

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 14 AUGUST 2007, COMMENCING AT 6.30PM.

PART II

T80.8 **Canning Highway No. 83 (Lot 123)**
Applicant: MacCormac Architects
Owner: Canning 83 Pty Ltd
Application No. P98/07
By Chris Warrener, Town Planner on 25 July 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 4-storey Mixed Use development comprising an existing ground floor commercial building divided into 3 shops, with new development comprising 4 offices, and two 2-bedroom residential apartments on 3 upper levels.

The two apartments are on the top/fourth level.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Canning Highway Mixed Use zone
Local Planning Strategy - Plympton Precinct (LPS)
Residential Design Codes (RDC)

Documentation

Plans and relevant forms date stamp received on 4 May 2007

Date Application Received

4 May 2007 & 17 May (Revised)

Additional Information Received

17 May 2007	Amended plans and cover letter received;
25 May 2007	Heritage Report (Ronald Bodycoat) received;
2 July 2007	Photo image of proposed development in existing built context.
4 July 2007	Additional heritage advice in response to Town Planning Advisory Panel comments.

Advertising

Adjoining land owners & sign on site

Date Advertised

1 June 2007

Close of Comment Period

19 June 2007

No. of Days Elapsed between Lodgement & Meeting Date

89 days (Revised)

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

17 August 2004

Council resolved to defer consideration of an application for a Mixed Use development comprising commercial use on the ground floor with 4 residential units on 3 upper levels pending:

"1. receipt of:

- (a) additional visual details that would assist councillors to address issues such as appearance, bulk and scale, setbacks and impact of proposal; and
- (b) additional information on the car parking to be provided in particular the issue of entry and egress.

2. *the Chief Executive Officer in consultation with relevant officers clarifying issues relating to the relaxation of plot ratio in respect of Town Planning Scheme No 2 and No 3 for Mixed Use/Residential and any other relevant matters.*
3. *receipt of a satisfactory Conservation Plan and accompanying Heritage Impact Statement regarding the proposed development, with such plan and impact statement to be prepared at the applicant's expense by an experienced consultant listed in the current Heritage Council of WA Directory of Consultants.*

Footnote

The applicant be encouraged to address some of the issues of non compliance in the new development eg building height, bulk and scale, parking and building design."

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel (TPAP) at its meeting held on 26 June 2007 and the following comments were made:

- existing shops should not be dominated by the proposed building
- need to investigate original roof design if different to existing
- too dominant in the corner and nothing of that scale in close proximity
- should be maximum of 3 storeys and no higher than adjoining Tradewinds
- design appropriate, not inconsistent with Tradewinds, but overwhelming on corner
- applicant to be commended for retaining and conserving shops
- important that details of the conservation works (colours, finishes, materials, detailing) be submitted to Council for planning approval

Referral to Other Authorities

DPI & MRWA

Public Submissions

At the close of the comment period no submissions were received, however DPI and MRWA object to the application because it proposes development which encroaches the MRS reserve for Canning Highway.

Site Inspection

By Consultant Town Planner on 31 May 2007.

REPORT

Issues

Heritage

The premises are currently used as the "Port Liquor Store", and "Mon Computers".

The building is not heritage listed pursuant to TPS 3 however it is listed in the Draft MI with a B+ Management Category.

It is described as being from the "Federation" period in a "Free Classical" style.

The Draft MI states the following for a B rated property:

"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."

The applicant has submitted a Heritage Report, and proposes to restore and conserve the existing building.

DPI Advice

The application was referred to DPI and MRWA for comment because the property is affected by a section of Canning Highway which is reserved as a Primary Regional Road (PRR) in the Metropolitan Region Scheme (MRS).

The Urban Transport Systems branch of DPI (acting for the Western Australian Planning Commission) advises:

“.....the Department does not support the proposed development as submitted. The Department would support a modified proposal that takes into account the 8.48m corner truncation PRR requirement for Canning Highway, as per WAPC Land Requirement Plan number 1.3191/2”

MRWA Advice

“The proposed development is unacceptable to Main Roads as it proposes development within the proposed road widening as shown on plan 1.3191/2 (attached)”

Discussion

The PRR reserve comprises a proposed corner truncation, which if constructed will result in the demolition of a part, possibly all of the single storey building currently situated at 83 Canning Highway.

