



Shire of
Peppermint Grove

ORDINARY COUNCIL MEETING

MINUTES

HELD ON
TUESDAY 18 DECEMBER 2018
AT
5.30 PM



Shire of Peppermint Grove

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Shire of Peppermint Grove

ORDINARY COUNCIL MEETING MINUTES

1 DECLARATION OF OFFICIAL OPENING

At 5.31pm, the Shire President declared the meeting open and requested that the Affirmation of Civic Duty and Responsibility be read aloud by a Councillor and requested the recording of attendance and apologies.

Council recognises that it is permissible to record the Shire's Council and Forum Meetings in the written, sound, vision medium (or any combination of the mediums) when open to the public, however, people who intend to record meetings are requested to inform the Presiding Member of their intention to do so.

The Presiding Member will cause the Affirmation of Civic Duty and Responsibility to be read aloud by Councillor Macintosh.

Affirmation of Civic Duty and Responsibility

I make this Affirmation in good faith on behalf of Councillors and Officers of the Shire of Peppermint Grove. We collectively declare that we will duly, faithfully, honestly, and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgment and ability. We will observe the Shire's Code of Conduct and meeting procedures to ensure the efficient, effective and orderly decision making within this forum.

2 RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE

2.1 ATTENDANCE

Shire President
Deputy Shire President
Elected Member
Elected Member
Elected Member
Elected Member

Cr R Thomas
Cr C Hohnen
Cr K Farley
Cr D Horrex
Cr G Peters (From 5.33pm)
Cr P Macintosh

Chief Executive Officer
Manager Library and Community Services
Manager Corporate Services
Manager Development Services

Mr D Burnett
Ms D Burn
Mr P Rawlings
Mr R Montgomery

Visitors

Gallery 4 Members of the Public
2 Members of the Press

2.2 APOLOGIES

Manager Infrastructure Services

Mr D Norgard

2.3 LEAVES OF ABSENCE

NIL

2.4 NEW REQUEST FOR A LEAVE OF ABSENCE

Moved: Horrex Seconded: Hohnen

That Council grant Cr Karen Farley A Leave of Absence for Agenda Briefing Forum 12 February 2019.

CARRIED 5/0

3 DELEGATIONS AND PETITIONS**3.1 DELEGATIONS**

NIL

3.2 PETITIONS

NIL

Cr Greg Peters arrived at 5.33pm.

4 PUBLIC QUESTION TIME

The Presiding Member opened the public question time by asking the gallery if there were any questions or deputation for Council.

Rules for Council Meeting Public Question Time

- (a) *Public Question Time provides the public with an opportunity to put questions to the Council. Questions should only relate to the business of the Council and should not be a statement or personal opinion.*
- (b) *During the Council meeting, after Public Question Time no member of the public may interrupt the meeting's proceedings or enter into conversation.*
- (c) *Whenever possible, questions should be submitted in writing at least 48 hours prior to the start of the meeting.*
- (d) *All questions should be directed to the President and only questions relating to matters affecting Council may be answered at an Ordinary meeting, and at a Special meeting only questions that relate to the purpose of the meeting may be answered. Questions may be taken on notice and responded to after the meeting, at the discretion of the President.*
- (e) *The person presiding will control Public Question Time and ensure that each person wishing to ask a question should state his or her name and address before asking the question. If the question relates to an item on the agenda, the item number should also be stated. In general, persons seeking to ask a question will be given 2 minutes within which to address their question to the Council. The person presiding may shorten or lengthen this time in their discretion.*

4.1 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

NIL

4.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

NIL

4.3 DEPUTATIONS OF THE PUBLIC

Mr Paul McQueen C/-Lavan, 1 William Street, Perth - Item 8.1.1

Mr McQueen address Council speaking on behalf of objector's Mr and Mrs Wooles, of 40 The Esplanade, Peppermint Grove.

Mr Richard Sandover C/- Jackson McDonald, Perth - Item 8.1.1

Mr Sandover addressed Council speaking on behalf of the owner Barbara-Dene Jones of 38 The Esplanade, Peppermint Grove.

5 DECLARATIONS OF INTEREST

Councillors / Staff are reminded of the requirements of section 5.65 of the Local Government Act 1995, to disclose any interest during the meeting when the matter is discussed, and also of the requirement to disclose an interest affecting impartiality under the Shire's Code of Conduct. Councillors / staff are required to submit declarations of interest in writing on the prescribed form.

5.1 FINANCIAL INTEREST

Cr Greg Peters - Item 8.1.2 – 10 Keane Street

The nature of the conflict being that of a Contractual Arrangement.

5.2 PROXIMITY INTEREST

NIL

5.3 IMPARTIALITY INTEREST

Cr Dawne Horrex – Item 8.1.2 – 10 Keane Street

The nature of the interest being that the owner is a member of the Peppermint Grove Tennis Club of which she is also a member.

5.4 INTEREST THAT MAY CAUSE A CONFLICT

NIL

5.5 STATEMENT OF GIFTS AND HOSPITALITY

NIL

6 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

The Shire was presented with a Certificate of Appreciation by Westcoast Community Centre in recognition of our continued support on the occasion of WCC 25th anniversary.

The Shire President congratulated Westcoast Community Centre on a very successful 25 years and acknowledged the important role they have in the community.

7 CONFIRMATION OF MINUTES

COUNCIL DECISION

7.1 ORDINARY COUNCIL MEETING 27 NOVEMBER 2018

Moved: Hohnen

Seconded: Macintosh

That the Minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 27 November 2018 be confirmed as a true and accurate record.

CARRIED 6/0

8 CHIEF EXECUTIVE OFFICER REPORTS

8.1 URBAN PLANNING

8.1.1 Development – Application to amend Approval 015-049 (Amended Plans) for the single house and ancillary dwelling at Lot 113 (38) The Esplanade, Peppermint Grove.

URBAN PLANNING

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details – Recommit November 2018</u>
Attachment 8.1.1	38 The Esplanade Peppermint Grove

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	Lot 113 (38) The Esplanade, PEPPERMINT GROVE
Application Index	:	DA2018/00028
LPS No 4 Zoning	:	Residential -R10
Land Use	:	Single house and ancillary dwelling
Lot Area	:	1645m
Disclosure of any Interest	:	Nil
Previous Items	:	Item 8.1.4 – OCM 23 October 2018 (recommitted) Item 8.1.1 – OCM 27 November 2018 (recommitted)
Applicant	:	Ferraro Planning and Development Consultancy
Owner	:	B Jones
Responsible Officer	:	Manager Development Services - Mr Ross Montgomery

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, town planning schemes & policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application / matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

PURPOSE OF REPORT

Council is requested to consider an application to amend Development Approval 015-149 granted by the Council on 26 November 2015. The proposed amendment relates to changes to the ground floor layout for the approved single house and ancillary dwelling built at 38 The Esplanade, Peppermint Grove.

SUMMARY AND KEY ISSUES

- Council issued a Direction Notice in July 2018 to Mrs Jones to alter the building at 38 The Esplanade Peppermint Grove to match the Approved Plans for Approval 015-149.
- A number of alterations were required to comply with the Notice, including the relocation of rooms on the ground floor level and the construction of a screen on the southern edge of the first floor balcony.
- The screen formed a part of the Approved Plans for Approval 015-149 and this has now been installed by the owner to comply with that part of the Notice.
- Building Permit plans have been submitted and executed which reflect the layout contained in Attached Plans (Figures 1 – 4).
- In regard to the balance of the required alterations, the Attached Plans (Figures 1 – 4) have been submitted in response to the Direction to Alter Notice with a request to amend the Approved Plans for the ground floor internal layout – matters contained within the balance of the Direction Notice.
- The amended plans reflect the as-constructed format of the building and do not present a materially different building to what was approved in 2015 other than to re-configure internal rooms on the ground floor and relocate an external door on the ground floor.
- The amended plans also show the interconnecting stairway between the ancillary dwelling and the single house as being fully enclosed – and cites this change as delivering better thermal efficiency.

