



SHIRE OF PEPPERMINT GROVE

ATTACHMENTS

**Ordinary Council Meeting
28 July 2020**

TABLE OF CONTENTS

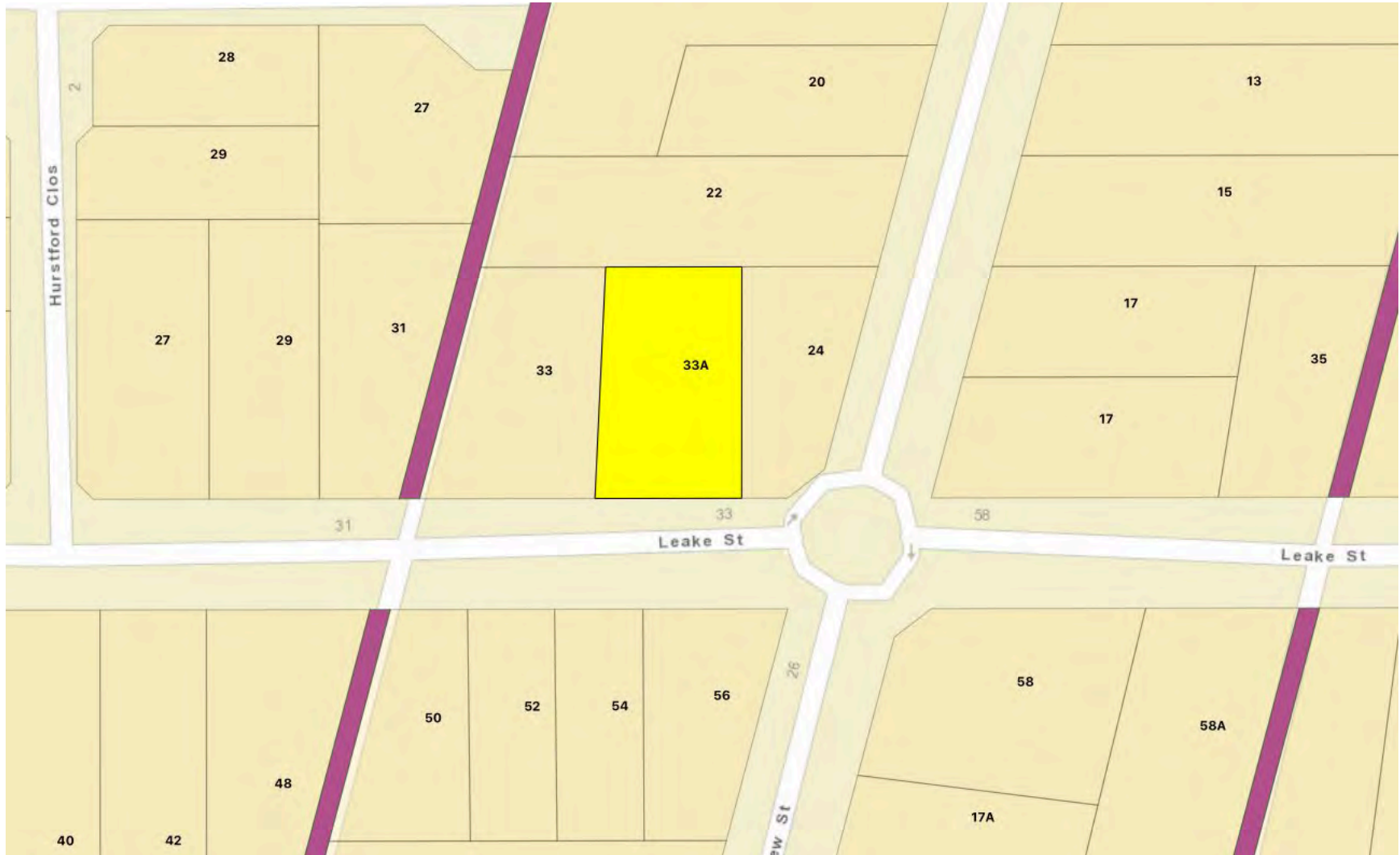
SUBJECT HEADING	PAGE
8.1.1 – 33A Leake Street – Repairs - Replace-roof tiles and Tuck Pointing.....	3
8.1.2 - 33A Leake Street – Partial Demolition (Garage outbuilding).....	11
8.1.3 - 43 Johnston Street – Addition to the rear of existing heritage listed dwelling.....	21
8.1.4 - 14 The Esplanade – Amendment to DA2019/00007 - Single Residence.....	26
8.4.2 – Accounts Paid June 2020.....	36
8.5.1 – Local Laws Review.....	40
8.5.2 – Matters for Information and Noting.....	184



Ordinary Council Meeting

8.1.1 – 33A Leake Street – Repairs -
Replace-roof tiles and Tuck Pointing

**ITEM 8.1.1
ATTACHMENT ONE**



**ITEM 8.1.1
ATTACHMENT TWO**



REVOLUTION ROOFING / PRODUCTS / BLOG

Gutter – Revolo

Traditional full sized gutter that is compatible for all types of roofs. Thicker and offering a soft feed as well as high water carrying capacity. The high front is ideal for concealing sheet ends for a seamless finish. Full range of accessories available in matching Nexteel™ steel colours as well as stop ends, brackets and over straps. It is important to remember that we recommend all gutters slope towards the outlets (a minimum gutter fall of 1 in 500 is recommended). Without this slope, "ponding" may occur, reducing the life of your gutter.

- > Traditional full sized gutter
- > Available for re-guttering & new homes
- > The high front is ideal for concealing sheet ends for a seamless finish
- > Old favourite compatible with all types of roofs

ARCHITECT TOOLS





REVOLUTION ROOFING / PRODUCTS / BLOG

Gutter – Revline

A colonial gutter that is ideal for both traditional and contemporary homes. With its high water carrying capacity the product is also available in soft feed. Full range of accessories available in matching Nexteel™ steel colours as well as stop ends, brackets and over straps. It is important to remember that we recommend all gutters slope towards the outlets (a minimum gutter fall of 1 in 500 is recommended). Without this slope, "ponding" may occur, reducing the life of your gutter.

- > Adaptable colonial profile that blends perfectly with traditional & contemporary homes
- > High water carrying capacity product & low maintenance
- > Available for re-guttering & new homes
- > Ideal for conventional roofing & tiled roofs

ARCHITECT TOOLS



Marseille

Marseille Spanish Roof Tiles

The Marseille tile continues the proud tradition of the tile makers craft, offering a tile that suits a range of architectural styles. Its sharp clean lines and natural terracotta colour palette give the Marseille a timeless look that has resulted in its enduring popularity. Offering the colour longevity and style of terracotta, the Marseille is ideal for homes of distinction.



Roja

Roja

BASIX Product Rating Solar Absorptance
Medium **0.540**

[CONTACT US](#)

ADDITIONAL INFORMATION

- [BIM Library](#)
- [Benefits of Roof Tiles](#)
- [Brochure](#)
- [Technical Manual](#)
- [Project Portfolio](#)



**ITEM 8.1.1
ATTACHMENT THREE**

29 May 2020

SUZANNE HUNT ARCHITECT



12 Leura Street Nedlands Western Australia 6009
T (08) 6113 3954 s@szannehuntarchitect.com.au

Shire of Peppermint Grove
1 Leake Street,
Peppermint Grove, 6011

FAO Manager of Development Services | Mr Ross Montgomery
ross.montgomery@peppermintgrove.wa.gov.au

Dear Mr Montgomery,

33A LEAKE STREET [Formerly 24 View Street] PEPPERMINT GROVE | APPLICATION FOR REMEDIAL HERITAGE WORKS DUE TO STORM DAMAGE AND LACK OF MAINTENANCE.

My clients purchased 33A Leake St Peppermint Grove in 2019. They currently live in Bunbury and are planning to spend more time in Perth to be closer to their children who attend school and university here. They love the old house and wish to clean up the grounds and refurbish the house in keeping with its exceptional heritage significance to the area.

The property includes the original house and is the western half of the sub-divided property formerly known as 24 View St Peppermint Grove.

As a former Heritage Advisor to the Town of Cottesloe and City of Subiaco and former member of the State Heritage Office's Development Committee I tender the following supportive information for the remedial minor works listed below.

