



**SHIRE OF PEPPERMINT GROVE**

**MINUTES OF THE**

**ORDINARY MEETING OF COUNCIL**

**HELD ON**

**21 APRIL 2008**

# Ordinary Meeting of Council

21 APRIL 2008

## TABLE OF CONTENTS

<b>Item</b>	<b>Subject</b>	<b>Page</b>
<b>A1</b>	<b>DECLARATION OF OPENING AND RECORDING OF ATTENDANCE &amp; APOLOGIES</b>	<b>1</b>
<b>A2</b>	<b>DELEGATIONS</b>	<b>1</b>
<b>A3</b>	<b>QUESTIONS BY MEMBERS OF THE PUBLIC</b>	<b>1</b>
<b>A4</b>	<b>DECLARATION OF INTEREST</b>	<b>8</b>
	<i>A4.1 Cr Kavanagh</i>	8
	<i>A4.2 Cr Bacich</i>	8
	<i>A4.3 Cr Ward</i>	8
<b>A5</b>	<b>CONFIRMATION OF MINUTES OF PREVIOUS MEETING</b>	<b>8</b>
	<i>The Minutes of the Ordinary Meeting of Council held on 17 March 2008 be confirmed</i>	8
<b>A6</b>	<b>ANNOUNCEMENTS BY PRESIDENT WITHOUT DISCUSSION</b>	<b>9</b>
	<b>REPORTS OF THE WORKS &amp; FINANCE COMMITTEE</b>	<b>9</b>
<b>A2</b>	<b>DELEGATION OF VISITORS</b>	<b>9</b>
<b>A3</b>	<b>QUESTIONS BY MEMBERS OF THE PUBLIC</b>	<b>9</b>
<b>A4</b>	<b>DECLARATION OF INTEREST</b>	<b>9</b>
<b>FE</b>	<b>FINANCE CONTROL &amp; EXPENDITURE</b>	<b>9</b>
	<i>FE1 ACCOUNTS FOR PAYMENT</i>	9
		COUNCIL DECISION - 50/APR 08.....10
	<i>FE2 FINANCIAL STATEMENTS</i>	10
		COUNCIL DECISION - 51/APR 08.....11
	<i>FE3 INVESTMENTS</i>	11
		COUNCIL DECISION - 52/APR 08..... 13
	<i>FE4 REQUEST FOR DONATION</i>	14
		COUNCIL DECISION - 53/APR 08.....14
	<i>FE5 CONSULTANTS FEES LIBRARY PROJECT</i>	15
		COUNCIL DECISION - 54/APR 08.....16

<b>W</b>	<b>WORKS</b>	<b>17</b>
W1	SHIRE DEPOT ARRANGEMENTS	17
	COUNCIL DECISION - 55/APR 08.....	18
W2	CURTIN AGED PERSONS HOMES	19
	COUNCIL DECISION - 56/APR 08 .....	21
W3	RIGHT OF WAY PROPOSED UPGRADE	21
	COUNCIL DECISION - 57/APR 08 .....	22
W4	REVIEW OF THE TRAFFIC MANAGEMENT STUDY	22
	COUNCIL DECISION - 58/APR 08 .....	24
W5	KEANE'S POINT RESERVE – PLAYGROUND AREA UPGRADE	24
	COUNCIL DECISION - 59/APR 08 .....	25
W6	STREET TREE REPORT	25
	COUNCIL DECISION - 60/APR 08 .....	27
W7	IRVINE STREET PARKING	27
	COUNCIL DECISION - 61/APR 08 .....	29
<b>FOP</b>	<b>OPERATIONAL ISSUES</b>	<b>29</b>
FOP1	PROJECT REPORT LIST	29
FOP2	POLICY RELATING TO STANDING ORDERS	29
FOP3	RANGER REPORT - March 2008	29
	COUNCIL DECISION - 62/APR 08 .....	30
FOP4	STOP SIGN CHANGE: VIEW AND FORREST STREET INTERSECTION	30
	COUNCIL DECISION -50/APR 08 .....	31
	<b>REPORTS OF THE HEALTH, BUILDING &amp; TOWN PLANNING COMMITTEE</b>	<b>31</b>
A2	DELEGATION /DEPUTATIONS	32
A3	QUESTIONS BY MEMBERS OF THE PUBLIC	32
A4	DECLARATION OF INTEREST	32
EH	ENVIRONMENTAL HEALTH	32
EH1	FOOD RECALL	32
	COUNCIL DECISION - 63/APR 08 .....	33
EH2	FOOD BUSINESS INSPECTIONS	33
	COUNCIL DECISION - 64/APR 08 .....	34
EH3	FOOD SAMPLES	34
AM	AMALGAMATIONS	34
SD	SUBDIVISIONS	34

<b>DA</b>	<b>DEVELOPMENT APPLICATIONS</b>	<b>34</b>
<i>DA1</i>	<i>ADDITIONS AND REFURBISHMENTS TO DWELLING – LOT 51 (20) IRVINE STREET PEPPERMINT GROVE (PC APPLIC NO. 008 - 52)</i>	<i>34</i>
	COUNCIL DECISION - 65/APR 08 .....	37
<i>DA2</i>	<i>PERGOLA ADDITION TO DWELLING – LOT 112 (16) HURSTFORD CLOSE PEPPERMINT GROVE (PC APPLIC NO. 008 - 51)</i>	<i>37</i>
	COUNCIL DECISION - 66/APR 08 .....	39
<i>DA 3</i>	<i>FENCING OF CEDED LAND ON RIGHT-OF-WAY – LOT 101 (26R) LEAKE STREET PEPPERMINT GROVE (PC APPLIC. 008 - 57)</i>	<i>39</i>
	COUNCIL DECISION - 67/APR 08 .....	43
<b>BLD</b>	<b>BUILDING</b>	<b>43</b>
<i>BLD1</i>	<i>BUILDING LICENCE VARIATIONS</i>	<i>43</i>
	COUNCIL DECISION - 68/APR 08 .....	45
<i>BLD2</i>	<i>HERITAGE</i>	<i>46</i>
<i>BLD3</i>	<i>BUILDING/DEMOLITION LICENSES APPROVED</i>	<i>46</i>
	COUNCIL DECISION - 69/APR 08 .....	48
<i>BLD4</i>	<i>BUILDING INSPECTIONS</i>	<i>48</i>
	COUNCIL DECISION - 70/APR 08 .....	49
<i>BLD5</i>	<i>SIGNS &amp; HOARDINGS</i>	<i>49</i>
<b>HOP</b>	<b>OPERATIONAL ISSUES</b>	<b>49</b>
<i>HOP 1</i>	<i>CONSTRUCTION OF NEW PUBLIC TOILET FACILITIES – KEANE’S POINT, RESERVE 22156 LILLA STREET PEPPERMINT GROVE</i>	<i>50</i>
	COUNCIL DECISION - 71/APR 08 .....	52
<i>HOP 2</i>	<i>INTERIM SHIRE DEPOT AND OPERATION STAFF FACILITIES – MANNERS-HILL RESERVE, JOHNSTON STREET PEPPERMINT GROVE</i>	<i>53</i>
	COUNCIL DECISION – 72 APR/08 .....	56
<i>HOP3</i>	<i>PROJECT REPORT LIST</i>	<i>56</i>
<b>DEL</b>	<b>DELEGATES REPORT</b>	<b>56</b>
<i>DEL1</i>	<i>WA LOCAL GOVERNMENT ASSOCIATION – CENTRAL ZONE MEETING</i>	<i>56</i>
<i>DEL2</i>	<i>Western Metropolitan Regional Council Meeting (WMRC)</i>	<i>57</i>
<b>CEO</b>	<b>CHIEF EXECUTIVE OFFICER’S REPORT</b>	<b>57</b>
<i>CEO1</i>	<i>MODEL CODE OF CONDUCT</i>	<i>57</i>
	COUNCIL DECISION – 73 APR/08 .....	58
<i>CEO2</i>	<i>SUPREME COURT JUDGEMENT</i>	<i>58</i>
	COUNCIL DECISION – 74 APR/08.....	58
<b>NBUS</b>	<b>NEW BUSINESS OF AN URGENT NATURE</b>	<b>58</b>
<i>NBUS1</i>	<i>UPPER LEVEL DISPERSED DWELLING ADDITION – LOT 48 (47) LEAKE STREET PEPPERMINT GROVE (PC APPLIC NO. 008 - 40)</i>	<i>58</i>
	COUNCIL DECISION – 77 APR/08 .....	63

<b>OP</b>	<b>OPERATIONAL ISSUES</b>	<b>63</b>
	<i>OP1 WORKS AND FINANCE COMMITTEE MEETING TIME</i>	63
	<i>OP2 COUNCIL MEETING TIMES</i>	64
<b>CIB</b>	<b>CONFIDENTIAL ITEMS OF BUSINESS</b>	<b>64</b>
	<i>CEO2 SUPREME COURT JUDGEMENT</i>	64
	COUNCIL DECISION – 75 APR/08 .....	64
	COUNCIL DECISION – 76 APR/08 .....	65
<b>CLOSURE</b>		<b>66</b>

# Shire of Peppermint Grove

---

## MINUTES

Minutes of the Ordinary Meeting of Council held on 21 April 2008 in the Council Chambers, 1 Leake Street, Peppermint Grove commencing at 7.45pm.

### **A1 DECLARATION OF OPENING AND RECORDING OF ATTENDANCE & APOLOGIES**

The president declared the meeting open at 7.45pm and requested the recording of attendance and apologies

Attendance: Cr B C Kavanagh, President  
Cr A Grice, Deputy President  
Cr P B Bacich  
Cr G T Vikingur  
Cr D Ward  
G K Simpson, Chief Executive Officer  
P J Howard, Manager of Finance  
T Mayor, Manager of Development Services

Apology: Cr R J Neumann  
Cr M C Lynn

### **A2 DELEGATIONS**

No delegations present at this meeting.

### **A3 QUESTIONS BY MEMBERS OF THE PUBLIC**

Mr D & Mrs R Thomas, Mr R & Mrs J Goyder, Mr P & Mrs S MacIntosh,  
Ms S Pryor & Mr G & Mrs L Hollyock

Question 1:

Councillors and council staff will be aware of the community's dismay at the subdivision of the property that was 18 Irvine Street. Given that the new block has already received a significant concession by being below the minimum block size of 700 sq metres, would council staff confirm that no further concessions will be granted in respect of any other planting regulations on setback, height, density or any other building matters.

Answer 1

The right of council to exercise a discretionary power has been established by the Town Planning Scheme, which has the same standing as an Act of Parliament. Neither the Council nor the Administration has the power to fetter that power to make discretionary decisions.

Question 2

Following on from the earlier question, we have a query on building matters relating to the sub-division that is now 18 Irvine Street. We understand that the set back provisions stipulate a 4.5 metre set back from the side boundary, which in this case will be the boundary with Irvine Street. In September 2007 a meeting was held on the property itself at which Cr Bacich said that the set back was 3 metres. We understand that this is a concessionary set back figure. Given that in September, the block had not even been sold, let alone plans submitted, could Cr Bacich advise by what authority he advised residents that the set back would be 3 metres? Obviously, we have a concern that the new owners may be under the impression that a 3 metre concessionary set back is a mere formality and will council confirm that there will be no such concessions.

Answer 2

The setback provisions are listed in the Residential Design Codes and in respect to a secondary street (presumed in this case to be Irvine Street) is two metres, however the Shire of Peppermint Grove Town Planning Scheme (clause 4.4c) over rides the R-codes and requires a 4.5 metre secondary street setback.

Question 3

We refer to the Western Suburbs District Planning Committee of the WA Planning Commission and note that Cr Bacich is Peppermint Grove's sole representative on this committee. This committee includes representatives from neighbouring councils including Claremont and Mosman Park. In recent times Cr Bacich's personal business activities have brought him into conflict with these two councils, in the case of Mosman Park into a legal conflict. This resulted in Cr Bacich pleading guilty to various building / planning irregularities and being fined \$45,000, the highest fine imposed for this type of offence at the time. Given the unhappy relationship that Mr Bacich has had with these councils in recent years over his private property development activities, we would ask councillors to reconsider his appointment to this committee. We need good relationships with our neighbouring councils; we have interests in common. Surely, any other councillor would be a more appropriate choice. It is an embarrassment to the council, and to the Shire residents, that someone found guilty of serious planning irregularities in a neighbouring council area should be our representative on a joint planning committee and we ask for his removal from this committee.

Answer 3

The ethical issues raised are understood however, the offences were incurred by Olympic Holdings Pty Ltd quite some time ago and Cr Bacich is one of the Company Directors. The Company paid its fines as required by law and things move on. Council resolved on 22

October 2007 to appoint Cr Bacich and no suggestion or request to reconsider the appointment has been made by Councillors.

Question 4

We refer to the Shire's code of conduct section 1.3 on disclosure of interest. Could you please advise whether Cr Vikingur advised council of his close personal friendship with Cr Bacich before participating in discussion in council on Cr Bacich's development plan for 18 Irvine Street including proposing the motion to approve the plans?

Answer 4

Cr Vikingur did not declare an interest in the question of commenting on the proposed subdivision of 18 Irvine Street.

