<p>Overlooking from the rear balconies should be addressed in context. By definition in the R-Codes, there is no overlooking from these balconies onto the property to the rear of 88 Marine Terrace due to a substantial vegetated screen along this entire boundary. There is a concern about privacy for the properties to the immediate north and south of the Site.</p> <p>The amended plans indicate that the rear balcony's balustrade to Unit 1 is a solid, up to 1.8m high. The lower balcony balustrade to Unit 3 is a solid wall up to 1.65m high with a 150mm screen fitted on top of the balustrade wall to meet the 1.8m height requirement. The screen is constructed from perforated powder coated aluminium, which has an 80% solid appearance.</p> <p><i>The amended plans comply with the agreements reached on privacy of neighbouring properties.</i></p>

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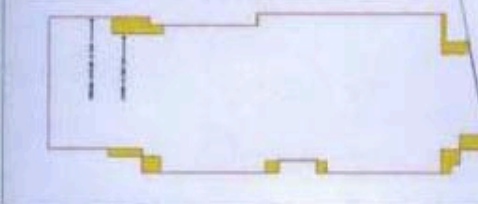
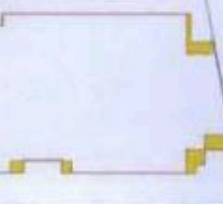
<p>F4</p>	<p>The redesign of the internal stair case increased the side setbacks</p>	 <p>Red lines - approved DA Black lines - amended Plan Yellow area - changes</p>	<p>The setback for this portion of the building increased by 1020mm to 2.57m. This initiative significantly reduces the overshadowing effect of the building onto the courtyards of the properties to the south. The architects amended the overshadowing diagrams and calculated the reduction of overshadowing onto Lot 1 to be approximately 9.5m² less than on the approved DA. This represents a significant improvement in the design outcome. The total overshadowing over Lot 1 is now calculated to be 64.21m².</p> <p>(Refer to Section 4.8)</p>
<p>F5</p>	<p>Window from bedroom 3 of Unit 3 re-located into light well.</p>		<p>The relocation of the window to the light well implies that it is no longer exposed to the courtyards on the neighbouring Lot. This initiative reduces potential overlooking and privacy conflicts onto Lot 1.</p>
<p>F6</p>	<p>Short stay unit reduced to a single bedroom unit, whilst Unit 3 increases to a four bedroom unit</p>		<p>The proposal has no bearing on parking or the Floor Area of the building. However, an Emergency Fire door is now offered to the lower level of Unit 3 via Unit 2 to meet safety requirements in the event of an emergency.</p>
<p>F7</p>	<p>Southern light well is modified in shape and windows.</p>		<p>The width of the light well is reduced from 4.21m to 4m to remain in compliance with the side wall and setback requirements under the R-Codes.</p>

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4.3 Second Floor

The table below addresses the non-compliance issues in respect of changes to the "As Constructed" plans and the "Development Approval" plans (DA 52/08). The issue numbers are referenced against overlay Plan UP12/16/1 in Attachment A.

ISSUE #	CHANGE	ILLUSTRATION	COMMENT
S1	Re-configuration of rooms – ensuite wall moved closer to the boundary and length of northern wall increased in conjunction with S2.		The new bay window is angled from the front wall to a bay window wall that is less than 1m high. It is set back behind the setback lines of the street facing balconies on the first and second levels and the office below, which are set onto the property street boundary to form the prominent setback feature of the street address. The bay window adds 1.5m ² of additional floor area. <i>This change introduces more articulation of the street facade, whilst the reduction of the balcony width of the on the Second Floor reduces the appearance of building bulk.</i>
S2	Distance between eastern and western walls of light well reduced from 4m to 2.355m.		<p>The total length of this sidewall is reduced to 22.881m and has a wall height of 8.143m - the R-Codes requires a setback of 3.3m. The northern wall's setback from the boundary varies between 2.2m and 3.2m and does not meet the setback requirements of the R-Codes.</p> <p>Any variation to the Codes should be reviewed in context of the site and the performance criteria:</p> <ul style="list-style-type: none"> • This side wall has a northern orientation and will therefore not affect solar access to private open space or to the dwelling on Lot 4. • This side wall is articulated to adds to the architectural merit of the northern elevation. The dwelling to the north of the site extends 23m down the side boundary and has been developed up to the common boundary between these properties. The outlook from this dwelling is therefore focussed on the rear garden and not towards the Site. The most eastern point of this side wall for the proposed building extends a mere 2.4m from the most eastern point of the neighbouring dwelling. It is therefore unlikely for the proposed bulk to dominate the rear garden of this property. • All measures have been applied to reduce overlooking and protect the privacy of the residential dwelling to the immediate north. A deliberately bridge privacy concerns is therefore unlikely. <p>Given the above locational aspects of the dwelling to the north, reduction of the setback requirement is unlikely to affect solar orientation of the property and dwelling to the north, become visually dominant in the outlook of the neighbouring dwelling or affect privacy issues.</p>

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 Black lines - approved DA Plan
 Yellow areas - changes

DA Report: Mixed Use Development

S3	Changes to laundry and rear balcony area.	<p>The changes to the laundry and balcony area reduce the wall length by approximately 1.2m. It also reduces the side setback by 0.5m for a 2.2m length of wall. The net result is a reduction of floor area in these setback areas by 1.315m², whereas the laundry added and additional 1.105m² of floor space. <i>The impact appears to be positive in terms of the distribution of building bulk at this location.</i></p>
S4	Rear balcony reduced to increase floor area on Unit 3 and screening has been reduced to below 1.8m.	<p>The balcony size has been reduced from 42m² to 18m². Some of this floor area is absorbed into the Floor Area of Unit 3. Given the screening of the side boundaries and balconies, the change will have a minimal impact on the appearance of bulk.</p> <p>The side screens to this balcony is proposed as a solid wall up to 1.65m high with a 150mm screen fitted on top of the balustrade up to a height of 1.8m. The rear balustrade will be affixed with horizontal louvers above 1.65m to capture distant views. Refer to F3 for First Floor.</p>
S5	Stair location modified and increased the side setbacks	Refer to issue F5 on First Floor
S6	Length to southern boundary wall (near kitchen) increased in length.	Refer to issue SE1 - S
S7	Planter box is changed to a balcony.	<p>The change in the function of planter box to a balcony does not affect the building floor area or setback requirements. However, it may create overlooking opportunities and impact on privacy to Lot 1. The balcony balustrade is therefore proposed as a solid wall up to 1.65m high with a 150mm screen fitted on top of the balustrade wall to meet the 1.8m height requirement for other balconies. A planter box is also proposed along the balustrade to soften this space and further limit privacy conflicts. (Refer to Section 4.8)</p>

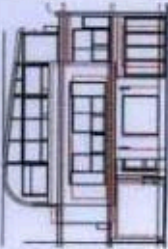


View from rear balcony of Unit 3

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4.4 West Elevation

The table below addresses the non-compliance issues in respect of changes to the "As Constructed" plans and the "Development Approval" plans (DA 52/08). The issue numbers are referenced against overlay Plan UP1216/2 in Attachment A.

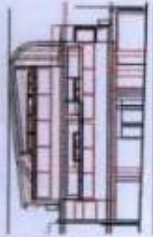
ISSUE #	CHANGE	ILLUSTRATION	COMMENT
WE1 -G,F	Floor to ceiling levels increased by 0.057m and the slab thickness by 0.028m	 <p>Red lines - approved DA Black lines - amended Plan Yellow area - changes</p>	No change in height – also refer to G3 of the Ground Floor Plan.
WE2 - S	Bay window added to upper level with slight modification to front façade.		Refer to S1 for Second Floor
WE3 - S	Roof Plane over kitchen on level 2 increased.		<p>The increase in height has increased the overshadowing over Lot 2 by approximately 7m². The overshadowing over this Lot 2 has increased to 99,74m². The overshadowing onto Lot 2 primarily occurs over roof space and the increase in overshadowing has no additional impact on any windows or private space. The increase in overshadowing therefore has no impact on the amenity of this dwelling. (Refer to Section 4.8)</p>
WE4 - G	Recessed window is replaced by service area		Refer to G1 on Ground Floor Plan

CITY OF FREMANTLE
 THESE PLANS FORM PART OF
 24 DEC 2012
 D.A.0624-12

DA Report: Mixed Use Development

4.5 East Elevation

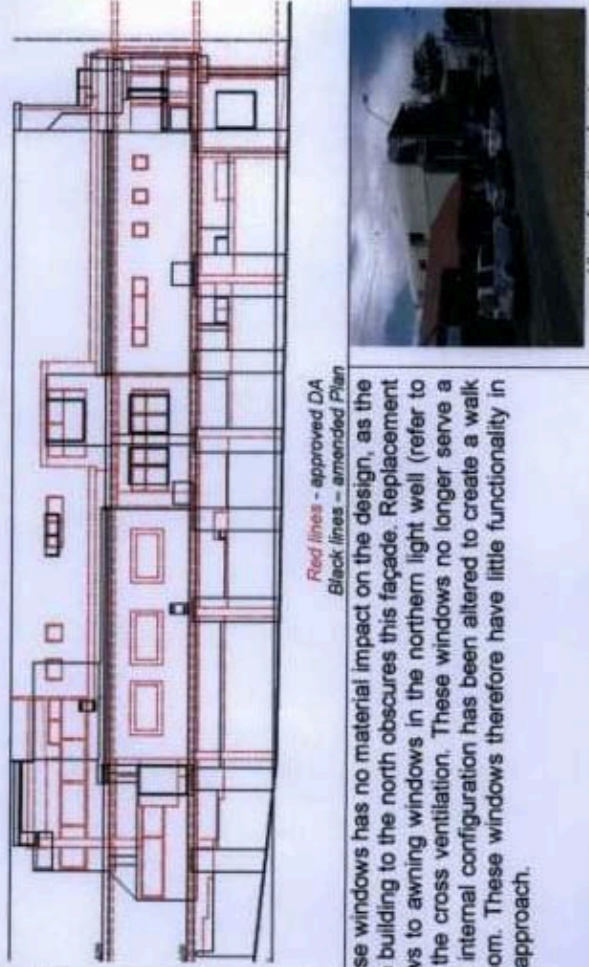
The table below addresses the non-compliance issues in respect of changes to the "As Constructed" plans and the "Development Approval" plans (DA 52/08). The issue numbers are referenced against overlay Plan UP1216/2 in Attachment A.

ISSUE #	CHANGE	ILLUSTRATION	COMMENT
EE1 - S	Stair location modified and increased the side setbacks	 <p>Red lines - approved DA Black lines - amended Plan</p>	Refer to F4 on First Floor
EE2 - S	Balcony design changed and privacy screening has been reduced to below 1.8m.		Refer to S4 - Second Floor
EE3 - S	Roof over upper level balcony reduced.		No impact on height. The new plans reduce the curves of the roof form, which marginally reduces the bulky appearance of the roof. (Refer to Section 4.8)
EE4 - F	Privacy screening has been reduced to below 1.8m.		Refer to F3 - First Floor
EE5 - F	Window in this elevation has been removed.		Potential improvement of overlooking onto Lot 1 to the south - refer to F5 - First Floor

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 D.A.0524 - 1.2
 24 Dec 2012

4.6 North Elevation

The table below addresses the non-compliance issues in respect of changes to the As Constructed Plan (Attachment B) and the Development Approval (DA 52/08). The issue numbers are referenced against overlay Plan Up1216/2 in Attachment A.

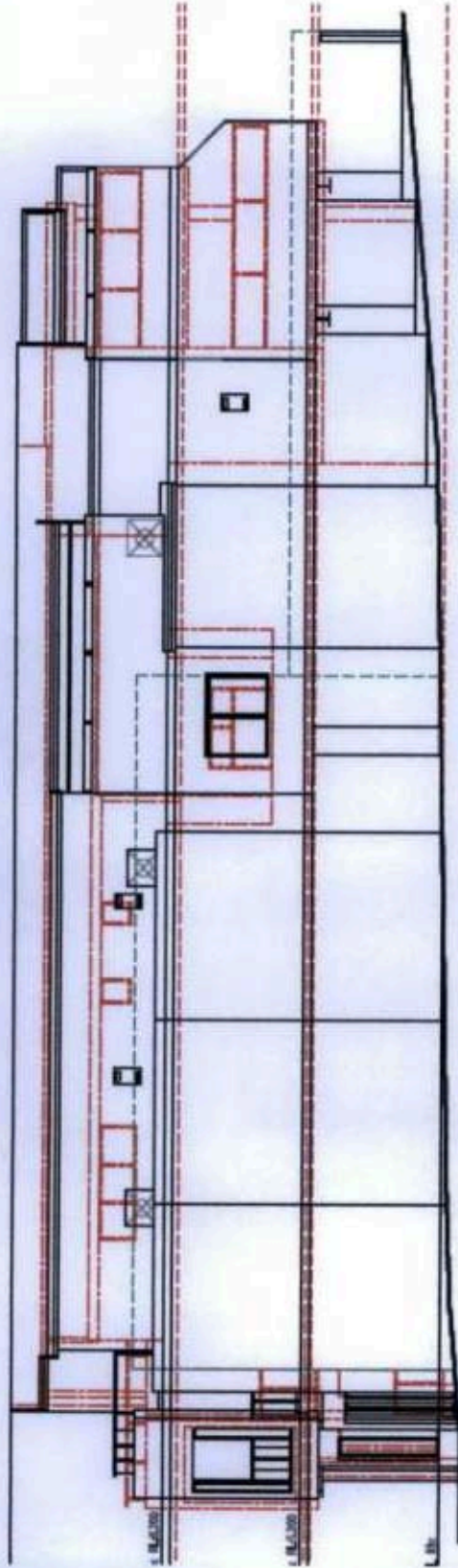
ISSUE #	CHANGE	COMMENT	ILLUSTRATION
NE1 - S	Privacy screening has been reduced to below 1.8m. Additional cladding to the building - refer to S3. Two highlight windows have been removed.	Refer to S2 on Second Floor	 <p>Red lines - approved DA Black lines - amended Plan</p> <p>View of northern facade</p>
NE2 - S	Awning windows replaced fixed obscure windows. Distance between eastern and western walls of light well reduced from 4m to 2.355m on Second Floor.	Refer to F2 on First Floor	
NE3 - F	Privacy screening has been reduced to below 1.8m.	Refer to F3 on First Floor	
NE4 - F	Windows modified from fixed obscure glazing to obscure glazing with awning window.	Refer to F2 on First Floor	
NE5 - F	Highlight windows removed	The removal of these windows has no material impact on the design, as the roof of the heritage building to the north obscures this facade. Replacement of the fixed windows to awning windows in the northern light well (refer to F2) also improves the cross ventilation. These windows no longer serve a living room, as the internal configuration has been altered to create a walk in robe and bathroom. These windows therefore have little functionality in the revised design approach.	
NE6 - F	Number of columns to side boundaries increased from 5 to 8.	Refer to G8 on Ground Floor.	

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D.A.0514 - 12
24 Dec 2012

DA Report: Mixed Use Development

4.7 South Elevation


The table below addresses the non-compliance issues in respect of changes to the As Constructed Plan (Attachment B) and the Development Approval (DA 52/08). The issue numbers are referenced against overlay Plan Up1216/2 in Attachment A.