- The property is listed as Category 1- Exceptional Significance on the Shire's Municipal Inventory. The description noting that *the property is essential to the heritage of the locality. Rare and outstanding example.* The repair of the existing external structure of this heritage house will ensure that it will be used and appreciated for decades to come and the buildings remain the dominant structures on the site and in good condition.

My client would like to proceed with the following minor works following damage exacerbated by recent storms:





- Removal and replacement of all roof tiles. The tiles are in disrepair, many are broken, and the roof is leaking.
- Removal and replacement of gutters and down pipes as they are damaged, rusted, and falling off the wall. The water damage is affecting the structure.
- Brick paint removal as the peeling paint is detrimental to the original bricks and looks poor. There appears to have been several attempts to paint the bricks in places - the work appears mismanaged and affects the significance of the building.
- My client wishes to tuck point the existing brickwork.

I understand Mr Farrell has spoken to you about the works and you have requested a material schedule and scope of work. All areas where work is to be done shall be photographed prior to commencement and upon completion. A photographic record of the works to the house along with production of as existing drawings and completed construction drawings noting works will be completed and given to the council for your records.

The Scope of Works to be completed by a registered builder with heritage expertise is as follows:

- Strip existing roof tiles and replace tiles with Bristle Marseille Terracotta Blend/Roja.
- Install new timber battens where required, sarking and insulation as required.
- Remove and replace gutters with either Revo roof Revline or Revolo gutters – Zincolume.
- All downpipes to be 75mm round Zincolume on stand off clips
- Supply and install new lead flashings to all Chimneys
- Check existing fascia, barge board and rafter for rot, replace as required to match existing. Paint Finish
- Clean, clear and replace as required all brick air vents to ensure clear and venting.
- Clean all brick work, replace damaged bricks with bricks to match with Austral Heritage Red brick if required. Builder to check if existing house bricks are available to replace with similar as preference.



- New white pointed tuck pointing to be completed by a registered heritage tuckpointing contractor to all existing brick walls as has been completed on properties of the same era in Peppermint Grove.

Please do not hesitate to contact me on 0419967582 if you have any further queries or concerns regarding this work or if you require further paperwork.

I would also appreciate the opportunity to discuss with you, future conservation works proposed for this beautiful property.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Suzanne Hunt", written in a cursive, flowing style.

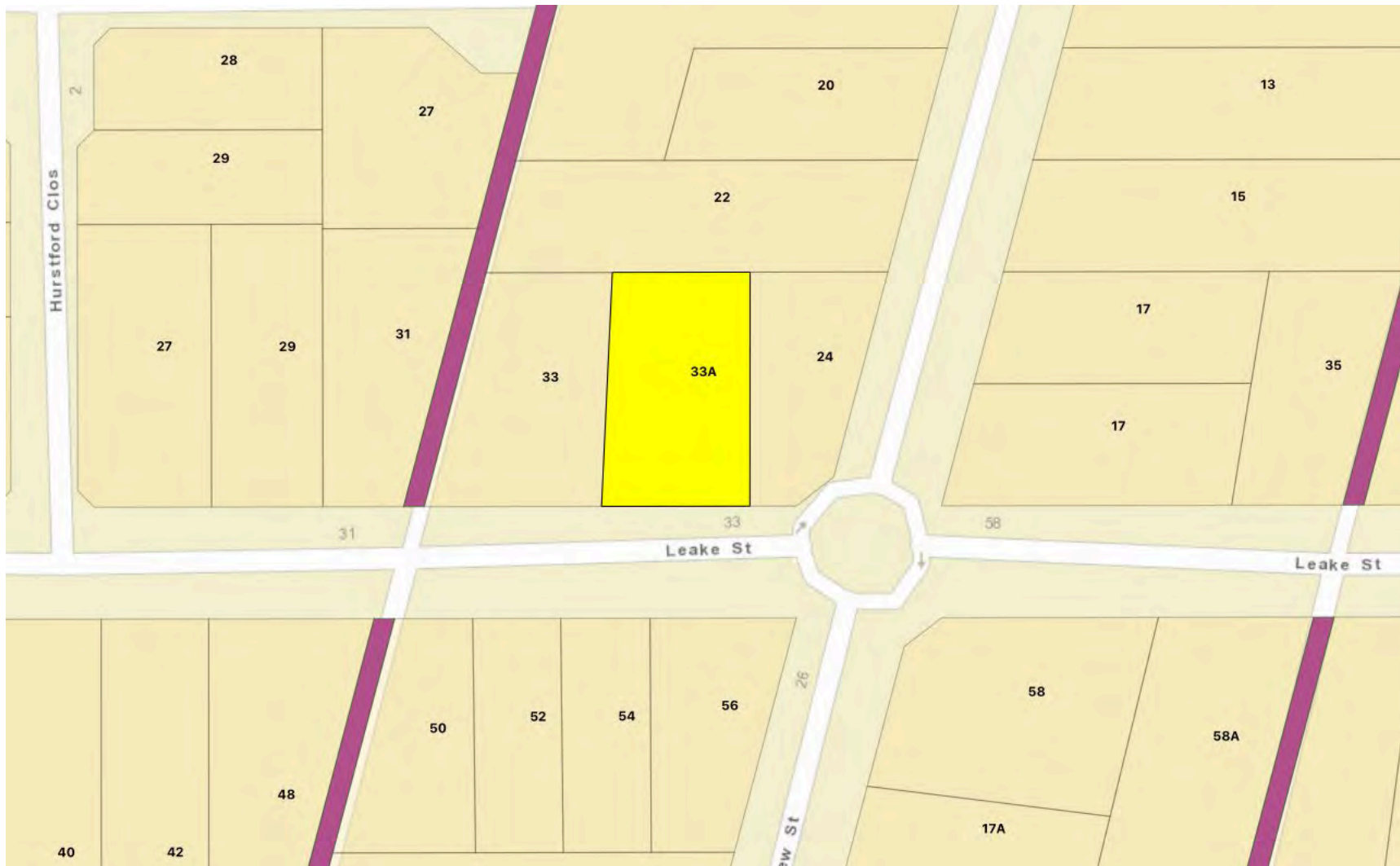
Suzanne Hunt FRAIA RIBA | Architects Board Registration 1600
Principal Architect



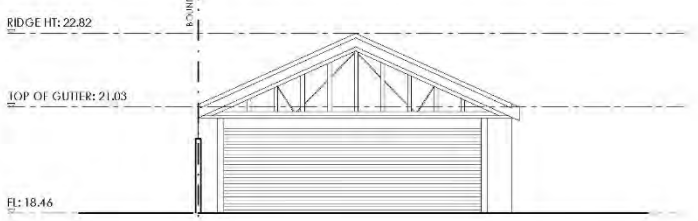
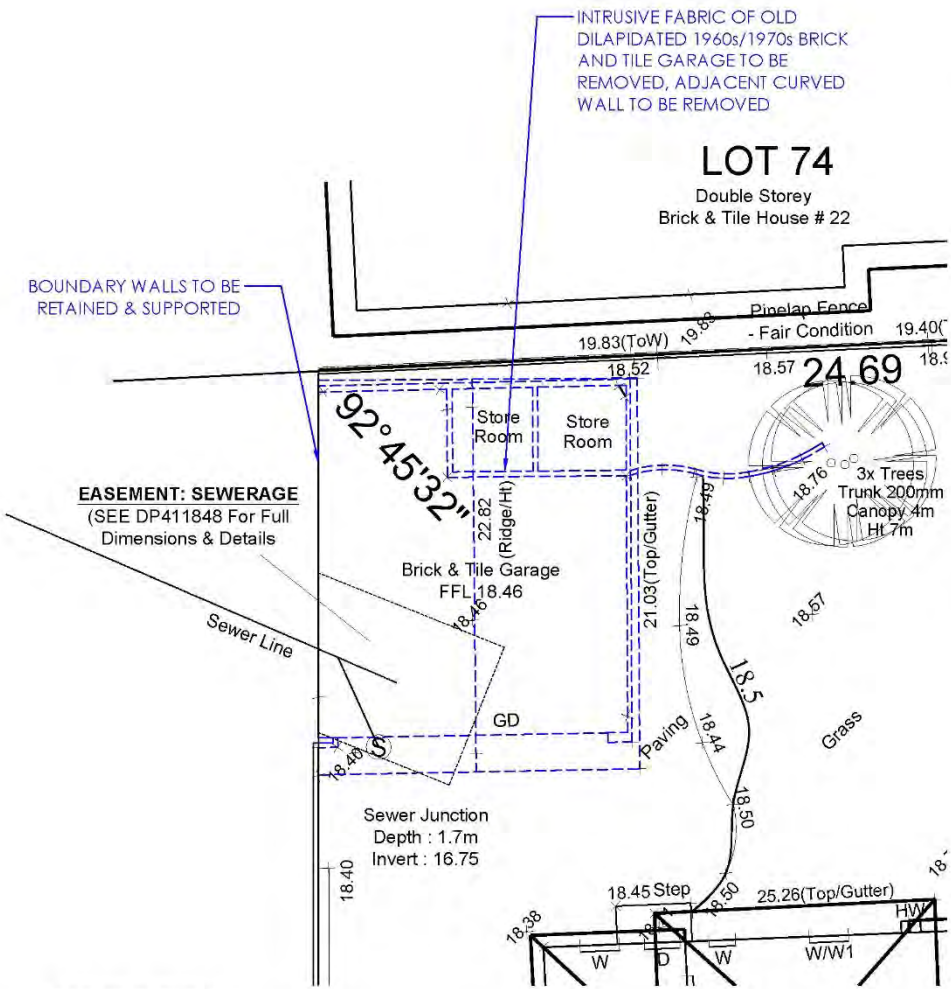
Ordinary Council Meeting

