



Shire of  
Peppermint Grove

# ORDINARY COUNCIL MEETING

**DRAFT**

# AGENDA

*The draft agenda submitted to this Forum is subject to change and should not be read as the final Agenda to the next Ordinary Council Meeting. The final Agenda will be placed on the Shire's website on the Friday before the scheduled meeting.*

**TO BE HELD ON**  
**TUESDAY 25 AUGUST 2020**  
**AT**  
**5.30 PM**



# Shire of Peppermint Grove

## **DRAFT MEETING AGENDA ATTACHED**

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# Shire of Peppermint Grove

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Shire of  
Peppermint Grove

## DRAFT ORDINARY COUNCIL MEETING AGENDA

### 1 DECLARATION OF OFFICIAL OPENING

At \_\_\_\_\_ pm, 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 \_\_\_\_\_.

#### **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  
Elected Member

Cr R Thomas  
Cr C Hohnen  
Cr K Farley  
Cr D Horrex  
Cr G Peters  
Cr P Macintosh  
Cr P Dawkins

Chief Executive Officer  
Manager Corporate and Community Services  
Manager Development Services

Mr D Burnett  
Mr M Costarella  
Mr R Montgomery

## **2.2 APOLOGIES**

Manager Infrastructure Services

Mr D Norgard

## **2.3 LEAVES OF ABSENCE**

## **2.4 NEW REQUEST FOR A LEAVE OF ABSENCE**

## **3 DELEGATIONS AND PETITIONS**

### **3.1 DELEGATIONS**

NIL

### **3.2 PETITIONS**

NIL

DRAFT

#### **4 PUBLIC QUESTION TIME**

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

- The Agenda
- Question to Council and
- Deputation Forms

Have been placed at the end of the Council Meeting table in front of the public gallery, for the public, as well as on the Shire Webpage.

#### **Rules for Council Meeting Public Question Time**

- 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.*
- During the Council meeting, after Public Question Time no member of the public may interrupt the meeting's proceedings or enter into conversation.*
- Whenever possible, questions should be submitted in writing at least 48 hours prior to the start of the meeting.*
- 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.*
- 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 FROM A PREVIOUS MEETING**

NIL

#### **4.2 QUESTIONS FROM MEMBERS OF THE PUBLIC**

#### **4.3 DEPUTATIONS OF THE PUBLIC**

#### **4.4 PRESENTATIONS FROM THE PUBLIC**

A publication on the Centenary of the Bahà ' ì Faith in Australia 1920 – 2020 will be presented by a Bahà ' ì faith representative who is a Peppermint Grove resident.

## **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**

*A declaration under this section 5.60 of the Act requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.*

*Other members may allow participation of the declarant if the member further discloses the extent of the interest and the other members decide that the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.*

### **5.2 PROXIMITY INTEREST**

*A declaration under this section 5.60 of the Act requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.*

*Other members may allow participation of the declarant if the member further discloses the extent of the interest and the other members decide that the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.*

### **5.3 IMPARTIALITY INTEREST**

*Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member / employee is also encouraged to disclose the nature of the interest. The member / employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member / employee declares that their impartiality will not be affected then they may participate in the decision making process.*

### **5.4 INTEREST THAT MAY CAUSE A CONFLICT**

*Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member / employee is also encouraged to disclose the nature of the interest. The member / employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member / employee declares that their impartiality will not be affected then they may participate in the decision making process.*



## 5.5 STATEMENT OF GIFTS AND HOSPITALITY

*Councillors and staff are required (Code of Conduct), to disclose gifts and acts of hospitality which a reasonable person might claim to be a conflict of interest. Gifts and acts of hospitality which exceed that amount of prescribed by regulation are to be recorded in the Councils Gift Register.*

## 6 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

## 7 CONFIRMATION OF MINUTES

### 7.1 ORDINARY COUNCIL MEETING 28 JULY 2020

#### OFFICER RECOMMENDATION – ITEM 7.1

**Moved:**

**Seconded:**

**That the Minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 28 July 2020 be confirmed as a true and accurate record.**

## 8 OFFICER REPORTS

### 8.1 MANAGER DEVELOPMENT SERVICES

#### 8.1.1 31 Keane Street – Carport Addition and Porch Alterations

#### URBAN PLANNING

#### ATTACHMENT DETAILS

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Development Application Plans