Red lines - approved DA
Black lines - amended Plan

CITY OF FREMANTLE
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DA Report: Mixed Use Development

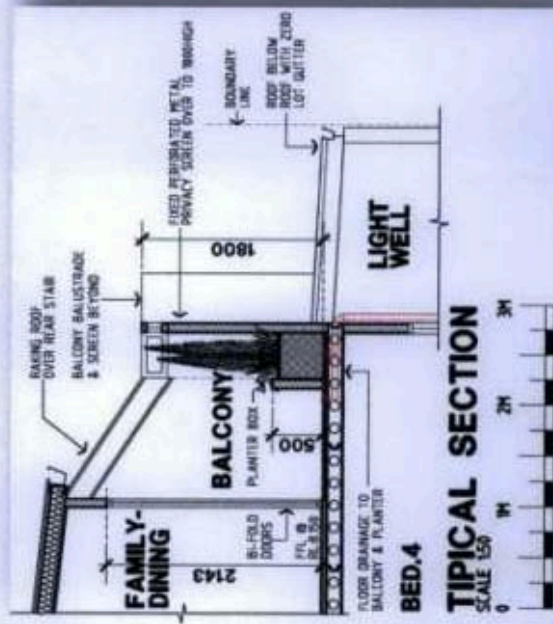
ISSUE #	CHANGE	COMMENT	ILLUSTRATION
SE1 - S	Increased length of wall by 0.5m.	The wall length of the southern sidewall of Unit 3's kitchen and lounge area increased by 410mm to 12.358m. This section of the building has an overall height of 9.75m to the roof pitch, which equates to an approximate wall height of 8.743m from ground level to the start of the 600mm bull nose roof. This wall therefore requires a setback of 1.9m under the R-Codes, for which Council previously agreed to a reduction from 1.7m to 1.22m.	 <p>View of southern facade</p>
<p>CITY OF FREMANTLE THESE PLANS FORM PART OF 14 - 12 24 DEC 2012</p>			
		<p>The residential dwelling to the south on Lot 2 is a double storey dwelling with a pitch roof - the total building height, including roof pitch, is approximately 9.115m. The existing building on Lot 2 has also been constructed up to the common property boundary and there is no private open space or windows located in this location. The kitchen section on the revised proposal plans is therefore mostly hidden from view by the existing dwelling to the south and will not overshadow or cause privacy conflicts with this dwelling.</p> <p>Issue statement WE3 - S for the Second Floor Plan reviewed the additional overshadowing of the roof form onto the Lot 2 and concluded that the additional overshadowing (7m²) is entirely on the roof space of the building. The increased wall length and reduced setback does not therefore not detrimentally impact on the amenity of the dwelling.</p> <p>The R-Codes require side setbacks to allow daylight to private open space and buildings of properties. Side setbacks also moderate the visual impact of building scale and assist with the privacy. The above statements demonstrate that the relaxation of the setback from the R-Codes would not compromise the performance standards (bulk, overshadowing, privacy and building dominance) for side setbacks, given the scale, position and nature of the dwelling on Lot 2.</p> <p>The highlight windows have limited functionality for the kitchen areas and cross ventilation will be achieved from the balcony to the southern light well. This facade is also mostly hidden from street view by the existing building on Lot 2. The removal of these windows has no material impact on the design outcome. Refer to S4 for the Second Floor.</p>	
SE2 - S	Highlight windows deleted		
SE3 - S	Privacy screening has been reduced to below 1.8m.		
SE4 - F	Windows modified from fixed glazing to obscure glazing with awning window.	The view from these windows is onto the blank wall and roof of the double storey dwelling to the immediate south. There is therefore no overlooking or privacy concerns about the change in windows. Notwithstanding this, the amended plans specify a limitation of 50mm to the opening of these awning windows and there should therefore be no visibility from these windows beyond the windowsills.	

P121220 DA Report.docx

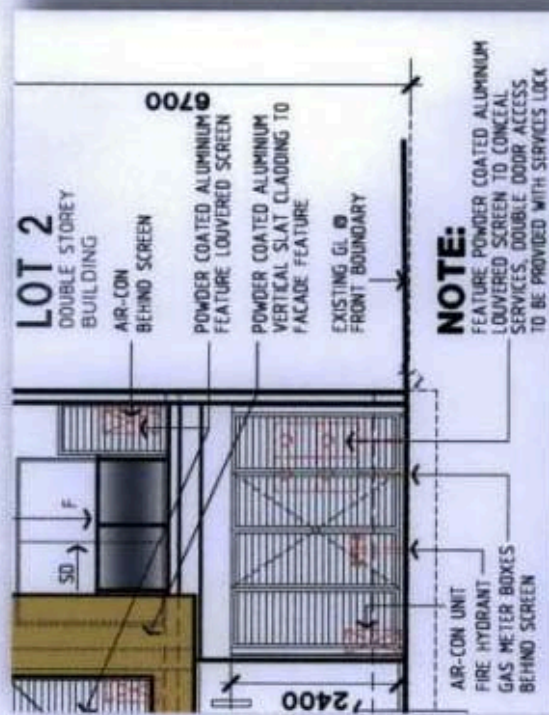
DA Report: Mixed Use Development

SE5 - F	Height of boundary wall reduced by 0.8m.	Although this is a positive initiative, the reduction of the boundary wall will have no impact on the dwelling to the immediate south.
SE6 - F	Increased cladding on side of balconies.	The proposed building will generally be clad in powder-coated aluminium. This finish has no impact on the residential design codes and is mostly selected as a sustainable building material, as a durable and low maintenance finish to the exterior in the coastal environment.

4.8 Additional Comments

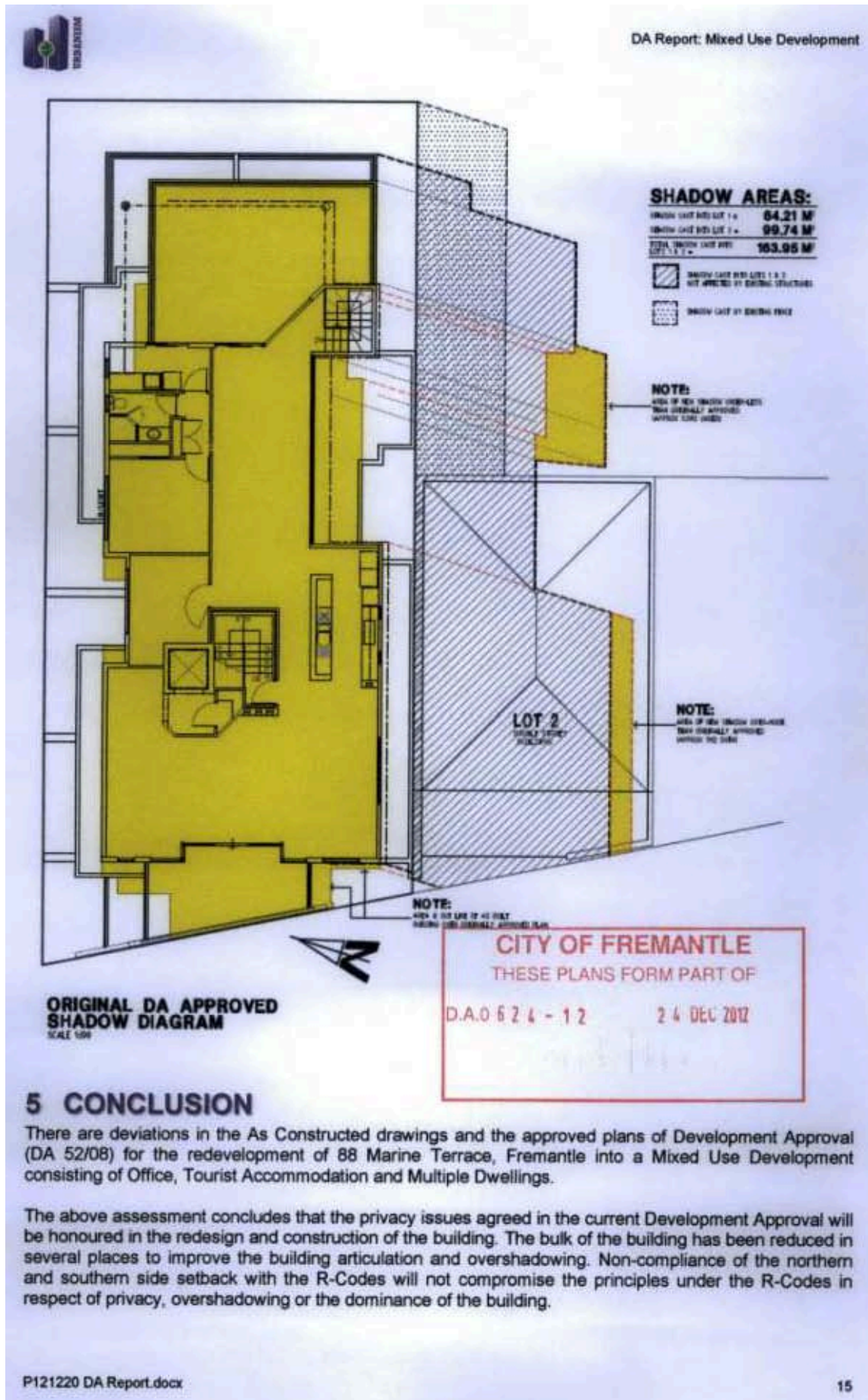


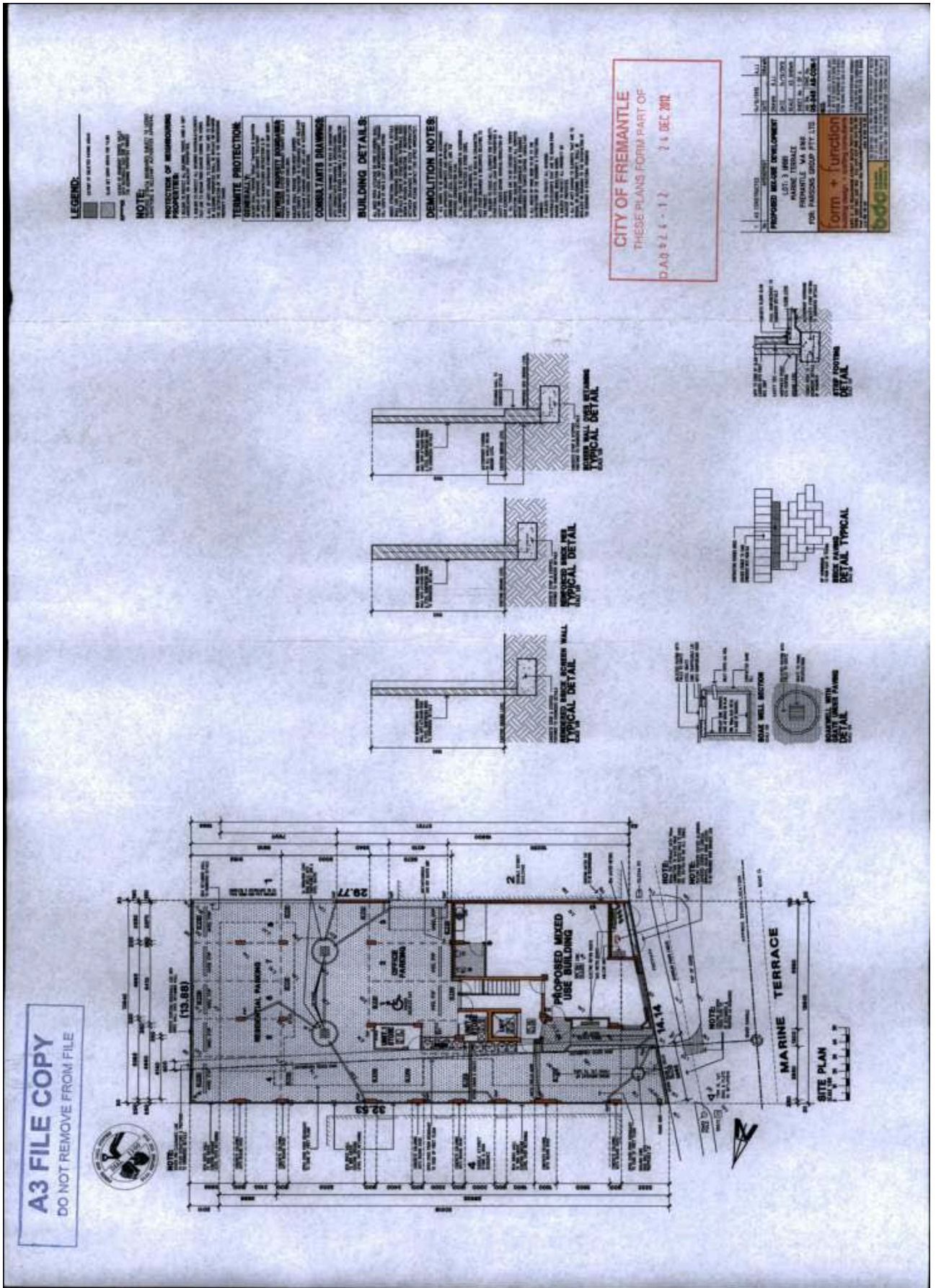
Screening of the southern balcony to Unit 3.

