

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 11 SEPTEMBER 2007, COMMENCING AT 6.30PM.

PART II

T90.5

Canning Highway No. 217-219 (Lot 1)

Applicant & Owner: OLLD Pty Ltd ATF Tella Trust

Application No. P148/2007

By Chris Warrener, Town Planner on 30 August 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a change of use of the premises at 217-219 Canning Highway from "Kids Open Learning School" to "Offices and Consulting Rooms", and works to the property including enlarging upper floor windows on the north, south and west elevations, works to restore the building (replacing gutters & down-pipes, painting), landscaping and car-parking improvements.

Statutory Requirements

Town Planning Scheme No. 3 – Metropolitan Region Scheme (MRS) Reserve Primary Regional Road

Local Planning Strategy - Woodside Precinct (LPS)

Western Australian Planning Commission Act 1985 - Delegation

Documentation

Plans and relevant forms date stamp received on 27 July 2007

Date Application Received

27 July 2007

Advertising

Adjoining land owners only

Date Advertised

31 July 2007

Close of Comment Period

14 August 2007

No. of Days Elapsed between Lodgement & Meeting Date

46 days

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

1933-1997	Building at 217-219 Canning Highway built and used as the East Fremantle Masonic Lodge;
23 February 1997	Council grants special approval for the use of the former Masonic Hall by the Kids Open Learning School.

CONSULTATION**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 28 November 2006 and the following comments were made:

- enlarging windows is ok - need adaptation for its ongoing use
- compliment architect/owners on conservation and retention of existing heritage fabric including the features of its previous use as a Masonic Lodge

Public Submissions

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

Site Inspection

By Consultant Town Planner on 8 August 2007.

REPORT**Issues**Building Encroachment

The site plan accompanying the application indicates that portions of 3 stores and a portion of the hardstand turn-around area for 3 car spaces along the south side boundary encroach the adjoining property Lot 416, which is a Drain reserve owned by the Town of East Fremantle.

This issue became evident during a recent winter storm and downpour, which overloaded town drainage, and resulted in a storm-water drain cover blowing off inside the rear of the Masonic Hall and causing water damage to the interior of the rear of the building.

Closer inspection of the situation revealed that Council's drain is under the inside rear of the building.

Should Council decide to support this application the recommendation in this report includes a condition, which states:

Prior to the issue of a Building Licence a Demolition Licence must be obtained and implemented to remove all improvements and structures which encroach the adjoining property Lot 416.

Zoning/Land Use

When Council considered the application in February 1997 for use of the building by Kids Open Learning School the officer's report incorrectly stated that the "property is zoned Community", and the proposed use was not permitted unless special approval was given after advertising.

Under TPS 2 (the operational scheme in 1997), the property was a Metropolitan Region Scheme (MRS) Reserve for "Other Major Highways", and that application should have

been determined by the Western Australian Planning Commission (WAPC), with the comments and recommendation of Council.

Under TPS 3 the subject land continues to be reserved in the MRS as a "Primary Regional Road".

If the regional road reserve is removed from the property it does not have any underlying zoning.

The proposed use of the building is for offices and consulting rooms.

TPS 3 does not list the uses which may or may not be undertaken within land reserved for a Primary Regional Road, however pursuant to the "Delegation" notice published on 20 September 2002 Council has the authority to determine the application for the proposed use and/or any works to the property.

MRS Road Reserve

Prior to 20 September 2002 the decision making authority in relation to development next to or on land reserved for a Primary Regional or Other Regional Road was the WAPC.

However on 20 September 2002 notice was given that the WAPC resolved to:

"(a) Revoke its delegation of functions to local governments and to members and officers of those local governments as detailed in the Notice of Delegation published in the Government Gazette of 28 September 2001 (pages 5391 - 5393), relating to the determination of applications for approval to commence and carry out development within their respective districts;

AND

(b) Delegate to local governments and to members and officers of those local governments, its functions in respect of the determination, in accordance with Part IV of the Metropolitan Region Scheme (MRS), of applications to commence and carry out development specified in Clauses 1 and 2 below, within their respective districts." (Government Gazette, WA 20 September 2002, pages 4718-4720)

The local government is required, pursuant to the further provisions of this notice, to refer for comment and recommendation, before determining applications, which are affected by a Primary Regional Road, to Main Roads WA and/or the Department for Planning & Infrastructure (DPI).

Being a "Category 3" Primary Regional Road this application was referred to DPI for comment.

Heritage

The building at 217-219 Canning Highway is not on the Heritage List under TPS 3 however it is in the Draft MI with a category B+ rating. The Draft MI states for property rated B:

*“Category B
Places of considerable local heritage significance*

CATEGORY B

<i>State Register of Heritage Places</i>	<i>Town Planning Scheme No. 3 Heritage List</i>	<i>Heritage Survey / Municipal Inventory</i>	<i>Town Planning Scheme No. 3 Provisions</i>
No	Yes	Yes	Yes

Considerable heritage significance at a local level; places generally considered worthy of high level of protection, to be retained and appropriately conserved; provide strong encouragement to owners under the Town of East Fremantle Planning Scheme to conserve the significance of the place. A Heritage Assessment / Impact Statement to be required as corollary to any development application. Incentives to promote heritage conservation may be considered where desirable conservation outcomes may be otherwise difficult to achieve.”