Question 5

We refer to the Shire's code of conduct which states "A Councillor's primary role is to represent the community". In mid 2007 the Shire held a public meeting to discuss the question of in-fill development, density etc in the Shire. The meeting overwhelmingly rejected the idea of promoting higher density development. Shortly thereafter the community learnt that Cr Bacich, then Vice President of the Shire, had obtained approval to sub-divide 18 Irvine Street, one part of which would be below the specified minimum area and that he was doing this for "commercial" reasons. Cr Bacich's private business affairs were in this instance directly contrary to the wishes of the community. Is this not an example of a conflict of interest between his primary role to represent the community and his business activities? If not, would council explain precisely how they have reached that conclusion.

Answer 5

The density coding for 18 Irvine Street is R12.5 meaning that the original lot always had the potential to be subdivided into two parcels of land. The average lot size has to be 800m<sup>2</sup> and the minimum size is 700m<sup>2</sup> or if certain criteria existed, could be reduced by no more than 5%.

It is the CEO's view that Council was of the opinion that Cr Bacich had met his legal obligation by declaring his interest and leaving the meeting and secondly that the WA Planning Commission is the decision making authority for subdivisions.

The ethical question of a Councillor behaving contrary to the Code of Conduct did not at the time the incident occurred have the legal backing to refer the matter to an adjudicating authority and the code had no penalties attached.

Question 6

Could council please update us on where we are on the siting of council equipment and trucks. There was a great deal of concern when Manners Hill Park was proposed as a home for cherry pickers and other equipment and vehicles.

Presumably no one had Manners Hill Park as the preferred option for this so where were they originally expected to go, what happened to prevent that and why was provision not included in the plans for the new library complex? In other words, how did we get into this situation and what are the current options.

Answer 6

The question of Manners Hill is the subject of two reports in the agenda for this current Council meeting. In respect to the concept of provision parking for Shire vehicles under the library, I confirm that early concept designs did include such a facility but Council decided against the concept. The administration explored several alternatives and opted for downsizing of the plant, outsourcing the depot function to Mosman Park and to retain an operating presence in the existing facility at Manners Hill Park. The transportable facilities are only a temporary facility.

Question 7

Could we have an update on what is happening in the dispute with the bowling club. An alarming newspaper report mentioned possible compensation of many millions. We realise that legal action would prevent a detailed briefing but it would be helpful to know what stage the dispute has reached and to have an outline of what is going on in this matter. If compensation is awarded who foots the bill?

Answer 7

The claim and counter claim have not been reactivated by either party. If the matter is pursued and compensation was awarded the Shire would have to pay, however independent legal advice taken by the Local Government Municipal Liability Scheme has indicated:

*The alleged liability to the Cottesloe-Peppermint Grove Bowling Club is solely in contract (that is no tortious liability is said to exist).*

Mrs R Thomas

My questions, numbered 7 and 8 in the minutes, concern the streetscape of Irvine Street following the subdivision of what was 18 Irvine Street. In your response, you indicate that judgements on streetscape are purely a matter of personal opinion. However, the Shire has a clear written policy on streetscape and both councillors and council staff review planning applications against the streetscape policy, making qualitative judgments on how planning proposals will affect streetscape. Streetscape policy is, therefore, not a matter of personal opinion, it is a planning and community issue and as you are aware from the recent petition and special electors meeting, the community has, clearly and unambiguously, voiced its dismay at the damaging effect the subdivision of 18 Irvine Street will have on the local area. Let us look at the facts of this case:

FACT. The streetscape of Irvine Street currently includes the entire northern aspect of the heritage property that was 18 Irvine Street, an aspect that was, until the recent demolition of

the front steps, the imposing entrance to the dwelling.

FACT. The subdivision of this block and consequent construction of a two-storey dwelling on the new subdivision will remove the existing house from sight. Your comment that there will be, “an open fence that will allow greater visibility of the heritage building” is disingenuous. It may be relevant to the Venn Street streetscape but it has no validity for Irvine Street. Similarly, the quote from the architect may or may not be relevant to Venn Street (the statement is particularly opaque) but it has absolutely no relevance for Irvine Street. Council statements that persist in claiming that the development plans will open “allow greater visibility of the building” are both misleading and unhelpful. The brutal truth is that the heritage house will disappear forever from the streetscape of Irvine Street.

FACT. Whatever is constructed on the new block cannot be a comparable replacement in qualitative terms because it cannot, by definition, be a heritage property. Moreover and most importantly, the new property will front onto Venn Street so that Irvine Street residents will see the side aspect of the new house with a set back considerably closer to the road than any other property in the street and thus totally out of keeping with the existing streetscape. This is contrary to the Shire’s streetscape policy and is the direct result of Councillor Bacich’s sub division of the original property.

FACT. The petition calling for Mr Bacich’s resignation from council arose directly because of his redevelopment of 18 Irvine Street. The petition made clear that it is the construction of a new property in front of the heritage house that “will totally obscure the original home as seen from Irvine Street” that was the primary cause of the community’s unhappiness with Mr Bacich’s performance as a councillor. Around 350 electors signed this petition, including a majority of Irvine Street and Venn Street residents. My comments, therefore, on the damage to Irvine Street’s streetscape are not as you described “a personal subjective view” but a quantifiable community view.

FACT. You have confirmed that Mr Bacich has a pecuniary interest in the property and that he has properly declared this. I draw your attention to the code of conduct for Peppermint Grove councillors which states “Members and staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.” Mr Bacich has confirmed that his purchase and sub division of 18 Irvine Street is a commercial venture. As detailed above, it is clear that the sub division and construction of a new house in front of the heritage building is against the wishes and interests of the residents. I, along with the 350 plus residents who signed the petition, perceive this to be a conflict of interest and contrary to the spirit and the letter of the Shire’s code of practice.

I note your comment that “The current council is not composed of the same people who approved of the alterations/refurbishments and additions to the building, therefore its explanation would not be relevant”. This is an inadequate answer for the following reasons:

- a. Only two members of the council have changed since the original approvals, the remaining five are still sewing councillors. Council staff remain unchanged.

b. The presentation of the petition and the special meeting of electors occurred after the appointment of the two new councillors. The community's request for Mr Bacich's resignation has therefore been made on their watch and they have a responsibility to residents to respond to questions about this issue as do the longer-serving councillors.

c. Councils have a collective and on-going responsibility for their decisions and have an obligation to respond to questions about those decisions.

d. My question related to the principle of conflict of interest in relation to Mr Bacich's commercial activities. Mr Bacich remains the chairman of the planning sub-committee, his commercial activities within the Shire continue. This issue is, therefore, both current and relevant and it is perfectly proper for council to be asked to comment on this principle in relation to its own code of practice.

In light of all of the above, I am therefore resubmitting this matter to the March meeting. I ask again for council to explain why Mr Bacich's personal business activities in respect of what was 18 Irvine Street, which will generate profits for him at the expense of the interests of the residents, are not in conflict with his civic responsibilities to protect those interests. Council has an obligation to respond to the specific points raised in this letter when replying to this question.

Answer

I refer to the preamble and items labeled as facts in your questions of 17 March 2008.

- 1 It is my view that in applying the streetscape policy Councillor and Officers will each make a qualitative judgement on the issues to be considered which in turn will be expressed as a personal opinion. I respect the value of other qualitative judgements.
- 2 The statement concerning the open aspect fence on Venn Street and hopefully on the frontage and truncation of the new development will allow a good view of the existing heritage home. It is intended to make a comparison when the new development is completed.
- 3 It is agreed that the streetscape for Irvine Street east of Venn St will have a modern building on both sides of the road which is likely to bring building bulk much closer to the street and not in keeping with west of the Venn St alignment.
- 4 Your comments that Cr Bacich's actions run contrary to the Code of Conduct are noted, however there are no penalties attached to the Code and no enforcement provisions in place when the event took place.
- 5 Local Government (Administrative) Regulations 7(5) prevents Cr Bacich who has an interest in the issue answering any questions. The President may refer the issue to individual Councillors for comment.

Mrs Woods – Irvine Street

Asked for clarification of what was meant by the statement in question 6 “The transportable facilities are only a temporary facility.”

Answer

The Chief Executive Officer advised that the two existing transportable facilities currently are used as an office for the Works Foreman and a crib room for the staff. It is proposed that in the short term these will be relocated into the existing building on Manners Hill park and the transportable units removed and sold. Major plant items, for example, the tip truck, would be garaged elsewhere and we are currently investigating the Mosman Park proposal.

Mrs Thomas of Irvine Street

Asked if the provisions of the discretionary power to vary the setbacks could be applied to the new lot of 18 Irvine Street.

Answer

The Manager of Development Services advised that 18 Irvine Street is a corner lot and with the dimensions of the lot it is reasonable and logical to expect that the owners of the property to use Venn Street as the front boundary to establish the front setback of a new residence whilst keeping a street address of 18 Irvine Street.

Although an application has not been considered by Council for a new dwelling at 18 Irvine Street, the Town Planning Scheme Clause 4.4(c) does state that the Council has the discretion to vary a secondary street setback subject to certain criteria.

Mr Peters of Leake Street

Advised that information in the local newspaper indicated that the Town of Cottesloe are wanting to delay the library project and asked is the Town committed to the project.

Answer

The President advised that the Town of Cottesloe had informed the Shire that it needed to raise a loan and needed to undertake the statutory advertising in the community. The Town has continued to participate in the planning process for the library project and there has not been any suggestion that its support will not be continuing.

Mr Peters also asked if statistics were available on the usage of the current library, the cost per head for Peppermint grove and the projected usage of the proposed library.

Answer

The Chief Executive Officer advised that the information was readily available from the library and the Shire of Peppermint Grove office and extended an invitation for Mr Peters to come in.

Mr Anthony Papamatheos of Maxim Litigation acting on behalf of Mrs Barrymore the adjoining owner advised the meeting that he believed that the proposal to amend the building permit for the dispersed habitable dwelling portion above the garage was ultra vires.

Mr Papamatheos expressed concern that the records of the December 2007 meeting did reflect the fact that Mrs Barrymore had raised 11 points of objection to the development and the Council incorrectly approved a structure with a lesser setback then presented.

Answer

The President advised that the comments would be considered at the time the issue was discussed later in the meeting.

#### **A4 DECLARATION OF INTEREST**

**A4.1 Cr Kavanagh**

Cr B Kavanagh declared an interest in item HOP1 and HOP2, the Vision West Construction quote.

**A4.2 Cr Bacich**

Cr P Bacich declared an interest in item DA1 – proximity interest.

**A4.3 Cr Ward**

Cr D Ward advised that he had a pecuniary interest as a consultant to the library project when Davson Ward accounts are submitted for payment.

#### **A5 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

Moved Cr Bacich seconded Cr Grice that:

The Minutes of the Ordinary Meeting of Council held on 17 March 2008 be confirmed as a true and accurate record of proceedings.

**CARRIED UNANIMOUSLY**

**A6 ANNOUNCEMENTS BY PRESIDENT WITHOUT DISCUSSION**

The President reported that the Shire of Peppermint Grove's new website was on line and running. Minutes and Agendas are readily available for perusal and available to the public at the same time they are distributed to Councillors.

**REPORTS OF THE WORKS & FINANCE COMMITTEE**

Attendance: Cr A Grice, Presiding Member; Cr B C Kavanagh, Member; Cr D Ward, Deputy Member; G K Simpson, Chief Executive Officer; P J Howard, Manager of Finance

Apology: Cr R J Neumann  
Cr M C Lynn

**A2 DELEGATION OF VISITORS**

No delegations at Works and Finance Committee Meeting.

**A3 QUESTIONS BY MEMBERS OF THE PUBLIC**

No questions asked by members of the public at the Works and Finance Committee Meeting.

**A4 DECLARATION OF INTEREST**

No declarations of interest declared at the Works and Finance Committee Meeting.

**FE FINANCE CONTROL & EXPENDITURE**

**FE1 ACCOUNTS FOR PAYMENT**

File Ref: ACC3  
Author: P J Howard, Manager Finance  
Date: 8 April 2008

**Purpose**

The purpose of this report is to obtain approval for cheques, electronic funds payments and direct debits drawn since the last report and accounts now presented for payment.

**Background**

Nil

**Report**

Appendix FE1 lists details of all cheques drawn since the last report and accounts now presented for payment. The following summarises the cheques, electronic fund transfers, direct debits and accounts included in the list presented for payment.

MUNICIPAL FUND	PAYMENT TYPE	<u>AMOUNT</u>
	Cheque numbers 9793 – 9811 (inclusive)	
	Electronic Funds Transfers 1690 – 1753 (Inclusive)	
	Direct Debits 698 – 703 (inclusive)	
	<b>TOTAL</b>	<b>\$407,348.88</b>

**Policy Implications**

Nil

**Budget Implications**

Nil

**Committee Recommendation**

Moved Cr Kavanagh seconded Cr Ward it be recommended to Council that:

The payment of the cheques, electronic funds payments and direct debits drawn and accounts presented for payment be approved.

**COUNCIL DECISION - 50/APR 08**

Moved Cr Grice seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**FE2 FINANCIAL STATEMENTS**

File Ref: ACC3  
Author: P J Howard, Manager Finance  
Date: 8 April 2008

Ordinary Meeting of Council  
21 April 2008

**Purpose**

The purpose of this report is to provide Council with the financial reports for the period ended 31 March, 2008.