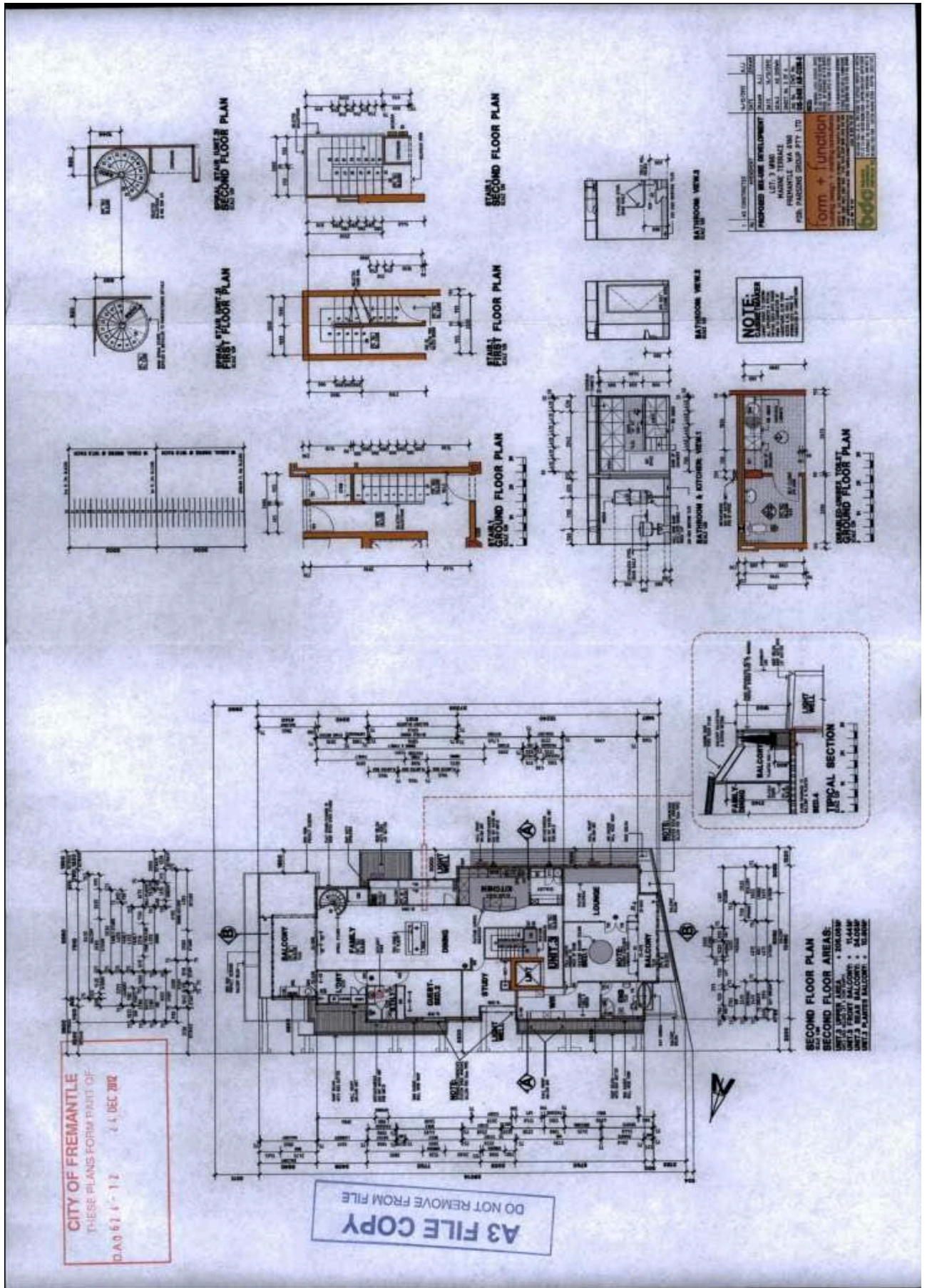


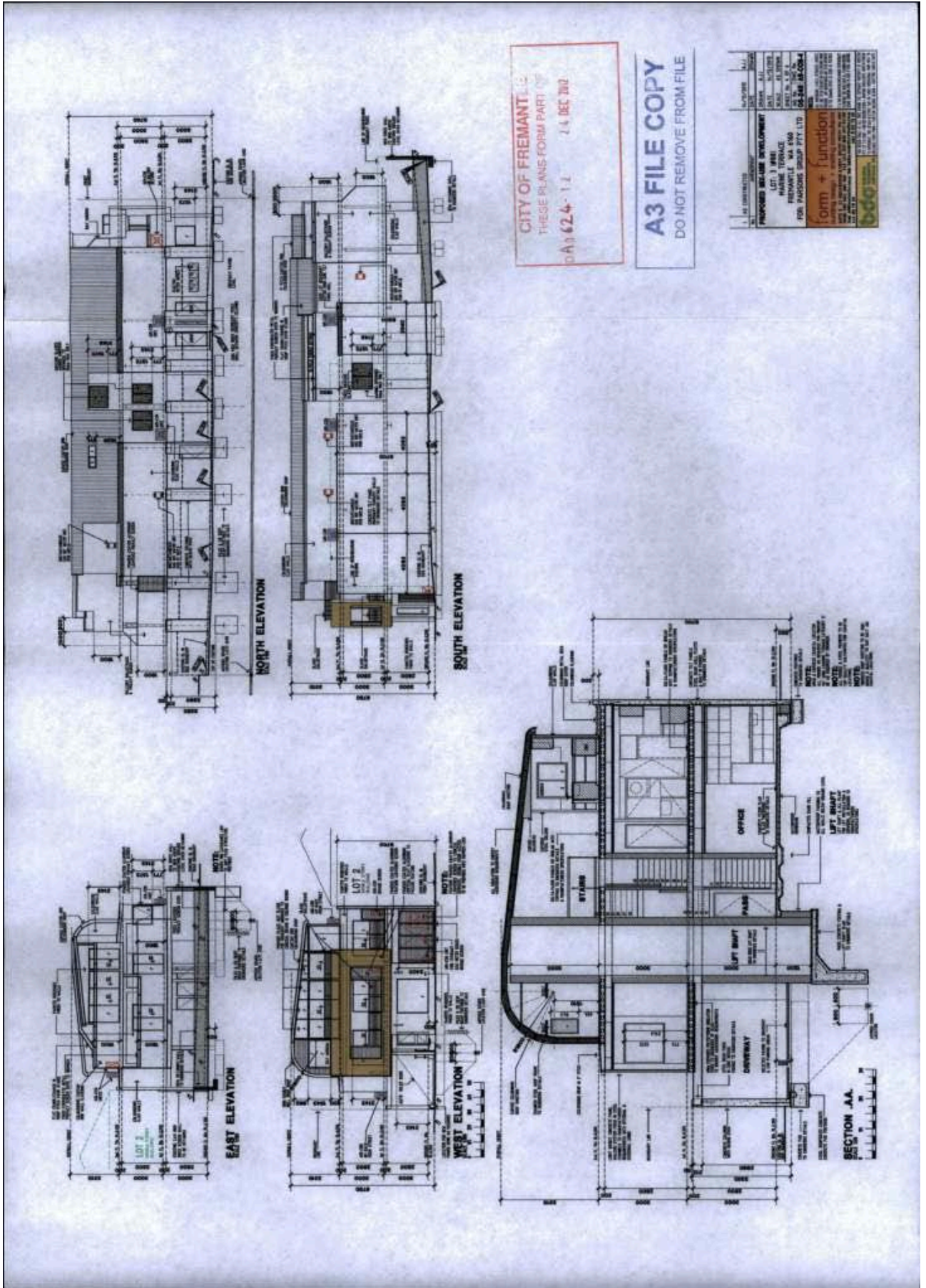
The screen device will be placed at ground level to secure the service area in the recessed corner of the Office.

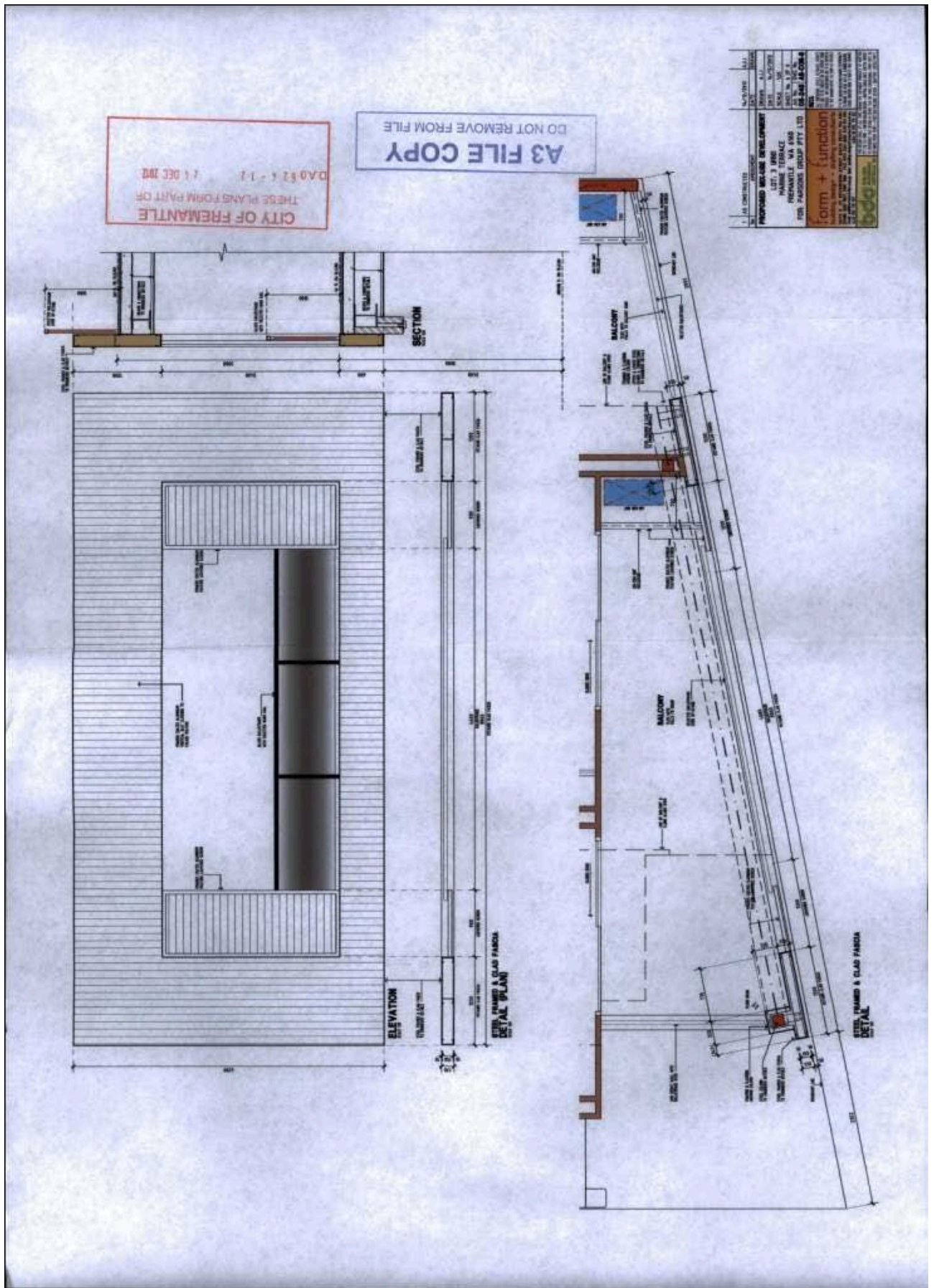
CITY OF FREMANTLE
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D.A.0 6 2 4 - 1 2 2 4 DEC 2012











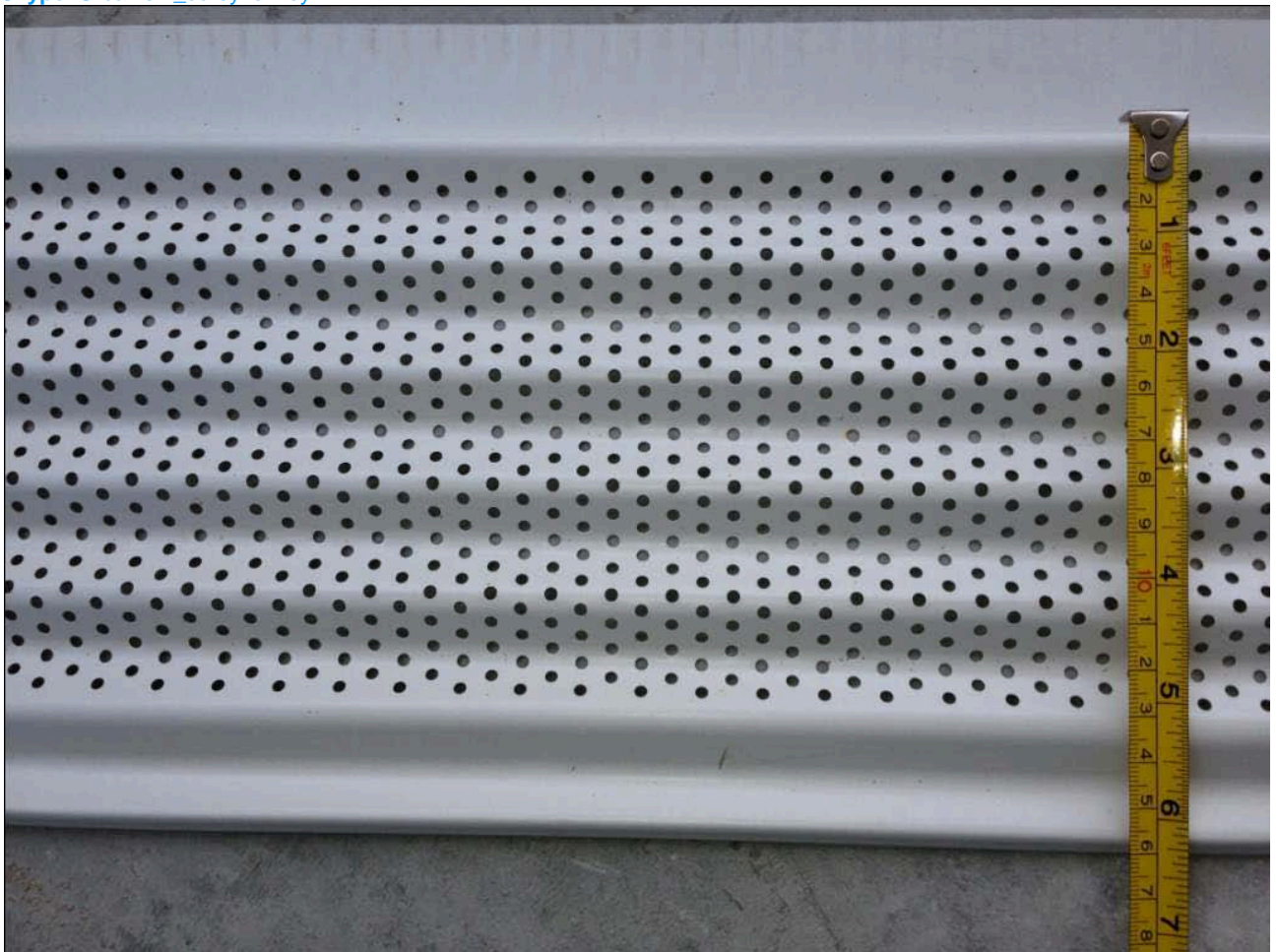
Hi Steve

I refer to our conversation last week about the public advertising process for the the above Retrospective Development Application.

The screening of the balconies, as per the amended plans, will be constructed from perforated aluminium panels which are powder coated in off-white colour. Please see the attached photograph of a sample of this material.

Regards

COREY VERWEY *MPIA MAIPM*
Urban Designer/ Project Director
corey@urbanism.com.au
Mobile +61 420 961 581
[Skype](#) [Urbanism_coreyverwey](#)



ATTACHMENT 2

21st January, 2013.

Mr Steve Sullivan
Co-ordinator Planning Mediation
Fremantle City Council
PO Box 807
Fremantle WA 6959

RE: ADDRESS: 88 MARINE TERRACE, FREMANTLE WA 6160.
PROPOSAL: Retrospective approval for unauthorized alterations to partly completed three storey Mixed Use development.
APPLICATION NUMBER DA0624/12, 88 MARINE TERRACE, FREMANTLE.

Dear Mr Sullivan,

Thank you for the opportunity to comment on the retrospective approval for the above named development. Our property at 2-4 Russell Street, Fremantle, abuts the eastern side of this development and is affected by the balconies for Unit 1 and both the upper and lower balconies for Unit 3. However, we are also concerned about some of the changes that have been made to the northern and southern side of the development as well.

Our concerns relate to the following sections in the proposed plans:

4.2: F2

Awning windows have replaced fixed opaque glass windows in northern light well:

The original agreement for fixed, opaque windows for privacy has not been met.

The rear garden of neighbouring 86 Marine Terrace is mostly obscured by the setback of the awning windows in the light well:

While there is a specified limitation of 50mm opening of these awning windows, there is still visual access from these windows beyond the window sills, despite the strategic angle of the photograph to suggest otherwise. Our concerns relate to the use of awning windows instead of fixed opaque windows as agreed in the original Development Approved (DA) plans. In the longer term the neighbours on the northern and southern sides are no longer able to be confident of privacy in their homes and yards. The recessing of the windows may reduce visual access slightly, but the ability to open these awning windows means some physical and emotional privacy is lost. This is why the fixed, opaque windows were agreed to in the original DA.

4.3: S1

The new bay window on the second floor is in a position overlooking the front courtyard of 86 Marine Terrace.

The setback R-codes are not met for the northern wall.

4.3: S4

Rear balcony screening has been reduced to below 1.8m.

The use of 1.8m height solid balcony screens was made in the original DA, and is required to fulfill the developer's agreement with neighbours.

The vegetated screen along the shared boundary with 4 Russell St – installed at our expense in order to reduce overlooking – gives only 50% coverage along different parts of the fenceline. It is also dependent on the length of life of the trees and of the owner of 88 Marine Terrace not removing or thinning the vegetation to secure views from his balcony, and for this reason cannot be considered a long term solution to the privacy issue.

Our concerns relate to the low balcony wall height for Unit 1 which is at present less than 1.65m high and is not yet 1.80m as stated at 4.2: F3/page 5 in the plans. This balcony affects the privacy of the rear yard of 86 Marine Terrace and our home at 4 Russell Street.

Unit 3's upper balcony is 1.65m high and this is less than 1.8m agreed upon and has visual access to our yard. Currently, it requires the installation of the powder-coated aluminium screen to bring it up to 1.8m. It is unacceptable to us to reduce the height of the Unit 3 upper balcony wall for 'distant views' which will, of course, include our property. The plans for the upper balcony indicate this will be an entertainment area, and lower external walls will impact our privacy and amenity. Installation of the powder-coated screens have not occurred yet, and will be required to bring the height to its required 1.80m to address these concerns.

4.3: S7

Balcony balustrade to 1.65 plus 150mm screen fitted on top of the balustrade to meet the 1.8m height requirement:

We are in agreement with the comment in 4.3 for the retrospective application that 'a planter box along the balustrade to soften this space and limit privacy conflicts is necessary'.

4.5: EE2 – S / EE4 – F

Balcony design changed and privacy screening has been reduced to below 1.8m.

4.6: NE1 – S

Privacy screening has been reduced to below 1.8m.

NE2 – S

Awning windows replaced fixed opaque windows.

The use of awning windows in place of fixed opaque windows is not acceptable because they reduce both visual and emotional privacy.

NE3 – F

Privacy screening reduced to below 1.8m.

NE4 – F

Windows modified from fixed obscure glazing to obscure glazing with awning window.

Mr Parsons has replaced fixed, opaque windows with awning windows and this creates an unacceptable reduction of privacy because there is visual access to the homes and yards on the northern and southern side of the development. On the eastern boundary there is the need for the use of 1.8m screens on all balconies to maintain privacy for the adjacent northern and eastern properties over the longer term.

The development at 88 Marine Terrace has been an unwelcome imposition on its neighbours to the south, east and north for several years already. Of all tenants and resident owners in properties immediately adjacent to this development, only those at 2-4 Russell Street remain since the original DA. This is not a coincidental outcome. It is a direct result of the physical imposition of the new building, the loss of amenity it has entailed, and the nature of the proponent/developer.

The owners of 86 Marine Terrace and 4 Russell Street have spent considerable time in consultation with Council staff and in attempts at mediation with the developer since the original DA. Mr Parsons has honoured few agreements and compromises during that process and his apparent disregard for his neighbours is evident this application. He has consulted neither Council nor neighbours regarding changes to the original Development Approval.

Throughout this process Council staff have assured us that the developer would be required to meet all zoning requirements and honour all agreements reached in mediation. We were assured that the rights and amenity of neighbouring properties would not be disregarded. Despite our misgivings we have been extremely patient during the course of this process and we rightly expect Council to consider our position fair-mindedly. The developer has shown little regard for this process.

Therefore we urge Council to refuse retrospective approval for these changes. We ask that the original agreements concerning privacy be honoured in the redesign and construction of the building.

Thank you for the opportunity to voice our concerns. I am happy for the content of this submission to be made available to the elected members and the applicant. I would also request that personal details be redacted from this document.