Apart from internal building works (including restoration & conservation), the application proposes to enlarge the windows on the upper floor of the building which will change its appearance.

Car Parking

It is intended that the building be let for office use.

The application proposes a ground floor tenancy comprising 141m², and upper floor tenancies comprising a 51m² office and 141m² tenancy. The total lettable area comprises 333m².

Schedule 11 to TPS 3 recommends the following car parking requirements:

Office (excluding Bank, Building Society, Post Office or other such uses)	1 space for every 30m ² net lettable area, Minimum 3 spaces per tenancy or office unit. (N.B. Offices with intensively used public areas require additional parking. Refer Banks, etc.)
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Therefore 11 parking spaces are required.

The application proposes to re-pave and landscape existing parking areas on the site to provide 15 car spaces.

The application if approved and implemented will result in there being 4 more parking spaces than required.

Discussion

Zoning / Land Use

The building once used as the East Fremantle Masonic Lodge, subsequently Kids Open Learning has the appearance of a commercial building not a residence.

It would therefore be reasonable to assume that commercial activity/use of the building is an appropriate use, a use that would reasonably be expected at the property.

Heritage

The application if approved and implemented will result in the restoration of the existing building which contains some quite historically valuable elements including its heritage as the Masonic Lodge.

It will also result in changes to the appearance of the building (enlarging windows).

In light of the cosmetic changes to the appearance of the building the applicant was requested to provide a Heritage Impact Assessment. This was subsequently submitted,

prepared by Stephen Hart a Heritage Architect registered with the Heritage Council of WA.

The assessment concludes:

“The increase in size of the first floor windows (by lowering the sills) would not materially impact on the significance of the place.”

DPI Comment

DPI advised that it has no objection to the application subject to the following conditions:

1. The proposed development/improvements within the land reserved for the Canning Hwy PRR under the MRS (as per attached extract of MRWA Drawing No. 9021-28-3) to be approved on a temporary basis only.
2. The landowner entering into a Deed of Agreement with the Western Australian Planning Commission (WAPC) that provides, upon the acquisition of the reserved land required for the upgrading of Canning Hwy, that the improvements within the MRS reserved land, which are the subject of this Development Application shall not be taken into consideration in determining any land acquisition cost or compensation that may be payable by Council or the WA Planning Commission in the future.
The above agreement is to be registered as a Caveat on the Certificate of Title.
3. The proposed temporary car parking bays (No.'s 1, 2, 11 & 12) should be surplus to Council's Town Planning Scheme requirements for car parking provisions.

Conclusion

The cosmetic change to the building (enlarging the first floor windows) is considered to improve its appearance.

Parking is proposed to be provided in excess of the recommended amount under TPS 3, and the application is considered to address the long term shortfall when Canning Highway is ultimately upgraded (DPI condition 3 refers).

The restoration and re-use of this building is considered to make a positive contribution to East Fremantle's built heritage, and the proposed use is considered to suit the building and its location therefore the application is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for a change of use of the premises at No's. 217-219 (Lot 1) Canning Highway, East Fremantle from "Kids Open Learning School" to "Offices and Consulting Rooms", and works to the property including enlarging upper floor windows on the north, south and west elevations, works to restore the building (replacing gutters & down-pipes, painting), landscaping and car-parking improvements in accordance with the plans date stamp received on 27 July 2007 subject to the following conditions:

1. prior to an Application for a Building Licence being obtained an Application for a Demolition Licence must be obtained and implemented to remove all improvements and structures which encroach the adjoining property Lot 416.
2. the proposed development/improvements within the land reserved for the Canning Highway PRR under the MRS (as per the attached extract of MRWA Drawing No. 9021-28-3) is permitted up until the land is required for the upgrading of Canning Highway.
3. the landowner entering into a Deed of Agreement with the Western Australian Planning Commission (WAPC) that provides, upon the acquisition of the reserved land required for the upgrading of Canning Highway, that the improvements within the MRS land, which are the subject of this Development Application shall not be taken into consideration in determining any land acquisition cost or compensation that may be payable by Council or the WA Planning Commission in the future.
The above agreement is to be registered as a Caveat on the Certificate of Title.
4. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in

- compliance with the conditions of this planning approval or with Council's further approval.
5. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 6. the building is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 7. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 8. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
 9. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Main Roads WA.
 10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (e) *the applicant/owner is to be complimented for the conservation and retention of the existing heritage fabric including the features of its previous use as a Masonic Lodge.*

Mr Cesare Scalise (applicant) addressed the meeting indicating that he was satisfied with the officer's report.

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Ferris

That Council exercise its discretion in granting approval for a change of use of the premises at No's. 217-219 (Lot 1) Canning Highway, East Fremantle from "Kids Open Learning School" to "Offices and Consulting Rooms", and works to the property including enlarging upper floor windows on the north, south and west elevations, works to restore the building (replacing gutters & down-pipes, painting), landscaping and car-parking improvements in accordance with the plans date stamp received on 27 July 2007 subject to the following conditions:

- 1. prior to an Application for a Building Licence being obtained an Application for a Demolition Licence must be obtained and implemented to remove all improvements and structures which encroach the adjoining property Lot 416.**
- 2. the proposed development/improvements within the land reserved for the Canning Highway PRR under the MRS (as per the attached extract of MRWA Drawing No. 9021-28-3) is permitted up until the land is required for the upgrading of Canning Highway.**
- 3. the landowner entering into a Deed of Agreement with the Western Australian Planning Commission (WAPC) that provides, upon the acquisition of the reserved land required for the upgrading of Canning Highway, that the improvements within the MRS land, which are the subject of this Development Application shall not be taken into consideration in determining any land**

acquisition cost or compensation that may be payable by Council or the WA Planning Commission in the future.