**Background**

Nil

**Report**

The financial reports are provided for the period ended 31 March, 2008.  
The financial reports are attached at Appendix FE2.

**Policy Implications**

Nil

**Budget Implications**

Nil

**Committee Recommendation**

Moved Cr Ward seconded Cr Kavanagh it be recommended to Council that:

The financial reports for the period ended 31 March 2008, be received and adopted.

**COUNCIL DECISION - 51/APR 08**

Moved Cr Grice seconded Cr Vikingur that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**FE3 INVESTMENTS**

File Ref: INV1  
Author: P J Howard, Manager Finance  
Date: 8 April 2008

Ordinary Meeting of Council  
21 April 2008

**Purpose**

The purpose of this report is to provide details of Council's investments as at 31 March, 2008, including details of the investing authority and terms.

**Background**

Nil

**Report**

INVEST #	INVESTMENT	INVESTING AUTHORITY	DATE INVESTED	MATURITY DATE	TERMS	INTEREST RATE	AMOUNT
1	Reserve Fund	NAB	01.03.2008	28.03.2008	27 Days	7.46%	\$551,739.31
2	POS Fund	NAB	28.02.2008	27.03.2008	28 Days	7.44%	\$697,909.22
3	General Fund	NAB	01.03.2008	28.03.2008	27Days	7.46%	\$543,335.45
4	Lot 6 Fund	NAB	20.03.2008	28.03.2008	8 Days	7.14%	\$3,792,297.92

**TOTAL \$5,585,281.90**

For members information, it is advised that the Reserve Funds Investment as at 28 March, is comprised as follows:-

Staff Leave Reserve	\$ 19,402.26
Plant Replacement Reserve	\$ 163,084.30
Infrastructure/Building Reserve	\$ 219,118.26
Sitting Fee Reserve	\$ 21,187.20
Library Leave Reserve	\$ 36,934.85
Library Infrastructure Reserve	\$ 32,421.61
Road Reserve	\$ 59,590.83
	<u>\$ 551,739.31</u>

For Members information:

At the same period last year the reserve balances were as follows:

Staff Leave Reserve	\$ 14,769.34
Plant Replacement Reserve	\$ 164,093.73
Infrastructure/Building Reserve	\$ 206,280.87

Ordinary Meeting of Council  
21 April 2008

Computer Reserve	\$ 11,330.03
Library Leave Reserve	\$ 31,805.50
Library Infrastructure Reserve	\$ 123,782.89
Road Reserve	<u>\$ 55,760.37</u>
	<u>\$ 607,822.74</u>

For Members information:

Total amount held in Reserves as at 31 March 2008 is \$5,041,946.45. The Balance Sheet cash restricted figure is \$5,036,021. The difference being interest earned on lot 6 funds of \$5,925 for a period of eight days reported above which will be added to our system in April. The amount in the Lot 6 fund was incorporated into the Reserve Fund on 28 March 2008 and will be included in the Infrastructure Reserve fund in future reports.

The amount of \$543,335.45 held in the General Term Deposit is included in Cash At Bank on the Balance Sheet.

**Policy Implications**

Nil

**Budget Implications**

Nil

**Committee Recommendation**

Moved Cr Ward seconded Cr Kavanagh it be recommended to Council that:

The Investment Register for 31 March 2008 be received.

**COUNCIL DECISION - 52/APR 08**

Moved Cr Grice seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

Ordinary Meeting of Council  
21 April 2008

**FE4 REQUEST FOR DONATION**

File Ref: COM16  
Author: P J Howard, Manager Finance  
Date: 8 April 2008

**Purpose**

The purpose of this report is to consider a request from the President of the Peppermint Grove Tennis Club for a donation.

**Background**

Nil

**Report**

The club is asking for a donation of \$350 GST inclusive towards the purchase of a flag highlighting the years of participation at the site.

**Policy Implications**

Accords with Council policy on sponsorship.

**Budget Implications**

Additional non budgeted funding for 2007/08.

**Committee Recommendation**

Moved Cr Kavanagh seconded Cr Ward it be recommended to Council that:

The Shire of Peppermint Grove consider a donation towards the Peppermint Grove Tennis Club.

**COUNCIL DECISION - 53/APR 08**

Moved Cr Grice seconded Cr Vikingur that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**FE5 CONSULTANTS FEES LIBRARY PROJECT**

<b>February invoices</b>									
<b>We have received the following February invoices:</b>									
\$	4,345.00	<b>GST inc Invoice No.1611 from Brown McAllister Surveyors</b>							
\$	10,189.00	<b>GST Inc Western Power invoice no. CORPB0050724</b>							
\$	592.00	<b>T Wauchope accom expenses, meals (via PG credit card &amp; petty cash)</b>							
\$	206,516.26	<b>Cox invoice no. 606025.00-11</b>							
\$	221,642.26	<b>TOTAL</b>							
The invoices are split up as follows:									
As per the Cost Sharing Agreement, "professional fees", the amount to be shared by each council is as follows based on floor area:									
<b>PG ADMINISTRATION OFFICES SHARE OF INVOICES</b>									
<b>GST inc Invoice No.1611 from Brown McAllister Surveyors</b>									
Total floor/basement area =3,879 sq.m									
PG Admin/basement floor area = 750 sq. m									
<b>The PG share of invoice for its Administration office is 750/3879 (19.33%) x</b>									
					<b>\$4,345.00</b>	<b>=</b>	<b>19.33%</b>		<b>\$0.00</b>
<b>GST Inc Western Power invoice no. CORPB0050724</b>									
Total floor/basement area =3,879 sq.m									
PG Admin/basement floor area = 750 sq. m									
<b>The PG share of invoice for its Administration office is 750/3879 (19.33%) x</b>									
					<b>\$ 10,189.00</b>	<b>=</b>	<b>19.33%</b>		<b>\$1,970.03</b>
<b>T Wauchope accom expenses, meals (via PG credit card &amp; petty cash)</b>									
Total floor/basement area =3,879 sq.m									
PG Admin/basement floor area = 750 sq. m									
<b>The PG share of invoice for its Administration office is 750/3879 (19.33%) x</b>									
					<b>\$ 592.00</b>	<b>=</b>	<b>19.33%</b>		<b>\$ 114.46</b>
<b>Cox invoice no. 606025.00-11</b>									
Total floor/basement area =3,879 sq.m									
PG Admin/basement floor area = 750 sq. m									
<b>The PG share of invoice for its Administration office is 750/3879 (19.33%) x</b>									
					<b>\$206,516.26</b>	<b>=</b>	<b>19.33%</b>		<b>\$ 39,929.67</b>
<b>PG OFFICE SHARE OF INVOICES</b>									<b>\$42,014.16</b>

Ordinary Meeting of Council  
21 April 2008

**LIBRARY**

The remaining 80.67% of the invoices for the LIBRARY BUILDING is to be shared as per the population ratio in the 2006 census

Population figures for that census were:

Cottesloe	7,256	42.47%
Mosman Park	8,251	48.29%
Peppermint Grove	1,580	9.25%
Total	<u>17,087</u>	<u>100.00%</u>

**GST inc Invoice No.1611 from Brown McAllister Surveyors** \$ 4,345.00 split as follow s:

Cottesloe 7,256 / 17,087 =	42.47%	\$ 1,845.11
Mosman Park 8,251 / 17,087 =	48.29%	\$ 2,098.12
Peppermint Grove 1,580 / 17,087 =	9.25%	\$ 401.77
Total	100.00%	<u>\$ 4,345.00</u>

**GST Inc Western Power invoice no. CORPB0050724** \$ 8,218.97 split as follow s:

Cottesloe 7,256 / 17,087 =	42.47%	\$ 3,490.19
Mosman Park 8,251 / 17,087 =	48.29%	\$ 3,968.79
Peppermint Grove 1,580 / 17,087 =	9.25%	\$ 759.99
Total	100.00%	<u>\$ 8,218.97</u>

**T Wauchope accom expenses, meals (via PG credit card & petty cash)** \$ 477.54 split as follow s:

Cottesloe 7,256 / 17,087 =	42.47%	\$202.79
Mosman Park 8,251 / 17,087 =	48.29%	\$230.59
Peppermint Grove 1,580 / 17,087 =	9.25%	\$44.16
Total	100.00%	<u>\$477.54</u>

**Cox invoice no. 606025.00-11** \$ 166,586.59 split as follow s:

Cottesloe 7,256 / 17,087 =	42.47%	\$70,741.05
Mosman Park 8,251 / 17,087 =	48.29%	\$80,441.62
Peppermint Grove 1,580 / 17,087 =	9.25%	\$15,403.92
Total	100.00%	<u>\$166,586.59</u>

Total invoices shared as follows

Cottesloe share =	\$ 76,279.13
Mosman Park Share=	\$ 86,739.12
PG Share =	\$ 16,609.84
Peppermint Grove Admin Office	<u>\$42,014.16</u>
	<u>\$ 221,642.26</u>

I will forward the invoices to your accounts departments

MP COTT SHARE	\$ 163,018.25	
PG SHARE	\$ 58,624.01	
TOTAL	<u>\$ 221,642.26</u>	\$221,642.26
	\$ -	

**Committee Recommendation**

Moved Cr Kavanagh seconded Ward it be recommended to Council that:

The report on the March Library Project Consultancy Fees invoices be received.

**COUNCIL DECISION - 54/APR 08**

Moved Cr Grice seconded Cr Vikingur that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

## **W WORKS**

### **W1 SHIRE DEPOT ARRANGEMENTS**

File Ref: SHR2/ASS3  
Author: G K Simpson, Chief Executive Officer  
Date: 2 April 2008

#### **Purpose**

The purpose of this report is to seek Councils support for the preliminary arrangements to establish a long-term works depot at the Town of Mosman Park facility and to maintain a local presence for the Operations Staff at Manners Hill Park.

#### **Background**

At the 19 November 2007, Meeting Council resolved:

*The administration proceed with the planning of the upgrade of the depot at Manners Hill Park in accordance with the concept plans dated 9 October 2007.*

Local residents and some of the Mosman Park residents located in Johnston Street expressed opposition to the perception that a long-term typical shire works depot was to be established.

The Shire President requested the administration pursue the Mosman Park option and several meetings have been held.

#### **Report**

The current position in respect to the discussions with the Town of Mosman Park and the Town of Cottesloe is: -

- Mosman Park has commissioned an architect to investigate and compile a concept plan to upgrade or renew the existing site.
- The Town of Cottesloe and the Shire of Peppermint Grove have expressed their desire to be part of the new depot concept with particular emphasis upon: -
  - i) garaging of large vehicles and equipment
  - ii) access to road building materials and store
  - iii) room to store typical local government waste, e.g. broken signs, barricades, witches hats etc.
  - iv) dumping facility for bulk waste. e.g. concrete, bitumen (replaced sections)
- Staff facilities will eventually be required but a staged programme may be needed because both Cottesloe and Peppermint Grove would like to retain a local facility, namely: -
  - i) Works Supervisor's office for residents to contact, service providers and suppliers to attend and to maintain the personal presence for service contact
  - ii) toilet, shower and crib room for the operations staff to use during the day

- iii) garaging for small items of plant and equipment e.g. ride on mowers, shovels front-end loader
- iv) small workbench and tools for servicing mowers and equipment.
- The proposed refurbishment of the existing facility on Manners Hill Park will be the subject of a separate report.
- The Shire and Town of Cottesloe will need to contribute funds towards the investigation into the preparation of a comprehensive business case for the development and operation of a shared operations depot for the three local governments.

The timing of the project is such that the Shire will need to vacate the Stirling Highway site by 30 June 2008 and dispose of the sheds and sundry materials.

An interim arrangement will be needed and the obvious strategy would be to refurbish the existing Manners Hill Park building and dispose of the transportable buildings.

#### **Policy Implication**

Nil

#### **Budget Implication**

It is proposed that the sale of the transportable buildings would be allocated to the refurbishment project.

Funds are available in the Infrastructure Reserve which can be used for the Investigation Consultancy and for the refurbishment.

#### **Committee Recommendation**

Moved Cr Kavanagh seconded Cr Ward it be recommended to Council that:

- 1 Endorse the administrative action in committing the Shire to a consultancy investigation process into the concept of a joint works depot.
- 2 Support the concept of the Shire arranging interim accommodation for the staff at the Manners Hill Park facility.

#### **COUNCIL DECISION - 55/APR 08**

Moved Cr Grice seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

## W2 CURTIN AGED PERSONS HOMES

File Ref: AGA1  
Author: G K Simpson, Chief Executive Officer  
Date: 3 April 2008

### **Purpose**

The purpose of this report is to seek Councils endorsement of the ownership and management arrangements put in place for the Curtin Aged Persons Homes incorporated and authorisation for the President and Chief Executive Officer to sign the documentation under seal.

### **Background**

In mid 2004, the issue of the four CAPH member local governments obtaining ownership of the Wearne Site in Cottesloe was reactivated by our delegates and representation was made to the Minister of Health.

### **Report**

Agreement in principle was readily forthcoming from the Minister's office but two impediments had to be resolved namely: -

- 1 The Heritage Council listing of the building meant that if the land was to be transferred out of the Crown Ownership the new owners had to be party to the Heritage Agreement.
- 2 The legal interpretation placed upon the land title encumbrances imposed by the provisions of the Land Administration Act meant that if there was a breach of ownership conditions by the operation of Curtin Aged Persons Homes the Minister could cause the land to be forfeited and recover from the owner of the land a sum equal to the unimproved value of the land namely \$11,700,000.00.