Yours sincerely,

Dear Sir/Madam,

Thank you for the new plans for number 88 Marine Terrace.

I feel a number of issues need to be addressed as to the proposed/already allowed building of the above site.

A] The awning windows in the light well which are overlooking my property ARE intruding on my privacy, see photo's P1030082. and P1030083.

As you can see when the windows are open you can see right into my living room with nothing obscuring the view. Do you expect me to keep my blinds closed tightly all day and night so i can not be over looked?

B] The awning windows in the light well open to a good 50mm and therefore from the windows one can see right into my living room area. not beyond the windowsills. see photo's P1030082. and P1030081.

C] The rear balcony is very low and all of my back yard and porch area can be viewed from them, [it is noted that the balconies are not fully erected as yet] see photo's P1030084 and photo P1030085.

Also i have enclosed the view of the Northern elevation of 88 Marine Terrace from my lounge [living room]
see photo's P1030075 and P1030076.

I hope that these issues can be addressed by the planning department as i feel that there are definite privacy concerns which affect my day to day living and ultimately the resale value of my property.

photo's to follow in separate emails.

Yours faithfully.

From:

Sent: Thursday, 24 January 2013 8:39 AM

To: Planning E-mail address

Subject: Construction of 88 Marine Terrace

Dear Sir/Madam

I hope that you have received my letter and photographs re: the construction of 88 Marine Terrace.

In conclusion i would like to state that myself and other owners of properties surrounding 88 Marine Terrace have been very very fair and willing to consult with the council and Mr Parsons, It appears that Mr Parson builds regardless of any consultation and without regard to neighbours concerns. He has not been willing to consult but keeps telling us false information of what is/will be happening.

I have always had faith in the council to protect owners rights re: privacy something that Mr Parsons does not seem interested in.

I hope that you will stop the construction or at least ensure that changes are made to the property at 88 Marine Terrace to ensure that residents privacy is protected, mainly fixed windows instead of awning windows will be replaced in the light well on level 2 and that the balconies are built to the original height. I am quite prepared to talk to both the council and mMr Parsons re: my concerns, but i am not prepared to sit back and watch the council and Mr Parson invade my privacy. It does appear to me that the only reason the Mr Parsons has changed his plans for 88 Marine Terrace is for the benefit of himself and his future plans without taking into account what impact he is having on his neighbours.

I again state that i hope the council acts as promised in regards to privacy protection on this matter before Parsons keeps building.

Yours sincerely

24-01-2013

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P1030082



P1030083



P1030081



P1030075



P1030076



P1030084



P1030085

ATTACHMENT 3



13 February 2013

Mr Steve Sullivan
City of Fremantle
PO Box 807
Fremantle WA 6959

Dear Steve:

DA 0624/12: 88 MARINE TERRACE: SUBMISSIONS

The following responses are offered to the comments/ objections made on two submissions. Objections 1 and 2 were raised in both submissions, whereas Objections 3 and 4 were raised in only one of the submissions:

Objection 1: Awning Windows

The planning report in support of the Retrospective Planning Application states that the awning windows will be restrained to a maximum opening of 50mm and opaque glazing will be affixed. These works have not yet been executed.

The photographs in one of the submissions show the outlook from these windows without these view restrictions in place, whereas the photographs attached hereto demonstrate the impact of restricting the opening to 50mm and for an opaque window.

The attached photographs demonstrate that views to the neighbouring property will not directly impose privacy conflicts, should the restraints suggested in the proposal be implemented. For any breach of privacy, it will require a deliberate action to position at close proximity to the window.

The planning report argues that the window opening is required in a side wall to allow cross ventilation into the units. It is a sustainable initiative and even a small opening in these north facing awning windows promotes cross ventilation. It is unlikely to achieve cross ventilation between the east/ west facing window openings, as the building depth exceeds 18m - it is generally accepted that cross ventilation is inefficient when opposing window distances exceed 18m.

[It should be noted that the objector did not obtain permission to enter the construction site to take the photographs and it appears to be a breach of construction safety and trespassing on private property.]

Objection 2: Balcony Screening

One of the submissions assumed that it is a requirement of the existing Development Approval that balcony screens are to be solid to 1.8m height. The DA approval only requires 80% solid balcony materials up to a minimum height of 1.8m. The other submission requires the privacy screening to be affixed, as per the current Development Approval.

The report in support of the Retrospective DA plans argued for a combination of solid and permeable screening of the balconies up to a height of 1.8m to comply with the current DA conditions. These works are yet to be implemented. For all of the balconies in question, the balcony balustrade will be a solid wall

up to a height of 1.65m with a 80% solid powder coated perforated aluminium screen up to a height of 1.8m. This approach exceeds the requirements of the current Development Approval.

Insofar as Unit 3 is concerned, S4 in the planning report states that the rear balcony balustrade will be constructed as a solid wall up to 1.65m with horizontal louvers being applied to the remaining 150mm up to a height of 1.8m. The balcony balustrade will not be lowered to 1.65m, as suggested in one of the submissions. The use of horizontal louvers will impede on overlooking to the properties to the east, but will allow distant views. In doing so, the approach constitutes a minimum 91% solid balustrade at the required 1.8m height to exceed this requirement under the DA conditions.

The Retrospective DA report also made reference to overlooking, as per definition in the R-Codes, and it is argued that there could not be overlooking or breaching of privacy towards the properties to the east under this definition, due to the vegetation strip along this boundary.

One of the submissions supports the change from a planter box to a balcony along the southern façade of Unit 3 on Level 2. The submission argues that the introduction of a planter box along this balcony balustrade effectively addresses overlooking.

Objection 3: Street Setback

The street setbacks should be reviewed in context with existing setbacks in this mixed-use area and the performance of the retrospective DA against the existing approval, as measured against the R-Codes.

Zero metre street setbacks exists along Marine Terrace on three of the remaining four lots in this street block and it is noted that 0m setbacks have been adopted for the adjacent Lot 90 over two storeys. Zero street frontage setbacks also exist at the corner of Marine Terrace and Arundel Street over three storeys. This approach provides an expected street frontage response to the Mixed-Use zone and the proposed street setbacks are therefore not out of character. Compliance to the R-Codes therefore does not constitute an appropriate built form response in context of the existing or desired streetscape, as stated in one of the submissions.

In comparing the street setback at the northwestern corner of the site, it should be noted that the increase of the bathroom area adds 1.5m² of floor area, whereas the size of the balcony has been reduced by 1.7m², an overall net reduction of building bulk over Level 2, as it presents to that corner.

Objection 4: Privacy of Front Courtyard

The protection of privacy of front courtyards is controversial and directly contradicts the R-Codes' objectives relating to street surveillance and public visibility of front courtyards.

Notwithstanding this, the bay window does not extend living floor space beyond the front building setback, but rather represents an architectural feature over the bath in the master bathroom. As such, it is not causing privacy conflicts. It should also be noted that any views from the upper levels of the building to the courtyard of this heritage building, is mainly blocked by the roof canapé over the front porch area.

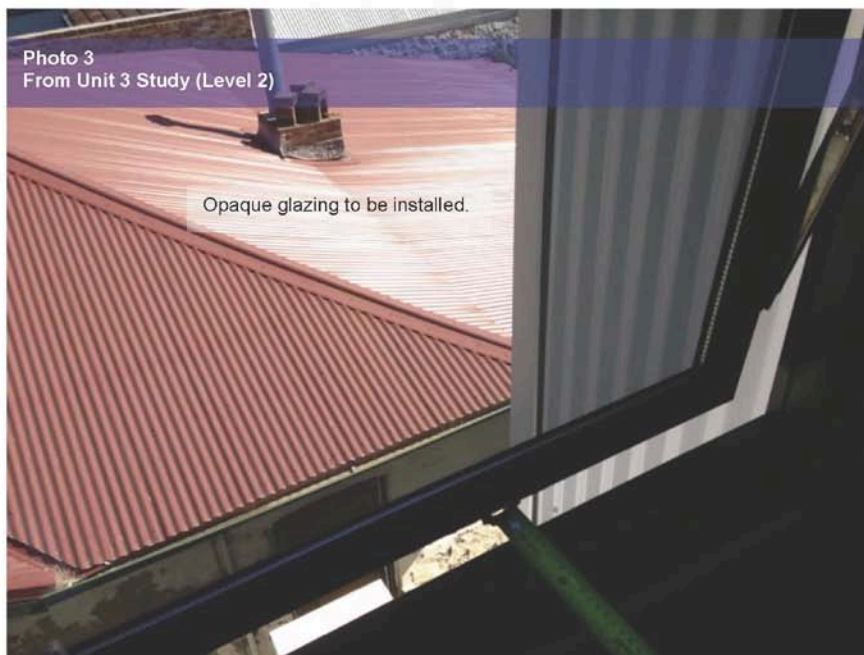
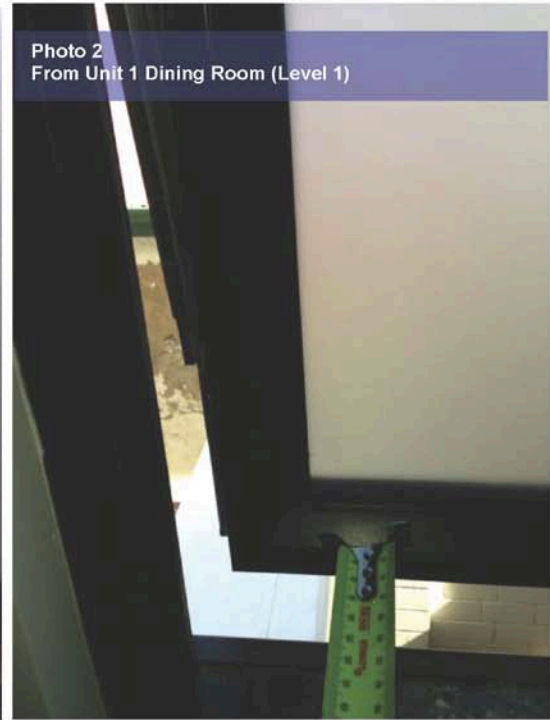
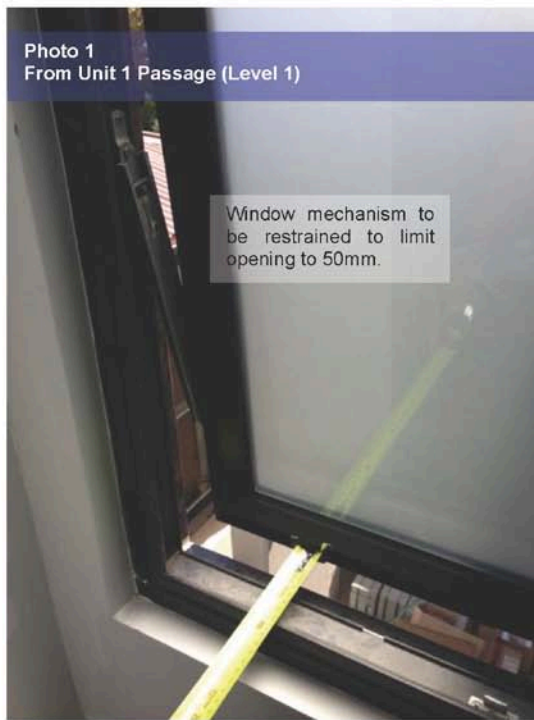
I trust that the above offers an understanding of the approach taken to reduce the impact of overlooking and other privacy conflicts on surrounding properties, whilst achieving the development potential of the site.

Sincerely,



Corey Verwey (MPIA, PMIA)
Urban Designer/ Project Director

Attachment: Photographs: Awning Windows



Please Note:
Restraints to north facing awning windows to restrict opening to a maximum of 50mm, have not yet been installed.

Opaque glazing has not yet been installed to Level 3 north facing windows

ATTACHMENT 4

SCHEDULE OF CHANGES – NO 88 MARINE TERRACE

ITEM NO	CHANGE	COMMENTS	RESPONSE TO CHANGE
FLOOR PLANS			
Ground Floor			
G1	Recessed corner to office	Planning Approval showed window to street, but this is now blocked up and has service equipment in the space between the wall of the building and the street boundary.	Refer to Planning Comment section of Report
G2	Layout of entry and store rooms modified slightly	No change to assessment	Accept
G3	Levels of driveway lowered	No change to assessment	Accept
G4	Additional number of columns added to northern side boundary	Originally approved with 5 columns and now 8 have been provided – signed plans received by current owner – plans show 8 columns.	Accept
First Floor			
F1	Facade on first floor level not as long as originally approved	No change to assessment	Accept
F2	Window changes to northern light well – fixed to awning		Refer to Planning Comment section of Report
F3	Height of privacy screen to balconies approved at 1.8, now 1.65m	Non-compliant	Refer to Planning Comment section of Report
F4	Stair location modified – greater setback to southern side of building - between unit 3 lower balcony and bed 3.	No change to assessment	Accept
F5	Window removed from eastern elevation of bedroom 3 of unit 3 – re-located to western elevation.	No change to assessment	Accept

F6	Short stay unit reduced from 2 bedrooms to single bedroom and unit 3 increased from 3 bedroom to 4 bedrooms.	Parking demand for short stay reduced. No change to single dwelling requirement.	Accept
F7	Southern light well modified slightly in shape and windows	Fixed window to awning window.	Refer to Planning Comment section of Report
Second floor			
S1	Re-configuration of rooms – ensuite window wall moved closer to street boundary, length of northern side wall increased in conjunction with change S2	No change to assessment	Accept
S2	Distance between eastern wall of lounge and western wall of Bedroom 2 reduced from 4.0m to 2.355 – potential impact on side setbacks.	Changes setback assessment. Overall setback requires was 4.1, but approved at 3.0m (8.5m high by 30 plus length)	Refer to Planning Comment section of Report
S3	Changes to laundry/rear balcony area	Setback variation required from 3.8m to 3.3m for additional portion of laundry.	Refer to Planning Comment section of Report
S4	Rear balcony reduced in size, but internal floor area of dwelling increased.	No change to assessment	Accept
S5	Southern side of building modified by pushing wall of internal stair away from side boundary	Increased setback. Reduced overshadowing.	Accept
S6	Length of southern side boundary wall to lounge/kitchen slightly increased in length	Required setback was 1.7m, variation given to 1.22m. Modification now requires a 1.9m setback.	Refer to Planning Comment section of Report
S7	Originally approved as a planter to southern side of building (dining/family room area), is now	No change to assessment.	Accept

	proposed to be used as a balcony.		
ELEVATIONS			
West Elevation (Front)			
WE1 – GF	Floor to ceiling levels have increased slightly by 0.057m and the thickness of the slab has increased 0.028m – however, the overall height has remained the same.	Ground floor level and overall ridge height remains unchanged. No change to other assessments.	Accept
WE2 – S	Bay window added to upper level with slight modification to the front facade of building	No change to assessment as wall length is still under 9.0m.	Accept
WE3 – S	Roof plane has been amended so that the pitching point (overshadowing point) has been increased in height, over kitchen/dining room area	Overshadowing would increase from this change however, the overshadowing would be over the roof of an adjoining two storey commercial development that abuts the common boundary.	Accept
WE4 – G	Recessed window to office and raised terrace floor level removed and replaced with blank wall. Has become a service area for gas, air-conditioning unit and fire brigade.	DGF16 states the following in relation to Marine Terrace : <i>1.3 Development should be 'hard edged' relating directly to the street, both on the horizontal and vertical planes. Incongruous isolated developments, and the overdevelopment of individual sites, will not be supported.</i>	Refer to Planning Comment section of Report
East Elevation (Rear)			
EE1 – S	Roof profile over stairs has been modified as a consequence of the	The overshadowing of the adjoining residential courtyard from the original stair area has been	Accept

	changes to the stairs and the setting further back of those stairs form the southern boundary	reduced as a consequence of this change.	
EE2 – S	Design of balcony and screening has changed – originally approved at 1.8, now only 1.65m. Type of privacy screening required subject to condition c) of approval.	Balcony balustrade and screening to 1.65m only. Screening is shown in Building Licence plans that it is horizontal louver screening	Refer to Planning Comment section of Report
EE3 – S	Roof over upper level balcony reduced.	No change to assessment	Accept
EE4 – F	Privacy screen height reduced from approved level of 1.8 to 1.65m – refer to condition c) of planning approval.	Non-compliant with approval	Refer to Planning Comment section of Report
EE5 – F	Window in this elevation has been removed.	No change to assessment	Accept
North Elevation (Side)			
NE1 – S	Screen walls reduced from 1.8 to 1.65. Additional cladding height added to side of building due to changes made to building – refer to S3. Two highlight windows removed.	Non-compliant with planning approval No change to assessment	Refer to Planning Comment Section of Report Accept
NE2 – S	Fixed obscure glazing replaced with awning window with obscure glazing. Recessed space between projecting portions of building reduced from 4.0m to 2.355m.	Change to space between non-habitable portions changes setback calculation	Refer to Planning Comment section of Report
NE3 - F	Screen walls reduced from 1.8 to 1.65.	Refer to condition c) of approval.	Refer to Planning Comment section of Report