Voting Requirement	:	Simple Majority
Acceptance Date	:	10/06/2020
Location / Property Index	:	31 Keane Street, Peppermint Grove [3070]
Application Index	:	DA2020/00009
LPS No 4 Zoning	:	Residential – R12.5
Land Use	:	Residential
Lot Area	:	760m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Sandtracks Design
Owner	:	Melinda Dredge
Assessing Officer	:	Mr Josh Dallimore – Planning and Development Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager Development 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**

Council received a development application for a car port and modifications to a porch at 31 Keane Street, Peppermint Grove.

## **SUMMARY AND KEY ISSUES**

- Carport is a structure located within the street setback (9m) area outlined by the Shires Local Planning Scheme 4 and to be assessed against Local Planning Policy 2.
- The proposed porch modifications are assessed to be compliant with LPS 4.

## **LOCATION**

31 Keane Street, Peppermint Grove

## **BACKGROUND**

The Shire received a Development Application on 10 June 2020 proposing the addition of a car port within the front setback area, and modifications to an existing porch structure. The property is not on the heritage list and does not abut properties on the heritage list.

The works to the porch at the front of the property are minor in nature and involve replacing the existing roof tiles. This will not change the way the form or scale of the structure as seen from the street.

The proposed carport is an additional (33m<sup>2</sup>) structure setback 3.8m from the street within the front setback area of the property. The Shire LPS4 does not usually allow development to be developed closer than 9 m to the street unless considered to warrant special consideration as per policy LPP 2. This identifies where discretion can be granted for a carport within the front setback area.

## **CONSULTATION**

The Shire contacted adjoining landowners on 11 June 2020 informing them of the proposed development and inviting comment on the areas of development seeking to vary the Shires Local Planning Scheme 4 or R-Codes.

The comment period was open for 14 days and closed on 25 June 2020. No comments on the proposed development were received during this time.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **POLICY IMPLICATIONS**

Local Planning Policy 2 – Carports, Garages and Minor Structures in the Street Setback  
LPP 2 identifies that for carports built within the front setback area:

*“The Shire’s Local Planning Scheme No.4 requires carports and garages to be located behind the 9- metres setback line from primary street frontage and behind the 4.5-metre secondary street setback.*

*However, Council acknowledges that not every site or streetscape within the Shire is identical and where setbacks to houses have been established at less than 9- metres it may also consider reduced setbacks to carports and garages subject to there being no detrimental impact to the streetscape.*

*Carports and garages should be sensitively located on lots so as to not hinder views to Heritage Listed properties.*

*Council is able to refuse inappropriately sited carports and garages under Clause 67 (m) & (n) of the Deemed provisions of the Planning and Development (Local Planning Scheme) Regulations 2017”*

The lot of the proposed development site is the front house of a battle-axe subdivision and as such does not have access to the property from the rear for the parking of cars. As per the definition of a carport, the proposed development is 33m<sup>2</sup> and open on all four sides, with a tiled roof above. This roof covers an existing hard stand area that is currently being used for the parking of two cars.

The structure is located close to but not joining the house. The works will ensure both the carport and the re-roofed porte-cochere will blend with the house.

Due to the battle-axe lot configuration and the existing house development, parking up the side of the house, behind the front setback area is not possible. The proposed carport is an open structure and complements the house as it presents towards Keane Street. Policy LPP 2 identifies the circumstances where a structure within the front setback may be warranted for approval.