The issues have been resolved by the Heritage Council agreeing to enter into a contract with the long term lessee of the land (CAPH) which left the owners out of the direct line of responsibility for the heritage restoration. The legal issue over the Minister's ability to impose a severe financial penalty for the breach of ownership conditions turned out to be an unforeseen consequence of the wording in the legislation and the Department of Planning and Infrastructure has given an assurance in writing that amendments will be made to prevent such an occurrence.

The second phase of the process was to arrange a co-ownership agreement between the four member local governments setting out: -

- Interest of the participants being 25% each
- Relationships between the participants being only for the ownership of the property and that each agree to be just and faithful.
- Ownership is Tenants in Common
- Expenses, loses and revenue are shared on a 25% basis

- A management Committee consisting of one representative from each member local government will be formed and that each person is entitled to one vote.
- Operating rules for the Management Committee, being a quorum of three member delegates and 75% support for all resolutions.
- Powers and responsibility of the Management Committee
- Termination of the Agreement
- Dispute Resolution

The lease is a normal local government type lease between the four local governments and CAPHs. Responsibilities are:

- The lessee must pay all rates, taxes and changes
- Must maintain the premises and comply with Heritage Agreement.
- Must provide a financial statement each year to the co-owners
- May appoint a manager to manage the business of aged care
- Terms of lease 20 years with \$1.00 pa rent
- Must comply with Certification Works legislation to ensure continuity of the license to operate

Actions required by the four member local governments of Claremont, Cottesloe, Mosman Park and Peppermint Grove are: -

- Signing of the Transfer of Land form
- Signing of the Co-owners Agreement
- Signing of the Lease to Curtin Aged Persons Homes Constitution

The constitution has been considered by the Chief Executive Officers and Curtin Aged Persons Homes. It needs to be referred to Member Councils because ultimately the Councils will be responsible for the Board's activities and have the power to sack all of the Board Members. A copy of the constitution is attached for your perusal.

The CAPH Board of Management is operating under the new constitution because of the inadequacy of the existing document however; any changes that a Council would like to have considered can still be made at the Annual General Meeting of CAPH.

### **Committee Recommendation**

Moved Cr Kavanagh seconded Cr Ward it be recommended to Council that:

- 1 The signing of the Transfer of Land, Co-owners Agreement and the Lease to Curtin Aged Persons homes be deferred until the May meeting.
- 2 Mr Rowell, Chairman of the Board be invited to the next Committee meeting for discussions.

**COUNCIL DECISION - 56/APR 08**

Moved Cr Grice seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**W3 RIGHT OF WAY PROPOSED UPGRADE**

File Ref: ROA8  
Author: G K Simpson, Chief Executive Officer  
Date: 4 April 2008

**Purpose**

The purpose of this report is to seek Councils view and establish a policy position in respect to the development of the Right of Ways as formalised access.

**Background**

Council previously had a policy that had a negative impact because it required: -

- Brick Paving
- Land owners to contribute 60% of the cost
- More than 50% of adjoining owners agreeing to the upgrade.

The policy was not renewed during the September 2000 review.

**Report**

A request has been put forward to upgrade the Right of Way east of the Cottesloe Central Shopping Centre and an offer was made from several owners that they would be happy to contribute to the development cost.

There are many variables that need to be resolved in the process, nameley: -

1. Is it sufficient to seal only the original right of way width.
2. If the western section owners are the only ones in favour should only half the length be sealed.
3. Drainage is essential but does Council wish to have lighting installed.
4. Should it be preferable to have one way traffic flow.
5. What level of contribution if any should be paid by adjoining owners.

It will be necessary to draw up a concept with indicative costing and conduct a plebiscite of the owners abutting the right of way

Another issue that will have to be dealt with is that the sewerage line pit lids will have to be raised to the new surface level which will be in the order of \$1,000.00 per pit.

**Policy Implication**

Councils decision will create a new policy position for the Shire

**Budget Implication**

Funds will have to be allocated in the 20008/09 budget

**Committee Recommendation**

Moved Cr Kavanagh seconded Cr Ward it be recommended to Council that:

A concept design showing 60% of the right of way surface being permeable, together with costings be sought from a practising engineer and be resubmitted for Councillors' consideration

**COUNCIL DECISION - 57/APR 08**

Moved Cr Grice seconded Cr Bacich that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**W4 REVIEW OF THE TRAFFIC MANAGEMENT STUDY**

File Ref: TRA1  
Author: G K Simpson, Chief Executive Officer  
Date: 7 April 2008

**Purpose**

The purpose of this report is to bring forward the 2003 Traffic Management Study for review.

**Background**

Councillors requested the opportunity to review the report and to see if other initiatives need introducing: -

Initiatives Considered -

- Stirling Highway & Forrest Street intersection – channelization introduced
- Stirling Highway & Leake Street – pedestrian lights modified

- View St & McNeil Street – three alternative proposal objected to by residents namely:
  - a) raised threshold
  - b) mountable roundabout
  - c) channelization islands
- View St & Forrest Street – roundabout proposal refused because of loss of trees and objections.
- View St & Keane St – no specific design put to residents, however there was opposition to the concept of a roundabout when the report was released for comment.

### **Report**

Community comment after the release of the report produced divided opinion on most of the issues and the strategy that has followed has been to address issues as they arise and relate to this report where it is relevant.

Current issues under consideration are -

- Johnston St/Stirling Highway intersection
- Johnston St traffic calming
- Keane St/View St roundabout proposal
- Leake St/The Esplanade intersection and narrow footpath

The Traffic Management Plan does address some of the issues and a follow up request on the Johnston St/Stirling Highway study has been made.

### **Policy Implication**

Nil

### **Budget Implication**

Initiatives will have to be planned and costed which will in turn impact on the 2008/09 budget.

### **Committee Recommendation**

Moved Cr Ward seconded Cr Kavanagh it be recommended to Council that:

- 1 A count of through traffic be undertaken.
- 2 Planning for a roundabout at the intersection of Keane & View Street be continued.
- 3 The road geometry and alignment of The Esplanade at the Leake St intersection be reviewed.
- 4 The south bound drivers' line of sight at the McNeil Street intersection be reviewed.
- 5 General traffic calming throughout the Shire be considered.

**COUNCIL DECISION - 58/APR 08**

Moved Cr Grice seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**W5 KEANE'S POINT RESERVE – PLAYGROUND AREA UPGRADE**

File Ref: RES3/REC2  
Author: G K Simpson  
Date: 9 April 2008

**Purpose**

The purpose of this report is to seek Councils direction on how it wishes to proceed with the proposal to redevelop the park.

**Background**

The project cost, if divided into three stages is likely to reach \$1 million plus fees (excluding GST).

At this rate, it is highly likely that the Landscape Architectural Fees will exceed the \$100,000 threshold and tenders will have to be called.

Another limiting factor is that because the Minister for Planning and Infrastructure has to approve expenditure of public open space cash-in-lieu funds we will only have approximately \$425,000 available and in future budgets a further \$50,000 per annum.

**Report**

In discussion with the Works Foreman it appears Shire staff can undertake many of the items however, we see a need for a contractor to make a significant contribution to the redevelopment by constructing the actual playground pit and internal pathways.

The second most important factor is to have the consultancy work completed, namely: -

- Structural engineering
- Electrical engineering layout
- Irrigation layout
- Arboricultural design

This would then allow the Shire to progressively carry out the balance of the upgrade as funds and time can be allocated.

Landscape Architect fees on \$441,000 of construction would amount to approximately \$54,283 and is a manageable amount. Structural, electrical and irrigation consultancies are estimated to be \$40,000.

**Policy Implication**

Nil

**Budget Implication**

Funds will have to be allocated in the 2008/09 budget to add to the POS cash-in-lieu, carry over funds from 2007/08 and only use the Infrastructure Reserves fund if absolutely necessary.

**Committee Recommendation**

Moved Cr Ward seconded Cr Kavanagh it be recommended to Council that: -

1 Council request: -

1.1 Subject to clarification of the quote in respect to proprietary play equipment items, Ecoscape to prepare documentation to proceed to the stage of calling tenders for the construction of central thematic river bed and fittings

1.2 Sub-consultancies for Structural Engineer, Electrical Design, Irrigation Design and Arboricultural Design be completed

1.3 Items for the project, which can be undertaken by Shire staff, be identified for further consideration.

2 The administration compile a strategy to complete the work within a five-year period.

**COUNCIL DECISION - 59/APR 08**

Moved Cr Grice seconded Cr Ward that:

The Report be referred back to the Works and Finance Committee for review of the scope of the project.

**CARRIED UNANIMOUSLY**

**W6 STREET TREE REPORT**

File Ref: TRE1  
Author: G K Simpson, Chief Executive Officer  
Date: 9 April 2008

### **Purpose**

The purpose of this report is to bring to Councils attention the need to accelerate the replacement of old street trees that are only in fair condition.

### **Background**

A survey of street trees reveals the following:

1377	street tree inventory
90	poor condition
902	fair condition
296	good condition
89	dead or missing
	of the inventory there are:
44	new trees
86	young trees
210	mature trees
950	old trees

### **Report**

One of the major issues facing the Shire is that the trees have been placed too close together which has resulted in making it too difficult to grow approved grasses on the road verge. The removal of overhead power lines has meant that the tree canopy has been allowed to grow and spread unchecked; however, it is difficult to alter the distance between trees without knocking down a series of trees, which is undesirable.

It is apparent that the annual quota of 20 replacement trees is insufficient to maintain the inventory stock. There are a number of spaces awaiting building works, requests for no replacement, leaving a deficit of approximately 55 trees of the 89 spaces, however, there are 78 trees that need to be replaced which are old and in poor condition.

A program of 50 trees per year for the next 10 years would allow the Shire to focus on old trees in poor and fair condition to give a better spread in ages. To continue on just replacing damaged, dead and missing trees will leave the Shire exposed to a very old tree stock.

The street tree history began on 17 August 1925 when existing Sugar Gums were removed and the planting of the Peppermints became policy. Some early photographs indicate that some were planted in the streets prior to that 1925 date, which mean some will be approaching 100 years old.

Another difficulty that has been causing concern is the temporary shortage of stock on occasions and the Shire now needs to try and arrange a firm contractual agreement for a nursery to produce the required product annually.

**Policy Implication**

Nil. Council Policy W5 still applies.

**Budget Implication**

A greater allocation of funds is needed in future Shire budgets.

**Committee Recommendation**

Moved Cr Ward seconded Cr Kavanagh it be recommended to Council that:

- 1 Management adopt the practise of planting 100 trees in the first year and then 75 trees each year to replace missing, dead and old trees in poor condition.
- 2 Resources be allocated in each year's budget to fund the increase in street tree planting.
- 3 Arrangements be made to establish a contractual arrangement for a nursery to grow and supply Peppermint Trees on an annual quota.

**COUNCIL DECISION - 60/APR 08**

Moved Cr Grice seconded Cr Vikingur that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**W7 IRVINE STREET PARKING**

File Ref: PAR5  
Author: G K Simpson, Chief Executive Officer  
Date: 10 April 2008

**Purpose**

The purpose of this report is to update Council on the results of the survey of vehicle parking in Irvine Street.

**Background**

On 17 December 2007, Council resolved inter alia: -

- 1 *Council introduce a 2-hour parking limit in Irvine Street (between Venn Street & Stirling Highway) for a four-month trial period.*
- 2 *The administration report back to Committee on the cost and methodology of introducing a restrictive residents only parking scheme for the western section of Irvine Street to apply for the hours of 8.00am to 5.00pm.*

### **Report**

Number plate surveys conducted by the Chief Executive Officer at random throughout March and the first week of April revealed that out of the 150 parked vehicles observed, 90 complied with the 2-hour restriction signs and 60 offences were committed by 32 different vehicles. Sixteen (16) vehicles committed offences and the names and addresses of the owners has been sought for the purpose of writing to explain that they need to make arrangements for off street parking.

Parking Permits vary across the western suburbs and in Subiaco, the numbers and availability varies from street to street.

Mosman Park supply one parking permit per household in prescribed areas with 2-hour parking limits.

Subiaco have Residents Permits, Visitors Permits and Restricted Residents Permits. Properties with no vehicle access at all may be eligible for up to three Resident Permits and two Visitors Permits but where vehicle access and parking space is available on site the number of permits and their hours of use are regulated. Visitor Permits are only to be used intermittently for short periods. Parking within 1.5 kilometres of Subiaco oval is time restricted to apply during sporting events.

Parking in Irvine Street has its own particular issues, namely: -

- Some of the offenders live in the street or in nearby units
- Others appear to be one off or rare offenders
- Currently there are building activities on for several properties and each has multiple trades vehicles coming and going
- Some offenders work regular days and shift their vehicle to avoid the 2-hourly restrictions.

The need for Residents Permits could be accommodated based on one permit tied to parking in front of a particular property for any of three nominated vehicles. Caution needs to be exercised over the number of permits and where they operate because residents parking other than in front of their own premises have the potential to cause further problems.