8.1.2 - 33A Leake Street – Partial
Demolition (Garage outbuilding)

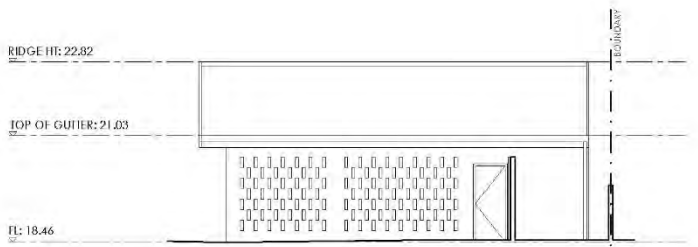
**ITEM 8.1.2
ATTACHMENT ONE**



**ITEM 8.1.2
ATTACHMENT TWO**



GARAGE SOUTH ELEVATION



GARAGE EAST ELEVATION

LEGEND

DEMOLISH - - - - -

FEATURE SURVEY

SUZANNE HUNT ARCHITECT

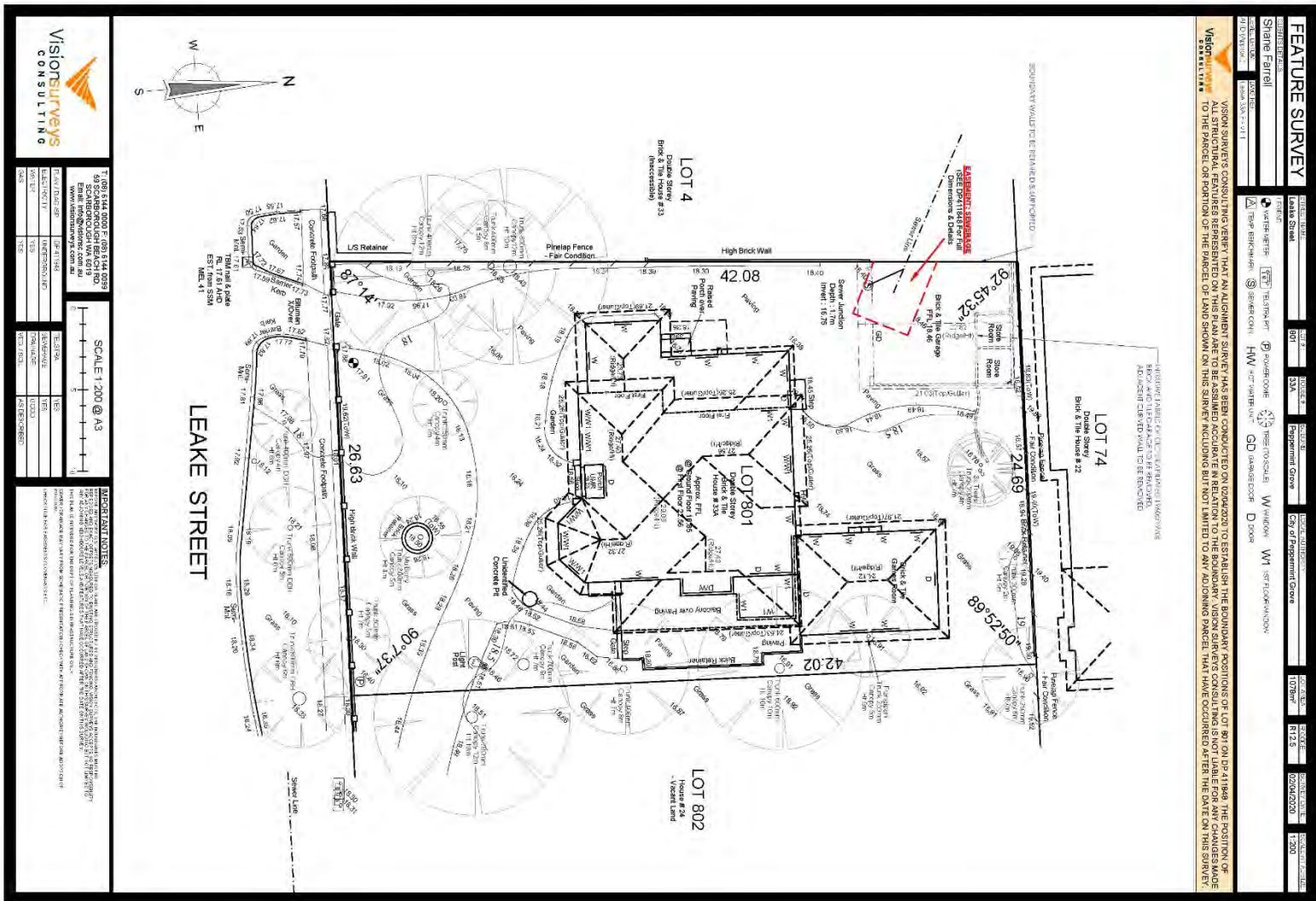
FARRELL RESIDENCE
33A LEAKE STREET, PEPPERMINT GROVE

AS EXISTING
MAY 2020

GARAGE AS EXISTING PLAN & ELEVATIONS

0 1 5m

SCALE: 1/100 @ A3



**ITEM 8.1.2
ATTACHMENT THREE**

19 May 2020

SUZANNE HUNT ARCHITECT



12 Leura Street Nedlands Western Australia 6009
T (08) 6113 3954 -suzannehuntarchitect.com.au

Shire of Peppermint Grove
1 Leake Street,
Peppermint Grove, 6011

FAO Manager of Development Services | Mr Ross Montgomery

ross.montgomery@peppermintgrove.wa.gov.au

Dear Mr Montgomery,

**33A LEAKE STREET [Formerly 24 View Street] PEPPERMINT GROVE | APPLICATION
FOR DEMOLITION OF 1970'S GARAGE TO THE REAR OF PROPERTY**

I have just left a voicemail message for you however I thought it prudent to email you the following information for your reference in support of our clients application to demolish the dilapidated garage and low garden wall to the rear of their property. The information attached includes the following:

- Application for Demolition Licence with our client's payment;
- Farrell Residence | Supporting Information
 - Survey 1.200 on A3 indicating Garage and wall to be demolished;
 - As Existing Plans and Elevations 1.100 on A3;
 - As Existing Photos of Garage + Wall [see below]

My clients purchased 33A Leake St Peppermint Grove in 2019. They currently live in Bunbury and are planning to spend more time in Perth to be closer to their children who attend school and university here. They love the old house and wish to clean up the grounds removing intrusive fabric as the first phase of a larger project to refurbish the house in keeping with its exceptional heritage significance to the area.

The property includes the original house and is the western half of the sub-divided property formerly known as 24 View St Peppermint Grove.

As a former Heritage Advisor to the Town of Cottesloe and City of Subiaco and former member of the State Heritage Office's Development Committee I tender the following supportive information for the Demolition Licence Application.