Categorised with a B+ rating in the Draft MI this building is considered to have heritage significance and should be retained, and it would be a great shame if it had to be substantially altered or demolished to accommodate a corner truncation.

Upon receiving the objections from DPI the author contacted the department and followed up with an email (copy attached) to advise that the building is on Council's Draft MI with a high (B+) rating, and it was therefore important to retain it.

DPI subsequently advised:

“as it stands at the moment DPI is standing by its previous advice”

Council has no option but to refuse the application as submitted because the proposal does not accord with the purpose for which the land is reserved.

RECOMMENDATION

That Council refuses to grant approval for the construction of a 4-storey Mixed Use development comprising an existing ground floor commercial building divided into 3 shops, with new development comprising 4 offices, and two 2-bedroom residential apartments on 3 upper levels on Lot 123 (No. 83) Canning Highway, East Fremantle in accordance with the plans date stamp received on 17 May 2007 on the grounds that the proposal does not accord with the purpose for which the land is reserved.

Mr Kym MacCormac (architect) addressed the meeting stating that the heritage building at No. 83 Canning Highway is worth keeping and the proposed development acknowledges its importance by responding appropriately to it. Mr MacCormac sought the Committee's response on whether they would like to see the building retained.

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Dobro

That:

- 1. Council refuses to grant approval for the construction of a 4-storey Mixed Use development comprising an existing ground floor commercial building divided into 3 shops, with new development comprising 4 offices, and two 2-bedroom residential apartments on 3 upper levels on Lot 123 (No. 83) Canning Highway, East Fremantle in accordance with the plans date stamp received on 17 May 2007 on the grounds that the proposal does not accord with the purpose for which the land is reserved.**
- 2. Given the property's B⁺ rating in the Draft Town of East Fremantle Municipal Inventory the Chief Executive Officer in consultation with relevant officers,**

enter into negotiations with Main Roads WA and the Department for Planning & Infrastructure.

Footnote:

Council does want this building restored and retained and would support some redevelopment of the site with retention and restoration of the existing building as an integral factor. CARRIED

T80.9

Allen Street No. 82A (Lot 2)

Applicant/Owner: Jonathon Paul Rose

Application No. P81/07

By Chris Warrener, Town Planner on 25 July 2007

BACKGROUND

Description of Proposal

An Application for Permission to Conduct a Home Occupation – Sustainability Education Consultants at 82A Allen Street

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5

Documentation

Relevant forms date stamp received on 27 June 2007

Date Application Received

27 June 2007

No. of Days Elapsed between Lodgement & Meeting Date

48 days

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

20 March 1989	Council refuses an application to erect a 2-storey residential/studio development at the rear of 82 Allen Street;
21 August 1989	Council grants special approval for the erection of a 2-storey dwelling unit with a 2-storey studio/come bedroom wing attached, and a garage/outbuilding;
16 March 1990	Building Licence 1659 issued for 2-storey house & garage;
27 December 1990	Council grants approval for a study and bedroom to the upper level of the house at 82A Allen Street;
2 April 2001	Building Licence 191/2000 issued for bedroom and study;

REPORT

Issues

Home Occupation

The applicant is a Sustainability Education Consultant who proposes to work from home.

The hours of operation are 9am to 5pm, and the business makes use of an office with computer and telephone, with visits from clients/customers estimated at 2 per week.

Home Occupation is a “D” use in the Residential zone, which means:

“that the use is not permitted unless the local government has exercised its discretion by granting planning approval.” (TPS 3, sub-clause 5.3.2)

Discussion

The proposed consultancy business is considered to be a relatively low key activity, which will have no impact on the amenity of adjoining or nearby property, or on the neighbourhood generally.

Working from home is considered to be an efficient and "green" use of resources, and is therefore strongly supported.