The above agreement is to be registered as a Caveat on the Certificate of Title.

4. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. the building is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
8. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
9. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Main Roads WA.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (e) *the applicant/owner is to be complimented for the conservation and retention of the existing heritage fabric including the features of its previous use as a Masonic Lodge.*

CARRIED

T90.6

Canning Highway No. 253 (Lot 351)

Applicant: Go Graphics

Owner: Skyjam Pty Ltd

Application No. P157/07

By Chris Warrener, Town Planner on 5 September 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for signage fixed to the fascia, and a flag pole mounted/banner sign on the building at 253 Canning Highway more than 5m above natural ground level (NGL).

Statutory Considerations

Town Planning Scheme No. 3

Documentation

Plans and relevant forms date stamp received on 8 August 2007

Date Application Received

8 August 2007

No. of Days Elapsed between Lodgement & Meeting Date

34 days

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

19 June 1974	Approval in principle granted for additions;
18 February 1985	Council grants planning approval for alterations to an existing store incorporating a mezzanine floor;
26 February 1985	Building Licence 102/965 issued for a timber framed store room;
20 December 1993	Council grants planning consent for a wall mounted illuminated sign ("C & E Hardware");
15 December 2006	Retravision ceases operations at 253 Canning Highway;
7 February 2007	Approval granted under delegated authority for a change of use 'Shop' to 'Office';
15 February 2007	Building Licence 06/321 issued for commercial office fit-out;

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 28 August 2007 and the following comments were made:

- signage appears to be overdone from a streetscape perspective
- signage to be restricted to lower facia of front façade (no upper level signage)
- too much visual clutter

Site Inspection

By Consultant Town Planner on 13 August 2007.

REPORT

Issues

Sign Height

Signage proposed on the facia of the taller portion of the building is more than 5m above NGL, and the flagpole-mounted/banner sign is higher again.

Schedule 5 to TPS 3 lists the advertisements which are exempt from planning approval.

For a commercial building the following applies:

Commercial and Industrial Buildings (e.g. showrooms, shops, exhibition centres, restaurants, hotels, motels, taverns, cinemas/theatres)	Signs and advertisements painted or flush-mounted on the building provided no more than 5 metres above ground level. No maximum size provided there is no extension to the building surface. Information or display to relate to the business or activities on the site of the advertisement.
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Being more than 5m above NGL the application for signage at 253 Canning Highway requires the exercise of Council discretion to allow it.

Discussion

Part 10 of TPS 3 contains a provision listing the matters which the local government in considering an application for planning approval is to have due regard to.

Pursuant to clause 10.2 the following matters are considered relevant to this particular application:

“(j) the compatibility of a use or development with its setting;”

The proposed signage is not considered compatible with the setting of the building concerned.

“(o) the preservation of the amenity of the locality;”

The proposed signage is considered quite unsightly, and a blight on the immediate environment, and the amenity of the locality.

“(p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;”

To the east of the subject property is a salmon brick with iron awning building (Unit 1, 255 Canning Highway) that is presently advertised “For Lease”. Apart from the “For Lease” sign there is no other signage on this building.

Next to Unit 1, 255 Canning Highway is the Commonwealth Bank, which is a cream cement rendered brick with grey-green painted iron verandah building.

The only signage contains the words “Commonwealth Bank” and the corporate logo which are positioned in the mid-upper left hand portion of this building.

This building presents in the “Federation”-style, which is considered to be in keeping with the general character of the housing stock in the immediate locality.

Immediately west of the subject property is a single storey brick and tile house which is described in the Draft Municipal Heritage Inventory as a “*Diagonal plan porch house bungalow*” from the “*inter war*” period.

Apart from white painted gable facades, window and front door trim, and verandah support columns the house is unpainted red brick and zinalume roofed.

Conclusion

The proposed signage on the building at 253 Canning Highway is considered to be visually unattractive and completely out of context with the signage and the general presentation of buildings next to and nearby it. A signage plan that does not detract from the visual amenity of the area, as this does, and which reflects the style and colour scheme of adjacent and nearby buildings is favoured.

RECOMMENDATION

That Council refuse to grant Planning Approval for the signage fixed to the facia, and a flag pole mounted/banner sign on the building at No. 253 (Lot 351) Canning Highway, East Fremantle in accordance with the plans date stamp received on 8 August 2007 on the grounds that the colour scheme, size and number of signs proposed are out of character with, and will detrimentally visually impact on the streetscape, and amenity of the immediate locality.

ALTERNATIVE RECOMMENDATION

That the application for signage on the building at No. 253 (Lot 351) Canning Highway, East Fremantle be deferred to allow discussions to take place with the applicant/s regarding a more acceptable proposal.

Messrs Nathan Hewitt, Todd Grierson & Aidan Casey (applicants) addressed the meeting.