## **STATUTORY IMPLICATIONS**

### **Local Planning Scheme No.4**

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

<b>RESIDENTIAL DESIGN CODES</b>		
<b>Acceptable Development/Performance Criteria</b>		<b>Assessment/Comment</b>
<b>1.</b>	5.1.2 C2.1 (iii) - Buildings set back from the primary street boundary reduced by up to 50 per cent provided that the area of any building, including a carport or garage, intruding into the setback area is compensated for by at least an equal area of open space between the setback line and line drawn parallel to it at twice the setback distance.	<p>The proposed development will reduce the front setback by more than half of the 9m allowed under LPS 4, however the open space aspect of the design principle is met. This is due to the increased front setback stipulated by LPS 4 and the bulk of the house being setback in excess of the 9m minimum.</p> <p>The proposed design does not completely meet the design principles outlines in 5.1.2 of the R-Codes as the design principles would require a further 800mm of setback from the street. However, some aspects can be met due to the position of the existing house and the increased setback area.</p>
<b>2.</b>	5.2.1 C1.5 Carports in accordance with 5.1.2 C2.1 (iii) that do not exceed 50 per cent of the frontage of the building and allows for an unobstructed view.	The carport is open on all sides and takes up approximately 33% of the house frontage.
<b>3.</b>	Table 2a - Setbacks	The application proposes a 415mm setback from the western boundary, reducing the required setback by 585mm. As the carport is of open construction and abutting a driveway to the rear property the design is suitable and unlikely to impact streetscape amenity.

## **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 proposed application at 31 Keane Street consists of two parts to be considered by Council. The first involves alterations to the porch (*porte-cochere*) at the front of the property where the roof tiles are to be replaced, and some minor repair work. The property is not heritage listed and it is noted the materials will match with all structures. The proposed works to the porch do not adversely affect neighbouring landowners and will improve the street aspect of the property. Approval of this aspect of the development is recommended.

The application includes the addition of a carport within the front setback area of the property. The R Codes and LPP2 applies. The carport is set back 3.8m from the street, which (regardless of the LPS 4 9m setback) is 800mm less than the requirements set out by R Codes (part 5.1.2 C2.1 (iii) ) which states that a carport can only reduce a front setback by up to 50% of the primary setback.

Whereas this aspect of the proposal does not comply with the design principles of the R-Codes, if in the opinion of Council, the design is assessed to be satisfactory according to LPP 2, then it may be approved.

LPP 2 identifies the circumstances where properties may not possibly contain all parking behind the building line (front setback area), and that in such cases a carport may be permitted within the front setback area.

The following are assessed to be design considerations which mitigate the variation of usual street setback standards in this case:-

- The house at 31 Keane Street is currently set back in excess of the 9m to the closest point from the street LPS 4 setback. The house itself is situated a sufficient distance from the street to provide adequate space within the front setback area for a carport.
- The driveway hardstand leading the carport will preserve a vista between the house and the street.
- The open structure of the carport has minimal impact upon the sight lines between the house and the street in front of the property. This accords with the provisions of LPP 2.
- The lot also has not rear access available so fits the criteria for parking within the front setback area.

In the light of these site-specific characteristics of the design proposed approval is recommended.

**OFFICER RECOMMENDATION/S – ITEM NO 8.1.1**

That Council approves the proposed Carport Addition and Porch Alterations at 31 Keane Street, Peppermint Grove, received by the Shire on 10 June 2020, subject to the following conditions:

1. 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 “Approved Plans” as part of this application and shall form part of the development approval issued.
2. All works are to be subsequent to the issue of a Building Permit and shall not be carried out, other than in accordance with this Planning Approval and consistent with Building Permit certified/approved plans.
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 will be delivered and removed from the site;
  - How materials and equipment will be stored on the site;
  - Parking arrangements for contractors;
  - 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;
  - Other matters likely to impact on surrounding properties.

**Advice:**

In approving this application Council has assessed the proposed plans against the Shires Local Planning Scheme 4, the Design Principles of the R-Codes, and the Shires Local Planning Policy 2, and after considering possible and likely impacts has exercised its discretion with regard to policy on the following areas:

- Development within the front setback area (LPP2).

The design principles assessment concluded there would be no adverse impact on the street or abutting properties.

**8.1.2 17A Venn Street – New Single Dwelling - Several Scheme Variations**
**URBAN PLANNING**
**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment 2</b>	Location Map
<b>Attachment 2</b>	Development Application Plans

Voting Requirement	:	Simple Majority
Acceptance Date	:	29/04/2020
Location / Property Index	:	17A Venn Street, Peppermint Grove
Application Index	:	DA2020/00006
LPS No 4 Zoning	:	Residential R-12.5
Land Use	:	Residential
Lot Area	:	684m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Summit Homes Group
Owner	:	Peter and Lee Farrah
Assessing Officer	:	Josh Dallimore
Authorising Officer	:	Mr. Ross Montgomery – Manager Development 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 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 (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 for the proposed 'New Single House' at 17A Venn Street, Peppermint Grove which seeks permission to vary several design parameters from what is deemed to comply with LPS 4 (R Codes). After the indication the Council would not agree to all of the proposed LPS 4 variations the design has now been reviewed by the applicant.