Signage will need to specify the detail and virtually have a sign at 40-metre intervals on each side of the street, being 10 signs at \$120 erected, being \$1200.00 plus the negligible cost to create a permit card.

Policing of the restrictions is a time consuming task and a quotation to conduct policing on a weekly basis is \$1400 plus GST. This would be a random event that would be hard hitting to those persons who did not comply with the signage; however, there is always the risk that unintended offenders will also be caught.

**Policy Implication**

It would be appropriate for Council to adopt a policy statement in respect to Parking Permits and the use of wheel clamping as a part of the control method.

**Budget Implication**

Provision could be made in the 2008/09 budget for random control of vehicle parking in nominated streets.

**Committee Recommendation**

Moved Cr Kavanagh seconded Cr Ward it be recommended to Council that:

- 1 Council agree in principle to the introduction of residential parking permits to be used in time limit restricted parking zones.
- 2 The permits have an annual expiry date and two permits be issued for each residence.
- 3 The permit user must comply with all parking local laws with the exception of the 2-hour limit.

**COUNCIL DECISION - 61/APR 08**

Moved Cr Grice seconded Cr Vikingur that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**FOP OPERATIONAL ISSUES**

**FOP1 PROJECT REPORT LIST**

Distributed with agenda papers.

**FOP2 POLICY RELATING TO STANDING ORDERS**

No reports presented at the Works and Finance Committee Meeting.

**FOP3 RANGER REPORT - March 2008**

File Ref: LAW3  
Author: A Jackson, Ranger  
Date: 5 April 2008

1 Activity Statistics

	<b>PARKING</b>	<b>DOGS</b>
Infringements	0	0
Written cautions	9	6
Verbal cautions	7	10
Vehicle tow notices	2	-
Impounded vehicles	0	-
Dogs Impounded	-	0
Barking complaints	-	0
Dog attacks	-	0
Dogs Returned to Owners		4

2 Current Issues

- 22 hours patrol
- Animal Supervision on parks and reserves
- Parking patrols in all school areas morning and evening
- Monitoring trades vehicles on building sites

**Committee Recommendation**

Moved Cr Kavanagh seconded Cr Ward it be recommended to Council that:

The information be received.

**COUNCIL DECISION - 62/APR 08**

Moved Cr Vikingur seconded Cr Grice that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**FOP4 STOP SIGN CHANGE: VIEW AND FORREST STREET INTERSECTION**

Main Roads Officers have informed the Shire that it is intended to proceed with the trial 4-way stop sign at the intersection on the day that school recommences after the holiday period.

The following information will appear in the local press:

**STOP SIGN CHANGE**  
**VIEW STREET AND FORREST STREET, PEPPERMINT GROVE**

*Main Roads WA advises motorists that the intersection of View Street and Forrest Street in Peppermint Grove has been reviewed and changes to the existing regulatory signs will be made.*

*On Monday 5 May 2008 new “STOP” signs will be installed on View Street together with advanced warning “STOP SIGN AHEAD” signs to form a 4-way Stop sign controlled intersection.*

*The changes to the existing regulatory signs at this intersection are being carried out at the request of the Shire of Peppermint Grove to improve safety at this intersection.*

*At the end of the four week period the Shire of Peppermint Grove will decide on whether to proceed.*

*Motorists are urged to take care and slow down when approaching the intersection and should be aware of the revised road layout in place. Motorists must stop and give right of way to vehicles that have arrived at the intersection at the same time or who have already entered the intersection. With due care and attention, minor incidents can be prevented.*

*For further information please contact Raymond Reveley on 9323 4570.*

**Committee Recommendation:**

Moved Cr Ward seconded Cr Kavanagh it be recommended to Council that:

The information be received.

**COUNCIL DECISION -50/APR 08**

Moved Cr Grice seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**REPORTS OF THE HEALTH, BUILDING & TOWN PLANNING COMMITTEE**

Attendance: Cr P B Bacich, Presiding Member; Cr G T Vikingur, Member; Cr D Ward, Member (from 4.45pm); G K Simpson, Chief Executive Officer; P J Howard, Manager of Finance

Apology: Cr R J Neumann  
T Mayor, Manager of Development Services

**A2 DELEGATION /DEPUTATIONS**

No delegations were present at the Health, Building and Town Planning Committee Meeting.

**A3 QUESTIONS BY MEMBERS OF THE PUBLIC**

No questions by members of the public at the Health, Building and Town Planning Committee meeting.

**A4 DECLARATION OF INTEREST**

No declarations of interest were declared at the Health, Building and Town Planning Committee Meeting.

**EH ENVIRONMENTAL HEALTH**

**EH1 FOOD RECALL**

File Ref: HEA5  
Author: T Mayor, Manager of Development Services  
Date: 2 April 2008

**Purpose**

The purpose of this report is to inform Council of the action taken by the Shire's Manager of Development Services with regard to food recall notifications.

**Background**

The Health Department of Western Australia advises all Local Governments of any food products that have been recalled.

**Report**

Two (2) Food Recall Notifications were issued by the WA Department of Health for the reporting period both of which were Category 1 and required the officer to respond immediately to the notification. Products that were found to be available through retail outlets in the Shire of Peppermint Grove were removed from sale and either returned to the distributor or arrangements were made for product to be destroyed. The remaining notification did not require any response.

The Food Recall Notification and details of the recall product are available from the Officer.

**Policy Implications**

Nil

**Budget Implications**

Nil

**Committee Recommendation**

Moved Cr Vikingur seconded Cr Bacich it be recommended to Council that:

The information be received.

**COUNCIL DECISION - 63/APR 08**

Moved Cr Bacich seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**EH2 FOOD BUSINESS INSPECTIONS**

File Ref: HEA 5  
Author: T Mayor, Manager of Development Services  
Date: 2 April 2008

**Purpose**

The purpose of this report is to inform Council of the food businesses inspections that have been conducted during the reporting period.

**Background**

The periodical inspection of food businesses to assess compliance with the Health (Food Hygiene) Regulations 1993, are conducted as a normal duty of the Environmental Health Officer.

**Report**

Inspections of the following food businesses were out –

- Café by the River
- One for the Road (drive through café)
- Caffisommo Café
- Woolworths (groceries, delicatessen, fruit and veg, bakery)
- Red Rooster
- Royal Fresh Water Bay Yacht Club

The majority of the items of interest were considered to matters relating to ongoing maintenance and cleaning.

**Budget Implications**

Nil

**Policy Implications**

Nil

**Committee Recommendation**

Moved Cr Vikingur seconded Cr Bacich it be recommended to Council that:

The information be received.

**COUNCIL DECISION - 64/APR 08**

Moved Cr Bacich seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**EH3 FOOD SAMPLES**

No reports this month

**AM AMALGAMATIONS**

No applications this month

**SD SUBDIVISIONS**

No applications this month

**DA DEVELOPMENT APPLICATIONS**

**ADDITIONS/ALTERATIONS/REFURBISHMENTS/EXTENSIONS**

**DA1 ADDITIONS AND REFURBISHMENTS TO DWELLING – LOT 51 (20)  
IRVINE STREET PEPPERMINT GROVE (PC APPLIC NO. 008 - 52)**

Note: Cr Bacich declared an interest in the item under consideration and retired from the meeting at 9.03 without taking part in discussion or voting.

File Ref: TPL1  
Author: T Mayor, Manager of Development Services  
Date: 2 April 2008

### **Background**

Applicant: Croudace Architects  
Owner: DM O'Keefe  
TPS No 3 Zoning: R12.5  
Land Use: Single dwelling  
Lot Area: 895m<sup>2</sup>

### **Report**

An application has been received seeking Council approval for major additions and alterations and internal refurbishments to the existing single storey residence at the above property.

Lot 51 is a rear battleaxe property with an area of 895m<sup>2</sup>.

The proposed building works are extensive will include extensions and alterations to the existing single storey residence, and the construction of an upper level or second storey addition.

The upper level additions will include the construction of a new bedroom and living area; games room and roof terrace. The alterations and additions to the existing ground level of the residence will include: modifications to internal walls; alterations to door openings; construction of walls to extend and enclose a carport to create a garage; an extension to create a living area the northern end of the residence; and the construction stairs to access the new upper level and a new laundry, both on the eastern side of the residence.

The basement garage will remain unchanged.

This report recommends that Council grant planning consent approval for the proposed additions and refurbishments to the residence at 20 Irvine Street.

### **Heritage**

This property is not listed in the Shire of Peppermint Grove Municipal Heritage Inventory.

### **Plot Ratio**

The plot ratio will be 0.36, which complies with the Shire of Peppermint Grove Town Planning Scheme No 3, Clause 4.9.5.

### **Open Space**

The open space will be 65.21% which complies with the Residential Planning Codes, Table No 1.

### **Front Setback**

Unchanged by development

**Rear Setback**

Unchanged by development

**Western Side Setback**

The upper level addition complies with the setback requirements prescribed by the Residential Design Codes, Table 2a.

**Eastern Side Setback**

The upper level addition complies with the setback requirements prescribed by the Residential Design Codes, Table 2a.

**Height**

Lot 51 has a Mean Natural Ground Level (MNGL) RL 17.11. The proposed upper level additions will have a maximum roof height RL 25.5 resulting in a building height of 8.39m above the MNGL and complies with the Shire of Peppermint Grove Town Planning Scheme No. 3.

**Amenity**

As lot 51 is a battleaxe lot the proposed additions will have no adverse impact upon the streetscape or amenity of the locality. Further, the adjoining neighbours have made no objections to the development.

**Crossovers and Street Trees**

Unaffected by the development

**Fencing**

Not part of this development. Separate application is required.

**Outbuilding Area**

Nil

**Consultation**

The adjoining property owners have been formally advised of the proposal and invited to make comment.

**Discretions to be Considered**

A nil setback for the ground floor laundry wall on the eastern side of the development meets the Residential Design Codes Performance Criteria 3.3.2 Buildings on Boundary and therefore does not require Council to exercise any discretionary approval.

**Policy Implications**

Nil

**Budget Implications**

Nil

### **Committee Recommendation**

Moved Cr Vikingur seconded Cr Bacich it be recommended to Council that:

Council grant Planning Consent approval for Application 008 – 52 for the proposed alterations, additions and refurbishments to the existing single storey dwelling at lot 51 (20) Irvine Street Peppermint Grove in accordance with the plans and specifications submitted on 9 April 2008.

### **COUNCIL DECISION - 65/APR 08**

Moved Cr Vikingur seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

Note: Cr Bacich rejoined the meeting at 9.08pm.

### **DA2 PERGOLA ADDITION TO DWELLING – LOT 112 (16) HURSTFORD CLOSE PEPPERMINT GROVE (PC APPLIC NO. 008 - 51)**

File Ref: TPL1  
Author: T Mayor, Manager of Development Services  
Date: 9 April 2008

### **Background**

Applicant: Vergola WA  
Owner: J McTaggart  
TPS No 3 Zoning: R12.5  
Land Use: Single dwelling  
Lot Area: 744m<sup>2</sup>

### **Report**

An application has been received seeking Council approval for the construction of a minor extension ('Vergola') to the existing two storey residence at the above property.

The proposed addition will be located at the rear of the residence and will be consealed from view by the existing residence and will not be visible to any of the adjoining properties.

This report recommends that Council grant planning consent approval for the proposed 'Vergola' addition to the residence at 16 Hurstford Close.

**Heritage**

This property is not listed in the Shire of Peppermint Grove Municipal Heritage Inventory.

**Plot Ratio**

The existing plot ratio will not be affected by the proposed development.

**Open Space**

The existing open space will not be affected by the development.

**Front Setback**

Unchanged by development

**Rear Setback**

Unchanged by development

**Western Side Setback**

The ground level addition complies with the setback requirements prescribed by the Residential Design Codes, Table 2a.

**Eastern Side Setback**

The ground level addition complies with the setback requirements prescribed by the Residential Design Codes, Table 2a.

**Height**

The addition will have a height of 2.5m above the existing ground level of the site and therefore complies with the Shire of Peppermint Grove Town Planning Scheme No. 3.

**Amenity**

The proposed addition will not be visible from the front of the property and will have no adverse impact upon the streetscape or amenity of the locality.

**Crossovers and Street Trees**

Unaffected by the development

**Fencing**

Not part of this development.

**Outbuilding Area**

N/A

**Consultation**

The adjoining property owners have been formally advised of the proposal and invited to make comment.

**Discretions to be Considered**

Nil

**Policy Implications**

Nil

**Budget Implications**

Nil

**Committee Recommendation**

Moved Cr Vikingur seconded Cr Bacich it be recommended to Council that:

Council grant Planning Consent approval for Application 008 – 51 for the proposed ‘Vergola’ addition at the rear of the existing two storey dwelling at lot 112 (16) Hurstford Close Peppermint Grove in accordance with the plans and specifications submitted on 2 April 2008.

**COUNCIL DECISION - 66/APR 08**

Moved Cr Bacich seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**CONSTRUCTION OF NEW DWELLINGS**

No applications for this month.