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Harrington

That the application for signage on the building at No. 253 (Lot 351) Canning Highway, East Fremantle be deferred to allow discussions to take place with the applicant/s regarding a more acceptable proposal. CARRIED

Cr Dobro made the following impartiality declaration in the matter of 22 May Street: "As a consequence of the adjoining neighbour, Mr Mark Pastorino, being the General Manager of my daughter's soccer team, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly.

T90.7 **May Street No. 22 (Lot 67)**
Applicant: Rodney O'Byrne Design
Owner: Andrew & Felicity Cockburn
Application No. P155/07
By Chris Warrener, Town Planner on 4 September 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for two 2-storey grouped dwellings at the rear of 22 May Street, and alterations including restoration works to the single storey house at the front.

Statutory Requirements

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 3 August 2007

Date Application Received

3 August 2007

Additional Information Received

7 August 2007 Amended plans received to ensure that the middle dwelling has its own parapet wall abutting the existing house.

Advertising

Adjoining land owners only

Date Advertised

8 August 2007

Close of Comment Period

22 August 2007

No. of Days Elapsed between Lodgement & Meeting Date

39 days

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

5 January 1976	Steel framed patio awning approved;
21 September 1981	Council grants conditional approval for a relaxation of standards for reduced lot area and lot frontage for a physiotherapy clinic;
17 December 2002	Council grants special approval for Office use at 22 May Street;
15 June 2004	Council grants special approval for a change of use to include Caretaker's House to the existing Office use;
10 November 2006	Referral from WAPC of an application to subdivide 22 May Street into 3 survey-strata lots comprising 1 X 145m ² , 1 X 146m ² , 1 X 301m ² , and a common property lot for access comprising 75m ² ;
20 November 2006	Acting Town Planner Beryl Foster writes to the WAPC to advise that the application for subdivision will be assessed in conjunction with a planning application given the density exceeds R40.

CONSULTATION**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting on 28 August 2007 and the following comments were made:

- concern that if commercial may have parking issues
- concern that proposed works to front will negatively impact on existing building which at present presents beautifully on the street
- like to see existing front fence and gate, steps to verandah, verandah railing and balustrading to be retained
- like to see minimum changes to front elements
- not appropriate in bulk and scale
- over development of site
- not sympathetic to original dwelling

Public Submissions

At the close of the comment period 4 submissions were received.

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|--------------------------|--|
| <i>23 Bedford Street</i> | <ul style="list-style-type: none">- <i>objects to high density development backing onto Bedford Street houses;</i>- <i>garage and drive layout will mean residents will have to back out onto a very busy part of May Street.</i> |
| <i>20 May Street</i> | <ul style="list-style-type: none">- <i>concerned about impact of parapet walls on natural light from surgeries, and visual impact when entering these rooms;</i>- <i>prefer to see low density development in May Street.</i> |
| <i>21 Bedford Street</i> | <ul style="list-style-type: none">- <i>the eastern wall of the proposed building appears to be a stark monolithic surface that will reflect light and heat into our garden. The construction type and finish for this wall has not been specified;</i>- <i>in our opinion the proposed screening trees are unlikely to be successful because of their close proximity to the fence and building. As there is no obligation for the trees to be maintained this could result in the absence of a screen between the building and our property;</i>- <i>our outlook to the west will be largely consumed by the proposed development, to the extent that the current</i> |

view of the surrounding neighbourhood from inside our house would be completely obscured;

- *the building will restrict the westerly summer breezes;*
- *the likely result of these impacts would be to spoil the current attractive outlook and thus reduce the resale value of our property.*

24 May Street

- *we are very pleased that the existing weatherboard house is to be retained and restored thus preserving the delightful streetscape in this section of May Street;*
- *the overall concept seems well considered and well designed (and the pencil drawings are beautifully presented);*
- *we also support the flat roof concept which minimalises the impact on our neighbouring property;*
- *we are also pleased that the southern facing upper floor windows are to be screened. However, we are a little concerned with the possibility of overlooking from the western facing corner windows and request some screening to these windows;*
- *could you please supply us with an overshadowing diagram;*
- *while we have no issue with either the ground floor setbacks or the single storey parapet wall adjoining our property we are concerned with the impact of the upper floor southern walls being just 1.0 metres and 2.0 metres from our boundary. Could these setbacks be increased without overly impacting on this excellent project.*

Site Inspection

By Consultant Town Planner on 28 August 2007

STATISTICS	Required	Proposed
<u>ALTERATIONS TO EXISTING RESIDENCE</u>		
Land Area		299m ² Existing
Open Space	45%	48.38% Acceptable
Zoning		Town Centre
Heritage Listing		Draft MI
<u>Setbacks:</u>		
Front (west)	Not applicable as additions are to the rear (east) and side (north) of existing single storey residence.	
Rear (east) <i>Kitchen, Study, Atrium & Bathroom</i>	1.00	Nil Discretion Required
Side (north) <i>Kitchen/Dining</i>	1.00	Nil Discretion Required
Side (south)	N/a	
<u>Wall / Building Height:</u>		
Parapet Wall Height	3.00	3.10 & 3.20 to 3.60

Discretion Required**Wall Length:**

Parapet Wall Length	9.00	13.80
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Discretion Required**2 X ADDITIONAL DWELLING UNITS TO REAR****Unit 1 (Middle Unit)**