## **SUMMARY AND KEY ISSUES**

- The design has been revised to bring it more closely to align with the LPS 4 and R Codes. It is noted the
  - rear setback now increased from 3.6m to 6m (this is now compliant)
  - proposed plot ratio is now compliant (0.44)
- Design variations requested in this assessment:-
- reduce primary street setback to 6m;
- excess site cover of house (this has been reduced by 14.74m<sup>2</sup>; what is now proposed is 50.5% (5.5% policy tolerance)
- As there was no objection to the original application, and the proposed changes were considered an improvement on the original design, the amendment was not put out for advertising.

## **LOCATION**

17A Venn Street, Peppermint Grove

## **BACKGROUND**

The proposed development site (17A) was subdivided from 17 Venn Street in 2016 to create two lots; one north and one south.

The new lot has remained as an open grassed garden for the house on 17 Venn Street but is now subject to the application to develop a single house. The existing house at 17 Venn Street is not on the heritage list, nor is the abutting property to the south.

When the application was first presented to Council in June of 2020 it was determined that the design variations sought for the proposed house would be an over development of the block. In discussion with Shire staff the applicant has reviewed the design to address the issues identified by Council.

Council notes Venn Street is developed with houses that are generally set back from the street at less than the 9 m which occurs in other streets in the Shire. This may warrant acceptance of variations to LPS 4 with respect to street setback.

The proposed redesign reduced the number of LPS 4 variations to address neighbour comment and the applicant requests Council to using its discretion to approve.

## **CONSULTATION**

The Shire advertised the proposed development to adjoining landowners on 24 April 2020 informing them of areas of the proposed development that were seeking discretion. The Shire had two enquiries about the proposed works but no official comments were received.

Shire staff determined that the proposed amendments were an improvement to the original application. No formal comments were received in response to the original plans. The revised design is considered to have less of an impact on neighbouring properties and so the redesign was not re-advertised.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **POLICY IMPLICATIONS**

The proposal seeks variation of multiple LPS 4 Scheme requirements, a matter for a Council decision.

## **STATUTORY IMPLICATIONS**

### **Local 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.

<b>LOCAL PLANNING SCHEME NO. 4</b>	
<b>Scheme Requirement/Clause</b>	<b>Assessment/Comment</b>
1.	<p>Front Setback – 9m (LPS 4 Cl. 26 (2))</p> <p>To achieve a sufficient rear setback the proposed amendment reduces the street setback from 7m to 6m. Although a 6 m setback is less than specified in LPS 4 this reduction is consistent with other houses along the street, and the site abuts a property with a garage even closer to Venn Street.</p> <p>The variation will complement the current streetscape and increase the rear setback to comply with the LPS 4. It is consistent with this section of Venn Street. The requested variation to LPS 4 in this case is supported.</p>
2	<p>Plot Ratio – 0.5 (LPS 4 Table 5 – Additional Site Requirements)</p> <p>Plot ratio area complies with Local Planning Scheme 4 (0.44)</p>
<b>RESIDENTIAL DESIGN CODES</b>	
<b>Acceptable Development/Performance Criteria</b>	<b>Assessment/Comment</b>
1.	<p>Rear Setback – 6m (R-Codes Table 1)</p> <p>Complies.</p>
2.	<p>Site Coverage – 55% Open Space (R-Codes Table 1)</p> <p>The proposed amendment has reduced the amount of building bulk on the site; however, the design still does not meet the open space requirements of the R-Codes. a 5.5% variation would be required to approve the proposed site coverage of 50.5% (seeking ).</p> <p>The R-Codes state that alfresco areas can be included in the open space calculation when they are open on two or more sides. If the alfresco was redesigned to be open aspect on 3 sides, the proposed development would comply with site coverage of the Codes.</p> <p>Open space requirements are included in the R-Codes to help reduce the bulk of buildings and allow for open landscaped gardens consistent with neighbourhoods such as Peppermint Grove (characterised by houses with plenty of open, usable space, and large established trees).</p> <p>The requested reduction in open space has not been justified or demonstrated to deliver a superior design outcome for the site or the neighbourhood.</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 Shire introduced additional residential design specifications in LPS 4 to deliver a style of residential development consistent with the character of Peppermint Grove. Setbacks and plot ratios were devised to apply in addition to the R Codes because the objective was to deliver the style of residential neighbourhood most highly valued by the community for its landscape urbanism aesthetic.