RECOMMENDATION

That Council grants permission for the conduct of the Home Occupation – Sustainability Education Consultant from the upper floor study at No. 82A (Lot 2) Allen Street, East Fremantle in accordance with the application date stamp received on 27 June 2007 subject to the following conditions:

1. Hours of Operation from 9am to 5pm Monday to Friday;
2. This approval is valid for 12months, unless the annual renewal fee is paid prior to 21 August 2008.

Footnote:

The following is not a condition but a note of advice to the applicant/owner:

An Annual Renewal Fee for this Home Occupation is required to be paid prior to the expiry date specified in Condition (2) to enable continuation of the consultancy business.

RECOMMENDATION TO COUNCIL

Mayor O'Neill – Cr Martin

That Council grants permission for the conduct of the Home Occupation – Sustainability Education Consultant from the upper floor study at No. 82A (Lot 2) Allen Street, East Fremantle in accordance with the application date stamp received on 27 June 2007 subject to the following conditions:

1. Hours of Operation from 9am to 5pm Monday to Friday;
2. This approval is valid for 12months, unless the annual renewal fee is paid prior to 21 August 2008.

Footnote:

The following is not a condition but a note of advice to the applicant/owner:

An Annual Renewal Fee for this Home Occupation is required to be paid prior to the expiry date specified in Condition (2) to enable continuation of the consultancy business.

CARRIED

T80.10

Fraser Street No. 53A (Lot 134)

Applicant/Owner: Ashley Lowth

Application No. P123/07

Delegated Authority Report

By Chris Warrener, Town Planner on 25 July 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 6.2m long X 3.2m wide X 3.4m high gable roofed patio fixed to the rear (north side) of the 2-storey house at 53A Fraser Street.

Statutory Requirements

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 22 June 2007

Date Application Received

22 June 2007

Advertising

Adjoining land owners only

Date Advertised

29 June 2007

Close of Comment Period

13 July 2007

No. of Days Elapsed between Lodgement & Meeting Date

53 days

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

15 February 2005	Council approves a 2-storey house on the rear battleaxe lot;
25 February 2005	Building Licence 25/3701 issued for 2-storey house;
12 September 2006	Building Licence 06/188 issued for pre-cast concrete post & rail retaining wall.

CONSULTATION**Public Submissions**

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

Site Inspection

By Consultant Town Planner on 12 September 2006

REPORT**Issues**Boundary Setbacks

The proposed patio is set back 1.2m from the north side boundary common with 49A and 49B Pier Street.

The RDC recommend a 1.5m setback.

Discussion

The variation proposed to the boundary setback, comprising 0.3m, is considered relatively minor. Being an open sided structure the patio is not considered to impact negatively on the amenity of the potentially affected properties.

The potentially affected property owners have not objected to the application.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.2 for the construction of a 6.2m long X 3.2m wide X 3.4m high gable roofed patio fixed to the rear (north side) of the 2-storey house at No. 53A (Lot 134) Fraser Street, East Fremantle in accordance with the plans date stamp received on 22 June 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

4. 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.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Martin – Mayor O’Neill

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.2 for the construction of a 6.2m long X 3.2m wide X 3.4m high gable roofed patio fixed to the rear (north side) of the 2-storey house at No. 53A (Lot 134) Fraser Street, East Fremantle in accordance with the plans date stamp received on 22 June 2007 subject to the following conditions:

1. **the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council’s further approval.**
2. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **the proposed patio is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
4. **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.**
5. **this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

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

CARRIED

T80.11

Irwin Street No. 73 (Lot 217)

Applicant & Owner: Gay Meehan

Application No. P149/07

By Chris Warrener, Town Planner on 30 July 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a single storey studio at the rear of 73 Irwin Street.

Statutory Requirements

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 27 July 2007

Date Application Received

27 July 2007

Advertising

Potentially affected adjoining landowner has endorsed applicant's plans. The potentially affected landowner (Guy Mazzeo) is the designer of the studio.