SUZANNE HUNT AR



- The brick and tile structure and adjacent low wall appear to be built in the late 60's/ early 70's and located in the northwest corner of the block. While intrusive it is also in a dilapidated and dangerous state as the photos attached attest. The boundary wall to the west of the garage will be retained and supported
- The property is listed as Category 1- Exceptional Significance on the Shire's Municipal Inventory. The description noting that *the property is essential to the heritage of the locality. Rare and outstanding example.* The removal of this dangerous and intrusive element will ensure that the existing heritage buildings remain the dominant structures on the site.
- The council's policy requires that all development including **demolition** affecting heritage places should meet several principles. In respect of this application the garage can be categorised as an:
 - **Intrusive elements [which] negatively impacts upon the heritage significance of a building and may be removed.**

In summary we are of the belief that the garage and wall in question have no heritage significance and in fact negatively impact the heritage significance of the old building as well as create a possible danger to those living in the building due to its dilapidated state and should be removed. We formally request that this Application for Demolition be approved.

Please do not hesitate to contact me on 0419967582 if you have any further queries or concerns regarding this application.

I would also appreciate the opportunity to discuss with you, future conservation works proposed for this beautiful property.

Yours sincerely,

Suzanne Hunt FRAIA RIBA | Architects Board Registration 1600
Principal Architect

SUZANNE HUNT /



SUPPORTING INFORMATION | PHOTOS



GARAGE | VIEW LOOKING NORTH



GARAGE | VIEW LOOKING NORTH - WEST

SUZANNE HUNT ARCHITECT



GARAGE | VIEW LOOKING WEST INCLUDING EDGE OF CURVED WALL TO BE REMOVED



GARAGE | VIEW LOOKING NORTH INCLUDING BRICK WALL TO BE REMOVED

SUZANNE HUNT ARCHITECT



GARAGE INTERNAL | VIEW LOOKING NORTH



GARAGE INTERNAL | VIEW LOOKING WEST DAMAGED ROOF

SUZANNE HUNT ARCHITECT



GARAGE INTERNAL | VIEW LOOKING EAST



Ordinary Council Meeting

8.1.3 - 43 Johnston Street – Addition to the rear of existing heritage listed dwelling

**ITEM 8.1.3
ATTACHMENT ONE**



**ITEM 8.13
ATTACHMENT TWO**

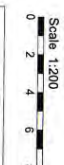
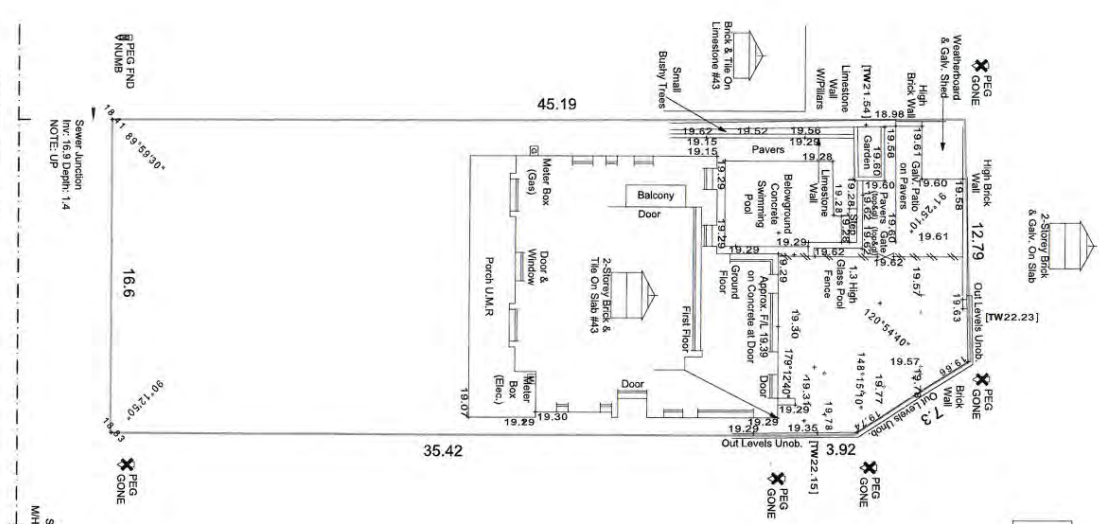
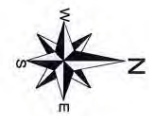
COTTAGE & ENGINEERING SURVEYS		87-89 Guthrie Street, Osborne Park, Western Australia Telephone: (09) 9446 7261 Facsimile: (08) 9448 2988 Email: peri@cotage.com.au Website: www.cottage.com.au	
J/N:	458057	DATE:	22 Aug 19
SCALE:	1:200	SCALE DRAWN:	1:200
DATE:	22 Aug 19	F. Crossdale	
BUILDER:		CLIENT: Quin, Angie	
Lot 162, 43 Johnston Street, Peppermint Grove		Plan 3783	
LEGEND	OLD AREA	SEC Deline	
101	101	101	Power Pole
102	102	102	Water Column
103	103	103	Water Meter
104	104	104	Water Pipe
105	105	105	Water Valve
106	106	106	Water Stop
107	107	107	Water Stop
108	108	108	Water Stop
109	109	109	Water Stop
110	110	110	Water Stop

DISCLAIMER: All boundaries shown on this survey are based on the information provided to the surveyor. The surveyor does not warrant the accuracy of the information provided and is not responsible for any errors or omissions. The surveyor is not responsible for any damage to property or persons arising from the use of the survey.

DISCLAIMER: This survey is for the purpose of showing the location of the proposed extension. It does not constitute a guarantee of the accuracy of the information provided. The surveyor is not responsible for any damage to property or persons arising from the use of the survey.

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ANCHORSTONE		THIS IS ONE OF THE DRAWINGS REFERRED TO IN THE CONTRACT.	
OWNER:	DATE:	OWNER:	DATE:
BUILDER:	DATE:	BUILDER:	DATE:
JOHNSTON ST EXTENSION		CLIENT: ANGIE QUIN	
SITE DEMOLITION		DATE: 30/07/2020 SHEET N°: 04 of 7	
SCALE: 1:200		REVISION N°: 01	
DATE: 30/07/2020		WA 6011	
SCALE: 1:200		108 N°: 190229	
REVISION N°: 01			

NOTE:
WATERMETER NOT LOCATED/ADJACENT TO LOT OR TIME OF DAY.
UNDERGROUND PIPES NOT LOCATED/VERIFIED/VALUED OR IDENTIFIED.
UNDERGROUND PIPES NOT LOCATED/VERIFIED/VALUED OR IDENTIFIED.
UNDERGROUND PIPES NOT LOCATED/VERIFIED/VALUED OR IDENTIFIED.

COTTAGE & ENGINEERING SURVEYS

87-89 Guilford Street, Osborne Park, Western Australia
 Telephone: (08) 9448 7841 Facsimile: (08) 9445 2998
 Email: peri@cottage.com.au Website: www.cottage.com.au

J/N: 458057 DATE: 22 Aug 19 SCALE: 1:200 F.Coastdale
 CLIENT: Quin, Angie
 LOT 162, 443 Johnston Street, Peppermint Grove
 Plan 3783

OLD	NEW	SEC	DESC
1	2	1	Power Pole
1	2	1	Water Column
1	2	1	Top Rail/Foot
1	2	1	Top Rail/Foot
1	2	1	Top Rail/Foot
1	2	1	Top Rail/Foot