LOCATION

38 The Esplanade Peppermint Grove is situated on the western edge of Freshwater Bay and overlooks the Swan River.

BACKGROUND

Council may recall there has been a Direction to Alter Notice issued to the owner of the property Mrs Barbara Jones. The Direction was given because the Shire discovered the completed single house and ancillary dwelling had been constructed in a manner which was inconsistent with the Approved Plans.

Following the issue of the Direction Notice the owner requested that the State Administrative Tribunal review this Notice. The matter is presently adjourned awaiting mediation and this lodgement could be considered a part of that action.

Council deferred consideration of this matter at the October meeting in response to a threatened challenge from a third-party and pending receipt of a legal opinion about this prospect. The report was again presented in November for a decision, where Council was further requested to delay a decision pending the outcome of negotiated mediation between neighbours.

Notwithstanding that any discussion between Mrs Jones and her neighbour is independent of the Direction Notice issued to Mrs Jones by the Shire or the determination of the Application, the Council resolved at the November Meeting to further delay a decision on the Application pending advice as to the outcome of neighbour discussions.

The Shire is required to make a decision on the Application. The report for consideration of Council has been deferred twice to accommodate requests from the neighbour, however within the scope of the Direction Notice and the submitted Application to Amend the Approved Plan, Council's decision is imperative.

The Council has previously raised its concerns that the layout of the dwelling as it has now been constructed might give rise to the use of the premises as a multiple dwelling. It had therefore carefully considered the manner in which the building was laid out and the ancillary dwelling area of the structure was subsequently specified on the plans and following Council's comments and decision not to approve a layout similar to that which has now been constructed.

The Local Planning Scheme 4 does not permit the use of a multiple dwelling in the Residential Zone R10. Use of the building in this manner would contravene the Scheme and would be liable to action for breach of the Scheme and the Planning and Development Act.

CONSULTATION

Although there has been no specific consultation undertaken in respect to this matter, the neighbor has made submission to the Shire on previous occasions.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

Pursuant to clause 77 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, Council may amend an aspect of Development Approval 015-149 if the amendment would not substantially change the development approved.

The use of the building for multiple dwellings is not permitted in Local Planning Scheme 4 and so such an event would constitute a breach of the Scheme and would invite prosecution. Council is obliged to make its decision in a considered and timely manner.

Local Planning Scheme No.4

The proposal complies with relevant Scheme provisions, Residential Design Codes and Scheme Policies. The changes to the Approved Plan proposed by the substituted Plan are completely internal by nature.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The Amended Plans (Figures 1 – 4) reflects a return to a design layout for the ground floor similar to one previously considered and refused by the Council in the belief that it may not lead to the intended purpose as a single dwelling with ancillary dwelling.

The plans differ to the Approved Plans for 015-149 as follows:-

- Relocation of the ground floor laundry
- Relocation of the internal ground floor laundry door
- Air-conditioner units
- Hot Water Unit
- Relocated ground floor study
- Relocation of bedroom 3 on the ground floor
- Relocation of WIR and ensuite on the ground floor
- Internal door on stairway and enclosure of stairway at the ground floor level

Windows on the southern elevation at ground level have also been re-configured to reflect the internal changes.

The neighbour to the south of the site was initially consulted and following comment has been critical of the development and was actively involved in drawing the non-conformity to the attention of Council. This neighbour in addition has been legally engaged in the Tribunal mediation process.

If the Council does not approve the proposed application to amend the Approved Plan, this is a decision which can be appealed to SAT.

LPS 4 prohibits the operation and use of multiple dwellings on the Residential R10 zone. Accordingly, any reluctance to approve the proposed amendment on the basis that it may give rise to the dwelling being used as multiple dwellings may prove difficult to explain or to defend given that the Scheme provides the Shire with sufficient powers to enforce

compliance and to prosecute the owner should the dwelling be used in that manner and contrary to the Scheme.

Since the Shire issued its Direction to Alter Notice there has been action taken by the owner to partially meet the terms of the Notice with respect to the privacy screen on the upper floor balcony. The construction of the privacy screen in accordance with the Approved Plans for 015-149 has met the most direct ground for objection by the neighbours to the south.

The amended layout does not effectively indicate any greater risk or likelihood of the single house and the ancillary dwelling being used as separate multiple dwellings, and given the power of the Scheme to restrict such uses, it is therefore recommended the proposed amendment to the ground floor level be approved.

For the reasons set out above, the proposed amendments as shown in Figures 1 – 4 of the application do not substantially change the development approved in 2015.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 8.1.1

Moved: Cr Horrex

Seconded: Cr Hohnen

Council resolves that the application to amend Planning Approval 015-149 for the single house and ancillary dwelling located at 38 The Esplanade, Peppermint Grove, as shown in Figures 1 – 4 of the application submitted by Ferraro Planning and Development Consultancy on behalf of Mrs B Jones on September 15 2018, be APPROVED subject to the following conditions:-

- 1. The development the subject of this approval must at all times comply with the plans approved and also the land use allowed by Local Planning Scheme 4 and as part of this approval.**
- 2. The Study, Bath B, Bed 3 and Laundry A on the ground floor level of the dwelling are to be used in conjunction with the upper level of the dwelling and shall not be used in conjunction with or as part of the area shown as ‘Ancillary Dwelling’ on the ground floor of the dwelling.**
- 3. The Approved Plans are consistent with Building Permit Plans and therefore all building works on the site are to comply with the terms of the Planning Approval and associated Approved Plans at all times.**
- 4. All subsequent certification of building plans for the purposes of permit issue shall assess and address Planning Approval Conditions and approved plans.**
- 5. The use of the premises shall at all times be in accordance with Local Planning Scheme 4 and strictly conform to the definition of a single house and ancillary dwelling.**

Advice notes

- 1. With regard for Condition 1, all subsequent building plans required to implement this Planning Approval or subsequent use of the site and premises shall not be certified for issue of a Permit unless they agree with Planning Approval Conditions, Approved Plans and other site relevant requirements (LPS 4) of the Shire of Peppermint Grove.**
- 2. In making this decision the Shire is satisfied the alterations described in the substituted Approved Plan do not result in a material affect or change to the use and function of the building as a single house and ancillary dwelling.**

CARRIED 6/0

DECLARATION OF INTEREST – FINANCIAL

Cr G Peters declared a Financial Interest in Item 8.1.2 and left the Chambers at 5.53pm.

DECLARATION OF INTEREST – IMPARTIALITY

Cr D Horrex declared an Impartiality Interest in Item 8.1.2.

8.1.2 Subdivision – (into 2 Lots) Lot 10 (10) Keane Street, Peppermint Grove.

URBAN PLANNING
ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment – Item refers 8.1.2	Plan of Subdivision - Lot 10 (10) Keane Street, Peppermint Grove.

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	Lot 10 (40) Leake Street, Peppermint Grove
Application Index	:	WAPC 157252
LPS No 4 Zoning	:	Residential (R-12.5)
Land Use	:	Residential
Lot Area	:	1821m (into 2 lots of 1246m ² ; 720m ²)
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Stewart Urban Planning Pty Ltd
Owner	:	Mr A & Mrs L Walsh
Responsible Officer	:	Mr Ross Montgomery

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, town planning schemes & policies.*
- Review** *When Council reviews decisions made by Officers.*

- ☒ **Quasi-Judicial** *When Council determines an application / matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

PURPOSE OF REPORT

Council has been referred a subdivision application to subdivide Lot 10 Keane Street Peppermint Grove into two lots of 1246 m²; and 720 m². The WAPC has referred the application to the Shire for advice prior to making their decision.