NE4 - F	Windows modified from fixed obscure glazing to obscure glazing with an awning window.		Refer to Planning Comment section of Report
NE5 – F	Highlight windows removed	No change to assessment	Accept
NE6 - G	Number of columns on boundary increased from 5 to 8.	Plans submitted and signed by the new owner of No. 86 Marine Terrace on the 16 August 2010.	Accept
South Elevation (Side)			
SE1 – S	Increased length of wall by 0.5m	Increased length of wall results in an increase in the required setback from 1.7m to 1.9m. Council granted setback variation from 1.7m to 1.22m. Impact is against a two storey boundary wall to commercial units. Increases overshadowing assessment, although this is counteracted by the increased building setback at rear of building, which will have a lesser impact on the rear courtyard to adjoining residential properties.	Refer to Planning Comment section of Report
SE2 – S	Highlight windows deleted.	No change to assessment	Accept
SE3 - S	Reduced screening heights to 1.65m when compared with approved plans 1.8m.	Requires compliance with approved plans prior to occupation	Refer to Planning Comment section of Report
SE4 – F	Window changed from fixed obscure glazing to obscure glazing with awning windows.	Awning window needs to be fixed.	Refer to Planning Comment section of Report
SE5 – F	Height of boundary wall reduced by 0.8m.	No change to assessment	Accept
SE6 - F	Increased cladding to side of balconies	No change to assessment	Accept

ATTACHMENT 5
Site photographs taken on 22 March 2013



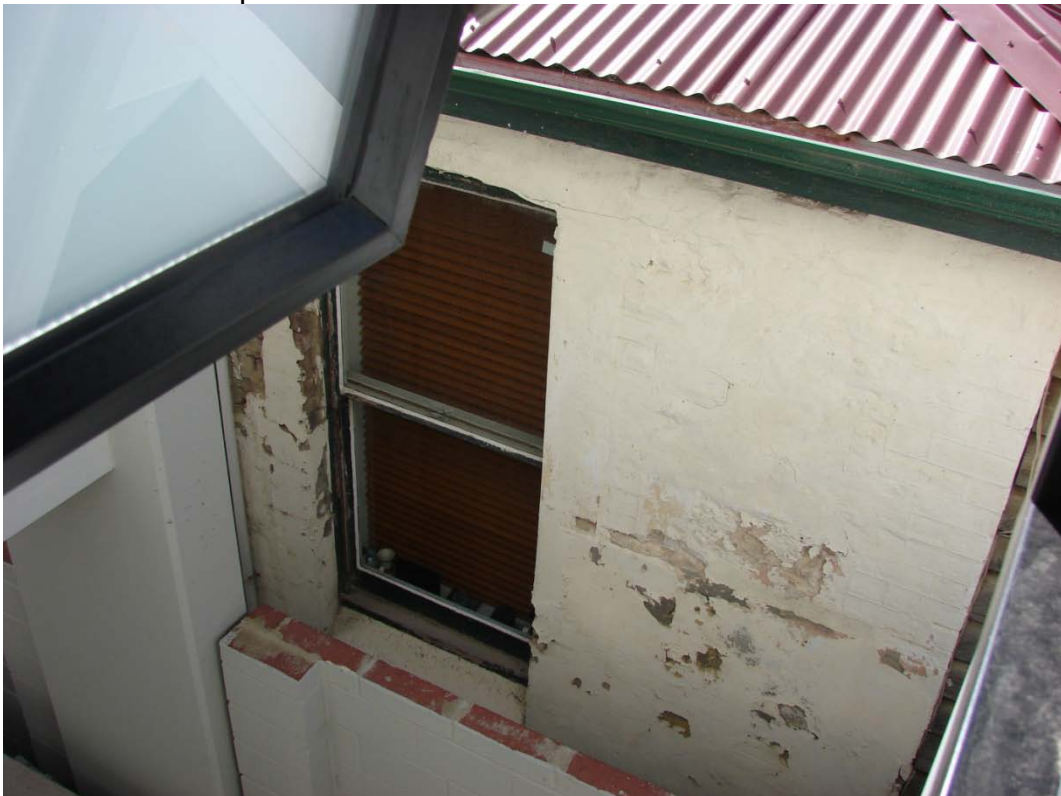
Photograph 1 – unauthorised service area to Marine Terrace – Refer to Item No. G1 of report.



Photograph 2 – passageway at first floor level – northern side – refer to Item No. F2



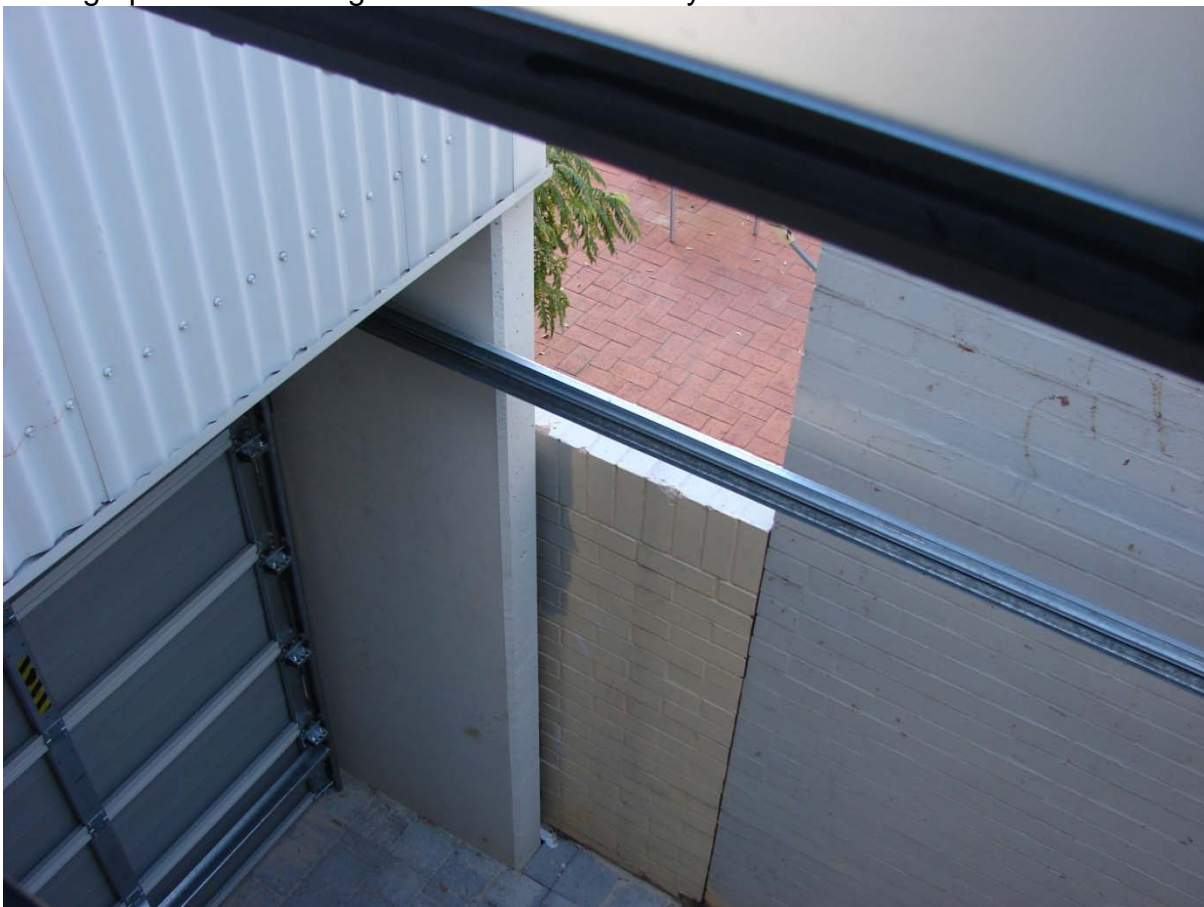
Photograph 3 – taken in passageway looking towards 86 Marine terrace – refer to Item No. F2 of report



Photograph 4 – taken from bedroom 3 of unit 1 – looking towards No. 86 Marine Terrace – refer to Item No F2



Photograph 5 – screening erected to rear balcony of unit 1 – refer to Item No F3



Photograph 6 – southern view from bedroom 4 - refer to Item No F7



Photograph 7 – refer to comments made on Item No S2 of report.


PSC1304-48 QUARRY STREET NO 77 (LOT 6) FREMANTLE - TWO STOREY ADDITIONS AND ALTERATIONS TO EXISTING GROUPED DWELLING (JS DA0424/12)

ATTACHMENT 1

PROPOSED EXTENSION TO EXISTING RESIDENCE
LOT 6 #77 QUARRY ST, FREMANTLE, WA

FOR MR. & MRS. BAUMGARTEN

Sheet List	
Sheet Number	Sheet Name
A00	TITLE SHEET
A01	SITE PLAN
A02	GROUND LEVEL
A03	UPPER GROUND LEVEL
A04	ELEVATIONS
A05	ELEVATIONS
A06	ROOF PLAN
A07	ELEVATION EXISTING



CITY OF FREMANTLE
THESE REVISED PLANS FORM PART OF
17 DEC 2012
DA. 0424/12

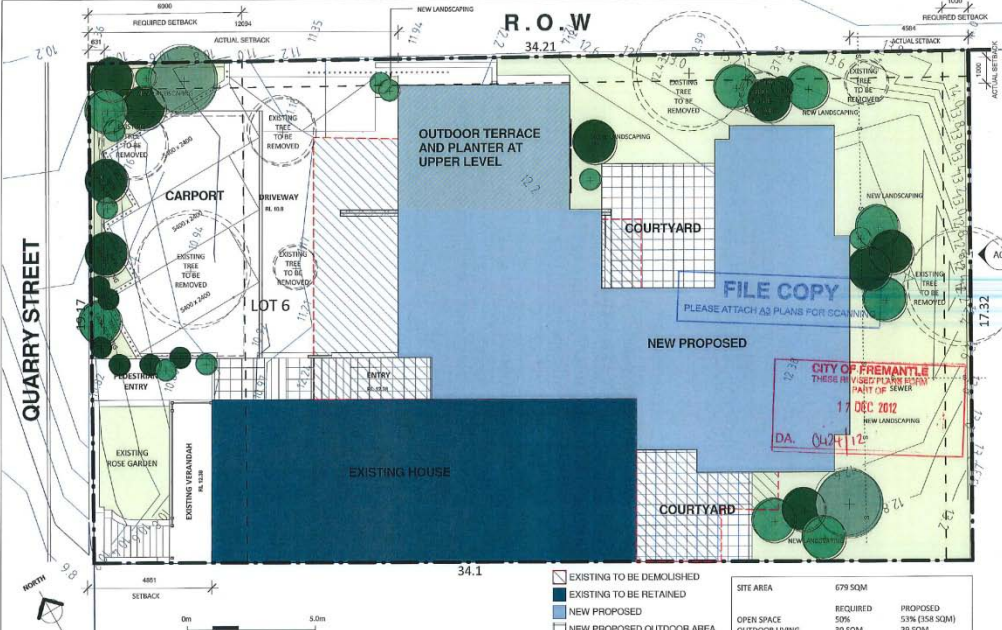
FILE COPY
PLEASE ATTACH AS PLANS FOR SCANNING

PROPOSED EXTENSION TO EXISTING RESIDENCE
LOT 6 #77 QUARRY STREET, FREMANTLE, WA
for MR. & MRS. G. & S. BAUMGARTEN

TITLE SHEET
Date 12 DEC 2012
Drawn by YL
Checked by SI SCALE on A3

SHEET A00

SIA Architects Pty. Ltd.
3A Hubble Street, East Fremantle WA 6158
Telephone (08) 9453 8811 Fax (08) 9453 8844
E-Mail Address: sia_architects@westnet.com.au 1116



FILE COPY
PLEASE ATTACH AS PLANS FOR SCANNING

CITY OF FREMANTLE
THESE REVISED PLANS FORM PART OF SEWER
17 DEC 2012
DA. 0424/12

LEGEND
 [Hatched] EXISTING TO BE DEMOLISHED
 [Blue] EXISTING TO BE RETAINED
 [Green] NEW PROPOSED
 [Light Blue] NEW PROPOSED OUTDOOR AREA
 [Dark Blue] ROOF TERRACE ABOVE

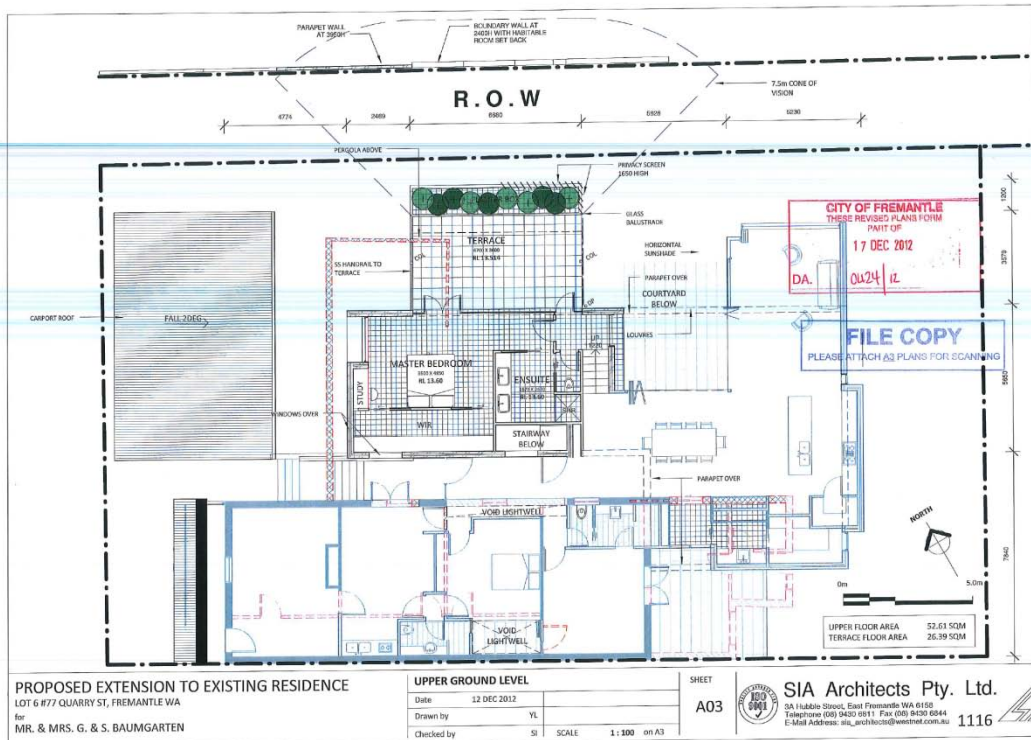
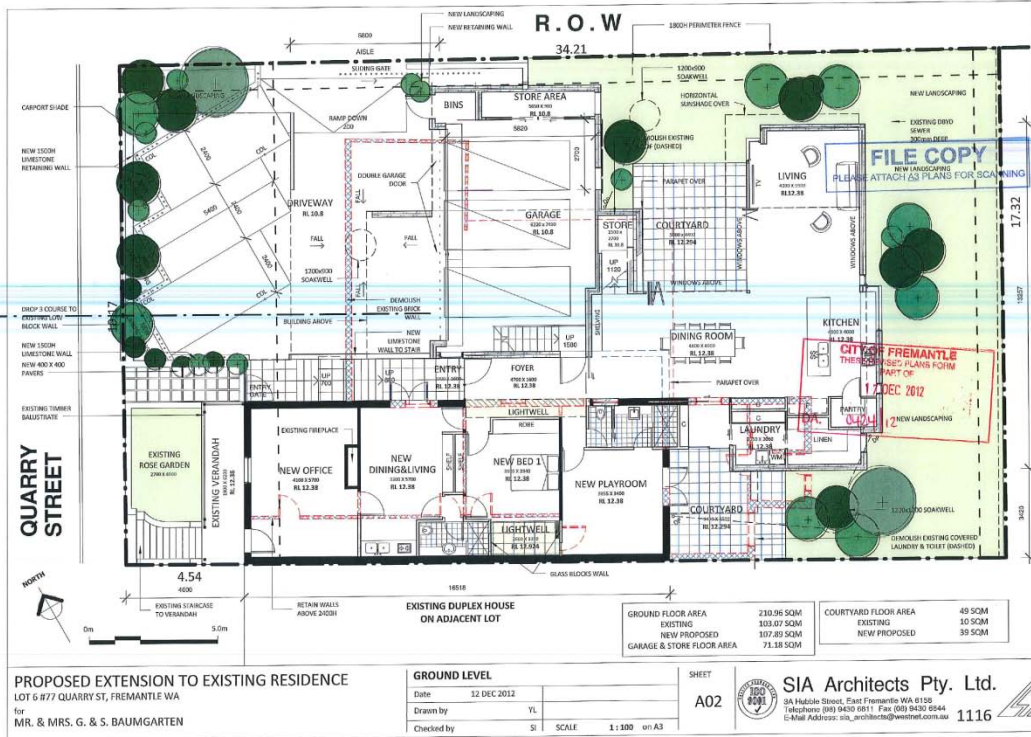
Category	Required	Proposed
SITE AREA	679 SQM	
REQUIRED OPEN SPACE	50%	53% (E58 SQM)
PROPOSED OUTDOOR LIVING	30 SQM	39 SQM