**CONSTRUCTION OF FENCES**

**DA 3 FENCING OF CEDED LAND ON RIGHT-OF-WAY – LOT 101 (26R) LEAKE STREET PEPPERMINT GROVE (PC APPLIC. 008 - 57)**

File Ref: TPL1

Author: T Mayor, Manager of Development Services

Date: 20 March 2008

**Background**

Applicant:	H & J Willis
Owner:	H & J Willis
TPS No 3 Zoning:	R12.5
Land Use:	Single dwelling
Lot Area:	920m <sup>2</sup> (Battle-axe Lot)

### **Background**

The Shire of Peppermint Grove Town Planning Scheme No.3 Policy on Right of Ways currently requires that where a property adjoining a right-of-way (ROW) is subdivided that a portion of land adjoining the Right-of-Way is ceded to the Shire for the development of a future street –

#### Extract from Policy on Right of Ways

### ***POLICY ON RIGHT OF WAYS***

#### ***Objectives***

*The creation of battleaxe subdivisions is contrary to the objectives of the scheme and are therefore not supported by Council. This policy sets out the guidelines which will allow possible future sub-division of larger lots to occur by converting the right of ways into streets.*

#### ***Applications for Sub-Divisions Adjoining Right of Ways***

*At the time of application for subdivision of lots abutting all right of ways, Council will request that a strip of land 4.27 metres wide along the right of way be surrendered by the subdivider for the purposes of a future street. In addition where lots are at the intersection to a right of way or at the intersection of a right of way and a street, a truncation will be required. The 4.27 metre excision will provide the extra width to the street necessary to provide adequate access to the newly created lot, street parking and visual relief to the narrow street.*

*Where lots adjoin two right of ways, Council may vary the 4.27 metre excision requirement to one of the two frontages. Generally lots whose rear boundaries adjoin north south right of ways are of such size that subdivision may not be possible even if the right of way is dedicated as a street. It is therefore intended that when dedicated they will become a one way access road connective to the two way access roads running east and west. In the event that subdivision into a north south street is possible the same conditions of excision as for the east west right of ways shall apply. When right of ways currently having access onto Stirling Highway are developed as a street they shall be designed as to have no direct access onto the Highway.*

Furthermore, the Policy also enables the Council to manage and develop the ROW as it sees appropriate and to also engage with landowners for the development of ROWs –

*The Council will have complete control in developing the right of ways in a systematic and orderly manner to create the type of environment it wishes to achieve for the locality.*

*And –*

*Council may enter into agreement with affected land owners to comply with conditions imposed by Council in developing the right of ways.*

*Council may enter into agreements with affected landowners in regard to financial contribution for the preparation of design and for work associated with development of right of ways.*

Generally, the ceding of land has most often occurred with battle-axe lot subdivisions, as is the case for lot 101 Leake Street.

As a result of the subdivision and ceding of land the rear boundary of the new lot is setback 4.27m from the original rear boundary of the parent lot. As in most cases, the property owner will construct a fence upon the new property boundary leaving the ceded portion of land within the ROW reserve area, with the ceded land then becoming the responsibility of the Shire to service and maintain.

### **Report**

The owners of the abovementioned (battle-axe lot) property has made a submission to Council seeking approval to construct fence on the rear boundary of the parent lot of ceded land adjoining the right-of-way at the rear of lot 101.

The Chief Executive Officer has previously investigated the potential of establishing a lease arrangement with property owners where land subdivisions have resulted in the ceding of land for widening of the ROW, however, this has proven to be unfavourable to many affected property owners with no satisfactory outcome.

Often the ceded land becomes an area that is used for the dumping of general garden wastes and other materials or for the parking of motor vehicles, all of which frequently require Shire staff to engage in unscheduled waste collection activities or the removal of vehicles obstructing movement in the ROWs.

To enable a property owner to fence and utilise the ceded land for private purposes would overcome the abovementioned management issues.

Should the Council agree to this proposal (and any future requests for the same purpose) it is essential for a formal record of the arrangement to be maintained, this can be achieved by placing a Notification on the property title in accordance with the provisions of Section 70A of the Transfer of Land Act. The Notice will ensure that all future property owners are formally aware of the ceded land (upon property search and land transfer) and that they have a commitment to relinquish the land upon the request of the Shire.

The Shire's solicitor, McLeods Solicitors, have advised that at the time of subdivision the ceded land becomes part of the ROW and is therefore Crown Land and would not be subject to any claim for adverse possession.

This report recommends that Council grant approval for the ceded land at the rear of lot 101 (26R) Leake Street to have a fence constructed on the rear boundary of the original parent lot adjoining the Right-of-Way.

**Heritage**

This property is not listed in the Shire of Peppermint Grove Municipal Heritage Inventory.

**Amenity**

The fence will not affect the streetscape and will contribute to the orderly management of the right of way.

**Consultation**

Nil

**Discretions to be Considered**

Council may enter into discussions and negotiations with the affected landowner regarding the development of a right of way in accordance with the Shire of Peppermint Grove Town Planning Scheme No. 3 Policy on Right of Ways.

**Policy Implications**

See comment above.

**Budget Implications**

The costs associated with the surveying of the property boundary, the construction of a boundary fence and preparation and placement of a Notification on the property title are to be borne entirely by the property owner.

**Committee Recommendation**

Moved Cr Vikingur seconded Cr Bacich it be recommended to Council that:

Council grant approval for Planning (Fence) Application (008 – 57) for the ceded land at the rear of lot 101 (26R) Leake Street Peppermint Grove to have a fence constructed on the rear boundary of the original parent lot adjoining the right of way in accordance with the application submitted on 20 March 2008 subject to –

1. the property owner submitting an Application for Approval to Erect a Fence and that the proposed fence is in accordance with the requirements of the Shire of Peppermint Grove Local Laws Relating
2. the rear boundary of the original parent lot being surveyed by a registered surveyor to ensure that fence does not encroach into the right of way
3. A Notification being placed upon the property title of Lot 101 (26R) Leake Street, Peppermint Grove in accordance with Section 70A of the Transfer of Land Act, 1893. The Notice is to ensure that prior to property purchase any future owner/s of Lot 101 (26R) Leake Street become formally aware of their obligation to relinquish the ceded land should and when the Shire of Peppermint Grove require the land for the development of a roadway, parking, drainage or any other use that the Shire may determine from time-to-time.

- 3.1 The Shire giving six months notice to a land owner to remove all boundary fences and other improvement within the ceded land.
- 3.2 All costs associated with the removal of boundary fences, structure and other improvements within the ceded land and reinstatement of the survey lot boundary of the relevant lot to be borne entirely by the property owner.

### **COUNCIL DECISION - 67/APR 08**

Moved Cr Bacich seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

#### **CONSTRUCTION OF OUTBUILDINGS**

No outbuilding applications for this month.

#### **COMMERCIAL PREMISES**

No commercial premises applications for this month.

#### **DEMOLITIONS**

No demolition applications for this month.

#### **OTHER**

No applications for this month.

### **BLD BUILDING**

#### **BLD1 BUILDING LICENCE VARIATIONS**

File Ref: TPL1  
Author: T Mayor, Manager of Development Services  
Date: 10 April 2008

#### **Background**

Applicant: J Black  
Owner: J Black  
TPS No 3 Zoning: R12.5  
Land Use: Single dwelling  
Lot Area: 1509m<sup>2</sup>

### **Report**

At the Ordinary Meeting of Council held on 17 December 2007 approval was granted for alterations and additions to an existing garage and an upper level addition to the garage which was approved as a dispersed habitable dwelling portion (refer to item 8.5.10 of Minutes of Meeting 17 December 2007)

The upper level addition was approved with a setback of 1200mm from the eastern side boundary however, it has become apparent that the setback was incorrect and the setback should have been 1350mm. The matter has been discussed with the property owner who has agreed to amend the construction of the upper level addition to provide a setback of 1500mm.

Amended plans have been prepared and submitted by the owner's architect, which illustrate a setback of 1500mm from the eastern side boundary of lot 48 (47) Leake Street.

This report recommends that Council endorse the Officer's action in approving the amended plans for the increased boundary setback for the upper level addition to the garage at 47 Leake Street.

### **Plot Ratio**

The plot ratio will be unchanged by the amendment.

### **Open Space**

The open space will be unchanged by the amendment.

### **Front Setback**

Unaffected by the amendment

### **Rear Setback**

Unaffected by the amendment

### **Western Side Setback**

Unaffected by the amendment

### **Eastern Side Setback**

The amendment will increase the setback for the upper level addition to 1500mm and therefore will comply with the requirements of the Residential Design Codes.

### **Outbuilding Area**

The area of the outbuilding will not be affected by the amendment

### **Discretions to be Considered**

Nil

### **Policy Implications**

The Shire of Peppermint Grove Health Building and Town Planning Policy H2 - Variations to Development Plans grants delegated authority to the Manager of

Development Services to approve minor variations from the original plans approved during the development application process.

### **Budget Implications**

Nil

### **Chief Executive Officer's Report**

A complaint has been received from Maxim Litigation Consultants on behalf of Mrs Barrymore, 51 Leake Street (adjoining owner) stating that the planning approval issued on 17 December 2007 for the structure described as upper level dispersed dwelling addition is not lawful.

The inconsistencies in the minutes of the 17 December 2007 Council Meeting have led to the allegation because of word processing error in the compilation of the Manager of Development Services report to Committee and Council.

Three reports dealing with upper level dispersed dwelling additions were reported to the same meeting and somehow the report of 47 Leake Street has been corrupted and the second half of the document is a report of the second report on 27 Leake Street. The record incorrectly shows that Councillors considered the wrong issues.

It is not considered appropriate to place a "Stop Work" notice on the development because of an error in this office. The initial legal advice received is that the developer has a permit and provided that the permit is consistent with what Councillors thought they approved and the physical structure is also consistent with the permit then approvals would be valid unless overturned by a Court.

A copy of the following documents were distributed at the Committee meeting:

- Letter dated 31 October 2007 from Mrs Barrymore
- 19 November Council Meeting Minutes
- Maxim Litigation Consultants letter 14 April 2008

### **Committee Recommendation**

Moved Cr Vikingur seconded Cr Bacich it be recommended to Council that:

Council endorse the Officer's action in approving the amended plans dated 9 April 2008 for the increased boundary setback of 1500mm for the upper level habitable addition to the garage at lot 48 (47) Leake Street Peppermint Grove.

### **COUNCIL DECISION - 68/APR 08**

Moved Cr Bacich seconded Cr Vikingur that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

Note: Crs Kavanagh and Grice recorded their vote against the motion.

**BLD2 HERITAGE**

No reports for this month.

**BLD3 BUILDING/DEMOLITION LICENSES APPROVED**

File Ref: BUI20/BUI7  
Author: T Mayor, Manager of Development Services  
Date: 9 April 2008

**Purpose**

The purpose of this report is to inform Council of the Building Licences and Demolition Licences approved during the reporting period.

**Background**

Council Policy delegates authority to the Building Surveyor to approve licenses for the construction and demolition of buildings provided the following requirements are met: -

1. The use of any discretionary power by Council has previously been addressed by the Council.
2. Development approval has been granted in accordance with the requirements of the Shire of Peppermint Grove Town Planning Scheme No.3.
3. Development approval conditions being complied with.
4. Compliance with the Building Code of Australia.
5. Compliance with any conditions previously stated by Council.

**Report**

The following building licenses have been approved during the reporting period, in accordance with Council's Policy:

<b>Building Lic. No.</b>	<b>Owner</b>	<b>Address</b>	<b>Description</b>	<b>Amount \$</b>
3071	FIELDLINE CORPORATION	460 – 476 STIRLING H/WAY	Shop	110,000
3072	FREIND INVESTMENTS P/L	6 BAY VIEW TCE	Two storey dwelling	5,385,281
3073	HOGARTH	45 JOHNSTON	Upper level addition to outbuilding	180,000
3074	WILSON	37 IRVINE	Refurbishments to existing outbuilding and change of use to class 1A and construction of outbuilding	120,000
3075	SHROY	58 VIEW	In-ground swimming pool	30,000

During the reporting period there were no Demolition Licences issued.

**Policy Implications**

Nil

**Budget Implications**

Nil

**Committee Recommendation**

Moved Cr Vikingur seconded Cr Bacich it be recommended to Council that:

The information be received.

**COUNCIL DECISION - 69/APR 08**

Moved Cr Bacich seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

**BLD4 BUILDING INSPECTIONS**

File Ref: BUI10  
Author: T Mayor, Manager of Development Services  
Date: 1 April 2008

**Purpose**

The purpose of this report is to inform Council of the routine building inspections carried out by the Officer during the reporting period.

**Background**

The Building Surveyor carries out routine inspections of buildings under construction and when necessary conducts final inspections of completed buildings to ensure that the building complies with Council development approval (planning) and requirements of the Building Code of Australia (building) and other statutory requirements (health and sanitation).

Where non-compliance is identified the Officer will initiate appropriate action to remedy deviations to approvals or statutory requirements.