Land Area		110.8m ² Existing
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Open Space	45%	36.2%
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Discretion Required

Zoning		Town Centre
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Setbacks:

Front (south)

<i>Ground</i>	<i>Entry</i>	1.50	6.00
	<i>Garage</i>	1.00	Acceptable 7.00
<i>Upper</i>	<i>Kitchen</i>	1.20	Acceptable 2.00
	<i>Laundry</i>	1.20	Acceptable 6.00

Rear (north)

<i>Ground</i>	<i>Garage</i>	1.10	Nil
	<i>Bedroom 1 & 2</i>	1.50	Discretion Required 3.00
<i>Upper</i>	<i>Terrace</i>	7.50	Acceptable 3.00

Discretion Required

Side (east)

<i>Ground</i>	<i>Garage</i>	1.00	Nil
<i>Upper</i>	<i>Living & Kitchen</i>	1.60	Discretion Required 1.50
	<i>Laundry</i>	1.20	Discretion Required Nil

Discretion Required

Side (west)

<i>Ground</i>	<i>Bedroom 2, Bathroom & Stairs</i>	1.00	Nil
<i>Upper</i>	<i>Terrace, Living, Stairs & Kitchen</i>	1.00	Discretion Required Nil

Discretion Required**Wall / Building Height:**

Wall Height	7.00	6.00, 6.20 & 6.50 Acceptable
Building	7.00	6.50 Acceptable
Parapet Wall Height	3.00	4.40, 4.70 & 6.20

Discretion Required**Wall Length:**

Parapet Wall Length	9.00	9.20, 11.20 & 13.20
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Discretion Required

Note: Insufficient turnaround/manoeuvring space for vehicles to exit the property in a forward gear

Unit 2 (Rear Unit)

Land Area 138.6m²
Existing

Open Space 45% 40.7%
Discretion Required

Zoning Town Centre

Setbacks:

Front (south)
Ground Entry 1.50 6.00
Acceptable
Garage Nil LPP 142 Nil
Acceptable
Upper Kitchen 1.20 1.00
Discretion Required

Rear (north)
Ground Bedroom 1 & 2 1.50 3.00
Acceptable
Upper Terrace 7.50 3.00
Discretion Required

Side (east)
Ground Garage 1.00 Nil
Discretion Required
Stairs, Bathroom & Bedroom 2 1.50 1.57
Acceptable
Upper Kitchen, Stairs, Living & Terrace 1.60 1.57
Discretion Required

Side (west)
Ground Bedroom 1, Ensuite & Entry 1.00 Nil
Discretion Required

Wall / Building Height:

Wall Height 7.00 5.60
Acceptable
Building 7.00 6.50
Acceptable

Wall Length:

Parapet Wall Length 9.00 9.20
Discretion Required

Overshadowing: 76.5m² of 24 May Street (663m²) = 11.538%

Overlooking / Privacy: Overlooks rear portion of medical centre and carparking

Note: Insufficient turnaround/manoeuvring space for vehicles to exit the property in a forward gear

REPORT
Issues

R40 Development This application is for two 2-storey grouped dwellings being built to the rear of the single storey house at 22 May Street.

22 May Street is in the Town Centre zone where residential development up to a density of R40 is supported under TPS 3.

22 May Street comprises 663m².

Under the RDC the recommended average lot size for grouped dwellings on R40 coded property is 220m² with a minimum lot size of 200m².

Theoretically subdividing 22 May Street into 3 lots complies with the criteria for R40 sites under the RDC (663m² ÷ 3 = 221m²).

However the subdivision application to accommodate this development proposes a 299m² lot for the existing house, a 110.8m² lot for Unit 1, and a 138.6m² lot for Unit 2.

Units 1 and 2 will share a common property driveway comprising 115.33m² therefore the average lot size for the 2 rear grouped dwellings based on a total available area of 364.73m² is 182.36m².

Therefore the two grouped dwellings at the rear do not comply with the R40 code permitted in the Town Centre.

Subdivision Application

On 10 November 2006 Council received a referral from the WAPC for an application to subdivide 22 May Street into 3 survey-strata lots.

Council's Acting Town Planner advised the WAPC that Council would consider the application in conjunction with a planning application.

The lot boundaries proposed in the subdivision application, which is awaiting a decision by the WAPC do not correlate with the lot boundaries proposed in this application for Planning Approval.

It is understood that following preparation and lodgement of the subdivision application the applicant proceeded to prepare plans for the grouped dwelling development, and found that it was not possible to develop based on the submitted plan of subdivision.

If Council supports this Application for Planning Approval it will also need to advise the WAPC that it would be prepared to conditionally support an amended subdivision plan based on the development plan for which planning approval is currently sought.

Overshadow

The area of land at 24 May Street overshadowed by the two grouped dwellings amounts to 98.5m² or 14.8% of the total area of this property.

The RDC recommend a 25% limit on overshadow.

Existing House Additions

Boundary Walls

The application proposes ground floor additions to the single storey house at 22 May Street to extend the external walls to the east and north side boundaries.

The length of the wall proposed along the north side boundary common with 20 May Street is 7.5m. Wall height varies from 3.2m to 3.6m.

LPP 142 allows a boundary wall no higher than 3m or longer than 9m along one side boundary therefore the height of the boundary wall on the north side constitutes a variation for which the exercise of Council discretion is required to allow.