SUMMARY AND KEY ISSUES

- Council is requested to provide advice to the WAPC on an application for approval of freehold subdivision of 1 lot into 2 lots (Lot 1 of 1 246m² & Lot 2 720m²)
- The land is irregular in shape and the proposal will create Lot 2 with less than the required minimum street frontage of 17 m (13.42m or >20% less).
- Lot 1 frontage of 25.61m exceeds the R 12.5 minimum (17m) because of the location of an existing house.
- Lot 2 can therefore only offer a frontage of 13.42m.
- These measurements are Policy and are able to be varied at the discretion of the WAPC however the proposed variation is a significant deficit from R Code standards.
- Proposed Lot 1 (the western portion of the site) retained a Heritage List house, and another listed house is on Lot 102 Keane Street to the east.
- The proposed narrow lot is therefore flanked by two heritage listed homes – both built a long way back from Keane Street (in excess of the minimum street setback).
- In addition to being compromised by its narrow frontage, proposed Lot 2 also presents the risk of inappropriate infill development which if sited the minimum of 9 metres from Keane Street will jeopardise the current heritage streetscape.
- The subdivision should be refused however if approved then any infill development of the proposed Lot 2 should be set well back from the street in excess of the 9m minimum to respect the heritage listed housing types and maintain the streetscape.

LOCATION

10 Keane Street Peppermint Grove (see attached Plan)

BACKGROUND

- The site was amalgamated at some time between 1995 and 1999 to make one large and irregular shaped lot. It was previously two separate lots, each with a single house.
- The previous dividing boundary had a 'splay' that created a lot frontage of 15.25m for the old lot 103. This proposal will create a two regular shaped rectangular blocks with sufficient setback to existing buildings.
- Both proposed lots are in excess of the minimum site area for R12.5 (700m² min 800m² average).
- Proposed Lot 1 has an existing house and requires a much larger frontage than the minimum (25.6m instead of 17m).
- Proposed Lot 2 will have a much reduced frontage of 13.42m (as opposed to the 17m requirement). The lot is able to meet the lot area requirements due to its depth from Keane Street (almost 54m deep).
- The houses either side of the proposed narrow lot are on the heritage list and are setback well in excess of the 9m minimum for LPS4 (see attached plans). The locality has a valued streetscape of heritage properties, many of them set well back, more than the 9m minimum (LPS4).
- The proposed Lot 2 is underwidth and in addition to this the larger street setbacks in this vicinity therefore hold the potential to make a discordant impact on the streetscape between the two, heritage-list houses.

CONSULTATION

As a subdivision this matter has been referred from the WAPC and there is no requirement for neighbour consultation. The Shire has sought advice from officers at the Department of Planning.

STRATEGIC IMPLICATIONS

This application highlights one of the challenges of considering infill subdivision in established neighbourhoods with a high level of heritage value.

Should Council recommend refusal (on the grounds of insufficient frontage) and the WAPC instead decides to approve by waiving the frontage requirements – the Shire will be faced with managing the development of a site according to the approved Scheme but which could most likely damage the heritage streetscape of one of the shire's main heritage precincts.

Should Council however support this proposal but only subject to stringent site-development controls (related to setback) it would as a precedent vary the R Codes policy for R 12.5 for all land zoned Residential in Local Planning Scheme 4.

Council support for this proposal may set a precedent for future proposals seeking similarly reduced street frontages.

The Shire is therefore in placed a double-jeopardy position to advise the WAPC.

It is noted the automatic referral of subdivision applications from the WAPC should not be construed as support for the proposal, but reflects their administrative process of referring *all* proposals to consultant agencies prior to any fundamental compliance checking.

POLICY IMPLICATIONS

The R Codes are adopted as a State Planning Policy (SPP 3.1). Both the WAPC and local government are required to have regard to SPP when making their decisions.

LPS 4 references the SPP in its Zoning Map. The Shire can recommend to the WAPC that it vary the R Code minimum, *provided* there can be a demonstration this relaxation will provide a beneficial planning outcome for the site and the surrounding area.

In providing local planning advice the proposed subdivision includes a property on the local Heritage List and abuts others, and as such due regard needs to be given to Local Planning Policy 3 - Heritage. In particular, LPP 3 states that the contribution of a heritage building to the streetscape should be protected from adverse development impact.

STATUTORY IMPLICATIONS

Town Planning Scheme No.4

The proposal complies with relevant Scheme provisions, Residential Design Codes and Scheme Policies with the exception of those outlined in the table below.

<u>RESIDENTIAL DESIGN CODES AND LPS 4</u>		
LPS4 and Policy Requirement		
Assessment/Comment		
1.	Street frontage for subdivided R12.5 must be a minimum of 17 meters	Proposed street front is 3.58 m narrower than the R 12.5 minimum and the location of the dwelling on Lot 10 does not permit a wider frontage. The proposed variation is in excess of 20% of the R code. .
2.	LPS 4 specifies a minimum 9 metre front setback from the street	A deemed to comply development application of 9m street setback would seriously compromise the streetscape in this sensitive location. In this case a minimum setback of at least 18 metres is necessary to protect the heritage streetscape from insensitive infill redevelopment. (To avert a building-out of the streetscape)

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

Keane Street has a suite of heritage listed homes and this presents as one of the most intact and conservatively managed examples of local heritage housing in the Shire. These homes date from last century and are set in grounds with larger than minimum street setbacks and leafy garden settings.

Although there are a variety of housing styles many of them built on varied setbacks and with additions undertaken to keep them useful for up-to-date lifestyles, the street nevertheless presents as a united heritage character – a garden streetscape where houses do not crowd each other along the street.

The maturity of front gardens and the treed street landscape is possible due to the generous street setbacks well in excess of the general 9 m street setback provided by LPS4.

In only a few cases have there been a dominant modern buildings constructed into the streetscape often at the minimum street setback possible. These instances serve to highlight how insensitive redevelopment can disrupt the rhythm of the street's heritage character.

The proposed subdivision at 10 Keane Street is substantially less than the R 12.5 minimum street frontage requirement and as a result the additional lot with associated development is likely to crowd the streetscape and diminish the heritage character in this vicinity.

The Shire prioritises local heritage preservation ahead of a minimal benefit of creating one additional and under-width lot (with its likely development impact).

It is for this reason the subdivision is recommended by the Shire for refusal.

Should however the WAPC not agree with this recommendation, the Shire would request that Conditions be attached which might mitigate detrimental impacts from future development.

It notes that heritage listed houses either side of proposed Lot 2 are set back a distance of 11m and 15m from Keane Street. Proposed Lot 2 is 54m deep and it is therefore considered necessary and appropriate for there to be a much larger street setback of 18m for any development to take account of the narrower frontage and impact on the streetscape. Restriction by way of a covenant may be one means to control any infill development so as to be set well behind the prevailing building line of adjacent houses.

A street setback of 18 metres in such case would be necessary to ensure any new buildings are sited well behind the building line of the adjacent heritage listed house/s.

Unless there can be an endorsement on Diagram of Survey for a restriction (such as a covenant) to give effect to such a development requirement, then this subdivision as proposed should be refused.