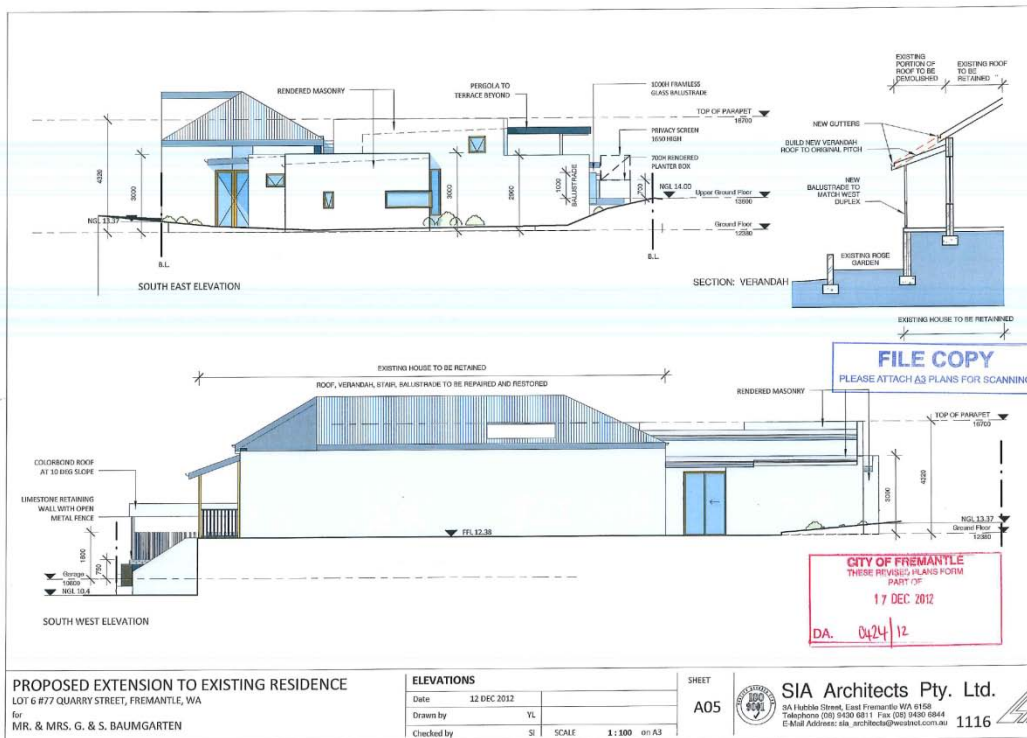
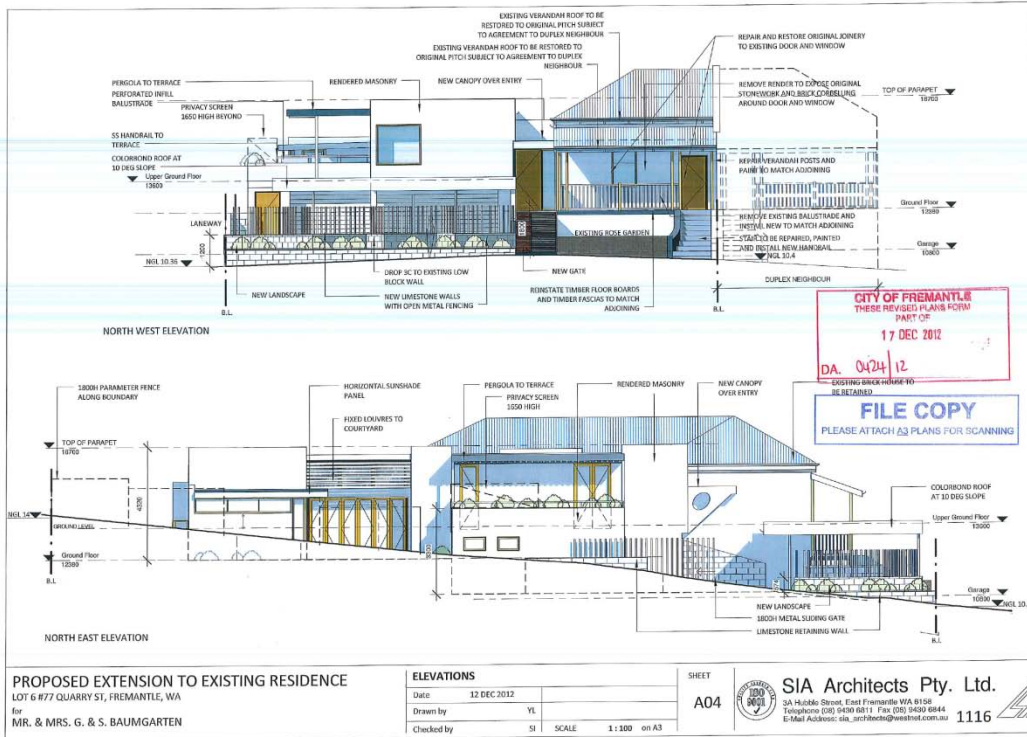
PROPOSED EXTENSION TO EXISTING RESIDENCE
Designer for MR. & MRS. G. & S. BAUMGARTEN

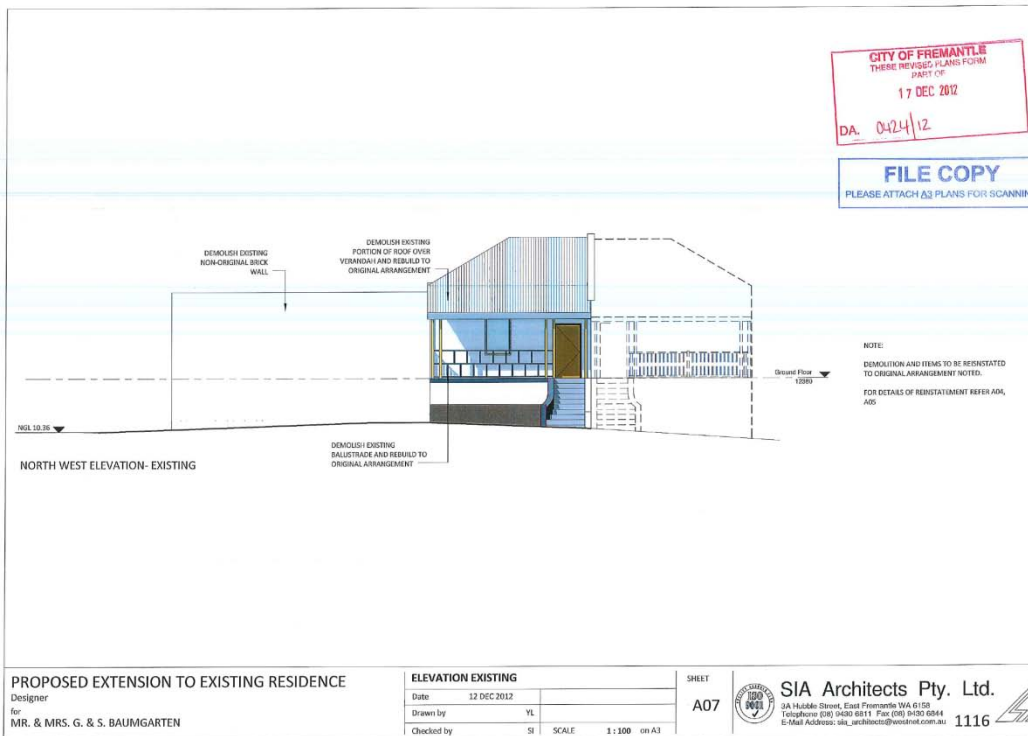
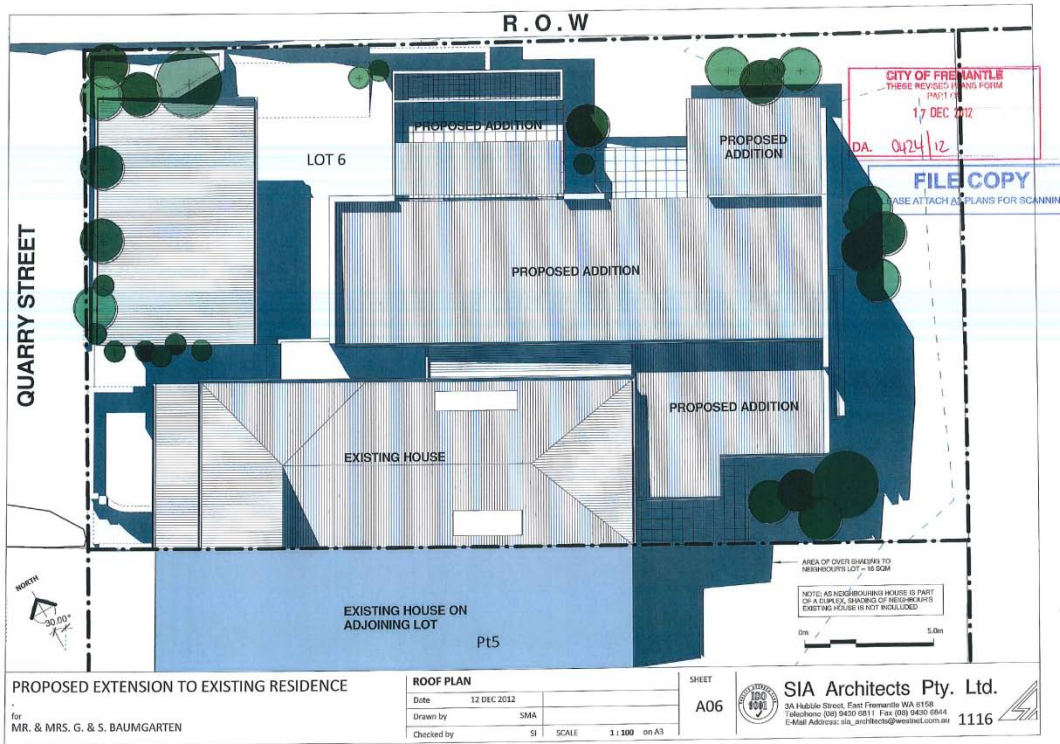
SITE PLAN
Date 12 DEC 2012
Drawn by YL
Checked by SI SCALE 1:100 on A3

SHEET A01

SIA Architects Pty. Ltd.
3A Hubble Street, East Fremantle WA 6158
Telephone (08) 9453 8811 Fax (08) 9453 8844
E-Mail Address: sia_architects@westnet.com.au 1116







ATTACHMENT 2







ATTACHMENT 3

HERITAGE ASSESSMENT



**DUPLEX, 77 QUARRY STREET
FREMANTLE**

**PREPARED FOR
CITY OF FREMANTLE
D A 4 2 4 / 1 2**

January 2013

Introduction

This heritage assessment document has been prepared as required and in accordance with the City of Fremantle's City Local Planning Policy 1.6 Preparation of Heritage Assessments.

Duplex, 77 Quarry Street Fremantle is included on the City of Fremantle's Heritage List and has a level 3 management category on the City's Municipal Heritage Inventory. The City of Fremantle has identified this place as being of some cultural heritage significance for its contribution to the heritage of Fremantle in terms of its individual or collective aesthetic, historic, social or scientific significance, and /or its contribution to the streetscape, local area and Fremantle. Its contribution to the urban context should be maintained and enhanced.

Places of heritage significance should be conserved in accordance with the principles of the Burra Charter (The Australia ICOMOS for the conservation of places of cultural significance) which has been adopted by Council as the guiding document for the conservation of places of cultural heritage significance. Also taken into consideration on heritage grounds is City of Fremantle's policy D.B.H.1 Urban Design and Streetscape Guidelines.

The proposal includes demolition of the existing rear and side additions and the construction of two storey additions to the northern (side) and eastern (rear) area of the site. Also, there are to be internal alterations to the original duplex. Conservation works include removal of the concrete render and reinstating the windows and a timber verandah. A site inspection was undertaken December 2012.

1.0 Historical information

Quarry Street is named from the former quarry reserve site from when in the early development of Fremantle a stone quarry extended across the Park between Ellen and Quarry Streets. Traces of this are still to be seen in the cliff at the Parry Street junction.

Lot 862 was part of the area which was first owned by J.T. Skinner. By 1895 it was a vacant lot and owned by William Thomas Paisley. The residence was originally listed as number 128 until 1936-38 when it became no. 77.

In 1896 John Paisley had a four-roomed cottage built. John Henry Robert Paisley was born in Toodyay in 1870 to father Thomas Paisley and mother Margaret Wilson. John Paisley died in 1938. By 1897 Edward Hodgson became the owner until at least 1909.

In 1915-1916 Humphrey Fred Palmer is listed as the owner, and in 1924-25 James William Schofield is owner with James Bernard White from 1927 until the late 1940s.

In 1952 Thomas Richard Sawle is owner and until 1960 when Robert and Williamina McLellan became the owners. Carburetor Electrical Service took

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.

over ownership until 1982 when the current owners purchased the place. By 1980 until 2011 the place was owned by Michelino Martino. There have been numerous occupiers of the duplex since its construction. (Rate Books, Fremantle Local History Collection)

This place was included in the list of heritage places in the City of Fremantle identified by the Fremantle Society (1979/80) – RED – “Buildings which should be preserved because of their contribution to the unique character of Fremantle.”

Additions and alterations including a games room and carport were carried out during the 1980s.

2.0 Description of the Place/s

Quarry Street comprises predominantly an intact group of single storey houses on the eastern side which were built in the late nineteenth and early twentieth century. The western side of Quarry Street comprises the rear of many of the commercial properties which face Queen Victoria Street.

The duplex 75-77 Quarry Street are a single storey limestone and brick attached pair which are set on limestone foundations and have a hipped Colourbond hipped roof and a dividing masonry firewall extending above the roof.

Duplex, 77 Quarry Street (1896) has a symmetrical facade and is designed as a late example of the Victorian Georgian style of architecture. The chimney is no longer extant. The walls are constructed from limestone with brick quoining and the façade has been cement rendered. The front timber framed double hung sash window and front entrance are intact.

The house is accessed via steep and prominent steps and sits above the level of the pavement. The roof extends over the front verandah and is supported on square timber posts between timber balustrading and verandah floor (not original). Refer 1947 aerial image showing separate form for the roof over the verandah and two chimneys to each duplex.

There is a 1970s-1980s face brick garage and patio built on the northern side of the house. A section of the northern wall was removed during the construction of the additions, the front section of this limestone wall is visible.

The adjoined water closet (WC) which is located at the rear of the site remains extant, although the laundries have been altered.

Heritage Values

Heritage values and attributes should be considered in the context of the following:

- Fabric

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.