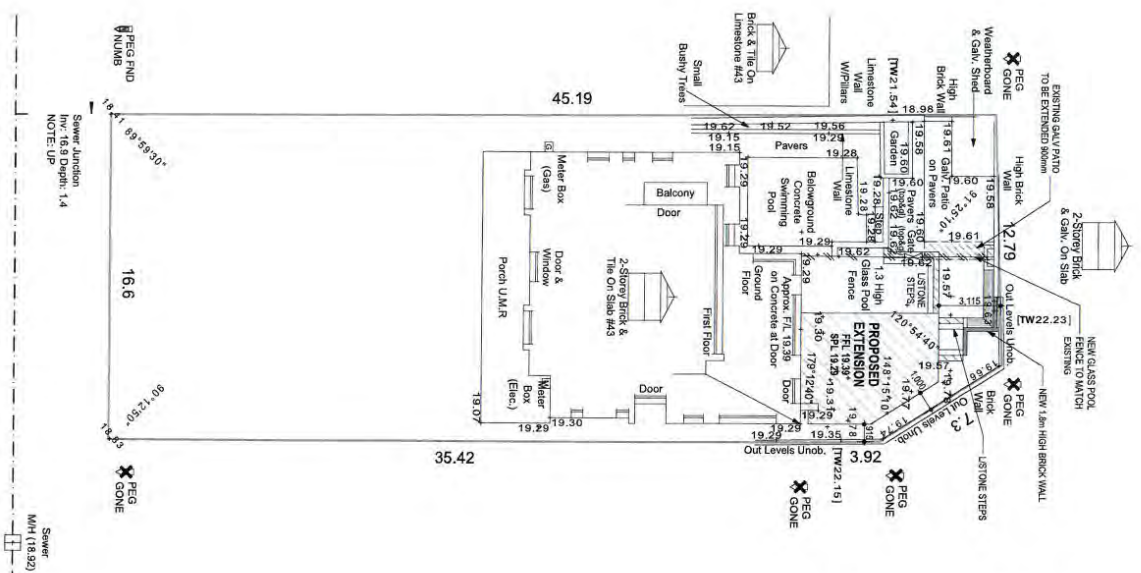
DISCLAIMER:
 Lot boundaries drawn on survey are based on landscape plan only. Survey does not include measurements or other information which may not be shown on the landscape plan. The surveyor is not responsible for any errors or omissions and for any statements or other interests which may be shown on the property.

DISCLAIMER:
 Survey does not include verification of cadastral boundaries. The surveyor is not responsible for any errors or omissions and for any statements or other interests which may be shown on the property.

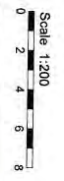
DISCLAIMER:
 Survey does not include verification of cadastral boundaries. The surveyor is not responsible for any errors or omissions and for any statements or other interests which may be shown on the property.

DISCLAIMER:
 Cottage & Engineering surveys accept no responsibility for any physical on site changes to the landscape plan or any other information shown on the landscape plan. The surveyor is not responsible for any errors or omissions and for any statements or other interests which may be shown on the property.

DISCLAIMER:
 Survey does not include verification of cadastral boundaries. The surveyor is not responsible for any errors or omissions and for any statements or other interests which may be shown on the property.



Ref Nail Access of Kerb A.H.D.
 Level 18.04m Established from
 Bench Mark WMS 801 using data
 supplied by the cadastral section
 of Landgate)



ANCHORSTONE

THIS IS ONE OF THE DRAWINGS REFERRED TO IN THE CONTRACT:

NO.	DESCRIPTION	DATE	BY
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3		NE <td>DATE: 20/07/20</td>	DATE: 20/07/20
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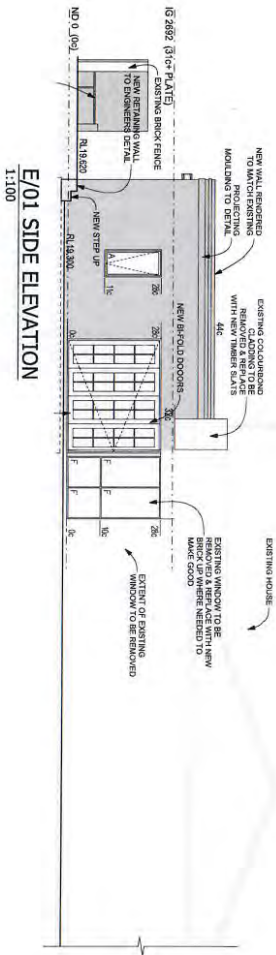
CLIENT: **ANGIE QUIN**
 SITE ADDRESS: **443 JOHNSTON STREET PEPPERMINT GROVE WA 6011**

DATE: 20/07/2020 SHEET N°: 05 of 7
 SCALE: 1:200 REVISION N°: 01 JOB N°: 1902229

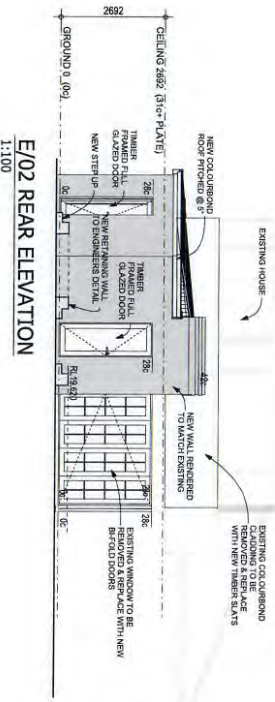
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 WATER METER NOT LOCATED ADJACENT TO LOT BOUNDARY TIME OF SURVEY.

NOTE:
 UNDERGROUND POWER NOT LOCATED ADJACENT TO LOT BOUNDARY TIME OF SURVEY.

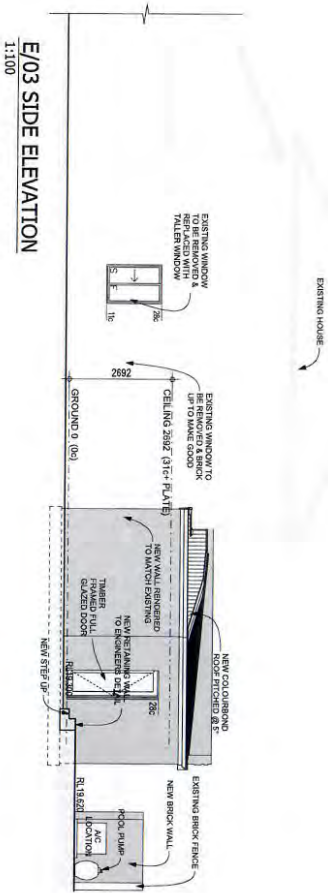
NOTE:
 ALL NOTES, COMMENTS, FIT NOT COVERED ADJACENT TO LOT BOUNDARY TIME OF SURVEY.



E/01 SIDE ELEVATION
 1:100



E/02 REAR ELEVATION
 1:100



E/03 SIDE ELEVATION
 1:100

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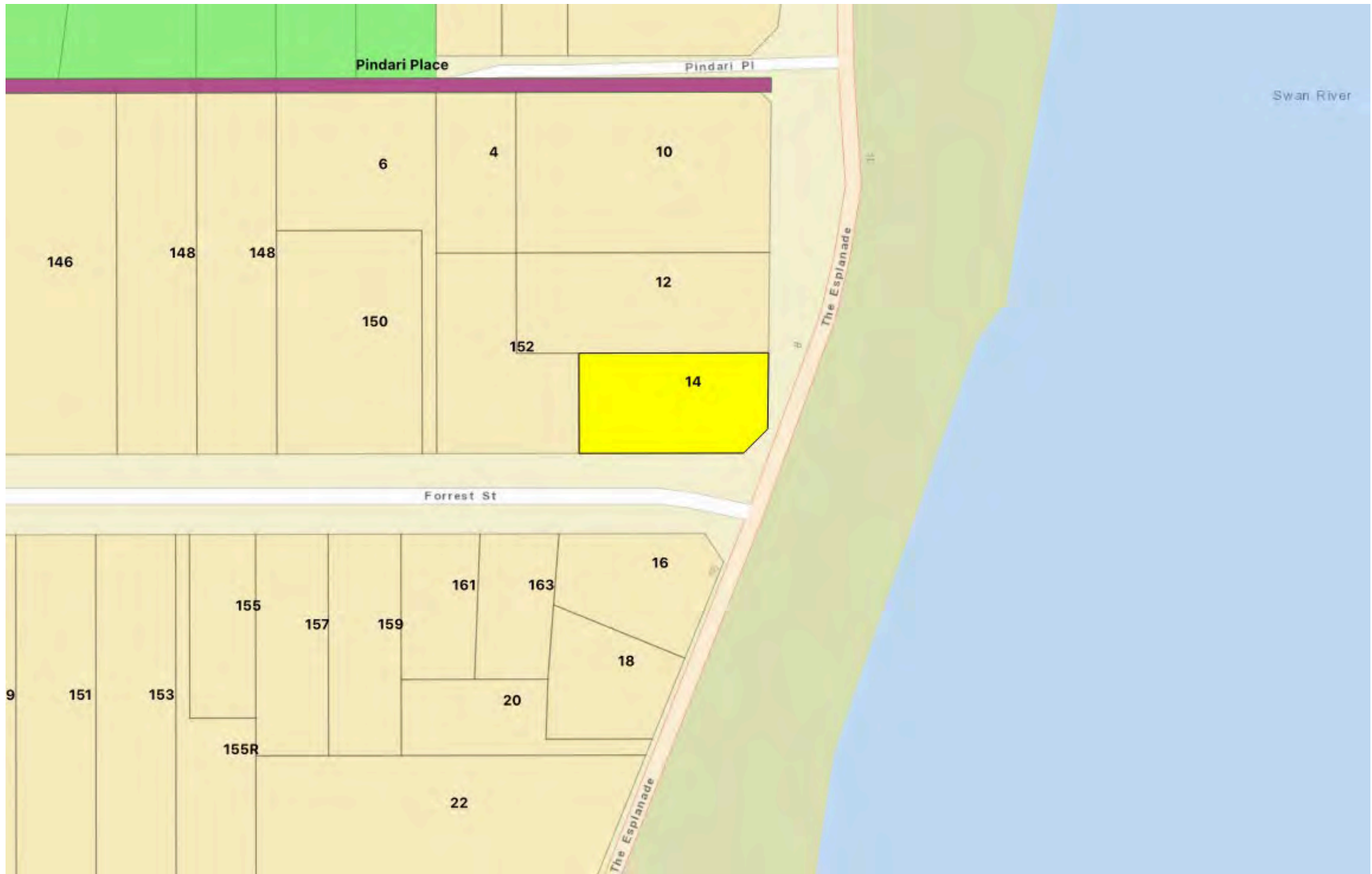
ANCHORSTONE DESIGN & CONSULTING PTY LTD © Copyright 2014			THIS IS ONE OF THE DRAWINGS REFERRED TO IN THE CONTRACT: OWNER: _____ DATE: _____ OWNER: _____ DATE: _____ OWNER: _____ DATE: _____ BUILDER: _____ DATE: _____		
VARIATIONS: REV. DESCRIPTION: _____ DRAWING APPROVAL DRAWINGS INT. DATE: _____ DATE: 30.07.20			CLIENT: ANGIE QUIN SITE ADDRESS: 43 JOHNSTON STREET PEPPERMINT GROVE WA 6011		
JOHNSTON ST EXTENSION ELEVATIONS DATE: 30/07/2020 SCALE: 1:100 SHEET N°: 07 of 7 REVISION N°: 01 JOB N°: 190229					