Further Advice

In response to a deputation made by the applicant to the Shire, it has sought advice from the Department of Planning about the creation of underwidth lots and potential for managing setbacks to address site-specific design issues. The Department advised they would generally not support subdivision which was deficient to the R codes design standards, however it would be helpful for the Shire to describe the impacts and concerns held for orderly planning of the area, and to identify the risks which would need to be managed should the proposed subdivision be approved by WAPC

An advice note has now been added to provide this guidance to the WAPC.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.2

Council advises the WAPC it recommends the proposed subdivision of Lot 10 Keane Street (Application 157252) be refused for the following reasons:-

1. The proposed Lot 2 will be deficient in street frontage width by more than 20% than the R 12.5 minimum standard.
2. Development of proposed Lot 2 given the narrow frontage would be likely to create a detrimental impact to the important adjacent heritage listed buildings and the heritage streetscape for this section of Keane Street.

Advice

In providing this recommendation to the WAPC the Shire is cognizant this advice may not necessarily be supported in the determination about the subdivision.

Should this be the case, the Shire advises the Commission should investigate and apply an effective restriction be placed on any underwidth lots to compel the siting of all new buildings behind a 18m street setback specific to this lot.

COUNCIL DECISION – ITEM NO 8.1.2

Moved: Cr Hohnen

Seconded: Cr Farley

Council advises the WAPC it recommends the proposed subdivision of Lot 10 Keane Street (Application 157252) be refused for the following reasons:-

- 1. The proposed Lot 2 will be deficient in street frontage width by more than 20% than the R 12.5 minimum standard.**
- 2. Development of proposed Lot 2 given the narrow frontage would be likely to create a detrimental impact to the important adjacent heritage listed buildings and the heritage streetscape for this section of Keane Street.**

Advice

In providing this recommendation to the WAPC the Shire is cognizant this advice may not necessarily be supported in the determination about the subdivision.

Should this be the case, the Shire advises the Commission should investigate and apply an effective restriction be placed on any underwidth lots to compel the siting of all new buildings behind a 18m street setback specific to this lot to protect the adjacent heritage property.

CARRIED 5/0

Cr Peters returned to the Chambers at 5.57pm.

8.1.3 Local Laws – Requested Variation to Height for replacement rear fence at Lot 157 (34) Keane Street, Peppermint Grove

URBAN PLANNING

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 8.1.3 refers	34 Keane Street, PEPPERMINT GROVE

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	LOT 157 (34) Keane Street, Peppermint Grove
Application Index	:	LOCAL LAW APPLICATION
LPS No 4 Zoning	:	Residential (R-12.5)
Land Use	:	Dwelling
Lot Area	:	NA
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	K Jones
Owner	:	K Jones
Responsible Officer	:	R Montgomery

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, town planning schemes & policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application / matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

PURPOSE OF REPORT

Council is requested to consider the proposed over height fence and retaining wall at 34 Keane Street.

SUMMARY AND KEY ISSUES

- Proposal is for a 2.1m fence along the rear of the 34 Keane Street lot to replace an old cyclone wire and brush fence abutting the ROW which exceeds the allowed 1.8m in Local Planning Policy 5.
- A 500 mm retaining wall is required to level the fence at the property boundary to prevent spill onto ROW.

LOCATION

34 Keane Street, Peppermint Grove

BACKGROUND

The proposed new fence and retaining wall at 34 Keane Street is being proposed to replace an existing dilapidated cyclone wire and brush fence once forming part of a tennis court fence. The existing fence is a cyclone wire tennis court fence standing approximately 3m high, which will be replaced by the proposed 2.1m fence. This will significantly reduce the overall height as viewed from the 'Right of Way' and will provide better screening of the private garden area.

The current fence is deteriorated and is now unstable. The proposed fence will increase the overall security to the rear laneway.

CONSULTATION

There has been no specific consultation undertaken in respect to this matter.

STRATEGIC IMPLICATIONS

Precedent due to other fences in the area being completely or partially in excess of the 1.8m height required by the Policy.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

Fencing is considered pursuant to Local Laws Relating to Fencing (Fencing Local Laws) and Policy.

Town Planning Scheme No.4 and Policies

The proposal complies with relevant Scheme provisions, Residential Design Codes and Scheme Policies with the exception of those outlined in the table below:

<u>COUNCIL LOCAL LAWS AND POLICY</u>	
Law Provisions	Assessment/Comment
1. (Part 2) A person shall not erect a fence with a finished height greater than 1.8m.	Proposed fence has a finished height of 2.1m

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

The increase of height by 300 mm from the Local Laws height in this instance does not affect visibility along the right of way because the proposed fence is lower than the one it replaces. The overall bulk of the fence on the rear 'Right of Way' will be reduced, aiding in creating a more open and neat edge to the laneway and improved environment for people using the 'Right of Way'.

OFFICER COMMENT

Local Laws Part 2 Clause 8 provides for the Council to consider variation provided this case is supported by the application via the submission of a written justification.

The applicant has cited several reasons as to why they are requesting an increased height of the fence, including;

- Security – They have been subject to theft of property kept in their back yard and a more secure fence will act as a deterrent;
- Safety – They have young grandchildren and feel the increased height will provide better safety for them; and
- The proposed fence is on the rear lane and as such will have limited impact on neighbours.

The proposed new fence at the rear of 34 Keane Street exceeds the maximum height requirements set out in the Shire of Peppermint Grove Local Laws Relating to Fencing of 1.8m. The policy is intended to guide heights to present a more uniform approach to fencing.

Although the proposed fence is 300 mm over policy height, the location of the fence at the rear, its replacement of a much taller (4m) cyclone wire and brush fence, variation in this vicinity of other fences, and creation of a neater edge to the right of way are considered sufficient basis for Council to consider a relaxation of the height – to encourage a new and short fence that what currently exists.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.3**Moved: Cr Farley****Seconded: Cr Horrex**

Pursuant to Shire of Peppermint Grove Local Laws Relating to Fencing, Council approves the plans for the proposed new fence and retaining wall at 34 Keane Street Peppermint with the following condition:

- 1. The Fence construction plans, as dated marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the plans approved as part of this application and shall form part of the local laws approval issued.**

CARRIED 6/0

8.1.4 Development – Proposed 2 Car Garage Lot 31 (33) McNeil Street, Peppermint Grove

URBAN PLANNING

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment – Item 8.1.4 refers	33 McNeil Street, Peppermint Grove

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	Lot 31 (33) McNeil Street, Peppermint Grove
Application Index	:	DA2018/00033
LPS No 4 Zoning	:	R-12.5
Land Use	:	Residential
Lot Area	:	1528m ²
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Mr. John Silbert
Owner	:	Mr. Greg Poland
Responsible Officer	:	Mr R Montgomery

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, town planning schemes & policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application / matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

PURPOSE OF REPORT

Council is requested to consider the construction of a double garage, with a portion within almost 4.5 m of the 9 metre street setback at 33 McNeil Street.

SUMMARY AND KEY ISSUES

- The existing house is setback from the street significantly further than required 9 m (setback 19m).
- Proposed double garage extends one corner into the 9m front setback,
- The house at 33 McNeil Street is heritage listed and the garage has been designed to complement the original building in its orientation and detail finish.
- The bricks and roof style match the house, and the garage is angled to match the house.
- A dense hedge screens the property and proposed garage from McNeil Street.

LOCATION

Lot 31 (33) McNeil Street Peppermint Grove

BACKGROUND

The house was originally built in the 1930's and has a double garage built into the structure of the house. The applicant advises this garage is of insufficient size to accommodate the fleet of vehicles owned by the resident. An aerial scan and plans of neighbouring properties confirm there are some other cases of incidental structures such as garages and carports have been constructed within the 9m front setback (a carport for example at 31 McNeil Street). The property is opposite PLC carpark.

CONSULTATION

In anticipation of Council's requirement to refer plans to neighbours, the applicant has consulted neighbours to show them plans for the garage. One neighbour indicated no objection. Although the architect contacted neighbours on either side of the property to confirm their support about the reduced setback for the corner of the garage, the Shire has also written to confirm they are aware of the discretion being sought regarding the Scheme setback. No further responses have been received as a result of this consultation.