No. of Days Elapsed between Lodgement & Meeting Date

18 days

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

20 October 1986	Council refuses special approval for additions including a garage with a parapet wall on the north side boundary;
24 December 1987	Building Licence 125/1366 issued for additions;
8 May 1990	Building Licence 51/90/1681 issued for concrete brick & tile extensions comprising a garage and a bedroom;

Site Inspection

By Consultant Town Planner on 8 February 2007

STATISTICS	Required	Proposed
Land Area		1012m ² Existing
Open Space	50%	70.75% Acceptable
Zoning		R12.5
Heritage Listing		Draft MI
<u>Setbacks:</u>		
Rear (west)	6.00	8.20 Acceptable
Side (south) Room (1)	1.50	11.10 Acceptable
Room (2)	1.50	16.10 Acceptable
Side (north) Room (2)	Nil	<i>LPP 142</i> Nil Acceptable
<u>Height:</u>		
Wall	6.00	3.20 Acceptable
Building	9.00	3.70 Acceptable
Parapet Wall Height	3.00	3.20 Discretion Required

REPORT

Issues

Boundary Wall Height

The proposed studio incorporates a 7m long X 3.2m high parapet wall on the north side boundary common with 73 Irwin Street.

LPP 142 states:

“(a) Walls are not higher than 3m and up to 9m in length up to one side boundary;”

Discussion

Apart from the minor variation to boundary wall height there are no other variations for which Council's discretion is required to be exercised.

The design of the proposed studio incorporating 30° pitched roof is considered to be in keeping with the character and style of the existing single storey house to the front, and is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for the following variation to the height of a parapet wall on the north side boundary pursuant to Local Planning Policy 142 from 3m to 3.2m for the construction of a single storey studio at the rear of No. 73 (Lot 217) Irwin Street, East Fremantle in accordance with the plans date stamp received on 27 July 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed studio is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. 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.
5. 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.
6. that within two years of construction Council may request that the zincalume roofing be treated to reduce reflectivity, at the applicant/s expense.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr Martin – Mayor O'Neill

That Council exercise its discretion in granting approval for the following variation to the height of a parapet wall on the north side boundary pursuant to Local

Planning Policy 142 from 3m to 3.2m for the construction of a single storey studio at the rear of No. 73 (Lot 217) Irwin Street, East Fremantle in accordance with the plans date stamp received on 27 July 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed studio is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. 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.
5. 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.
6. that within two years of construction Council may request that the zincalume roofing be treated to reduce reflectivity, at the applicant/s expense.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

T80.12 **Silas Street No. 5-7 (Suite B)**
Applicant: Dr N.P. Lenzo
Owner: Robyn Lenzo Trustee for the RNL Trust
Application No. P143/2007
By Chris Warrener, Town Planner on 7 August 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for the use of Suite B, 5-7 Silas Street as Specialist Medical Consulting Rooms (Ophthalmologist).

Statutory Requirements

Town Planning Scheme No. 3 – Town Centre
Local Planning Strategy – Town Centre Precinct (LPS)

Documentation

Plans and relevant forms date stamp received on 19 July 2007

Date Application Received

19 July 2007

Advertising

Adjoining land owner (shopping centre) only

Date Advertised

24 July 2007

Close of Comment Period

3 August 2007

No. of Days Elapsed between Lodgement & Meeting Date

26 days

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

19 April 2005	Council grants approval for the construction of a mixed use development (8 residential dwellings and ground floor office space) at 5-7 Silas Street;
2 June 2005	Former Town Planner Kelvin Oliver approves relocation of Dental Surgery to 5-7 Silas Street;
15 February 2006	WAPC conditionally approves the amalgamation of 5 & 7 Silas Street (see below);
1 May 2007	Building Licence BL07/127 issued for internal office fit-out (ground floor)

CONSULTATION

Public Submissions

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

Site Inspection

By Consultant Town Planner on 23 July 2007

REPORT

Issues

Land Use

When Council conditionally approved the mixed use development at 5-7 Silas Street the approval was for “*the construction of a mixed use development (8 residential dwellings and ground floor office space)*”.