The proposed development requests Council to exercise its discretion in several design elements to approve a development which would not meet the R-12.5 deemed-to-comply design requirements for the lot.

The main areas of requested variation are:

<b>Design Element</b>	<b>Proposed</b>	<b>Compliant</b>
Open Space	49.5%	55%
Front setback	6m	9m

The neighbourhood of Venn Street immediately around the proposed development site, is characterised by houses surrounded by spacious gardens. Some of these houses may not comply with the current LPS 4 street-setback of 9m, however their overall design, plot ratio and coverage of the site provides sufficient open space and green areas to buffer to the street and neighbouring properties.

Following design comment provided by Council to the applicant, the design has been revised to address some of the concerns of the original application and to reduce the bulk of the proposed house. The redesign now meets the rear setback requirements of the R-Codes, as well as the plot ratio requirement of LPS 4 and provides for extra space at the rear of the property available for landscaped gardening and/or deep planting.

The street setback is now proposed at 6m which is a 30% reduction in the LPS 4 standard. This section of Venn Street is anomalous due to a number of properties which have buildings located much closer to the street. A house on the corner of Venn and Johnston uses Venn as its secondary setback. There is a garage to the south of this lot which is located closer than 6m to the street. In this context therefore a reduction of the street setback to 6m is considered acceptable.

The redesign does not meet the minimum open space requirements of the R-Codes. Although the amendments provided reduce site coverage, there is still a 5.5% variation sought. The increased rear setback provides for more usable rear garden space, The single storey design reduces building bulk and will have a significantly reduced impact on the street and will not dominate or dramatically overshadow any neighbouring properties. The excess of site coverage is partly due to an enclosed alfresco area – which could be excluded if it were open on three sides. This would however not materially alter the amount of site coverage in real terms and would therefore be of little design benefit. The applicant has agreed to plant trees on the balance of the garden area to offset any deficit in open space and in this context approval to the redesign can be recommended.

**OFFICER RECOMMENDATION/S – ITEM NO 8.1.2**

**That Council approves the plans for proposed New Single House at 17A Venn Street, Peppermint Grove, submitted to Council on 28 July 2020, subject to the following conditions:**

- 1. 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 “Approved Plans” as part of this application and shall form part of the development approval issued.**
- 2. All works are to be subsequent to the issue of a Building Permit and shall not be carried out, other than in accordance with this Planning Approval and consistent with Building Permit certified/approved plan.**
- 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. Submission of a landscaping plan prior to the issue of a Building Permit, the Plan to indicate the planting of trees and other landscaping to be implemented as part of the approved development.**
- 5. 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 will be delivered and removed from the site;**
  - How materials and equipment will be stored on the site;**
  - Parking arrangements for contractors;**
  - 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;**
- **Other matters likely to impact on surrounding properties.**

**Advice:**

**In approving this application Council has assessed the proposed plans against the Shires Local Planning Scheme 4 and the Design Principles of the R-Codes, and has provided discretion on the following areas:**

- **Open Space**
- **Front Setback**

**to approve the design with attached conditions of approval.**

**The design principles assessment concluded the redesign would adequately address concerns of the streetscape and neighbourhood character and there would be no adverse impact on the street or abutting properties.**

DRAFT

## 8.2 MANAGER INFRASTRUCTURE SERVICES

NIL

DRAFT

### 8.3 MANAGER CORPORATE AND COMMUNITY SERVICES

#### 8.3.1 Financial Statements June 2020

#### MANAGEMENT/GOVERNANCE/POLICY

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	Financial Statements for the period ended 31/06/2020

Voting Requirement : Simple Majority  
 Subject Index : FINANCIAL MANAGEMENT-2020/21 STATEMENTS  
 Responsible Officer : Michael Costarella

#### 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

To receive the interim financial statements for the period ended 30 June 2020 which are subject to any audit amendments.