**Report**

Inspections of the following building licences were carried out during the reporting period -

<b>Building Lic. No.</b>	<b>Building type</b>	<b>Address</b>	<b>Inspection type and outcome</b>
3055	Retro-fit lift in student (PLC) accommodation	14 McNeil St	Final - completed
008-44	Sign	460 Stirling Highway	Final – completed
3038	Internal refurbishments	2/504 Stirling Highway	Final – completed
3045	Patio addition to classroom (Cottesloe Primary)	530 Stirling Highway	Final – completed
3047	New Dwelling	1 Butler Way	Progress – footing and slab inspection
3057	Internal alterations	44 Johnston St	Final – completed

2905	New dwelling	20 Keane St	Final – completed in accordance with approved plans
2936	Boundary fence	20 Keane St	Completed
2967	Swimming Pool	20 Keane St	Completed
3061	Restoration and refurbishments to existing dwelling	20 Bay View Tce	Progressing – internal wall reinforcement and rendering underway.
2928	Additions and alterations to dwelling	46 Johnston St	Completed
3068	Outbuilding	23 Keane St	Completed
2919	Outbuilding	16 Johnston St	Completed

### **Committee Recommendation**

Moved Cr Vikingur seconded Cr Bacich it be recommended to Council that:

The information be received.

### **COUNCIL DECISION - 70/APR 08**

Moved Cr Bacich seconded Cr Ward that:

The Committee Recommendation be adopted.

**CARRIED UNANIMOUSLY**

### **BLD5 SIGNS & HOARDINGS**

No reports this month

Note: Cr Ward joined the Committee meeting at 4.45pm.

### **HOP OPERATIONAL ISSUES**

Note: Cr Kavanagh declared in interest in items HOP1 and HOP2 and retired from the meeting at 9.37pm without discussing or voting on the matters.

Note: Deputy President, Cr Grice assumed the role of Presiding Member for the items HOP1 and HOP2.

**HOP 1 CONSTRUCTION OF NEW PUBLIC TOILET FACILITIES – KEANE’S POINT, RESERVE 22156 LILLA STREET PEPPERMINT GROVE**

File Ref: TPL1  
Author: T Mayor, Manager of Development Services  
Date: 10 April 2008

**Report**

At the Ordinary Meeting of Council held on 20 September 2004 approval was granted by Council for the construction of new public toilet facilities at Keane’s Point Reserve -

**9.6 KEANE’S POINT PUBLIC TOILETS AND KIOSK – DECISION ON EXTENT OF REDEVELOPMENT PROGRAM**

*File Ref: RES3  
Author: T Mayor, Manager of Development Services  
Date: 14 September 2004*

***Background***

*Applicant: Shire of Peppermint Grove  
Owner: Shire of Peppermint Grove  
TPS No 3 Zoning: MRS Reserve  
Land Use: Park and Recreation*

***Report***

***Current Status of Project***

*At the Ordinary Meeting of Council held on 19 July 2004, architectural plans of the proposed redevelopment of the existing public toilets and changerooms at Keane’s Point were tabled for comment and approval (see item 7.4.6 of Minutes of Meeting).*

*When considering the proposed refurbishments of the buildings Council requested that the architect prepare alternative north and south elevations to improve the appearance of the structure.*

*Approval was subsequently granted for the Officer to progress the project, which included quantity estimates and negotiating a revised lease agreement with the kiosk lessees.*

*Alternative elevations have been prepared as requested by Council, together with quantity estimates for the project.*

*The Budget allocation for the project is \$103,000 however, the quantity estimates for the building development have now reached \$158,313, a 53% increase in the original cost estimates.*

*The primary objective of the project was to provide new or improved public toilet facilities at Keane's Point. A review of the quantity estimates for the project, although not intentional, has resulted in the majority of expenditure (\$103,400) being directed to the refurbishment of the changerooms to accommodate the kiosk lessees.*

*A secondary objective of the project was to minimise the intrusion or impact of buildings on the reserve, however, the proposed refurbishments will combine the two buildings (toilets and changerooms) and will also extend the development with the addition of an al fresco dining area and pergola. The al fresco dining area could be reduced in size and the pergola deleted from the project to reduce the cost and further reduce the impact of the buildings on the reserve area. With these changes however, the development will remain focused on the kiosk rather than providing improved public toilet facilities.*

#### ***Alternative Development Proposal***

*After re-assessing the project objectives and considering the quantity estimates for the project, the Officers have re-evaluated the design requirements and believe that the project should be focused on the provision of good quality public facilities as the primary requirement. This will result in a substantial cost saving and will not require the negotiation and preparation of a new lease for the kiosk and further will reduce the building structures on the reserve.*

*Therefore, to fulfill these objectives it will be necessary to retain the existing kiosk building, remove the changerooms from the reserve (i.e. demolition) and to refurbish the toilet facilities.*

*It is estimated that the total cost of works will be approximately \$50,000, a cost saving of \$53,000. This will include the full refurbishment of the interior of the existing building, the construction of shower facilities in male and female toilets, construction of facilities for disabled persons, external treatments and pavement for walkways. In addition, there will be no requirement for the preparation of a new lease, which will also result in a cost saving of approximately \$2,500.*

#### ***Budget Implications***

*The revised alternative development proposal will result in a Budget saving of approximately \$53,000.*

#### ***Recommendation***

*That*

*Council -*

- 1. resolves to rescind its decision of 19 July 2004, item 7.4.6*

2. *grants approval for the Officers to prepare plans for the renovation of the existing public toilets with the inclusion of facilities for disabled persons and shower facilities in both male and female toilets*
3. *approves expenditure in accordance with the Budget allocation for the project, and*
4. *approves the demolition of the existing public changerooms building and for the site to be cleared and new turf installed at the site*

### ***Council Decision***

*Moved Cr Zuvela seconded Cr Burt that*

*The Recommendation be adopted.*

The financing of the project was dependent upon the payment for Public Open Space from the Superblock Subdivision, Bay View Terrace however the delay in finalizing the payment of the cash-in-lieu for the project subsequently resulted in the development of the public toilets at Keane's Point being deferred until funds became available.

Two (2) quotes for the construction of the facilities have now been received –

- Cottesloe Constructions: \$97,850.00 plus GST
- Vision West Construction: \$94,600.00 plus GST

### **Budget Implications**

An allocation of \$100,000.00 has been included in the 2007/08 Budget for the construction of the new public toilets at Keane's Point.

### **Committee Recommendation**

Moved Cr Vikingur seconded Cr Bacich that

- 1 It be recommended to Council that it reaffirm its decision to construct new public toilet facilities at Keane's Point, Reserve 22156 Lilla Street Peppermint Grove, in accordance with the revised architectural plans dated 20 May 2007; and
- 2 The Chief Executive Officer and Cr Ward review the quotations and recommend a builder for the project.

### **COUNCIL DECISION - 71/APR 08**

Moved Cr Bacich seconded Cr Vikingur that:

- 1 Council reaffirm its decision to construct new public toilet facilities at Keane's Point, Reserve 22156 Lilla Street Peppermint Grove, in accordance with the revised architectural plans dated 20 May 2007; and
- 2 Authority be delegated to the Chief Executive Officer to review the tender submissions and accept the best value quotation.

**CARRIED UNANIMOUSLY**

**HOP 2 INTERIM SHIRE DEPOT AND OPERATION STAFF FACILITIES – MANNERS-HILL RESERVE, JOHNSTON STREET PEPPERMINT GROVE**

File Ref: TPL1  
Author: T Mayor, Manager of Development Services  
Date: 10 April 2008

**Background**

The Shire of Peppermint Grove is currently negotiating with the Town of Mosman Park for the development of a long-term works depot at the Town's existing depot facilities, whilst maintaining a local presence by retaining facilities at Manners-Hill Park (refer to Works and Finance Agenda, April 2008).

At the Ordinary Meeting of Council held on 19 November 2007 authorised the Shire Administration to proceed with the planning of the upgrade of the depot at Manners-Hill Park in accordance with the architect's plans dated 9 October 2007 –

***6.3.2 PROPOSED UPGRADE MANNERS HILL PARK DEPOT***

File Ref: SHR2  
Author: G K Simpson, Chief Executive Officer  
Date: 8 November 2007

***Purpose***

*The purpose of this report is to seek Councils endorsement of the design concept for an expansion and upgrade of the Manners Hill Park Depot.*

***Background***

*A rationalisation of the operations of the Shire workforce and the move to contractor vehicles for collection of rubbish and recyclables has provided the opportunity to consolidate into one location.*

***Report***

*A concept plan shows that a small one bay extension onto the south of the existing depot will add sufficient space to accommodate the vehicles, plant and workshop under lockup conditions.*

*The large existing toilet facilities are in need of upgrading and administration is of the view that with the exception of the Carols by Candlelight and the Australia Day function the large number of toilets is not needed.*

*The compromise design shows an upgrade male and female toilet with wheelchair accessibility for public use and a sewerage outlet to accommodate portable toilets needed for large public events.*

*Staff accommodation will utilize the space previously occupied by the toilet facilities and the two temporary buildings can be sold to assist in funding the project.*

*One issue that needs to be addressed is the manoeuvring of vehicles on the hardstand area during the day when children may be near the pavilion. An attractive open aspect fence around the hard stand will protect pedestrians and dogs as well as ensure the area does not become a dumping ground for municipal waste.*

***Policy Implications***

*Nil*

***Budget Implications***

*Sale of temporary accommodation will offset some of the cost of conversion and these funds are available in the infrastructure reserve. There is also \$100,000 in account 111 0630 for the toilet block upgrade at Manners Hill Park ( ex Reserve Fund).*

***Committee Recommendation***

*Moved Cr Kavanagh seconded Cr Neumann it be recommended to Council that:*

*The administration proceed with the planning of the upgrade of the depot at Manners Hill Park in accordance with the concept plans dated 9 October 2007.*

***COUNCIL DECISION – 208/NOV 07***

*Moved Cr Grice seconded Cr Neumann that:*

*The Committee Recommendation be adopted.*

***CARRIED UNANIMOUSLY***

Plans for the alterations have now been prepared and include the provision of staff facilities, office and extended workshop and upgraded public toilets that also provide access for disabled persons.

A copy of the proposed alterations to the building have been attached for reference.

Following the demolition of the Shire's depot building, which was located on the reserve adjacent to the existing library and administration office and accessed from

Stirling Highway, the operation staff and equipment were relocated to the Shire's general workshop at Manners-Hill Park.

In order to provide basic office and accommodation for the works manager and staff it was necessary to purchase and install two (2) transportable buildings which remain in position since the demolition of the depot in 2005.

The use of the workshop and the transportable buildings was intended to be a short-term arrangement until either the workshop was altered to provide the necessary facilities for the operations staff and a functional depot or the Shire negotiated a suitable arrangement with the Town of Mosman Park for a shared long-term depot at Mosman Park.

### **Report**

The current facilities at Manners-Hill Park provide only basic accommodation for the operations staff but do not comply with statutory occupational health and safety provisions. It is a statutory requirement for the Shire provide suitable sanitary facilities (i.e. WC, handwash basin and emergency shower, accessible for disabled persons) and crib room and locker facilities.

The attached plans illustrate the proposed alterations to the existing building which would meet the occupational health and safety obligations of Council and will also provide upgraded public toilet facilities which would be accessible for people with disabilities.

All of the alterations for the provision of facilities for the Shire's operations staff and the refurbishments and upgrading of the public toilets will not affect the actual 'footprint' of the existing building. A proposed workshop extension will result in the building being extended 2.75m at the southern end of the existing building.

Cottesloe Constructions has provided a quote (\$64,500.00) for the proposed works.

An additional quote has been requested from Vision West Construction which will be submitted in the next 2 - 3 weeks.

This report recommends that Council gives the Chief Executive Officer the authority to select and consult with a builder for the project.

### **Budget Implications**

An allocation of \$100,000.00 has been included in the 2007/08 Budget for the construction of the new public toilets and the workshop conversion at Manners-Hill Park.

### **Committee Recommendation**

Moved Cr Vikingur seconded Cr Ward it be recommended to Council that:

- 1 The item be deferred to Council for determination to allow time for the second anticipated quotation to be received.
- 2 The Chief Executive Officer and Cr Ward review the quotations received and report to Council on a preferred builder.

### **COUNCIL DECISION – 72 APR/08**

Moved Cr Vikingur seconded Cr Bacich that:

Council delegate authority to the Chief Executive Officer to clarify that the quotation has covered, the scope of work and if satisfied appoint the builder.

Note: Cr Kavanagh rejoined the meeting at 9.57pm.

**HOP3**     **PROJECT REPORT LIST**  
Distributed with agenda papers.

### **DEL DELEGATES REPORT**

#### **DEL1 WA LOCAL GOVERNMENT ASSOCIATION – CENTRAL ZONE MEETING**

The Shire President, Cr Ward, Cr Bacich and the Chief Executive Officer attended the Zone meeting held at the Royal Freshwater Bay Yacht Club on Thursday 27 March 2008.

The major issue of interest was the Systemic Sustainability Study. Arrangements can be made with WALGA to have a presentation made to Councils on grouping of Councils.

Other topics of interest raised were -

- Health Act discussion paper to be released for public perusal and comment.
- Draft Perth Coastal Planning Strategy to be presented to the Central Zone Meeting on 29 May 2008.
- Local Govt support for Earth Hour on 29 March 2008. City of Perth and others to turn lights off for one hour.
- Constitutional Recognition workshop to be held during Local Government Week 2008.
- Mr Bill Mitchell re-elected as President of the Association for a further two years.

**DEL2 Western Metropolitan Regional Council Meeting (WMRC)**

Cr Kavanagh reported that he and the Manager of Development Services attended the WMRC meeting hosted by the Shire of Peppermint Grove at the Royal Freshwater Bay Yacht Club.