This application is for the use ‘consulting rooms’ (Ophthalmologist) for a portion of the ground floor of the 2-storey mixed use development at 5-7 Silas Street (in Suite B) therefore this is a change of use application.

“Consulting Rooms” is a “P” use in the Town Centre zone.

“P” means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.” (sub-clause 4.3.2, TPS 3, p. 10)

The earlier officer level approval of a dental surgery (see above) should not have occurred. The matter should have been referred to elected members. The CEO should also have been advised of the situation.

While legally the approval may be irrevocable (as permission was granted the decision acted on) there are other issues involved in that the original plans for the dental surgery did not give rise to increased parking requirements (i.e. vis-à-vis office requirements) whereas the new plans appear to. This matter is currently under consideration.

Parking

Schedule 11 to TPS 3 specifies the following car parking requirement for the use consulting rooms:

Consulting Rooms	2 spaces for every consulting room, plus 1 space for every staff member.
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The application proposes 2 consulting rooms, with 1 medical specialist and 1 full time medical secretary on site therefore the use requires the provision of 6 car spaces.

There are 2 car spaces in front of the consulting rooms, albeit occupying a portion of the public domain (in the verge) and a portion of the subject property (subject to an easement in favour of the Town of East Fremantle to maintain public access), and 2 dedicated spaces at the rear undercover.

A total of 4 spaces are available for the use therefore there is a shortfall of 2 parking spaces.

Discussion

Consulting rooms is a permitted use in the Town Centre zone provided “the use complies with the relevant development standards and requirements of the Scheme”.

However in this particular case there is a parking shortfall as the application does not provide parking in accordance with the standard specified in Schedule 11 to TPS 3, therefore Council’s discretion is required to be exercised to allow the use.

The following provision under TPS 3 empowers Council to permit a variation to a site or development standard subject to certain conditions:

“5.6 Variations to site and development standards and requirements

- 5.6.1. Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.*
- 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.*
- 5.6.3. The power conferred by this clause may only be exercised if the local government is satisfied that —*
 - (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and*

- (b) *the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.”*

In regard to sub-clauses 5.6.1 and 5.6.2 the identified parking shortfall was considered to potentially primarily impact on the adjoining shopping centre so the adjoining property owner was invited to comment on the application.

In a meeting with the Town Planner the adjoining property owner (Mr Russell Quinn) advised that his company would not raise any objections to the application.

In regard to sub-clause 5.6.3 the criteria listed under clause 10.2 considered relevant to this application are:

- (a) the aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);

The property is in the Town Centre zone and the application is for a use which is permitted in this zone therefore complying with the aims, objectives and provisions of the Scheme.

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

The use consulting rooms is considered to be a compatible land use permitted in the Town Centre zone.

- (o) the preservation of the amenity of the locality;

The locality is a mixed use area primarily the main shopping precinct of East Fremantle and the use consulting rooms is considered to be compatible with, and will improve the amenity of the area in terms of the medical services available to the community.

- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;

Right angle car parking is available immediately adjacent at the front of the building, and a centrally located access driveway is in place for the tenants/applicants to dedicated parking at the rear.

- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

The consulting rooms will not generate any more traffic than would otherwise be generated by the adjoining shopping centre, likely it will generate less traffic than the adjacent retail uses.

- (s) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;

The subject property is situated walking distance from the nearest bus stop on Canning Highway.

- (u) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);

While purpose built facilities are not presently provided for cyclists this report recommends their provision as a condition of approval.

- (v) whether adequate provision has been made for access by disabled persons;

A dedicated disabled parking space exists immediately adjacent to the subject site.

- (z) any relevant submissions received on the application;
- (za) the comments or submissions received from any authority consulted under clause 10.1.1;

The owner of the potentially affected adjoining property supports the application.

- (zb) any other planning consideration the local government considers relevant;

See "Options" below.

Options

In lieu of the 2 space parking shortfall it is recommended that Council consider the following options, noting that (a), (c) & (d) (b is a variation of a) are exactly as provided for in the relevant TPS No. 3 provisions.