## **SUMMARY AND KEY ISSUES**

- **Total Operating revenue** is \$42,000 or 2% less than the year to date budget
- **Total Operating expenditure** is some \$152,000 less than the year to date budget and mainly due to other expenses under spent for the period.
- **Capital expenditure-** This is some \$250,000 less than the year to date budget and mainly due to the works for Johnston street and works carried over to the 2020/21 financial year.

## **LOCATION**

N/A

## **BACKGROUND**

Nil

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

Objectives within the Governance section of the Strategic Community Plan

## **POLICY IMPLICATIONS**

Shire of Peppermint Grove Financial Management Policies

## **STATUTORY IMPLICATIONS**

Local Government (Financial Management) Regulations 1996

## **FINANCIAL IMPLICATIONS**

The Interim financial report for June 2020 shows the current net assets (surplus) of \$197,529 and this is \$57,000 more than the revised budget. This is mainly due to the prepayment of the Roads to Recovery Grant and Grants Commission grants.

## **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) Fees and Charges-\$36,196

The actual fees and charges received, is \$36,000 less than the year to date budget and this generally relates to:-

- Community Hire Fee of \$6,000
- Café rent of \$3,000,
- Library revenue during the closure of \$3,000
- Development application fees of \$15,000 and
- Building Licence fees of \$9,000.

The income from fees and charges have been affected by the COVID 19 virus and restriction of movement by the Community.

### (2) Grants and Subsidies- \$27,000

Grants and subsidies revenue was \$27,000 less than the budget however this related a grant of \$103,000 is incorrectly shown in the adopted budget but was corrected in the revised budget as well as additional grants from Roads to Recovery and the Grants Commission.

### (3) Contributions and Reimbursements - \$32,000

The year to date actual is some \$32,000 more than the budget and this relates to funds transferred from the trust fund of \$15,000 as well as a recoup of costs associated with property clearing of \$5,000. The balance of \$12,000 relates GST corrections for contributions for the library from the previous year as well as additional capital contributions.

### (4) Employee Costs- \$46,000

The additional amount relates to leave that is funded from the Reserve funds and these have been transferred to Municipal fund at the 30 June 2020.

### (5) Materials & Contract-\$25,000

This year's actual expenditure is some \$25,000 less than the year to date budget and relates to the projects not being completed or under expended. eg Civil Engineering Consultant \$22,000, Waste Costs of \$39,000 and other expenditure of \$3,000.

## **OFFICER RECOMMENDATION/S – ITEM NO. 8.3.1**

**That Council receive the interim monthly financial report for the period 1 July 2019 to 30 June 2020.**

**8.3.2 Financial Statements July 2020**
**MANAGEMENT/GOVERNANCE/POLICY**
**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment</b>	<b>Financial Statements for the period ended 31/07/2020</b>

Voting Requirement : Simple Majority  
 Subject Index : FINANCIAL MANAGEMENT-2020/21 STATEMENTS  
 Responsible Officer : Michael Costarella

**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 receive the financial statements for the period ended 31 July 2020

## **SUMMARY AND KEY ISSUES**

- **Total Operating revenue and expenditure** is still subject to transactions impacting on the year to date budget as there is little transactions that occur in the first month of the financial year.
- **Capital expenditure**- There is no capital expenditure for the month of July.

## **LOCATION**

N/A

## **BACKGROUND**

Nil

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

Objectives within the Governance section of the Strategic Community Plan

## **POLICY IMPLICATIONS**

Shire of Peppermint Grove Financial Management Policies

## **STATUTORY IMPLICATIONS**

Local Government ( Financial Management) Regulations 1996

## **FINANCIAL IMPLICATIONS**

The financial report for July 2020 shows the current net assets ( surplus) of \$3,263,000 which is due to the levying of the rates in July. i.e. the debt has been raised and income is shown in the accounts. The debtors balance at the 31 July 2020 is \$2,956,000 which means that the Shire have received \$307,000 in rates and charges for the month of July, or 10% of the rates levied.