The major topic was that the ORT System is under construction and the first full scale tests should be undertaken prior to December 2008.

**CEO CHIEF EXECUTIVE OFFICER'S REPORT**

**CEO1 MODEL CODE OF CONDUCT**

File Ref: COU4  
Author: G K Simpson, Chief Executive Officer  
Date: 9 April 2008

**Purpose**

The purpose of this report is to request Council to adopt the revised Model Code of Conduct.

**Background**

Council adopted the existing Model Code of Conduct in November 1999 and amended the dollar values from time to time.

The wording has changed but the general thrust of the Code is still the same with the following differences: -

- 1 The value of notifiable gifts has been increased in maximum value to \$300.00.
- 2 The sexual harassment paragraphs have not been re-included in the new Code.
- 3 Precedence of the President has been omitted.

**Report**

The statement covering Precedence of the President has not been an issue because traditional practices have been maintained and are effective; however, it can be entrenched in the system by the creation of a new policy.

Members have had the model code for perusal and comment and no adverse statements have been made.

**Policy Implication**

Adoption of the Model Code will mean the automatic replacement of the existing code and will be the new Policy Statement.

**Budget Implication**

Nil

**COUNCIL DECISION – 73 APR/08**

Moved Cr Kavanagh seconded Cr Vikingur that:

The revised Model Code of Conduct dated February 2008 be adopted.

**CARRIED UNANIMOUSLY**

**CEO2 SUPREME COURT JUDGEMENT**

**COUNCIL DECISION – 74 APR/08**

Moved Cr Bacich seconded Cr Vikingur that the item be deferred until the end of the meeting and Council meet behind closed doors.

**CARRIED UNANIMOUSLY**

**NBUS NEW BUSINESS OF AN URGENT NATURE**

**NBUS1 UPPER LEVEL DISPERSED DWELLING ADDITION – LOT 48 (47)  
LEAKE STREET PEPPERMINT GROVE (PC APPLIC NO. 008 - 40)**

File Ref: TPL 1  
Author: T Mayor, Manager of Development Services  
Date: 18 April 2008

**Purpose**

The purpose of this report is to inform Council of a reporting error in the Agenda (item 8.5.10) for the Ordinary Meeting of Council held on 17 December 2007 and the subsequent recording error in the Minutes of the same Meeting.

This report identifies the error and recommends this explanatory report be cross referenced to the Minutes of the December 2007 Ordinary Meeting of Council that accurately describes and records the intent of the item.

**Background**

In item BLD1 of this agenda, the Chief Executive Officer has described the course of events that appears to have caused the reporting and recording error and the current situation that has arisen from the mistake.

### **Report**

In order for the Minutes of the Meeting to provide a correct account of the application and to reflect the outcome of Council's decision, the item from the Council Meeting of 17 December 2007 is reproduced below with the corrections **highlighted** and in **bold italic** print.

This report recommends that the amended report below be recorded to illustrate what should have been included in the report and decision for Planning Application 008-26.

### **CORRECTED REPORT -**

#### **8.5.10 UPPER LEVEL DISPERSED DWELLING ADDITION (SUBMITTED FOR RECONSIDERATION) – LOT 48 (47) LEAKE STREET PEPPERMINT GROVE (PC APPLIC NO. 008 – 40)**

File Ref: TPL1

Author: T Mayor, Manager of Development Services

Date: 4 December 2007

### **Background**

Applicant: J & J Black  
Owner: J & J Black  
TPS No 3 Zoning: R12.5  
Land Use: Single dwelling  
Lot Area: 1509m<sup>2</sup>

### **Report**

An application has been received seeking Council approval for an upper level addition to an existing outbuilding (garage) at the above property.

This application has been re-submitted for consideration following a decision at the Ordinary Meeting of Council held on 19 November 2007 where the original proposal for the same development was *refused* as it did not satisfy the setback and overlooking provisions of the Residential Design Codes.

Lot 48 is a rear battleaxe lot and has battleaxe lots on the eastern and western common property boundaries and a Right-of-Way adjoining the northern rear boundary.

As for item 5.2.2 & 5.2.3 (December Health, Building and Town Planning Committee Agenda Reference), this development will also be treated as a dispersed dwelling,

The existing outbuilding is located on the eastern side of the property with a nil setback to the eastern side common property boundary of the adjoining lot 43 Leake Street. The design for the proposed dispersed dwelling portion has been modified and will comply with the setback and overlooking requirements of the Residential Design Codes.

The upper level dispersed dwelling will create a perception of overlooking or surveillance of the Right-of-Way at the rear of lot 48 which has the potential to improve

property security in the vicinity. This is a positive outcome for the locality as there have been a number of security breaches and burglaries in the area, therefore, any form of surveillance in the locality will potentially improve property security and general safety.

The dwelling addition will be constructed of rendered painted brick masonry to complement the design and materials of the main residence, which is currently under construction. The addition will contain a bedroom, ensuite and living area.

The addition is classed as a habitable building and subsequently will be treated as a dispersed dwelling portion i.e. a functional component of the main dwelling. The fundamental issue for consideration is to ensure that the dispersed section of the dwelling is not self-contained i.e. it does not have a laundry or a fully functional kitchen that would enable the dispersed dwelling portion to be capable of providing an independent living unit separate from the main dwelling and therefore essentially becoming a second dwelling on the property.

The Shire of Peppermint Grove Town Planning Scheme No. 3, Clause 4.4(a) states that:

*“.....not more than a single family detached dwelling is permitted on any one lot”.*

The proposed development is also consistent with the aims and objectives of the Shire of Peppermint Grove Town Planning Scheme No. 3, Clause 4.9 MISCELLANEOUS PROVISIONS, subclause 4.9.3(d) which states that:

*“the dispersal of building bulk into two or more separate buildings on a lot in order to minimise the effect of building bulk”*

This report recommends that Council grant planning approval for the dispersed dwelling additions at lot 48 (47) Leake Street Peppermint Grove.

### **Heritage**

This property is not listed in the Shire of Peppermint Grove Municipal Heritage Inventory.

### **Plot Ratio**

The plot ratio will be 0.42, which complies with the Shire of Peppermint Grove Town Planning Scheme No 3, Clause 4.9.5.

### **Open Space**

The open space will be 79.83% which complies with the Residential Planning Codes, Table No 1.

### **Front Setback**

Unaffected by the development

### Rear Setback

#### Residential Design Codes

Element	Wall height	Wall length	Major openings	Proposes setback (m)	RDC required setback	Complies Y/N
northern wall	5.4	6.2	No	2.5	1.1	Yes

### Western Side Setback

#### Residential Design Codes

Element	Wall height	Wall length	Major openings	Proposes setback (m)	RDC required setback	Complies Y/N
western wall of ground floor	2.75					
upper level addition	2.65	9.6	yes	16.2	2.7	Yes

### Eastern Side Setback

#### Residential Design Codes

Element	Wall height	Wall length	Major openings	Proposes setback	RDC required setback	Complies Y/N
eastern wall of ground floor	2.75					
upper level addition	2.65	9.6	no	1.5	1.5	Yes

### Height

Shire of Peppermint Grove Town Planning Scheme No. 3

Mean Natural Ground Level (MNGL)	FFL RL	ROOF HEIGHT RL	HEIGHT (M) ABOVE MNGL	COMPLIES WITH TPS 3 Y/N
16.06	16.04	23.20	7.14	Yes

### Amenity

*The proposed development has addressed all relevant setback and overlooking requirements of the Residential Design Codes and therefore satisfies the Performance Criteria of the Codes relating to visual amenity.*

### Crossovers and Street Trees

Unaffected by the development

### Fencing

Not part of this application

### Outbuilding Area

*The existing outbuilding (garage) has a floor area of 60.59m<sup>2</sup>. The proposed alterations will increase the floor area of the garage to 82.325m<sup>2</sup>. The increase in floor area will enable the garage to provide a more functional floor area to accommodate two vehicles. The increased floor area exceeds the floor area of 46.5m<sup>2</sup> that is prescribed the Shire of Peppermint Grove Town Planning Scheme No. 3 Policy on Outbuildings however Council has the discretion to grant approval for the variation.*

### Consultation

All adjoining property owners, that may be affected by the development have been formally advised of the proposal and invited to make comment.

There have been no submissions received from neighbours. *(This statement is incorrect and did not relate to this application. Comments from the adjoining neighbours were received by Council).*

### Discretions to be Considered

*The Shire of Peppermint Grove Town Planning Scheme No. 3, Policy on Outbuildings enables Council to exercise discretion to approve a floor area greater than 46.5m<sup>2</sup> where the plot ratio or 0.5 will not be affected. As the proposed increase in floor area will not affect the plot ratio and the wall length on the eastern boundary does not affect the amenity of the adjoining property.*

### Policy Implications

*The Shire of Peppermint Grove Town Planning Scheme No. 3, Policy on Outbuildings*

**Budget Implications**

Nil

**Recommendation**

Council grant Planning Consent approval for Application 008 – 40 for the upper level addition to the existing garage at lot 48 (47) Leake Street Peppermint Grove in accordance with the plans and specifications submitted on 7 November 2007.

**Advice to Applicant:**

The upper level addition is a habitable building and is treated as a dispersed portion of the main dwelling, however, it is not approved to be used as an independent living unit.

**REPORT OF THE APRIL 2008 CONTINUES -**

**Budget Implications**

Nil

**Policy Implications**

Nil

**COUNCIL DECISION – 77 APR/08**

Moved Cr Grice seconded Cr Vikingur that

The information be received and noted.

**CARRIED UNANIMOUSLY**

**OP OPERATIONAL ISSUES**

**OP1 Works And Finance Committee Meeting Time**

Cr Kavanagh advised that:

- 1 The meeting Council that the Works and Finance Committee meeting had to be rescheduled to 5.00pm on Monday 14 April and this proved to be very convenient.
- 2 Gave notice of his intention to move a motion at the next meeting of Council to set the Works and Finance Committee meeting times for 4.30pm.

**OP2 Council Meeting Times**

Moved Cr Bacich seconded Cr Grice that Council trail for May, June and July Council meeting a starting time of 6.30pm.

**CARRIED UNANIMOUSLY**

**CIB CONFIDENTIAL ITEMS OF BUSINESS**

**COUNCIL DECISION – 75 APR/08**

Moved Cr Bacich seconded Cr Grice that the in accordance with Section 5.23(2)(d) and (e) (iii) Council proceed to meet behind closed doors.

**CARRIED UNANIMOUSLY**

**CEO2 SUPREME COURT JUDGEMENT**

File Ref: TPL7  
Author: G K Simpson, Chief Executive Officer  
Date: 17 April 2008

**Purpose**

The purpose of this report is to bring to Councils attention the finding of Justice Templeman on the question of the relevant date for the valuation for Public Open Space Cash-In-Lieu payment.

**Background**

The Shire has requested the Court to clarify whether the Town Planning and Development Act 1928 would apply or whether the 2005 Planning and Development Act would apply. Secondly, if the 1928 Town Planning and Development Act applies was the Stage 2 Conditional Approval date to apply or the Stage 3 date.

**Report**

Justice Templeman handed down his decision and concluded that the relevant subdivision is that for which conditional approval was given by the WAPC on 22 June 2004.

The clarifying points in the reasoning of Mr Templeman was the Council resolution of 13 December 2004 whereby Council resolved to support the proposed subdivision and that it submitted a number of suggested conditions (See paragraphs ts 28, 29 and 35).

The Council decision was conveyed to the WAPC as comments for consideration by the WAPC when considering stage 3 of the subdivision.

Court rules on the presentation of evidence prevented Mr Williams QC requesting I clarify the reasoning behind Council's decision and because the Chief Executive Officer is not part of the voting Council an explanation would not have been accepted. This was clearly a crucial point and the balance in the argument indicated that the implied acceptance of 13 December 2004 that the 1928 Town Planning and Development Act would be applied.

I would however, point out that Council advised the WAPC on 15 December 2003 that it did not require the provision of public open space but that was ignored by the WAPC, however the 13 December 2004 decision made in the same circumstance is an implied agreement.

The next issue to be determined is the appointment of a valuer and the amount of the valuation as at 22 June 2004. Owston Nominees solicitors have been requested to confirm the acceptance of the Shire's Valuer but at this stage, no definitive answer has been given.

At the request of Owston Nominees No 2 Pty Ltd a sum of \$500,000 plus interest has been released from the Solicitors Trust fund. The Shire has \$660,000 and \$290,000 remains for cash-in-lieu payment to the Shire and/or refund to Owston Nominees.

**Policy Implication**

Nil

**Budget Implication**

The Shire's budget will be supplemented by any increase in the valuations figure.

**COUNCIL DECISION – 76 APR/08**

Moved Cr Grice seconded Cr Kavanagh that:

- 1 The Chief Executive Officer clarify with McLeods what legal process needs to be followed and request the reply within 48 hours.
- 2 A Special Meeting of Council be called if required.

**CARRIED**

Moved Cr Vikingur seconded Cr Grice that the meeting proceed with open doors.

**CARRIED UNANIMOUSLY**

Ordinary Meeting of Council  
21 April 2008

**CLOSURE**

There being no further business the meeting closed at 10.52pm

These minutes were confirmed as a true and accurate record of proceedings at the Ordinary Meeting of Council held on 19 May 2008.

---

President

---

Date