- (a) Accept the shortfall;

This option could set an undesirable precedent in light of the potential future redevelopment of the town centre area, and decisions made previously in regard to recent new developments in the town centre (e.g. 12 Silas Street).

- (b) Accept the shortfall subject to the applicant providing the equivalent bicycle parking (i.e. 2 bike racks);

This option recognises the need for parking to be provided for all vehicle users not just motor vehicles.

- (c) Require that the owner/tenant arrange to Council's satisfaction an off-site parking alternative;

For example there are other properties in the immediate area where arrangements may be made with the owner of that property. In the event such an arrangement (if this was Council's decision) proved impossible to obtain, the matter could be reconsidered.

- (d) Require cash-in-lieu

Conclusion

The parking shortfall in this case is not considered significant.

In an effort to promote sustainable transport alternatives not presently promoted or provided in the Town Centre it is considered reasonable to allow the shortfall however to require the provision of bike parking in lieu of the car parking shortfall, and in light of TPS 3 sub-clause 10.2 (u).

The applicant was contacted to discuss this matter, and advised that he positively supports the provision of purpose built facilities for cyclists.

The recommended facility is the "U" rail. The cost of a stainless steel "U" rail is \$342.00 plus GST, plus \$150.00 installation (prices obtained from Forpark). The rails are cemented into the ground.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the parking requirement pursuant to Schedule 11 to Town Planning Scheme No 3 from 6 car parking spaces to 4 for a change of use of the premises known as Suite B at 5-7 Silas Street, East Fremantle from Office to Consulting Rooms in accordance with the documentation date stamp received on 19 July 2007 subject to the following conditions:

1. in lieu of the shortfall for 2 car parking spaces the applicant is to pay the cost of purchase and installation of 2 stainless steel "U-rail" bicycle parking racks in front of the premises;

2. the proposed consulting rooms 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.

Footnote:

The following is not a condition but a note of advice to the applicant/owner:

This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.

RECOMMENDATION TO COUNCIL

Cr Martin – Mayor O’Neill

That Council exercise its discretion in granting approval for a variation to the parking requirement pursuant to Schedule 11 to Town Planning Scheme No 3 from 6 car parking spaces to 4 for a change of use of the premises known as Suite B at 5-7 Silas Street, East Fremantle from Office to Consulting Rooms in accordance with the documentation date stamp received on 19 July 2007 subject to the following conditions:

1. in lieu of the shortfall for 2 car parking spaces the applicant is to pay the cost of purchase and installation of 2 stainless steel “U-rail” bicycle parking racks in front of the premises;
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Footnote:

The following is not a condition but a note of advice to the applicant/owner:

This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.

CARRIED

T81. REFERRED BUSINESS (NOT INCLUDED ELSEWHERE)

Nil.

T82. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T82.1

George Street No. 90 (Lot 536)

Applicant: Groundworks Demolition

Owner/s: Palermo Nominees & S Tornatore

(Application No. B07/202)

By Stuart Wearne, Chief Executive Officer on 14 August 2007

PURPOSE

The purpose of this report is to facilitate a Council decision on a demolition application for the above property.

BACKGROUND

Council files contain only a limited history of the property as the file commences only from 11 March 1960 – this document involving an application for the distinctive roof mounted sign which remains on the building.

The current owner has owned the property since 1982.

Council received a noise complaint in 2001 which also contained references to structures on the property being in disrepair.

A Council works order was served on the property in 2002, in relation to a range of environmental issues. Shortly afterwards (in December 2002) the Department of Mineral & Petroleum Resources ordered the removal of all underground tanks, to be carried out by 30 August 2004.

In 2003 the Department of Mineral & Petroleum Resources ordered the removal of various other materials.

On 27 September 2004 Council was advised by the owner that the dry cleaning activity had ceased and applied to demolish all of the structures on the property.

However by virtue of the fact the property is located within the George Street Precinct and thus, by definition, a Place of Heritage value, the owner was asked to submit an appropriate heritage assessment. This was not however received until recently (see below).