STRATEGIC IMPLICATIONS

Local Planning Scheme 4 varies the R Code of 7.5m to require a 9m street (front) setback for residential properties throughout the Shire. The Shire is intent on preserving the landscaped street presentation of residential gardens associated with houses and 9m allows for a garden and pleasing prospects to and from the street from houses.

Should Council see merit in the variation sought, it should have regard for the potential to set a precedent for similar proposals seeking relaxation of the front setback required by the Scheme, and therefore clearly establish the basis for granting the variation.

POLICY IMPLICATIONS

The site for the proposed double garage includes a property on the local Heritage List, and as such due regard needs to be given to Local Planning Policy 3. In particular, LPP 3 states that the contribution of a heritage building to the streetscape should be protected.

STATUTORY IMPLICATIONS

Town Planning Scheme No.4

The proposal complies with relevant Scheme provisions, Residential Design Codes and Scheme Policies with the exception of those outlined in the table below.

<u>RESIDENTIAL DESIGN CODES AND LPS 4</u>	
Acceptable Development/ Performance Criteria	Assessment/Comment
3. LPS 4 - 9 metre street setback (deemed to comply)	<p>Does not comply therefore the development must be assessed on a design principles basis.</p> <p>In this case the reduction of the front setback seeks to preserve and complement the orientation and architecture of the house as it relates to the street.</p> <p>Discretion may therefore be warranted considering the intention to provide an updated, screened but in-character addition to the street presentation of the house.</p>

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The house at 33 McNeil Street is a notable example of the heritage of Peppermint Grove. It is of a distinctive appearance and is heritage listed and was designed by a renowned local architect (Creightmore). The house is situated 13m back from the property boundary and is screened from street view by sweeping gardens and trees.

The existing dwelling is Heritage Listed in the Shire's Municipal Inventory.

The garage supplements and is located adjacent to the front of the current 2-car garage which is integrated with the house. It will provide a further 2 undercover car bays (making 4 undercover bays for the entire site).

Whilst the proposed building has been styled to complement the current house, it is located as separate from the current building so as not to be confused as part of the heritage structure. This siting provides a visually cohesive grouping which preserves much of the front garden and creates a forecourt driveway. A corner of the garage encroaches a maximum of 4.5m into the 9m front setback.

The garage is designed in such a way to sympathise without competing with the contribution the house makes to the streetscape.

Dense garden planting already screens much of the building from the street and it is likely the garage would be screened should this planting remain.

It is noted that 31 McNeil Street has a carport encroaching within the 9m front setback, (this was approved under Town Planning Scheme 3 in 1996).

The existing residence is Heritage listed and was constructed in 1936 having face brickwork, and a steep pitch wood shingle roof and the proposed garage building has been designed to blend with the existing house design with exception to the roof, which will be constructed of copper sheeting proposed to oxidise to have a green hue. This will visually marry the built form with the dense foliage of the front garden.

The impact of the reduced front setback may affect abutting properties (however unlikely given dense garden planting) by blocking views to the street and therefore it is recommended the Shire formally refer the plans to neighbours for their comment on the proposed reduction of setback insofar as it accommodates the proposed garage.

The proposal has merit because it updates the utility of a heritage home for modern lifestyle aspirations for a four car garage. A design principles assessment warrants cautious support.

Given this application requests a relaxation of a scheme requirement and considering the merits (once it has been referred) should neighbours either side of the property present an objection to the reduction to achieve the new garage, Council should consider on balance granting the relaxation of the 9 metre street setback to achieve a practical update of a heritage property which retains its worth for the posterity of Peppermint Grove.

Further Advice

Additional consultation with the neighbours has been undertaken with regard to discretion being sought by applicant.

The Officer Recommendation has been drafted with the understanding that the neighbours have no objections.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.4

Council resolves to approve the proposed garage at Lot 31 (33) McNeil Street in accordance with submitted plans (DA 2018/00033) and subject to the following Conditions:-

1. All works are to be subject to the issue of a Building Permit and to be carried out in accordance with the Permit and consistent at all times with this Planning Approval.
2. The development plans, as dated, marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the plans approved as part of this application and shall form part of the development approval issued.
3. The development, the subject of this approval shall be substantially commenced within two years of the date of issue of the consent forms, and be completed before the conclusion of the third year, whereby all works are to be completed, and conditions met.
4. Prior to the commencement of works, the applicant shall submit for approval and thereafter implement to the satisfaction of the Shire of Peppermint Grove, a construction management plan detailing:
 - How materials and equipment are to be delivered and waste removed from the site during construction;
 - How materials are to be stored on site;
 - Construction waste disposal strategy and location of waste disposal bins;
 - Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - How risk of wind and/or water borne erosion and sedimentation will be minimised during works;
 - Other matters likely to impact surrounding properties.

Advice

1. Applicant is to be advised that Council, in granting approval for the development, has assessed the proposal subject to the Design Principles of the Residential Design Codes in regard to the street setback.

COUNCIL DECISION – ITEM NO 8.1.4

Moved: Cr Farley

Seconded: Cr Horrex

Council resolves to approve the proposed garage at Lot 31 (33) McNeil Street in accordance with submitted plans (DA 2018/00033) subject to the inclusion, and to the satisfaction of the CEO, of windows on the blank side wall facing McNeil Street to improve passive surveillance, and subject to the following Conditions:-

1. All works are to be subject to the issue of a Building Permit and to be carried out in accordance with the Permit and consistent at all times with this Planning Approval.
2. The development plans, as dated, marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the plans approved as part of this application and shall form part of the development approval issued.
3. The development, the subject of this approval shall be substantially commenced within two years of the date of issue of the consent forms, and be completed before the conclusion of the third year, whereby all works are to be completed, and conditions met.
4. Prior to the commencement of works, the applicant shall submit for approval and thereafter implement to the satisfaction of the Shire of Peppermint Grove, a construction management plan detailing:
 - How materials and equipment are to be delivered and waste removed from the site during construction;
 - How materials are to be stored on site;
 - Construction waste disposal strategy and location of waste disposal bins;
 - Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - How risk of wind and/or water borne erosion and sedimentation will be minimised during works;
 - Other matters likely to impact surrounding properties.

Advice

1. Applicant is to be advised that Council, in granting approval for the development, has assessed the proposal subject to the Design Principles of the Residential Design Codes in regard to the street setback.

CARRIED 6/0

8.2 INFRASTRUCTURE

NIL

8.3 COMMUNITY DEVELOPMENT

NIL

8.4 MANAGEMENT / GOVERNANCE / POLICY

8.4.1 Review of Local Government Act – Phase 2

MANAGEMENT/GOVERNANCE/POLICY

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	WALGA's Info Page

Voting Requirement	:	Simple
Subject Index	:	GR097D
Location / Property Index	:	N/A
Application Index	:	N/A
TPS No 3 Zoning	:	N/A
Land Use	:	N/A
Lot Area	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	CEO, Don Burnett

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, town planning schemes & policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application / matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (egg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

PURPOSE OF REPORT

The State Government is in the process of reviewing the Local Government Act 1995. Phase 1 has been completed and the amendments to the current Act are in the process of being presented to Parliament. These amendments will hold over the current Act until phase 2 is completed, which will be the major overhaul. This report will consider the WA Local Government Association's (WALGA) position on key elements of phase 2.

SUMMARY AND KEY ISSUES

- The State Government is reviewing the Local Government Act 12995 with the view of developing a new act
- Phase 1 of the review has been completed
- Phase 2 of the review is underway.
- WALGA has provided comment on key elements of phase 2

LOCATION

N/A

BACKGROUND

The State Government is undertaking a review of the Local Government Act 1995. The review is being undertaken in 2 phases. Phase 1 has been completed and is before parliament to consider amendments to the current act. Phase 1 dealt with elected member training, code of conduct, CEO recruitment and performance review and a simplified gift framework.