- Setting
- Use
- Associations
- Meaning

Table 1

Heritage values	
Aesthetic	Some – as a duplex pair and that contributes to the intact Quarry Street group of houses and has aesthetic value contributes to the streetscape and surrounding area.
Historic	Some - It is representative of the typical workers' houses in the Fremantle area.
Social	Some - contributes to the community's sense of place.
Scientific	
Heritage Attributes	
Rarity	N/a
Representativeness	Yes
Integrity	Yes
Authenticity	Yes

3.0 Heritage Significance

Table 2

Significance			
Exceptional	Considerable	Some	Limited or none
<p><i>The consultant shall identify the overall significance of the place using the above categories, and identify zones of significance within the place itself.</i></p> <p>Statement of Significance:</p> <p>Duplex, 77 Quarry Street, comprising a single storey limestone and brick residence constructed 1896 has cultural heritage significance for the following reasons:</p> <p style="padding-left: 40px;">the place is of aesthetic value as an example of a late Victorian Georgian style of architecture duplex pair that contributes to the quality of its setting along Quarry Street and the surrounding area;</p> <p style="padding-left: 40px;">the place has some historic value as a turn of the century duplex residence that demonstrates the settlement and development of the Fremantle area,</p> <p style="padding-left: 40px;">the place social significance as it contributes to the community's sense of place, and;</p> <p style="padding-left: 40px;">it is representative of typical workers houses in the Fremantle</p>			

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.

area.
The additions, laundry and front retaining wall are of little significance.
Comments:
In general Duplex 77 Quarry Street is an example of a late Victorian Georgian style of residential duplex pair constructed 1896 and is of some significance.
The additions on the northern side and rear of the house, the rear laundry and the front retaining walls are of little significance.

The Statement of Heritage Impact examines the impact of the proposed development on the heritage significance of the place, and includes a discretionary value judgment concerning the impact of the proposal on the identified heritage values of the place.

The Statement of Heritage Impact shall be prepared in the following format:

Table 3

How does the proposed development impact on the heritage significance of the place with regard to the following criteria:	
Degree of change (positive and negative) on the place in light of its heritage significance.	<p>The place is of some heritage significance and should be conserved.</p> <p>The proposed amended development plans received December 2012 includes the following;</p> <ul style="list-style-type: none"> • Demolition of the brick garage, patio and rear additions on the northern side of the duplex. These additions are of little significance and will not negatively impact on the place. • Also, to demolish of the rear laundry and WC. Demolition of the laundry can be supported, the WC which is original and forms an adjoining pair to the WC of the duplex pair should be retained and conserved. • Externally, construction of two storey additions on the northern side of the duplex fronted by a carport. Given the raised height of the original duplex the additions will not have a negative

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	<p>impact, although the carport which is to be sited in the front setback will have a negative impact on the visual qualities to the original duplex and streetscape.</p> <ul style="list-style-type: none"> • Internally, the alterations include removal of the hallway wall and the wall between the 2nd and 3rd rooms and on the right side of the fireplace between the 1st and 2nd rooms. This will have a negative impact to the understanding of the layout of the duplex and will cause the loss of the hallway. However, it is intended to provide interpretative remnants to assist with understanding the original duplex. • The façade of the duplex is to be restored including the verandah roof and timber balustrading similar to no. 75. Although there is no historic evidence (other than 1947 aerial which is not very clear) of the appearance of original façades the proposal is compatible and consistent with the adjoining duplex and can be supported. Physical evidence maybe visible during the removal of the existing roof over the verandah and may inform the future works. • Any removal of cement render will be a positive contribution to the conservation of the place. The removal of the render and exposing the original limestone and brickwork should be done with care not to damage the original fabric and should be undertaken using original methods and materials, including using only lime mortars. <p>Overall, the proposal can be supported on heritage grounds with the following exceptions and conditions;</p> <ol style="list-style-type: none"> a) The front carport is not supported. b) Demolition of the rear WC is not
--	--

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.

	<p>supported.</p> <p>c) The render to be removed from the original duplex is removed so as not to damage the original fabric and is undertaken using only original methods and materials, including using only lime mortars.</p> <p>d) That any of the internal walls of the original duplex that are to be removed are retained as interpretative bulkheads above 2400 height from the floor.</p>
<p>Degree of permanent impact (irreversible loss of value) that the proposal is likely to have on the heritage significance of the place.</p>	<p>The demolition of the additions and outbuildings as proposed is irreversible. The additions and laundry are of limited significance and can be supported. However, the WC is of some significance as part of an adjoined WC for the attached pair and should be retained and conserved.</p> <p>There will also be a loss of some of the original fabric with the removal of the internal walls. This will have a negative impact on the significance of the place and there will loss of the hallway. As above, providing there is an interpretative understanding such as with the retention of bulkheads this alteration although not preferable can be considered acceptable.</p>
<p>Compatibility with heritage building in terms of scale, bulk, height – the degree to which the proposal dominates, is integrated with, or is subservient to a heritage place</p>	<p>The proposed additions will not dominate the original place or the significant streetscape. The house will continue to present to the street as a single storey and the additions will sit appropriately to the north and to the rear of the duplex.</p> <p>The carport would have a negative impact on the visual qualities of the duplex.</p>
<p>Compatibility with the streetscape and/or heritage area in terms of the siting, local architectural patterns, and the degree of harmonised integration of old and new.</p>	<p>The two storey additions will be visible when viewed from the street, however with the exception of the carport are set sufficiently back from the front of the duplex and the neighbouring residences.</p> <p>There will be a minimal impact on the</p>

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	<p>streetscape due to the contemporary design that does not provide a visual amenity and balance of openings to the street. However, as the additions are set back this is considered acceptable.</p> <p>The proposed carport will have a negative impact on the streetscape and the visual qualities of the overall form and in particular the northern wall of the duplex, and is therefore not supported.</p>
<p>Compatibility with heritage building in terms of the design solutions and architectural language such as refinement and finesse of detailing, texture, materials, finishes and quality of craftsmanship.</p>	<p>The proposal has been designed in a contemporary manner with the use of appropriate materials to the original residence.</p> <p>The design and detailing of the additions are contemporary and does not mimic the heritage values of the duplex and will be easily identifiable as new work which is in accordance with the Burra Charter. Consideration could be given to designing the openings to be more in rhythm with the symmetrical form of the duplex.</p> <p>The quality of the craftsmanship can be determined as part of this assessment.</p>
<p>Degree of impact on the important public views, vistas, landmarks, landscape features</p>	<p>The proposal will negatively impact on important views to the original duplex due to the carport being proposed in front of the level of the duplex otherwise the impact is acceptable.</p>

5.0 Statement of Conservation

Note: This is required for all Category 1 and Category 2 level places unless otherwise advised by the City of Fremantle.

Statement of *conservation* should define all essential processes of looking after a place (*preservation, restoration, reconstruction, adaptation, maintenance* and *interpretation* of a place) so as to retain its *cultural significance*.

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This part of the assessment is not based on the proposed development, but identifies the conservation works required, and guides future fabric retention, adaptation and reuse.

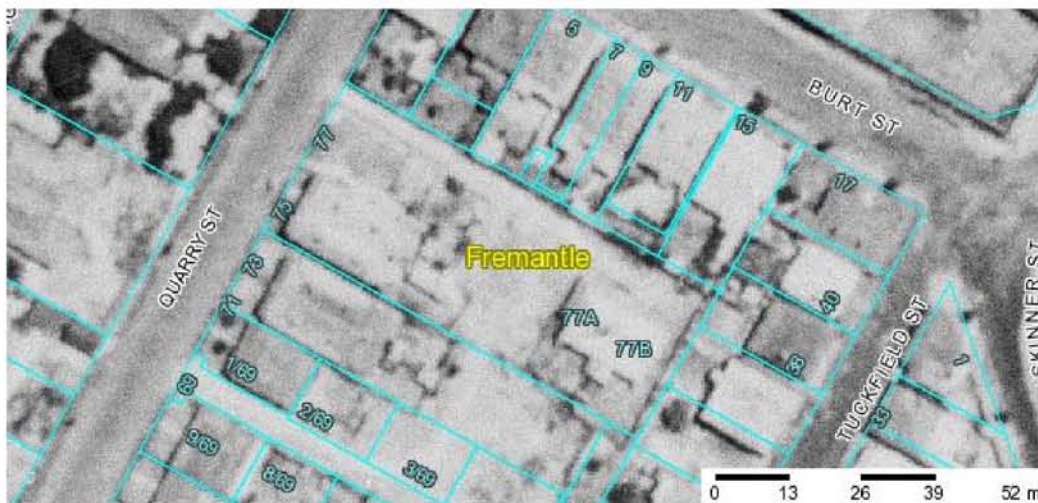
- **Condition Analysis**
- **Identification of conservation works required**
- **Recommendations as to the future fabric retention, adaptation and reuse.**

Statement of Conservation not required for this DA.

Photographs (City of Fremantle 2012)



Archival aerial dated 1947



Archival aerial dated 1947

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.



75-77 Quarry Street – front view (eastern elevation)



77 Quarry St – front view (eastern elevation)

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.



2 Hickory Street – showing front awning over window



77 Quarry Street – showing additions to be demolished

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.

77 Quarry Street – heritage assessment



77 Quarry Street – view from verandah looking north



77 Quarry Street – view from verandah looking south

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.

77 Quarry Street – heritage assessment



77 Quarry St – rear WC



Fireplaces are remain although chimneys no longer extant

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.



Hallway – view looking toward front entrance

6.0 References

Apperly, R, e t a l. A Pictorial Guide to Identifying Australian Architecture Styles and terms from 1788 to the Present. (Sydney: Angus & Robertson, 1989)

The Illustrated Burra Charter: making good decisions about the care of important places, by Peter Marquis-Kyle & Meredith Walker, first published by Australia ICOMOS, in 1992, this edition, 2004.

City of Fremantle - Municipal Heritage Inventory database and Local History Library collection.

Refer to Local Planning Policy 1.6 Preparation of Heritage Assessments for further details in the preparation of this report. This is a proforma only and does not form part of this policy.

PSC1304-49 SAT MATTER - CANTONMENT STREET NO 48-68 (LOT 201 AND STRATA LOT 40 ON LOT 202) REMOVAL OF TIMBER FLOORING FROM HERITAGE LISTED SITE

ATTACHMENT 1

**PLANNING AND DEVELOPMENT ACT 2005 (WA) s 214
DIRECTION TO CEASE UNAUTHORISED DEVELOPMENT**

TO MMAGS HOLDINGS PTY LTD ACN 080 664 795 ("MMAGS")

Unauthorised development at Lot 201 and Strata Lot 40 on Lot 202, 48-68
Cantonment Street, FREMANTLE WA,

WHEREAS

- A. You are the owner of the property described in Item 1 of the Schedule ("Property").
- B. The Property is included on the City of Fremantle ("City") Heritage List under clause 7.1 of the City's Local Planning Scheme No. 4 ("Scheme").
- C. You have commenced and are carrying out the development described in Item 2 of the Schedule ("Development") at the Property.
- D. The Scheme in clauses 8.1 and 8.2(a)(iii) requires that written planning approval be granted by the City for the Development where such is carried out on a property on the Heritage List.
- E. The Development, having been commenced and carried out without the City's written planning approval has been undertaken in contravention of the Scheme.

TAKE NOTICE THEREFORE:

Pursuant to the *Planning and Development Act 2005 (WA)* sections 214(2), and 214(3)(a) and (b) respectively,

YOU ARE HEREBY REQUIRED TO:

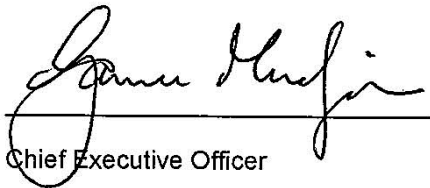
- a) immediately stop forthwith, and not re-commence, the Development; and
- b) within 60 days after the service of this direction:
 - (i) return all of the Removed Timber referred in Item 2 of the Schedule to the Property; and
 - (ii) reinstate the Removed Timber at the Property as nearly as practicable to its condition immediately before the Development started, to the satisfaction of the City.

- 2 -

2. If you fail to comply with this direction, you commit an offence under section 214(7) of the *Planning and Development Act 2005* (WA) and by virtue of section 40(5) of the *Sentencing Act 1995* (WA) will be liable to a maximum fine of \$1,000,000.00 and a further maximum daily penalty of \$125,000.00, due to your status as a body corporate.

4. You have a right to seek a review. You may apply to the State Administrative Tribunal for a review in accordance with Part 14 of the *Planning and Development Act 2005* (WA) of the decision to give this direction. Pending any review this direction remains in force. Your attention is drawn to the need to make an application for review within 28 days of service of this direction.

DATED this 10th day of May 2012



Chief Executive Officer

City of Fremantle

- 3 -

SCHEDULE

Item 1 The Property

Lot 201 and Strata Lot 40 on Lot 202, 48-68 Cantonment Street, FREMANTLE Western Australia commonly referred to as the "1950's Site of the Elder's Woolstores".

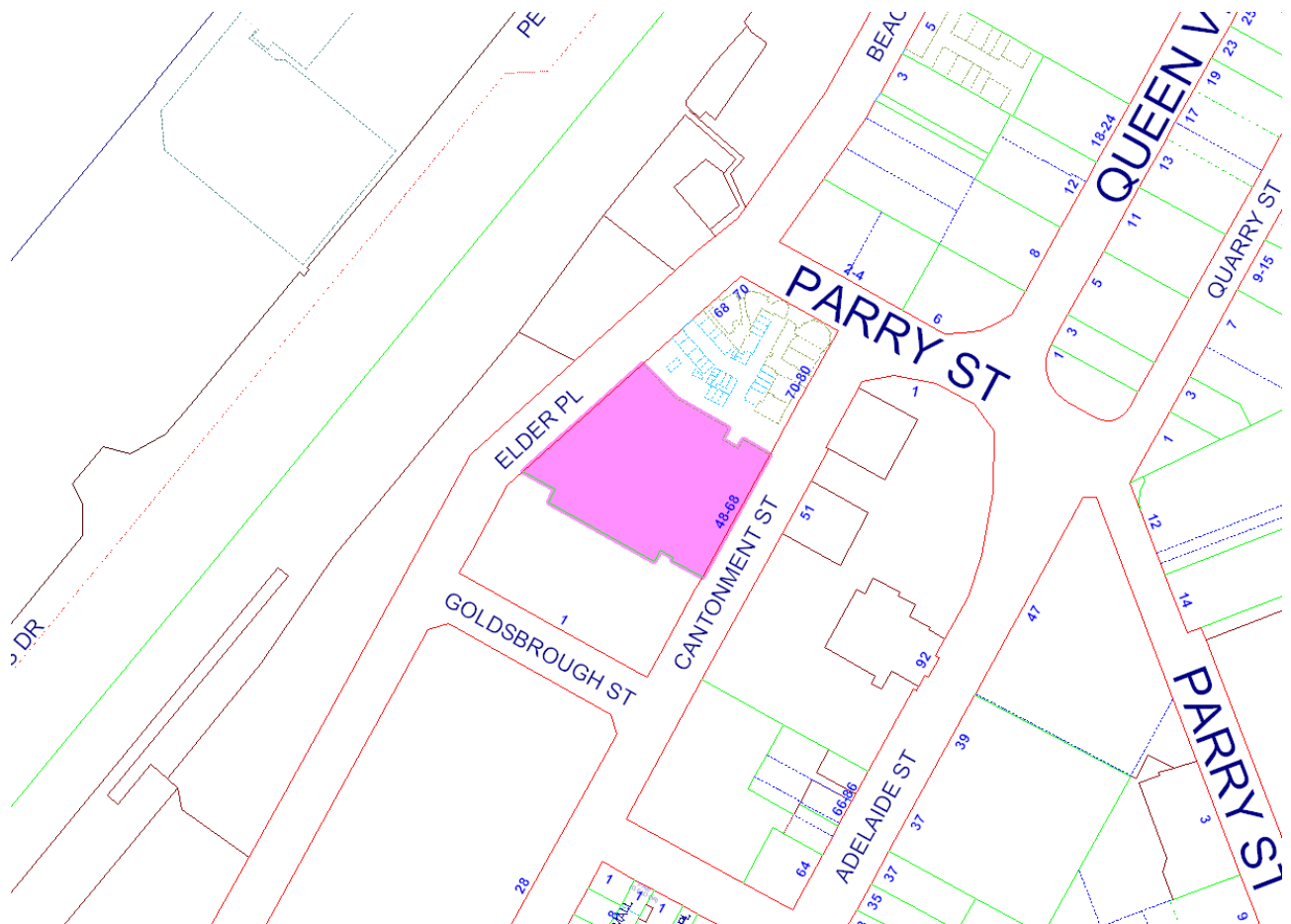
Item 2: The Development

Unauthorised removal of timber forming part of the existing building on the Property, being at least 137 square meters of timber floorboards, joists and/or timber beams ("**Removed Timber**"), from the first and third floors of the building on the Property.