The length of the wall proposed along the east side boundary common with proposed Unit 1 is 13.8m. Wall height is 3.1m.

LPP 142 allows a boundary wall no higher than 3m or longer than 9m along one side boundary therefore the length, height and the fact that this is a second boundary wall on the east side constitutes a variation for which the exercise of Council discretion is required to approve.

Unit 1 (grouped dwelling unit immediately behind the existing house)

Boundary Setbacks

East Side Boundary

Common with Unit 2

An upper floor living room and kitchen is set back 1.5m from the east side boundary.

The RDC recommend a 1.6m setback.

An upper floor powder-room/laundry is set back 0m from the east side boundary.

The RDC recommend a 1.2m setback.

North Side Boundary

Common with 20 May Street

An unscreened upper floor terrace is set back 3m from the north side boundary.

The RDC recommend a 7.5m setback.

Boundary Walls

The application proposes 3 boundary walls for Unit 1.

North Side Boundary

Common with 20 May Street

The boundary wall for a garage varies in height between 4.4m and 4.7m above natural ground level (NGL).

LPP 142 allows a boundary wall up to 3m high along one side boundary.

East Side Boundary

Common with Proposed Unit 2

The boundary wall for a tandem double garage on the east side is 11.2m long.

LPP 142 limits the length of boundary walls along one side boundary to 9m.

West Side Boundary

Common with Existing Single House

1. The boundary wall for a ground floor bedroom, bathroom and stairwell on the west side is 9.2m long.

2. The boundary wall for an upper floor terrace, living room, stairwell and kitchen is 11m long.

LPP 142 limits the length of boundary walls to 9m along one side boundary.

Access and Parking

The proposed tandem garage for Unit 1 is situated approximately 26m away from the proposed crossover to May Street.

The RDC state:

*“A4.4 Driveways designed for vehicles to enter the street in forward gear where:
- the distance from a car space to street alignment is 15m or more;”*

Based on this ‘acceptable development standard’ under the RDC vehicles from the garage for Unit 1 should be able to enter May Street in a forward gear.

However the plans for the application show that there is insufficient manoeuvring space for vehicles to do this based on the Australian Standard 2890 (Standards Association of Australia [2004] AS 2890.1 – 2004 *Parking facilities Part 1: Off-street car parking*).

The RDC cross-refer to these standards in as much as they relate to residential properties.

Open Space

The application proposes that Unit 1 be provided with 36.2% open space.

The RDC recommend 45% open space for development at a density of R40.

Unit 2 (grouped dwelling nearest the east side boundary)

Boundary Setbacks

South Side Boundary

Common with 24 May Street

An upper floor kitchen is set back 1m from the south side boundary.

The RDC recommend a 1.2m setback.

North Side Boundary

Common with 20 May Street

An unscreened upper floor terrace is set back 3m from the north side boundary.

The RDC recommend a 7.5m setback.

East Side Boundary

Common with 21 Bedford Street

An upper floor kitchen, stairwell and living room are set back 1.57m from the east side boundary.

The RDC recommend a 1.6m setback.

Boundary Walls

The application proposes 3 boundary walls for Unit 2.

West Side Boundary

Common with Proposed Unit 1

The application proposes an 11.2m long X 2.2m high wall along the west side common with the tandem garage for Unit 1.

LPP 142 allows a boundary wall that is no longer than 9m along one side boundary.

East & South Side Boundaries

Common with 21 Bedford Street & 24 May Street

The application proposes a double garage with a 2.2m high X 6.25m long wall along the east side boundary common with 21 Bedford Street, and a wall varying in height up to 2.6m X 6m long along the south side boundary common with 24 May Street.

LPP 142 allows a boundary wall along one side boundary.

Access and Parking

Similarly, based on AS 2890.1 – 2004 *Parking facilities Part 1: Off-street parking* there is insufficient manoeuvring space for vehicles to leave the double garage for Unit 2 in a forward gear. This garage is situated approximately 30m away from the proposed crossover.

Open Space

The application proposes that Unit 2 be provided with 40.7% open space.

The RDC recommend 45% open space for development at a density of R40.

Discussion

R40 Development

The RDC allow for variations to the minimum site area required for a grouped dwelling based on the application/development satisfying the following performance criteria:

“3.1.3 Variation to the Minimum Site Area Required

The Commission may approve the creation of a lot of a lesser area and the Commission or a Council may approve a minimum site area of a Grouped Dwelling on a site area less than that specified on Table 1 provided that the proposed variation would meet the following criteria:

- *be no more than 5 per cent less in area than that specified on Table 1; and*
- *facilitate the protection of an environmental or heritage feature; or*
- *facilitate the development of lots with separate and sufficient frontage to more than one public street; or*
- *overcome a special or unusual limitation on the development of the land imposed by its size, shape or other feature; or*
- *allow land to be developed with housing of the same type and form as land in the vicinity and which would not otherwise be able to be developed; or*
- *achieve specific objectives of the local government Scheme and, where applicable, the Local Planning Strategy.” (RDC, page 45)*

The proposed minimum site area of each of the lots on which the 2 rear units will sit comprises 182.36m², which represents an 8.82% departure from the minimum prescribed under the RDC.

Therefore the variation can not be supported under dot points 1 and 2 above.