Ordinary Council Meeting

**8.1.4 - 14 The Esplanade – Amendment to
DA2019/00007 - Single Residence**

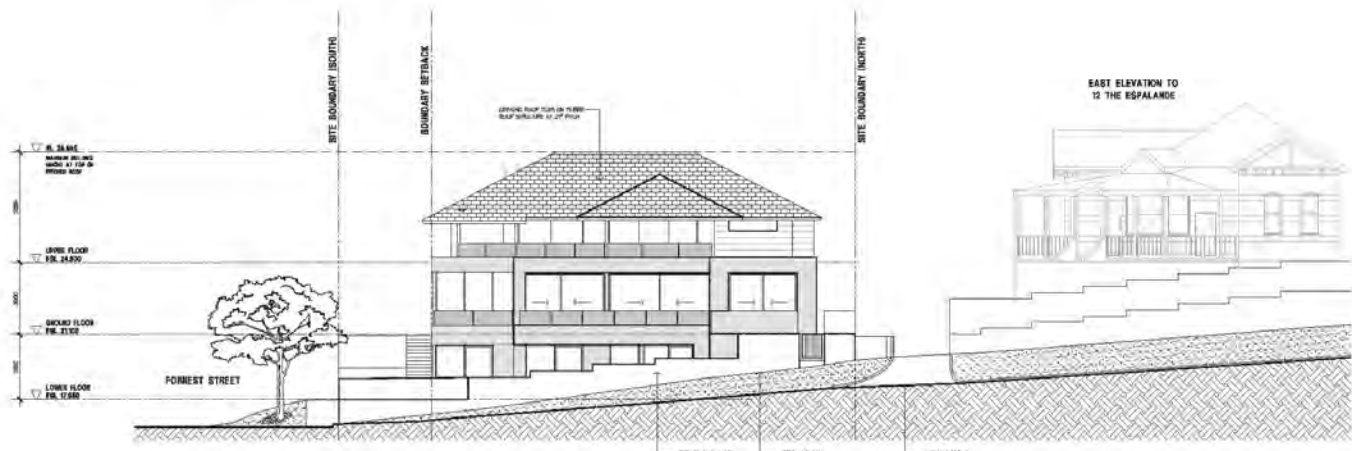
**ITEM 8.1.4
ATTACHMENT ONE**



**ITEM 8.1.4
ATTACHMENT TWO**

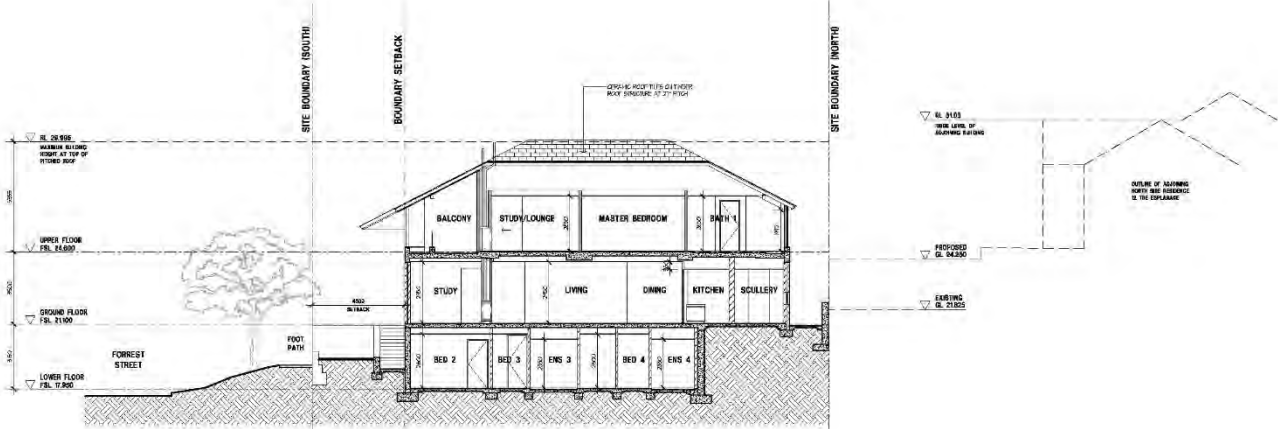


1 SOUTH ELEVATION (FROM FORREST STREET)
A10 1:100&A, 1:500&A1



2 EAST ELEVATION (FROM THE ESPLANADE)
A10 1:100&A, 1:500&A1

NO.	DESCRIPTION	DATE	BY	CHKD.
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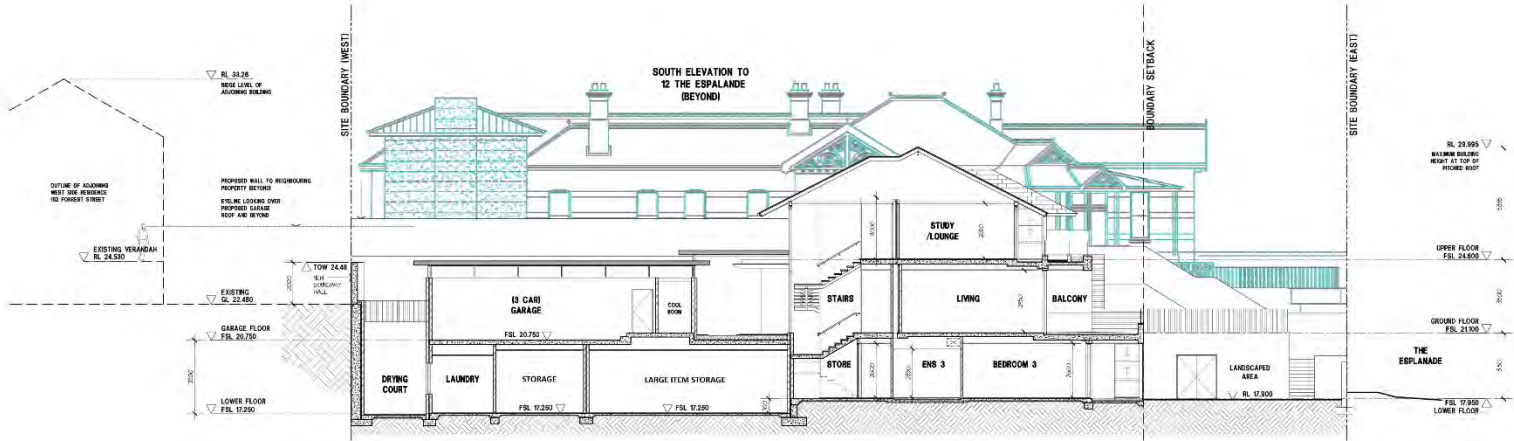