Phase 2 is currently underway and will lead to the formation of a new act. Phase 2 deals with three themes;

Agile

- Beneficial Enterprises
- Financial Management
- Rates

Smart

- Administrative Efficiencies
- Local Laws
- Council meetings
- Interventions

Inclusive

- Community Engagement
- Integrated Planning and Reporting
- Complaints Management
- Elections

WALGA has developed its advocacy position on a number of areas for review. Council is requested to provide feedback by 22 February 2019 so that the consolidated position can be presented to the WALGA Zones in March 2019.

CONSULTATION

There has been no specific consultation undertaken in respect to this matter.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident currently.

POLICY IMPLICATIONS

There are no significant policy implications evident currently.

STATUTORY IMPLICATIONS

There are no immediate statutory implications, however proposed changes may flow through into a new act in due course.

FINANCIAL IMPLICATIONS

There are no financial implications evident currently.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications currently.

SOCIAL IMPLICATIONS

There are no social implications currently.

OFFICER COMMENT

The act review is broken into the following themes

Agile

- Beneficial Enterprises
- Financial Management
- Rates

Smart

- Administrative Efficiencies
- Local Laws
- Council meetings
- Interventions

Inclusive

- Community Engagement
- Integrated Planning and Reporting
- Complaints Management
- Elections

The attached WALGA Advocacy document. Each section will be considered, however it is pointed out that WALGA's position is generally supported, however there will be some additional commentary in some themes

Beneficial Enterprises – support WALGA's position. It is unlikely that this would have any impact on the Shire of Peppermint Grove

Financial Management – support.

In addition to WALGA's position, the act needs to take into consideration the timeframe that the tender threshold relates too. The current act is silent on how long a service or contract needs to be in place before the \$150,000 threshold should be tendered. There needs to be a set period, say 3 years, for a service cost to reach the threshold.

The current act requires a local government to develop a business plan for projects over a certain dollar value. Very large projects that require substantial capital, borrowed or funded inhouse and exceeding a set percentage of rates or operating revenue, should have the business plan reviewed by an independent third party to ensure that viability of the project has been correctly assessed and the risk assessment is verified.

Rates, Fees and Charges – support

Administrative Efficiencies – support

Local Laws – no local advocacy position by WALGA and no perceived changes needed.

Council Meetings – Support

Interventions – Support

Community Engagement - no local advocacy position by WALGA and no perceived changes needed.

Integrated Planning and Reporting - no local advocacy position by WALGA. The act needs to reflect the different diversity and sizes of local governments in WA.

Complaints Management – Support

Elections – Support

WALGA's advocacy position on many of the proposed changes have been developed over a number of years and would be considered a general representation of the industries position on many of these issues.

Council is to provide feedback to WALGA by 22 February, 2019. WALGA will consolidate its position through Zone meetings during March with the State Council considering its final position at its 26 March, 2019 meeting.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 8.4.1**Moved: Cr Hohnen****Seconded: Cr Macintosh**

That Council advise WALGA that it is in general support of its advocacy position on the issues contained in 16 November, 2018 Info page, with the inclusion of the timeframe for the tender threshold and the need to have an external party review business plans for large local government projects.

CARRIED 6/0

8.4.2 Mode of Election – 19 October 2019

MANAGEMENT/GOVERNANCE/POLICY
ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
	Nil

Voting Requirement	:	Absolute Majority
Subject Index	:	GV124A
Location / Property Index	:	N/A
Application Index	:	N/A
TPS No 3 Zoning	:	N/A
Land Use	:	N/A
Lot Area	:	N/A
Disclosure of any Interest	:	N/A
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	Don Burnett, Chief Executive Officer

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
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- Review** *When Council reviews decisions made by Officers.*
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PURPOSE OF REPORT

Council's consideration of the mode of election at the 2019 Ordinary Local Government Election on 19 October 2019.

SUMMARY AND KEY ISSUES

- Notification of the next election day
- Quotation for the WA Electoral Commission for \$14000.

LOCATION

N/A

BACKGROUND

Council has previously resolved to have postal voting as the mode of election in previous elections, whereby the WAEC appoints a returning officer for all aspects of the election.

CONSULTATION

There has been no specific consultation undertaken in respect to this matter.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

Local Government Act 1995 Section 4.20(5) Local Government (Election) Regulations.

FINANCIAL IMPLICATIONS

An amount of \$14,000 has been quoted by the WAEC and which will be provided in the 2019/20 budget

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

Council has resolved to hold the Ordinary Local Government Elections by postal vote for past elections. The postal voting mode has traditionally attracted a higher voter turnout than in person elections. The WAEC provides an impartial service which removes Council staff from the process and which includes all advertising and administration.

Voting is required under the Local Government Act 1995 formally appoint the Electoral Commissioner to conduct the election and for the election to be by postal vote.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM No. 8.4.2

Moved: Cr Farley

Seconded: Cr Peters

That Council requests that the WAEC be responsible for the 2019 Local Government Elections, and:

1. Declares, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2019 ordinary elections together with any other elections or polls which may be required; and
2. Decides, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.

CARRIED 6/0

8.5 CORPORATE

8.5.1 Financial Report – November 2018

CORPORATE

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	Financial Report – November 2018

Voting Requirement	:	Simple Majority
Subject Index	:	FM026A
Location / Property Index	:	N/A
Application Index	:	N/A
LPS No 4 Zoning	:	N/A
Land Use	:	N/A
Lot Area	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	Paul Rawlings, Manager, Corporate Services

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
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PURPOSE OF REPORT

To report on financial activity for the period 1 July 2018 to 30 November 2018.

SUMMARY AND KEY ISSUES

- The financial report for the month ended 30 November 2018 indicates YTD net current assets some \$7,295 more than YTD budget;
- Operating revenue is some \$26,208 more than YTD budget;
- Operating expenditure is some \$30,581 more than YTD budget;
- Capital expenditure totalling \$194,511 has been incurred.
- The forecast surplus at 30 June 2019 (assuming proposed budget variations are adopted) is \$16,171.

LOCATION

N/A

BACKGROUND

Nil

CONSULTATION

There has been no specific consultation undertaken in respect to this matter.

STRATEGIC IMPLICATIONS

There are no strategic plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

There are no specific statutory requirements in respect to this matter.

FINANCIAL IMPLICATIONS

The financial report forecasts a closing surplus of \$16,171. Item 8.5.3 of this agenda recommends a number of variations to the budget utilising the bulk of the surplus identified in previous financial reports this financial year.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications evident at this time.

SOCIAL IMPLICATIONS

There are no social implications evident at this time.

OFFICER COMMENT

The following comments relate to year-to-date (YTD) budget versus actuals variances or forecasts that vary from the full year estimate that are greater than \$10,000.

(1) Grants and Subsidies (\$14,426 in excess of YTD budget)

Council has received additional untied grants from the WA Local Govt. Grants Commission (\$4,207) and Main Roads (\$1,759), plus two unbudgeted grants from LotteryWest (Australia Day and Carols by Candlelight) - \$5,000 each. None of these additional grants gives rise to an obligation for additional, unbudgeted expenditure.

(2) Contributions and Reimbursements (\$14,758 in excess of YTD budget)

An additional \$7,194 has been received as a reimbursement for parental leave payments to a librarian. Also included are unbudgeted workers compensation payments (\$716) and a \$2,000 refund of an employee's novated lease deductions (not required due to sale of one vehicle).