However it is contended that the size, shape and location of the existing house on the site limits the ability of the property from strictly complying with the RDC in terms of providing minimum site areas for the rear units.

The application can be supported on the basis of preserving the existing house.

The house at 22 May Street is given a category B+ rating in the Draft MI, which states for this type of property:

“Category B

Places of considerable local heritage significance

CATEGORY B

<i>State Register of Heritage Places</i>	<i>Town Planning Scheme No. 3 Heritage List</i>	<i>Heritage Survey / Municipal Inventory</i>	<i>Town Planning Scheme No. 3 Provisions</i>
No	Yes	Yes	Yes

Considerable heritage significance at a local level; places generally considered worthy of high level of protection, to be retained and appropriately conserved; provide strong encouragement to owners under the Town of East Fremantle Planning Scheme to conserve the significance of the place. A Heritage Assessment / Impact Statement to be required as corollary to any development application. Incentives to promote heritage conservation may be considered where desirable conservation outcomes may be otherwise difficult to achieve.” (Draft MI pages 3, 4 & 5)

Given its inclusion as a relatively highly rated property in the Draft MI it is considered reasonable to support this application based on preserving the existing house.

While it is not Heritage Listed clause 7.5 under TPS 3 allows Council to vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.6.2, which states:

“5.6.2 *In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners*

or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and*
- (b) have regard to any expressed views prior to making its determination to grant the variation.”*

Landowners potentially affected by this development were invited to comment on the application.

Additionally TPS 3, sub-clauses 5.3.4 and 5.3.5 state:

“5.3.4 Residential Development in Non-Residential Zones:

Subject to clause 5.3.5, where residential development is provided for in non-residential zones, a maximum density of R40 shall apply, although the local government may vary the requirements relating to bulk, form and setbacks so as to facilitate coordinated development, having regard to the local government's objectives for the Precinct.

5.3.5 Residential Development in the Town Centre Zone:

Notwithstanding the provisions of clause 5.3.4, the local government may approve residential development at a density in excess of R40 in the Town Centre Zone, where it is satisfied that the resultant design and mix of development will be consistent with the planning proposals contained in the Local Planning Strategy and accord with any approved development plan for the centre.”

There is no approved development plan for the town centre however the LPS states with regard to land use and design:

“Land Use

It is the Council's intention to achieve consolidated attractive development, which includes retail, office, community and residential uses around a central square. Shops and businesses would be encouraged at ground level and offices and residential development at upper levels except on the perimeter of the precinct where residential would be appropriate on all levels.

- Medium density housing (about R40-R80) including aged persons' accommodation may be appropriate where it does not impact upon neighbouring residential amenity.*
- The design of buildings needs to be of high quality and in keeping and a link with the heritage qualities of the Town.”*

The proposed development is on the fringe of the town centre along the east side of May Street, and backs onto a residential area (Residential R20 property along Bedford Street).

The submitted design indicates that the proposed buildings will be of high quality, and built so as not to dominate surrounding buildings by being constructed in cut, and on this basis the land use is considered appropriate to the context of the immediate locality in keeping with the intent for development in the Town Centre under the LPS.

Boundary Setbacks

The proposed setback variations are considered relatively minor not impacting on the amenity of adjoining property. The potentially affected landowners have not objected to the application on the basis of setback variations.

However, the owners of 24 May Street are concerned about the setbacks of the upper floor southern walls, and have asked for the south side boundary setbacks to be increased.

The setback for the upper floor wall for Unit 1 complies however the setback of the upper floor wall for Unit 2 needs to be increased from 1m to 1.2m to comply.

Given that the overshadow created by these walls is less than the recommended limit, and given the limited area available for development of the two grouped dwellings, it is not considered reasonable to require increased setbacks, except for compliance for Unit 2.

The overlooking by the upper floor terraces from Units 1 and 2 into 20 May Street is of a double carport and parking area at its rear.

Therefore the overlooking does not impact on privacy, and the terraces need not be screened.

Boundary Walls

The proposed boundary walls are required to make effective use of limited space at the rear of the existing house and to provide privacy and amenity for the development, and neighbouring property.

A number of these boundary walls abut each other, and the existing house, and therefore do not have any impact on the amenity of adjoining property.

The concern expressed by the dentist at 20 May Street, in regard to the reduction in light to the two bay windowed surgeries, by the parapet wall proposed for the extension to the existing house at 22 May Street, is not considered valid.

Presently this boundary contains a dilapidated "super 6" boundary fence which is rather drab in colour and vegetation in need of pruning.

An appropriately finished and coloured boundary wall is considered to substantially improve the outlook and light available to the dental surgeries.

Therefore it is considered reasonable to allow this wall, noting that the height variation is not particularly significant.

Access and Parking

The application for two grouped dwellings at the rear of the single storey house does not provide sufficient turnaround areas for vehicles to leave the garages at the rear, and enter May Street in a forward gear.

This is considered largely as a consequence of there not being sufficient space to accommodate two grouped dwellings, whereas an application for one additional dwelling unit is likely to have sufficient land area to provide the recommended turnaround space.

Notwithstanding the lack of sufficient space for turnaround areas the reversing distance is not considered unreasonably long, the width of the driveway at 3m more than adequate, and is similar to the situation that exists at many properties in East Fremantle.