C-C SECTION
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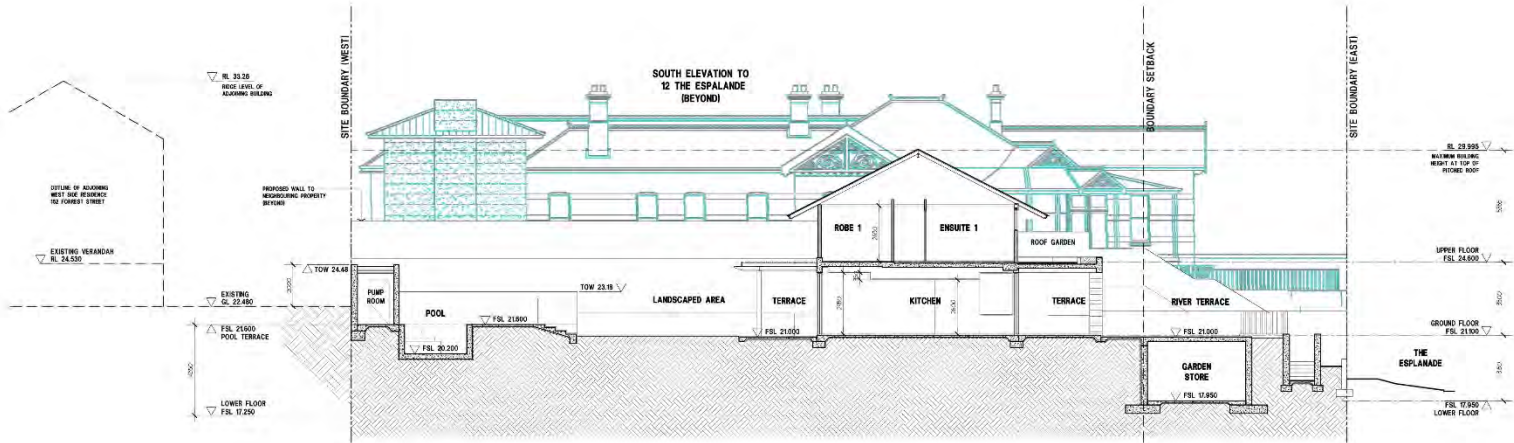


D-D SECTION
 A10 1:100/S41, 1:200/S43

	2. RETAINING WALLS - OPTION 2	SCALE 1:75/S43	<p>8 SIMONS ROAD PEPPERMINT GROVE WESTERN AUSTRALIA TEL: (08) 9447 9200 FAX: (08) 9447 9201 EMAIL: gka@groundskent.com.au</p>	CLIENT JON & CAROLYN STEWART PROJECT LOT 2 / 14 THE ESPLANADE PEPPERMINT GROVE, WESTERN AUSTRALIA	DRAWING NAME SECTIONS C-C & D-D	1. JOURNAL	1802	CONTRACTOR AND CHECK ALL DIMENSIONS AND SPECIFICATIONS AND WORK ON EACH DRAWING. PLEASE ENGINEERS TO TAKE PRECEDENCE OVER SCALE REDUCED THE CONTRACTOR'S EXPERIENCE AND PRIORITY OF THE ARCHITECTS DRAWING No. A31	REVISION No.
	3. SEWER FOR MAIN-TO-PRIME	SCALE 1:50/S43				CARBONIT	WD		
	4. CO. NOTICES	SCALE 1:50/S43				SCALE	1:100/S41		
	5. SEWER CO-ORDINATION	SCALE 1:50/S43				DATE	APR19		
	6. SEWER CO-ORDINATION	SCALE 1:50/S43				DRAWN	NOT		
	7. POOL CHANGED	SCALE 1:50/S43	CHECKED	AMHG					
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	9. POOL INFORMATION	SCALE 1:50/S43							
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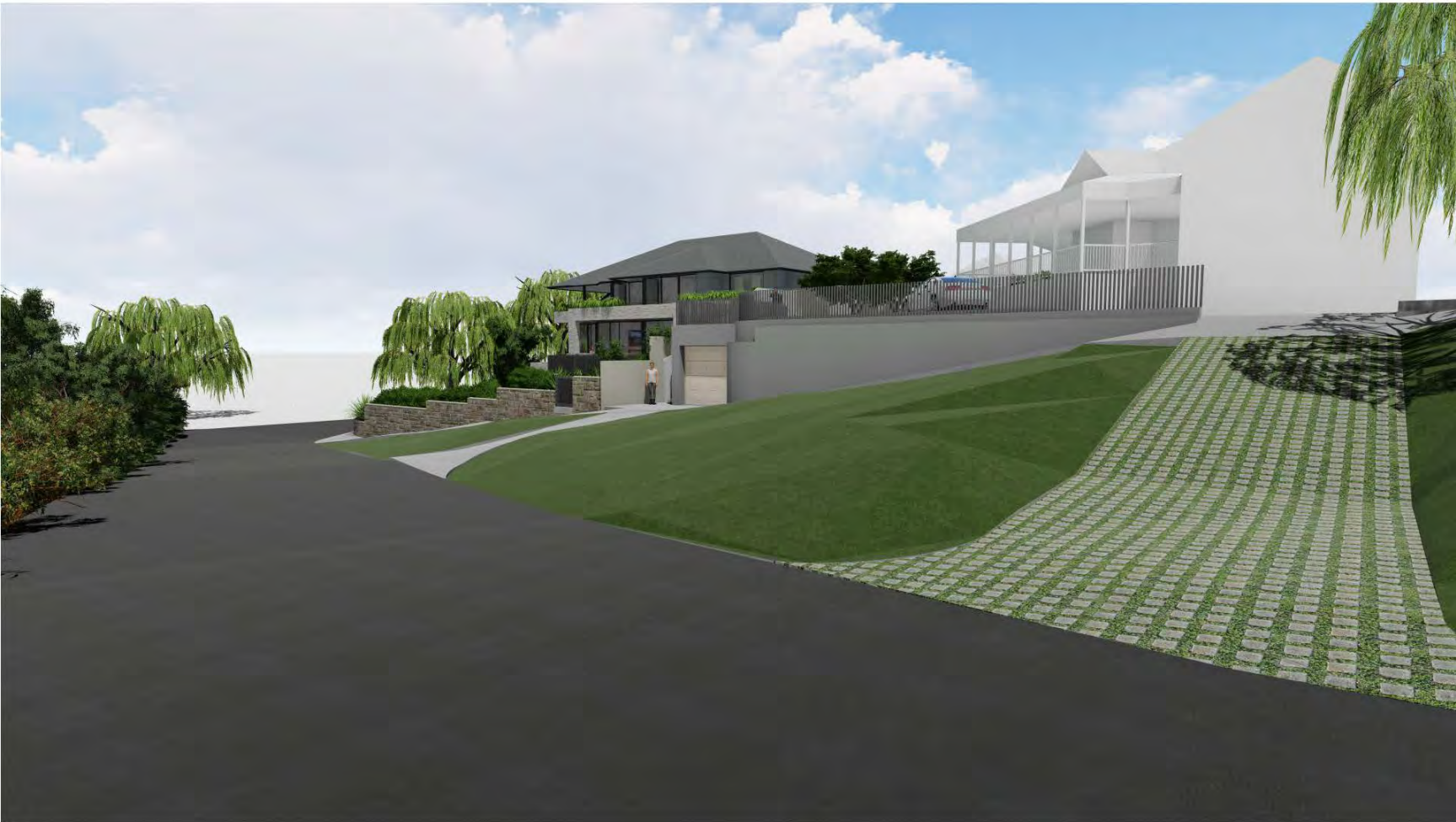


A-A SECTION
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B-B SECTION
A10 1:100@A1 1:200@A3