(3) Employee Costs (\$9,738 in excess of YTD budget)

This minor budget over-run reflects additional long service leave payments (to be recouped from the staff leave cash reserve) and paid parental leave payments to a library employee) offset by additional reimbursements from Dept. of Human Services, as noted above).

(4) Materials and Contracts (\$25,048 in excess of YTD budget)

The excess of YTD expenditure compared to YTD budget relates mainly to timing variances for IT contracts with three quarterly CouncilFirst payments processed (including the Jan – March 2019 subscription processed but not yet paid) plus the full-years SPYDUS library management system paid in October.

Other than matters noted as requiring budget variations in item 8.5.3 of this agenda there are no adverse expenditure trends emerging and worthy of note at this time.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM No. 8.5.1

Moved: Cr Hohnen

Seconded: Cr Farley

That Council receives the financial report for the period 1 July 2018 to 30 November 2018.

CARRIED 6/0

8.5.2 Accounts Paid – November 2018
CORPORATE
ATTACHMENT DETAILS

Attachment No	Details
Attachment	Accounts Paid – November 2018

Voting Requirement	:	Simple Majority
Subject Index	:	FM045A
Location / Property Index	:	N/A
Application Index	:	N/A
TPS No 3 Zoning	:	N/A
Land Use	:	N/A
Lot Area	:	N/A
Disclosure of any Interest	:	N/A
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	Paul Rawlings, Manager Corporate Services

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, town planning schemes & policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application / matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

PURPOSE OF REPORT

The purpose of this report is to advise the details of all cheques drawn, credit card and electronic funds payments and direct debits since the last report.

SUMMARY AND KEY ISSUES

Significant payments in November 2018 included the following:

- GST & PAYG remittance to ATO;
- Payments for waste disposal to WMRC;
- Staff & Shire superannuation contributions.

LOCATION

N/A

BACKGROUND

Attachment 1 lists details of all payments made since the last report. The following summarises the cheques, credit card payments, electronic fund transfers and direct debits included in the list presented for information.

<u>PAYMENT TYPE</u>	<u>AMOUNT</u>
Cheques 396 - 405	\$8,145.51
Direct Debits DD27 – DD30	\$11,841.13
Electronic Funds Transfers 258 – 262	\$385,272.85
TOTAL	\$405,259.49

CONSULTATION

There has been no specific consultation undertaken in respect to this matter.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

Accounts are paid during the month in accordance with Delegation 2 "Payments from the Municipal Fund and the Trust Fund". Power to delegate to the CEO is contained in Section 5.42 of the Local Government Act 1995.

FINANCIAL IMPLICATIONS

The payments processed by the Shire relate to expenditure approved in the 2018/19 annual budget.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

Nil

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO. 8.5.2

Moved: Cr Peters

Seconded: Cr Horrex

That Council receives the list of payment of accounts by cheques, electronic funds transfers, direct debit payments and credit card payments for November 2018, totalling \$405,259.49.

CARRIED 6/0

8.5.3 2018/19 Budget Review
CORPORATE
ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Nil	Nil

Voting Requirement	:	Simple Majority
Subject Index	:	FM026A
Location / Property Index	:	N/A
Application Index	:	N/A
TPS No 3 Zoning	:	N/A
Land Use	:	N/A
Lot Area	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	Paul Rawlings, Manager, Corporate Services

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
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PURPOSE OF REPORT

To consider and adopt the budget review.

SUMMARY AND KEY ISSUES

- The annual budget review is conducted in March of each year (as at 28 February).
- This “interim” review of the 2018/19 budget has been conducted to re-allocate \$24,677 worth of identified additional revenue and \$65,821 of the \$81,992 budget surplus forecast for 30 June 2019.
- These funds are required to address some staffing issues (resourcing and a lost-time injury), increased cost of projects brought forward from 2017/18, issues identified in recent internal and external audits, some identified public safety issues and the first of potentially many changes to waste management services following the WMRC meeting held 6 December 2018.

LOCATION

N/A

BACKGROUND

Items 1 – 8 represent changes to expected revenue (with no impact on any related expenditures). While most changes are modest in nature it should be noted that the trend towards lower revenue from building applications continues from last year and parking fine revenue is much lower. It should be noted that Council’s parking local laws are due to be reviewed in 2019 and additional resources will be allocated towards recovery of outstanding fines.

Items 9 – 11 identify changes to employee costs, in part due to additional revenue (paid parental leave). The services of a planning assistant for four months has been deemed necessary to deal with the number of properties to be included in the heritage inventory review.

Item 12 represented a unique opportunity to purchase an artwork relating to a local landmark and was purchased under the provisions of section 6.8 (1) (c) of the *Local Government Act 1995*.

Item 13 brings forward the swimming pool inspection project from 2019/20, funded by savings in audit fees (item 14) due to auditor general not conducting 2017/18 financial audit.

Items 15 and 16 represent additional costs for projects brought forward from 2017/18, - records management due to the need to bring together records from a number of disparate sources and the website due to the decision to expand the number of “modules” purchased to improve the customer experience.

Items 17 and 18 relate mainly to matters required to bring the 2017/18 financial audit to a successful conclusion as well as assisting in a review of the long-term financial plan facilitated by an improved asset management informing strategy.

Items 19 and 20 reflect the need for additional contracted resources to undertake tasks normally undertaken by an injured worker – note offsetting revenue at item 5.

Items 21 – 24 represents the initial response to the decision by the WMRC at its meeting on 6th December 2018 to move to a “mixed” fee basis for charging for waste disposal at their Brockway Road facility. It should be noted that significant savings are expected in future years from this change to the gate fee.

Item 25 has been deemed necessary from the point-of-view of crime reduction and public safety.

CONSULTATION

Consultation with senior officers has been undertaken in respect to this matter.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires an annual budget review. Council is free to undertake further budget reviews as it sees fit in addition to the annual review.

FINANCIAL IMPLICATIONS

The following variations to the 2018/19 budget are proposed:

Item	Acct.	Particulars	Original	Proposed	Variance	Comments
1	14120	General Purpose Grants	(14,914)	(18,886)	(3,972)	Additional general purpose grants (Commonwealth)
2	14130	Untied Road Grants	(9,051)	(9,286)	(235)	Additional untied road grants (Commonwealth)
3	14140	Other Road Grants/Subsidies	(6,050)	(7,872)	(1,822)	Additional untied road grants (State)
4	14150	Other Grants	(6,400)	(16,400)	(10,000)	Carols By Candlelight \$5,000; Australia Day \$5,000 - Grants not budgetted
5	13120	Reimbursements	(710)	(22,358)	(21,648)	Paid parental leave (\$12,948) & workers compensation (\$8,700) reimbursements
6	17110	Interest on Rates Instalments	(7,000)	(10,000)	(3,000)	Additional revenue from more ratepayers electing to pay by instalments
7	20240	Parking Fines	(12,000)	(6,000)	6,000	Reduction in expected revenue from fines
8	20160	Building Licence Fees	(30,000)	(20,000)	10,000	Reduction in expected revenue due to few building applications to date
9	26110	Salaries (Shire)	1,071,512	1,091,012	19,500	Planning Assistant - 4 months - 0.50 FTE
10	26110	Salaries (Library)	779,518	792,466	12,948	Paid parental leave (\$12,948) - Library
11	26310	Superannuation (Shire)	161,486	163,386	1,900	Planning Assistant - SGC (9.5% of gross salaries)
12	27140	Other Office Expenses	4,000	6,500	2,500	Purchase of artwork (not capitalised, recorded as attractive asset)
13	28635	Swimming Pool Fence Inspections	0	10,000	10,000	Royal Life Saving Society contracted costs
14	27120	Audit fees	25,000	15,000	(10,000)	State Auditor General audit in 2019; procurement process audit (\$4,950)
15	28238	Records Management	16,000	35,000	19,000	Complete records plan review, discovery & migration, AvePoint licencing
16	28870	Website Maintenance	20,000	27,000	7,000	Additional set-up and module expenses
17	27560	Engineering (Civil)	0	12,000	12,000	Footpath condition assessment (\$4,000); asset management plan (\$8,000)
18	27730	Valuation	0	2,750	2,750	Freshwaters Café - land fair value & market rental (for 2018 audit)
19	28250	Contract Mowng	41,824	45,824	4,000	Additional contracted mowing to cover for injured worker
20	28640	Street/Reserves Tree Maintenance	80,000	85,000	5,000	Additional contracted pruning to cover for injured worker
21	28900	Residential Waste Collection/Disposal	225,301	210,301	(14,128)	Reduction in waste disposal fees
22	28905	Residential Bulk Waste Collection/Disp	42,900	32,900	(10,000)	Reduction in waste disposal fees
23	28935	Other Waste Collection/Disposal	109,282	101,326	(7,956)	Reduction in waste disposal fees
24	28950	WMRC Contributions	5,738	37,822	32,084	WMRC fixed costs contribution 1.1.19 - 30.6.19
25	29100	Administration Building Maintenance	27,788	31,688	3,900	Eastern wall anti-graffitti (\$1,800), car park speed humps & marking (\$2,100)
26	95901	Surplus B/fwd 1 July 2018	81,992	16,171	(65,821)	Re-allocation of surplus b/fwd as at 1 July 2018
		NET VARIATION			0	