## **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.

(6) Fees and Charges-\$51,990

The actual fees and charges received, is \$51,000 more than the year to date budget and this relates to the raising of refuse charges for the 2020/21 financial

(7) Employee Costs- \$52,000

The additional amount generally relates to the additional fortnight wages paid in July (30<sup>th</sup> July) and the spread of the year to date budget equally over 12 months.

(8) Materials & Contract-\$89,000

This year's actual expenditure is some \$89,000 less than the year to date budget and relates to the projects not commenced in the first month of the financial year.

**OFFICER RECOMMENDATION/S – ITEM NO 8.3.2**

**That Council receive the monthly financial report for the period 1 July 2020 to 31 July 2020.**

**8.3.3 Accounts Paid July 2020**
**CORPORATE**
**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment</b>	<b>Accounts Paid – July 2020</b>

Voting Requirement : Simple Majority  
 Subject Index : FM045A  
 Responsible Officer : Michael Costarella, Manager Corporate and Community 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 July 2020 included the following:

- Loan Repayment;
- Software Support;
- Insurance Premiums;
- Settlement of Legal Claim
- Contribution to Activity Centre
- Solar Panel Project

## **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.

PAYMENT TYPE	FUND	NUMBER SERIES	AMOUNT
EFT	MUNI	EFT00354-EFT00359	\$473,590.79

## **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 2019/20 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/S – ITEM NO. 8.3.3**

**That Council receive the list of payment of accounts by cheques, electronic funds transfers payments for July 2020, totalling \$473,590.79.**

DRAFT



## 8.4 CEO/ MANAGEMENT / GOVERNANCE / POLICY

### 8.4.1 Local Government House Trust – Deed of Variation

#### MANAGEMENT/GOVERNANCE/POLICY

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
1	Deed of Variation – circulated under separate cover.

Voting Requirement	:	Simple majority
Subject Index	:	
Location / Property Index	:	N/A
Disclosure of any Interest	:	Nil
Responsible Officer	:	CEO

#### COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
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#### PURPOSE OF REPORT

The Shire is a unit holder and beneficiary to the Local Government House trust holding 1 unit and is being requested to agree to vary the Trust Deed to allow for the trust to gain income tax exempt status

## **SUMMARY AND KEY ISSUES**

- The Shire is unit holder in the local Government House Trust
- The trustee is seeking a change to the Trust to allow for income exempt status.

## **LOCATION**

N/A

## **BACKGROUND**

The Shire is a unit holder and beneficiary to the Local Government House Trust, holding 1 unit.

The Trust's Board of Management is seeking to vary the Trust Deed in order to assist the Trust's income tax exempt status. As stipulated by the Deed, the Trust requires consent of at least 75 per cent of all beneficiaries in order to execute this variation.

As a beneficiary, the Shire is requested to consent to the enclosed Deed of Variation supported by a resolution of Council.

The Local Government House Trust ("The Trust") exists primarily to provide building accommodation for the Western Australian Local Government Association. Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade West Leederville.

The current trust deed commenced in 1993 and was amended in 2002 to reflect the merger of the metropolitan and country associations into WALGA. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies "upon Trust" and in proportion to the units provided.

Commencement date of the current deed is 17 February 1993, with a vesting date 79 years from commencement - which means that the Trust ends in 2072.

The Trust is exempt from income tax on the basis of being a State / Territory Body (STB) pursuant to *Division 1AB of the Income Tax Assessment Act 1936*.

### **Trust Deed Variation**

Trust Deed amendments set out in the Deed of Variation are based on legal advice and are intended to assist the Trust's income tax exempt status by strengthening the position that the Trust is a State / Territory Body (STB). Legal advice identified that the Trustee's ability to retire and appoint a new Trustee might affect the Trust's classification as a State or Territory Body (STB). This view, while based upon highly technical grounds, is a risk nonetheless.

Subsequently the Deed of Variation aims to strengthen the position that the Trust is a STB through the following amendments:

1. removing the existing Trustee's power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation)
2. enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation), and
3. ensuring that the Board of Management is the 'governing body' of the Trust (Clause 2.3 of the Deed of Variation)

The three proposed amendments when applied to the relevant clauses inserted by the Deed of Variation dated 5 June 2002 will subsequently read as follows (proposed amendments shown in red text):

1. Variation 2.1 amends clause 22.1 to point to additional clause:

22.1 Any Trustee of the Trust may retire as Trustee of the Trust Subject to clause 22.3, the right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.