What has essentially occurred since 2005, primarily involving planning, building and health staff, has been various attempts (all unsuccessful) to ensue compliance by the owner with previous orders issued in respect of the property.

The Chief Executive Officer advised Council (Council Minutes 15 May 2007) that, together with the Principal Environmental Health Officer, he had arranged to meet with the owner shortly.

At that meeting the owner was spoken to in very direct terms regarding the state of the property and the pattern of non compliance with Council's requests. In response the owner raised various financial and other personal issues. The Chief Executive Officer advised the owner that he would be subject to legal action in the near future if he did not comply with Council's directives.

The owner did not agree at that time to carry out Council's requirements and an order was subsequently served under the Health Act 1911 (pursuant to provisions concerning a property being unfit for habitation) to "totally demolish the whole of the factory building and all associated buildings" (with the site being) "cleared of all debris, disused equipment, broken glass and rubbish", by 31 July 2007.

Other orders in relation to the removal of underground tanks, issued by the Dangerous Goods Safety Branch of the Department of Consumer & Employment Protection remained in place.

It appeared in early July 2007 the orders may be ignored and the consequences, should this occur, was raised with the owner, particularly after an incident on 7 July 2007 in which three young boys, all aged about 8, were found by police shortly after having set fire to the old laundry on the property.

CURRENT SITUATION

An application for a demolition licence was received on 1 August 2007.

Technically this was not required because, as indicated above, an order had been served on the owner under the Health Act, however it was fortuitous it was received as administrative processes which follow a demolition licence application revealed (i) the assessment of the heritage significance of the building as prepared by John Kirkness and contained in Council's adopted Draft Municipal Inventory (ii) advice on the previous request for a heritage assessment, which Council had never received.

Regarding (ii) above, it was then discovered from the property's owner that a Heritage Assessment *had* been prepared in 2004, however never previously submitted to Council.

DISCUSSION

In short, the two assessments are somewhat at odds with each other.

John Kirkness' brief assessment gives the building a B[^] rating (meaning 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."

The 2004 detailed Heritage Assessment however concluded "the place is of little significance".

In the event there was a view of elected members that the facade and roof sign may be considered worth retaining, at least at this time, the owner's views were sought on this possibility, however he appeared opposed to this, citing the 2004 heritage assessment he had commissioned at Council's request.

In the Chief Executive Officer's view Council would be in a very difficult position if it sought to oppose any aspect of the demolition, due to:

- (i) the heritage assessment obtained by the owner;
- (ii) the order served under the Health Act;
- (iii) the lack of detail in "Council's" heritage assessment.

If Council nevertheless wished to proceed down this route a structural engineer's report would be required. This would be at Council's expense. The structural engineer's report could weaken Council's position even further.

CONCLUSION

Having considered the John Pidgeon Heritage Assessment, the state of the property, likely structural issues and the complications of potentially conflicting Health Act legislation, the author is of the view that Council should proceed to support a demolition of all structures on the property.

RECOMMENDATION

That a demolition licence be issued for the complete removal of all structures at No. 90 (Lot 536) George Street, East Fremantle.

Mayor O'Neill – Cr Olson

That a demolition licence be issued for the complete removal of all structures at No. 90 (Lot 536) George Street, East Fremantle.

LOST ON THE CASTING VOTE OF THE PRESIDING MEMBER

Under s.5.21(4)(b) of the Local Government Act 1995, Mayor O'Neill requested that the voting of Council members be recorded.

Mayor O'Neill and Crs Martin & Olson voted in favour of the recommendation with Crs Dobro, Harrington & Wilson having voted against the motion.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Harrington

That the matter of No. 90 George Street be considered at the August meeting of Council where the author of the report, the Chief Executive Officer, will be available to answer questions.

CARRIED ON THE CASTING VOTE OF THE PRESIDING MEMBER

T83.

CLOSURE OF MEETING

There being no further business the meeting closed at 9.00pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **14 August 2007**, Minute Book reference **T75. to T83.** were confirmed at the meeting of the Committee on*

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Presiding Member