This aspect of the application is not considered to be a significant detraction, and can be supported.

Open Space

The application results in the provision of 48.38% open space for the existing house, and provision of 36.2% and 40.7% for Units 1 and 2 respectively.

The shortfall for the two grouped dwellings is not considered significant, and has no impact on the existing streetscape.

If the common property driveway is included into the equation, the 2 units have more than the requisite amount of open space.

Conclusion

The house at 22 May Street is not on Council's Heritage List under TPS 3 therefore there is limited (if any) protection of it in the longer term. This would be unfortunate given its relatively high heritage rating in the Draft MI, and its contribution to the streetscape of the Town Centre zone.

However if the house is demolished the property would then have sufficient "uninterrupted" land space to accommodate 3 grouped dwellings, which comply in all respects with the recommended standards for open space, vehicle turnaround, boundary setbacks, for an R40 development.

While the application involves a number of variations it is supported because it results in the retention of the old house, the maintenance of an attractive streetscape, in keeping with the spirit and intent for development in the Town Centre zone.

Construction of the proposed new dwellings at the rear will involve cut, which significantly reduces their impact on surrounding property, and not be readily visible from May Street. The single house at the front will continue to be the dominant streetscape element.

By being quite different in design the grouped dwellings highlight the historic difference and architecture of the existing house.

In light of the Town Planning Advisory Panel's comments in regard to the proposed changes to the front yard, terracing and fencing in the front setback of the existing house, it is considered desirable to retain the existing landscape.

RECOMMENDATION

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

Existing Residence

- (a) variation to east side boundary setback for kitchen, study, atrium and bathroom pursuant to Residential Design Codes from 1.00m to Nil;
- (b) variation to the north side boundary setback for kitchen/dining pursuant to Residential Design Codes from 1.00m to Nil;
- (c) variation to Local Planning Policy 142 for boundary walls which exceed 3.00m in height on east and north sides from 3.00m to 3.10m & 3.20m to 3.60m;
- (d) variation to Local Planning Policy 142 for boundary walls which exceed 9.00m in length on the east and north sides from 9.00m to 13.80m;

Unit (1) – Middle Unit

- (e) variation to percentage of open space recommended pursuant to Residential Design Codes from 45% to 36.2%;
- (f) variation to the north side setback for an unscreened upper floor terrace from 7.50m to 3.00m pursuant to Residential Design Codes;
- (g) variation to the east side setback for an upper floor living and kitchen from 1.60m to 1.50m and laundry from 1.20m to Nil pursuant to Residential Design Codes;
- (h) variation to the west side setback for ground floor bedroom (2), bathroom & stairs and upper floor terrace, living, stairs & kitchen from 1.00m to Nil pursuant to Residential Design Codes;
- (i) variation to Local Planning Policy 142 for boundary walls which exceed 3.00m in height on north, east and west sides from 3.00m to 4.40m to 4.70m & 6.20m respectively;
- (j) variation to Local Planning Policy 142 for boundary walls which exceed 9.00m in length on east and west sides from 9.00m to 11.20m, 9.20m & 13.20m respectively;

Unit (2) – Rear Unit

- (k) variation to percentage of open space recommended pursuant to Residential Design Codes from 45% to 40.7%;
- (l) variation to the south side setback for an upper floor kitchen from 1.20m to 1.00m pursuant to Residential Design Codes;
- (m) variation to the north side setback for an unscreened upper floor terrace from 7.50m to 3.00m pursuant to Residential Design Codes;
- (n) variation to the east side setback for a garage from 1.00m to Nil and an upper floor kitchen, stairs, living & terrace from 1.60m to 1.57m pursuant to Residential Design Codes;
- (o) variation to the west side setback for bedroom (1), ensuite and entry from 1.00m to Nil pursuant to Residential Design Codes;
- (p) variation to Local Planning Policy 142 for a boundary wall which exceeds 9.00m in length on the west side from 9.00m to 9.20m;

for the construction of two 2-storey grouped dwellings at the rear of No. 22 (Lot 67) May Street, East Fremantle and alterations including restoration works to the single storey house at the front in accordance with the plans date stamp received on 7 August 2007 subject to the following conditions:

1. prior to the issue of a Building Licence the applicant is to submit amended plans for the retention of all existing landscaping, fencing and verandah treatments for the existing house, and for the south side boundary setback for the upper floor wall of Unit 2 to be 1.2m;
2. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. the proposed grouped dwellings including the single house at the front are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
8. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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

Two items of late correspondence referred from MB Ref: T88.1 were tabled.

Mr Mark Pastorino (adjoining neighbour) and Messrs Rodney O'Byrne & Mr Terry McGee (representing the owners) addressed the meeting.

Cr Olson

That the officer's recommendation be adopted.

MOTION LAPSED FOR WANT OF A SECONDER

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Harrington

That Council refuse the application for two x two storey grouped dwellings to the rear of No. 22 (Lot 67) May Street, East Fremantle and alterations including restoration works to the single storey house to the front of the lot on the following grounds:

- 1. the proposal constitutes over development of the site;**
- 2. number of discretions sought; and**
- 3. comments of the Town Planning Advisory Panel.**

CARRIED

Reasons for Not Supporting Officer's Recommendation

The Committee were of the view that the proposal could not be supported for the reasons outlined above.