2. Variation 2.2 inserts two new clauses:

22.3 The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.

22.4 The Beneficiaries may at any time by Special Resolution:

- (a) remove a Trustee from the office as Trustee of the Trust;
- and
- (b) appoint such new or additional Trustee.

3. Variation 2.3 insert a new clause 13A

### **13A Delegation to the Board of Management**

Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.

## **CONSULTATION**

The four Shire Managers were consulted in the development of this plan.

**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 significant statutory implications evident at this time.

**FINANCIAL IMPLICATIONS**

Proposed changes to the library staff structure will be reflected in the 2020/21 budget.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

**SOCIAL IMPLICATIONS**

There are no social implications at this time.

**OFFICER COMMENT**

The first two amendments outlined above remove powers granted to the Trustee in the 2002 Deed Variation resulting from the merger to a single Association representing WA Local Governments. These amendments which previously facilitated the transfer of trusteeship to the then new Western Australian Local Government Association are removed, but with the clarification that any appointment must be with the consent of the beneficiaries.

The final amendment intends to confirm that power rests with the Board of Management. As the Board of Management comprises Local Governments, this satisfies the requirements of a STB for tax purposes. This amendment reflects the actual operation of the Trustee in implementing the decisions of the Board of Management whilst retaining sufficient operational discretion to place and renew investments and pay suppliers.

These amendments provide greater power to beneficiaries through the Board of Management, and as such it is anticipated they will be considered acceptable.

**OFFICER RECOMMENDATION/S – ITEM NO 8.4.1**

**That Council agrees to the changes proposed by the Deed of Variation for the Local Government House Trust.**

**8.4.2 Matters for Information and Noting**
**MANAGEMENT/GOVERNANCE/POLICY**
**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
	<b>1. Building Permits Issued</b> <b>2. Planning Approvals Issued</b> <b>3. Infringements Issued</b> <b>4. Library Statistics</b>

Voting Requirement : Simple majority  
 Subject Index : Matters for Information July 2020  
 Disclosure of any Interest : Nil  
 Responsible Officer : CEO

**COUNCIL ROLE**

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
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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
- 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 23 June 2020:

1. Building Permits Issued
2. Planning Approvals Issued
3. Infringements Issued
4. Library Statistics

## **CONSULTATION**

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

## **OFFICER RECOMMENDATION – ITEM NO. 8.4.2**

**That Council receives the information in this report.**

**8.5 COMMITTEE REPORTS**

NIL

**9 NEW BUSINESS OF AN URGENT NATURE**

NIL

**10 MOTIONS ON NOTICE***(Automatically sent back to Administration for consideration at the next Council Meeting)***11 CONFIDENTIAL ITEMS OF BUSINESS**

NIL

**12 CLOSURE**

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

# **DECLARATION OF FINANCIAL / PROXIMITY / IMPARTIAL INTEREST THAT MAY CAUSE A CONFLICT**

**TO:** Chief Executive Officer  
SHIRE OF PEPPERMINT GROVE

**NAME:** \_\_\_\_\_

**POSITION:** \_\_\_\_\_

**MEETING DATE:** \_\_\_\_\_

**ITEM NO & SUBJECT:** \_\_\_\_\_

**NATURE OF INTEREST:** Financial / Proximity / Impartiality Interest that may cause a Conflict\*      \* Please Circle applicable

**EXTENT OF INTEREST:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_



**Section 5.65(1) of the Local Government Act 1995 states that:**

## **FINANCIAL & PROXIMITY INTERESTS**

*A declaration under this section 5.60 of the Act requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.*

*Other members may allow participation of the declarant if the member further discloses the extent of the interest and the other members decide that the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.*

## **DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT**

*Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member / employee is also encouraged to disclose the nature of the interest. The member / employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member / employee declares that their impartiality will not be affected then they may participate in the decision making process.*

*“A member who has an interest in any matter to be discussed at a Council or Agenda Briefing Forum meeting that will be attended by that member must disclose the nature of the interest”:*

- (a) In a written notice given to the CEO before the meeting; or*
- (b) At the meeting immediately before the matter is discussed.*