The revised Statement of Financial Activity taking into account the above proposed variations is as follows:

	ADOPTED BUDGET 2018/19	PROPOSED NEW BUDGET 2018/19
-		
Operating Revenue		
FEES & CHARGES	229,165	213,165
GRANTS & SUBSIDIES	117,282	133,311
CONTRIBUTIONS, REIMBURSEMENTS	1,260,046	1,281,694
INTEREST ON INVESTMENTS	53,000	53,000
OTHER REVENUE	11,250	14,250
PROFIT ON SALE OF ASSETS	0	0
	1,670,743	1,695,420
Operating Expenses		
EMPLOYEE COSTS	(2,241,641)	(2,275,989)
MATERIALS & CONTRACTS	(1,853,519)	(1,909,669)
PUBLIC UTILITIES	(130,043)	(130,043)
DEPRECIATION	(386,563)	(386,563)
INTEREST EXPENSES	(61,030)	(61,030)
INSURANCES	(94,256)	(94,256)
LOSS ON SALE OF ASSETS	0	0
OTHER EXPENSES	(77,250)	(77,250)
	(4,844,302)	(4,934,800)
CHANGE IN NET ASSETS	(3,173,559)	(3,239,380)

	<u>Adjustments for Non-Cash (Revenue)</u>		
	<u>and Expenditure</u>		
	(Profit)/Loss on Asset Disposals	0	0
	Depreciation on Assets	386,563	386,563
		386,563	386,563
	<u>Capital Expenditure</u>		
	Land & Buildings	0	0
	Plant and Equipment	(164,500)	(164,500)
	Furniture & Equipment	0	0
	Infrastructure Assets - Roads	(270,000)	(270,000)
	Infrastructure Assets - Other	(20,000)	(20,000)
	Infrastructure Assets - Footpaths	(50,000)	(50,000)
	Infrastructure Assets - Parks & Reserves	0	0
	Infrastructure Assets - Drainage	(9,000)	(9,000)
		(513,500)	(513,500)
	<u>Capital Revenue</u>		
	Proceeds from Disposal of assets	130,000	130,000
	<u>Debt Management</u>		
	Repayment of Debentures	(27,701)	(27,701)
	<u>Reserves and Restricted Funds</u>		
	Transfers to Reserves	(200,300)	(200,300)
	Transfers from Reserves	22,920	22,920
		(177,380)	(177,380)
ADD	Net Current Assets July 1 B/Fwd	234,565	234,565
LESS	Net Current Assets Year to Date	81,992	16,171
	Amount Raised from Rates	3,223,004	3,223,004

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The above Statement of Financial Activity forecasts a closing budget surplus of \$16,171. The current ten-year financial plan does not rely on surpluses being carried forward to balance any subsequent year's budget.

It should be noted that the annual budget review to be presented at the March 2019 meeting will address the very significant changes to waste management costs (especially collection and quite possibly disposal cost) amongst other matters.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM No. 8.5.3**Moved: Cr Macintosh****Seconded: Cr Farley**

That Council adopts the review of the 2018/19 budget, as at 30 November 2018, with the variations listed above and amends the budget accordingly.

CARRIED 6/0

8.5.4 Matters for Information and Noting

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachments	1. Planning Stats November 2018 2. Dog Registrations November 2018 3. Infringements Issued November 2018 4. Rates Summary 5. Library Stats November 2018

Voting Requirement	:	Simple Majority
Subject Index	:	Multiple
Location / Property Index	:	N/A
Application Index	:	N/A
TPS No 3 Zoning	:	N/A
Land Use	:	N/A
Lot Area	:	N/A
Disclosure of any Interest	:	N/A
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	Mhairi Warne, Executive Officer

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
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PURPOSE OF REPORT

The Shire of Peppermint Grove regularly receives and produces information for receipt by the Elected Members. The purpose of this item is to keep Elected Members informed on items for information received by the Shire.

The Matters for information report will be presented at each Council meeting and will provide an update on a number of areas of the Shire's operations and also provide information and correspondence of interest to elected members.

It is intended that the following information is provided on a regular basis, either monthly or quarterly, noting some of this data is still to be collected in a presentable format.

- Building permits issues
- Demolition permits issued
- Advisory notes from WALGA, DLG&C or other stakeholders
- WESROC Mayor/President forum notes
- WALGA Zone minutes
- WALGA State Council minutes
- Seal register advising of when the Shire seal has been applied
- Shine statistics
- Infringements for parking/dogs etc
- Waste and recycling data
- Library statistics

SUMMARY AND KEY ISSUES

The following reports are presented to Council at the Ordinary Council Meeting of November 2018:

1. Planning and Building Stats November 2018
2. Dog Registrations November 2018
3. Issued Infringements November 2018
4. Rates Summary of Debtors at 30 November 2017/18 and 2018/19
5. Library Statistics November 2018

CONSULTATION

No community consultation was considered necessary in relation to the recommendation of this report.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO. 8.5.4

Moved: Cr Farley

Seconded: Cr Hohnen

That Council receives the information in this report.

CARRIED 6/0**9 NEW BUSINESS OF AN URGENT NATURE**

NIL

10 MOTIONS ON NOTICE

NIL

11 CONFIDENTIAL ITEMS OF BUSINESS

Moved: Cr Farley

Seconded: Cr Hohnen

That the meeting be closed to the public for the purpose of discussing Item 11.1 as it is required that this matter be dealt with behind closed doors under section 5.23:

(2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

(b) the personal affairs of any person

CARRIED 6/0

The meeting was closed to the public at 6.29pm.

11.1 Australia Day Awards 2019

Moved: Cr Farley

Seconded: Cr Peters

That the meeting be reopened to the public at 6.30pm.

CARRIED 6/0**12 CLOSURE**

At 6.30pm, there being no further business the meeting closed.



Ordinary Council Meeting - **Minutes**
18 DECEMBER 2018



CLOSURE

At 6:30pm there being no further business the closed.

These minutes were confirmed at the ordinary council meeting 18 December 2018.

Signed:

A handwritten signature in blue ink, appearing to read 'Rebecca'.

Presiding Person at the meeting at which these minutes were confirmed.

Date: 18 December 2018