ATTACHMENT 2

PSC1203-29 CANTONMENT STREET NO 48-68 (LOT 201 AND STRATA LOT 40 ON LOT 202) – REMOVAL OF TIMBER FLOORING FROM HERITAGE LISTED SITE (SS)

DataWorks Reference: 059/002
Disclosure of Interest: Nil
Responsible Officer: Manager Development Services
Actioning Officer: Coordinator Planning Mediation
Date of Meeting: 7 March 2012
Decision Making Level: Planning Services Committee
Previous Item Number/s: N/A
Attachment 1: Photographs of cut and stored timber
Attachment 2: Photographs of returned sound timber
Owner Name: MMAGS Holdings Pty Ltd
Submitted by: N/A
Scheme: City Centre
Heritage Listing: Heritage List – Local Planning Scheme No. 4
 MHI Management Category 2
Existing Landuse: Vacant Building



EXECUTIVE SUMMARY

The matter is referred to the Planning Services Committee (PSC) as it involves a breach of Local Planning Scheme No. 4 and direction is sought in relation to enforcement options.

The City was advised during December 2011 that flooring had been removed from the building located at No. 48-68 Cantonment Street. The building is on the Heritage List of the City of Fremantle Local Planning Scheme No. 4 (LPS4). The site is known as the circa 1950 Elders Woolstores Building(1950s site).

The City inspected the 1950s site during December 2011 (refer to Attachment 1) and established that:

- timber joists had been cut from the first floor and stored on the ground level;
- some flooring was in a pile on the site; and
- it appeared that timber flooring was missing.

Clarification was then sought from the owners of the site in relation to the unauthorised removal of flooring from the first floor level and the cutting of timber joists. In response to the City's concerns, the owner acknowledged removal of the flooring as the sound flooring had been removed from the building and stored elsewhere, while some rotten timber flooring was still piled on the site. It was also acknowledged that the timber joists were stored on the site.

The works, which are considered to constitute development under LPS4, required the planning approval of City prior to the works being undertaken. On the basis that the unauthorised works relate to the removal of timber from a heritage listed building without first obtaining the relevant approval, it is recommended that Council authorise the Chief Executive Officer to:

- commence legal proceedings for a breach of LPS4; and
- serve a written direction under Section 214 of the Planning and Development Act 2005 requiring the owners to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the City.

BACKGROUND

The site commonly referred to as the 1950s Elders Woolstores was the subject of a planning application to redevelop it as a mixed use development site. The application was refused by Council in October 2010 and the owners requested the State Administrative Tribunal to review the Council's decision. The request for review was subsequently withdrawn by the applicant in October 2011.

Council served a Notice on the owners of the 1927 and 1950s Woolstores buildings (separate companies that own the building), seeking them to undertake maintenance works. The owners requested the SAT to review the decision. Out of the SAT process, a Deed of Agreement was signed in January 2011 by the owners and the City setting out agreed works to be completed during August 2011. The Deed permitted both parties to agree to an extension of time to complete the works, prior to the time frame expiring. An extension of time was granted to October 2011. The City received a Schedule of Works during December 2011, setting out the current status of works on the site, the subject of the Deed. The Schedule estimated that the works would be completed by the 31 January 2012. To date, the works the subject of the Deed have not been completed. In a letter dated the 16 February 2011, the owners advised that the works would be completed by the 10 March 2012.

During December 2011, the City received a complaint that timber had been removed from the 1950s Woolstores building and re-located to another site. The City inspected the site in December and established:

- That in-situ timber joists at the first floor level in certain parts with fresh cuts on the ends were visible;
- The flooring to the first floor level appeared to have been removed; and
- There was some flooring and other timbers were in piles on the ground floor level; and
- Existing timber beams with fresh saw cuts were stacked on the ground floor level.

The City, through its solicitors, wrote to the owners of the site on the 5 January 2012 requesting an explanation of the works undertaken. An interim response was received on the 11 January 2012 advising that a further response would be provided in the week commencing the 16 January 2012. The City's solicitors wrote again on the 31 January 2012 seeking a final response to its letter, which it received on the 1 February 2012.

The response received by the City on the 1 February 2012 confirmed that a section of floor joists and timber boards had been cut from the 1950s building. Further, the City was advised that a portion of the timber removed was found to be rotten and was piled onsite. The removal of this rotten timber was raised as an issue by the owner, as it was considered that this material had the potential to be a hazard, which the owners would then seek guidance from the City on.

It was also confirmed in that letter that the:

- (i) sound beams had been stacked and stored onsite; and
- (ii) sound floorboards were removed from the site and placed into storage, but would be returned to the site in the week commencing the 6 February 2012.

The solicitors representing the owners also advised that no further timbers had been cut nor would they be cut without the client making application the appropriate planning application to the Fremantle City Council.

The City received a letter dated the 16 February 2012 confirming the return of the timber flooring that had been stored offsite. An inspection of the site occurred on the 23 February 2012. Some of the photographs taken on that day show the cut joists and stored timber (Attachment 1) and the returned flooring timbers (Attachment 2).

STATUTORY AND POLICY ASSESSMENT

The site at No 48-68 Cantonment Street is included on the Heritage List of LPS4.

Clause 8.1 of LPS4 requires all development on land zoned and reserved under the Scheme to have the prior approval of the Council. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the Council under Part 9.

Except as otherwise provided in the Scheme, Planning Approval under Clause 8.1 of LPS4 by the Council is not required for the following development:

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

...

- (j) *the maintenance and repair of any building or structure being lawfully used immediately prior to the Scheme having effect, except where the building or structure is—*
 - (i) *located in a place that has been entered in the Register of Places under the Heritage of Western Australia Act 1990,*

- (ii) *the subject of an Order under Part 6 of the Heritage of Western Australia Act 1990,*
- (iii) *included on the Heritage List under clause 7.1 of this Scheme, 8 March 2007 Local Planning Scheme No 4 70*

As the site at No. 48-68 Cantonment Street is included on a the Heritage List, then having regard to legal advice the City sought, Planning Approval was required before any works were carried out on the heritage listed building.

The undertaking of works contrary to the provisions of LPS4 constitutes a breach of the Planning and Development Act 2005.

Apart from the legal enforcement side of this matter under LPS4, Council has the option under section 214 (3)(b) of the Planning and Development Act 2005 to require the works to be re-instated as set out below:

- (3) *If a development has been undertaken in contravention of a planning scheme or interim development order or in contravention of planning control area requirements, the responsible authority may give a written direction to the owner or any other person who undertook the development —*
 - a) *to remove, pull down, take up, or alter the development; and*
 - b) *to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.*

PLANNING COMMENT

An inspection of the site was carried out on the 23 February 2012 and identified that:

- three bundles of flooring timber had been returned to the site;
- 83 joists were stored on the ground floor level in the vicinity of the cut timber joists; and
- three piles of timber were on the ground floor level.

Based on the maximum length of the returned timber (the lengths vary) and the width of the flooring, it was calculated that there was approximately 21sq m of returned flooring (refer to Attachment 2).

The timber joists on the first floor level in the eastern corner of the 1950s site appears to have been removed by the use of a circular saw to cut the timber flooring and joists at the edge of the main support beams. The first floor is supported by columns of either timber or metal beams. The area between the centre point of the four columns (1 bay) has been estimated to be approximately 19.6sq m in area.

It is believed that 7 bays of timber joists have been cut and removed from the first floor level based on the location and number of timbers that are showing cut marks. This equates to approximately 137 sq m of area. There are another 6 bays where there are no saw cuts to timbers, although the floor joist and timber floor do not exist.

There is other timber that has been piled on the ground level. Some of this appears to be timber flooring.

Based on the estimated area of the returned timber (21 sq m) and the 7 bays where there are cut joists (137 sq m), it would appear that the returned timber flooring represents approximately 15% of the flooring. This is on the assumption that flooring was present in the 7 bays.

Separately, information submitted to the City in relation to DA199/05 (received 15 March 2007) shows the "as measured" levels within the building. The plan indicated that the flooring to the first floor was intact at the time the measurement of the building occurred.

To reinstate the removed timber joists, it is likely that the timber would need to be bolted together or metal plates used in order to join both the in-situ and removed timber, similar to that seen in the foreground of photograph 8 of Attachment 1. The removed flooring can then be re-instated, although a method of supporting the ends of the timber flooring will be required due to the way in which the timber was cut.

From the evidence collected, the statements made by the owners and advice from the City's solicitors, the works undertaken by the owners should have been the subject of an application for planning approval under Clause 8.1 of LPS4. Whilst it may be argued in court that the works may not constitute development, the legal advice the City has received is that these works do constitute development and should have been the subject of a planning application and approval prior to the works commencing.

OPTIONS

Council has the option(s) of undertaking one or more of the following:

- Taking no further action;
- Issue a Planning Infringement Notice (\$500);
- Take legal action for a breach of LPS4;
- Serve a written Direction Notice to "*...restore the land as nearly as practicable to its condition immediately before the development started*"

Having regard to that fact that the timber flooring can be restored to a reasonable level of authenticity, it is recommended that a written direction be served on the owners to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the City.

However also having regard the extent of the offence in this instance, it is also considered appropriate to commence legal proceedings. While it may be appropriate for the removal a small amount of timber from a level 3 dwelling to incur a \$500 infringement, in this instance due to the nature of the offence being more significant, legal action is more appropriate.

OFFICER'S RECOMMENDATION/COMMITTEE DECISION

MOVED: Cr A Sullivan

That Council, having regard to the unauthorised removal of timber flooring and joists from No. 48-68 Cantonment Street, which is a building that is on the Heritage List of Local Planning Scheme No. 4, authorises the Chief Executive Officer to commence the following actions against the owners of the site:

- 1) Take legal action against the owners for a breach of Clause 8.1 of Local Planning Scheme No. 4; and**
- 2) A Written Direction Notice be issued requiring the owners to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the Chief Executive Officer.**

CARRIED: 5/0

For	Against
Cr Robert Fittock Cr Josh Wilson Cr Bill Massie Cr Andrew Sullivan Cr Tim Grey-Smith	

**PSC1304-50 SCHEDULE OF APPLICATIONS DETERMINED UNDER
DELEGATED AUTHORITY**

ATTACHMENT 1

1. **CLIFF STREET, NO. 18 (LOT 51), FREMANTLE – SINGLE STOREY GROUPED DWELLING ADDITION – (KS DA0066/13)**
2. **LEIGHTON BEACH BOULEVARD, NO 20 (LOT 503), NORTH FREMANTLE – ADDITION OF BOUNDARY FENCE – (CJ DA0064/13)**
3. **MARKET STREET, NO. 85 (LOT 2), FREMANTLE - CHANGE OF USE FROM SHOP TO RESTAURANT & INTERNAL ALTERATIONS TO EXISTING BUILDING - (AA DA0045/13)**
4. **ATTFIELD STREET, NO 91 (LOT 7), SOUTH FREMANTLE – PATIO ADDITION TO EXISTING SINGLE HOUSE – (AD/KW DA0602/12)**
5. **BANNISTER STREET NO.7-15 (LOT 1, 22, 123 & 435), FREMANTLE – ALTERATIONS AND SIGNAGE ADDITIONS TO EXISTING HOTEL (JL DA0037/13)**
6. **SMITH STREET, NO. 4A (LOT 102), BEACONSFIELD – TWO STOREY SINGLE HOUSE – (JS DA0033/13)**
7. **DALE STREET, NO. 12 (LOT 102), SOUTH FREMANTLE – RETROSPECTIVE SINGLE STOREY (REAR) ADDITION TO EXISTING SINGLE HOUSE – (JS DA0104/13)**
8. **DUFFIELD AVENUE, NO. 12 (LOT 19), BEACONSFIELD – CONVERSION OF OUTBUILDING INTO ANCILLARY ACCOMMODATION – (JS DA0009/13)**
9. **JACKSON STREET, NO. 7-9 (LOT 1), NORTH FREMANTLE – ADDITIONS AND ALTERATIONS TO MIXED USE DEVELOPMENT – (KS DA0067/13)**
10. **SCOTT STREET, NO. 30 (LOT 17), SOUTH FREMANTLE – DETACHED REAR ADDITIONS TO EXISTING SINGLE HOUSE- (CJ DA0072/13)**
11. **HOLLAND STREET, NO. 83A (LOT 2), FREMANTLE – TWO STOREY GROUPED DWELLING – (CJ DA0056/13)**
12. **FARRELL STREET NO. 2B (LOT 2), HILTON - SINGLE STOREY GROUPED DWELLING – (AD DA0054/13)**
13. **NORFOLK STREET, NO. 22 (LOT 1), FREMANTLE - REPLACEMENT OF EXISTING BOUNDARY WALL - (AA DA0115/13)**
14. **STEVENS STREET, NO. 135 (LOT 1), WHITE GUM VALLEY – RE-ROOFING OF EXISTING VERANDAH OF SINGLE HOUSE – (AD DA0116/13)**
15. **TONKIN ROAD, NO 11A (LOT 25), HILTON – TWO LOT SURVEY STRATA SUBDIVISION – (CJ WAPC 214-13)**

16. COCKBURN ROAD, NO. 25 (LOT 50), SOUTH FREMANTLE - ADDITIONS TO EXISTING ACCOMMODATION PARK - (AA DA0052/13)
17. SCOTT STREET, NO 15 (LOT20), SOUTH FREMANTLE – ADDITION OF PATIO TO EXISTING SINGLE HOUSE – (CJ DA0081/13)
18. SHEPHERD STREET, NO. 7 (LOT 52), BEACONSFIELD – ALTERATIONS AND CARPORT ADDITION TO EXISTING TWO STOREY SINGLE HOUSE – (CJ DA0090/13)
19. SOUTH TERRACE, NO. 74 (LOT 1376), FREMANTLE - SECTION 40 APPLICATION – (JS LL0003/13)
20. QUARRY STREET, NO. 27 (LOT 4), FREMANTLE – ALTERATION TO EXISTING GROUPED DWELLING – (JS DA0046/13)
21. FOTHERGILL STREET, NO 4 (LOT 304), FREMANTLE – LAUNDRY AND OUTBUILDING ADDITION AND INTERNAL ALTERATIONS TO EXISTING SINGLE HOUSE- (CJ DA0029/13)
22. PHILLIMORE STREET, NO. 7 (LOT 350), FREMANTLE – CHANGE OF USE FROM EDUCATIONAL ESTABLISHMENT TO SHOP (HAIRDRESSER) AND INTERNAL ALTERATIONS – (KS DA0012/13)
23. HIGH STREET, NO. 160 (LOT 1), FREMANTLE - CHANGE OF USE FROM PLACE OF WORSHIP TO OFFICE - (AA DA0083/13)
24. INSTONE STREET, NO. 1 (LOT 2), HILTON – CARPORT AND OUTBUILDING (STUDIO) ADDITIONS TO EXISTING SINGLE HOUSE – (JS DA0070/13)
25. PHILLIMORE STREET, NO. 7 (LOT 350), FREMANTLE – PARTIAL CHANGE OF USE TO SHOP (BICYCLE SHOP) & ASSOCIATED SIGNAGE – (AD DA0086/13)
26. WARREN STREET, NO. 9 (LOT 51), BEACONSFIELD - TWO (2) LOT FREEHOLD SUBDIVISION - (AA WAPC147361)
27. COODE STREET, NO. 1 (LOT 1), FREMANTLE - PATIO ADDITION TO EXISTING GROUPED DWELLING - (AA DA0109/13)
28. BROMLEY STREET, NO 46 (LOT 1), HILTON – FRONT FENCE ADDITIONS AND ALTERATIONS TO EXISTING GROUPED DWELLING – (CJ DA0048/13)

**PSC1304-51 PROPOSED SCHEME AMENDMENT NO. 56 - NEW SCHEDULE
12 SUB AREA FOR 20 (LOT 1354) KNUTSFORD STREET,
FREMANTLE - FINAL ADOPTION**

**ATTACHMENT 1 - Scheme Amendment No. 56 - Schedule of Submissions –
Summary of Submissions**

1	Department of Education
<i>No objection to this proposal</i>	
Submission noted. No modification to the Amendment is recommended.	
2	White Gum Valley Precinct
<i>Amendment discussed at the White Gum Valley precinct meeting 5 February 2013 and those present were in favour of the concept of small businesses being able to operate in the Knutsford Street Precinct with the provision that parking would need to be taken into consideration.</i>	
Submission noted. No modification to the Amendment is recommended.	
3	Owner/occupier
<i>Concerned development is going to affect submitter mainly through the increase in traffic. The street is already a busy one and is quite often used as a thoroughfare. Submitter has been told Montreal Street will close when the upgrade of High Street begins. Would like to know what is happening in this respect and information on the following: Submitter has been told by some councillors that Amherst Street is going to be widened (the entrance from High Street) and what is going to happen to Wood Street – is this going to be a left on a Cul-de Sac.</i>	
Submission noted. No modification to the Amendment is recommended. The submitter's concerns have been forwarded to the City's Technical Services Department for reply.	