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Ordinary Council Meeting

8.4.2 – Accounts Paid June 2020

8.4.2 Accounts Paid TEMPLATE

No.	Vendor Name	Details	EFT Amount	Payment Date
EFT00350	WA Superannuation	Employee Superannuation Contributions	29,058.57	6/15/2020
EFT00351	Dept of Mines Industry Regulation & Safety (DMIRS)	BSL Levy May 2020	224.44	6/15/2020
EFT00351	DEPT OF FIRE & EMERGENCY SERVICES (DFES)	ESL Payment	39,557.08	6/15/2020
EFT00351	Clean City Group Pty Ltd	Parks and Reserves Maintenance	3,338.50	6/15/2020
EFT00351	WORMALD	Office Building Maintenance	132.00	6/15/2020
EFT00351	PHIL JOHNSON PLUMBING & GAS	Shire Office Maintenance	104.00	6/15/2020
EFT00351	TURFMASTER FACILITY MANAGEMENT	Parks and Reserves Maintenance	4,620.00	6/15/2020
EFT00351	Iron Mountain Australia Group Pty Ltd	Record Keeping Service	104.25	6/15/2020
EFT00351	McLeods Barristers & Solicitors	Legal Services	983.06	6/15/2020
EFT00351	LANDGATE	Valuation Fees	14,035.30	6/15/2020
EFT00351	Julie Lomas	Rates Refund	1,690.00	6/15/2020
EFT00351	Editeur Pty Ltd	Tools and Hardware	202.16	6/15/2020
EFT00351	Christian Lloyd Design	Tools and Hardware	394.00	6/15/2020
EFT00351	Chpt 1 Cafe	Covid Refund	230.00	6/15/2020
EFT00351	LIGHTNING BRICK PAVERS PTY LTD	Footpath Maintenance	34,001.00	6/15/2020
EFT00351	Michael T Duckett	Refund	312.47	6/15/2020
EFT00351	POOLEGRAVE SIGNS & ENGRAVING	Tools and Hardware	693.00	6/15/2020
EFT00351	Iconic Property Services	Shire Office Cleaning	5,351.04	6/15/2020
EFT00351	Cr Patrick Dawkins	Sitting Allowance	1,775.00	6/15/2020
EFT00351	QUADIENT FINANCE AUSTRALIA PTY LTD	Office Equipment Lease	220.00	6/15/2020
EFT00351	HYDROQUIP PUMPS	Parks and Reserves Maintenance	3,300.00	6/15/2020
EFT00351	Officeworks	Stationary	174.85	6/15/2020
EFT00351	City of Gosnells	Staff Entitlements Transfer	813.11	6/15/2020
EFT00351	Market Creations	Website Services	2,057.00	6/15/2020
EFT00351	SHRED-X PTY LTD	Confidential Paper Shredding	33.00	6/15/2020
EFT00351	Salary Packaging Australia Pty Ltd (SPA)	Staff Novated Lease	368.89	6/15/2020
EFT00351	Ross Montgomery	Staff Reimbursement	46.96	6/15/2020
EFT00351	Fasta Couriers & Taxi Trucks	Postal Services	36.43	6/15/2020
EFT00351	PAPERBARK TECHNOLOGIES PTY LTD	Tools and Hardware	1,999.00	6/15/2020
EFT00351	NAPOLEON PAPIER & CO	Library Book Stock	234.18	6/15/2020
EFT00351	Cr Dawne Horrex	Sitting Allowance	2,122.00	6/15/2020
EFT00351	Cr Peter Macintosh	Sitting Allowance	2,122.00	6/15/2020

8.4.2 Accounts Paid TEMPLATE

	SUB TOTAL	<u>0.00</u>
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No.	Vendor Name	Details	D-DEBIT AMOUNT	Payment Date
DD00153	WESTNET PTY LTD	Telephone/Data	75.89	6/1/2020
DD00154	Shire Credit Cards	Credit Card Payment	-5,769.15	6/8/2020
DD00154	Shire Credit Cards	Credit Card Payment	5,769.15	6/8/2020
			SUB TOTAL	<u>75.89</u>

No.	Vendor Name	Details	BPAY AMOUNT	Payment Date
BPAY153	DEPT OF TRANSPORT (VEHICLE SERVICES)	Vehicle Registration	217.10	6/15/2020
BPAY154	City of Nedlands	WESROC Membership	5,207.00	6/15/2020
BPAY155	Telstra Corporation Ltd	Telephone/Data	34.95	6/15/2020
BPAY156	WATER CORPORATION	Water	471.97	6/15/2020
			SUB TOTAL	<u>5,931.02</u>

No.	Vendor Name	Details	CHEQUE AMOUNT	Payment Date
433	Eve Clarkson	Refund	210.25	6/15/2020
			SUB TOTAL	<u>210.25</u>

No.	Vendor Name	Details	CREDIT CARD AMOUNT	Payment Date
CCP00007	Shire Credit Cards	See Detailed Credit Card Statements	5,769.15	6/8/2020
			SUB TOTAL	<u>5,769.15</u>

TOTAL 283,870.56



Ordinary Council Meeting

8.5.1 – Local Laws Review

**ITEM 8.5.1
ATTACHMENT ONE**

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

**ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES
AND TRADING LOCAL LAW 2020**

LOCAL GOVERNMENT ACT 1995
SHIRE OF PEPPERMINT GROVE
ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES
AND TRADING LOCAL LAW 2020

TABLE OF CONTENTS

PART 1 - PRELIMINARY	6
1.1 CITATION.....	6
1.2 COMMENCEMENT	6
1.3 APPLICATION.....	6
1.4 DEFINITIONS.....	6
1.5 REPEAL	8
1.6 ASSISTANCE ANIMALS.....	9
PART 2 – ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES	9
<i>Division 1 - General</i>	<i>9</i>
2.1 GENERAL PROHIBITIONS.....	9
2.2 ACTIVITIES ALLOWED WITH A PERMIT - GENERAL	10
2.3 NO POSSESSION AND CONSUMPTION OF LIQUOR ON THOROUGHFARE	10
<i>Division 2 - Vehicle crossing</i>	<i>11</i>
2.4 TEMPORARY CROSSINGS.....	11
2.5 REMOVAL OF REDUNDANT CROSSING	11
<i>Division 3 - Permissible Verge treatments</i>	<i>12</i>
2.6 INTERPRETATION.....	12
2.7 PERMISSIBLE VERGE TREATMENTS.....	12
2.8 ONLY PERMISSIBLE VERGE TREATMENTS TO BE INSTALLED.....	12
2.10 NOTICE TO OWNER OR OCCUPIER.....	13
2.11 TRANSITIONAL PROVISION.....	13
2.12 POWER TO CARRY OUT PUBLIC WORKS ON VERGE	13
2.13 ASSIGNMENT OF NUMBERS	13
2.14 PUBLIC PLACE – ITEM 4(1) OF DIVISION 1, SCHEDULE 3.1 OF ACT	13
2.15 SIGNS	14
2.16 TRANSITIONAL.....	14
2.17 NO DRIVING ON CLOSED THOROUGHFARE	14
PART 3 – ADVERTISING SIGNS ON THOROUGHFARES	14
<i>Division 1 - Preliminary</i>	<i>14</i>
3.1 INTERPRETATION.....	14
<i>Division 2 - Permit</i>	<i>15</i>
3.2 ADVERTISING SIGNS AND PORTABLE DIRECTION SIGNS.....	15
3.3 MATTERS TO BE CONSIDERED IN DETERMINING APPLICATION FOR PERMIT	15
<i>Division 3 – Conditions on permit</i>	<i>16</i>
3.4 CONDITIONS ON PORTABLE SIGN.....	16
3.5 CONDITIONS ON ELECTION SIGN.....	16
PART 4 – OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS	17
<i>Division 1 - Animals and vehicles</i>	<i>17</i>

4.1	LEAVING ANIMAL OR VEHICLE IN PUBLIC PLACE OR ON LOCAL GOVERNMENT PROPERTY	17
4.2	PROHIBITIONS RELATING TO ANIMALS.....	17
	<i>Division 2 - Shopping trolleys</i>	<i>18</i>
4.3	INTERPRETATION.....	18
4.4	SHOPPING TROLLEY TO BE MARKED.....	18
4.5	PERSON NOT TO LEAVE TROLLEY IN PUBLIC PLACE	18
4.6	RETAILER TO REMOVE ABANDONED TROLLEY.....	18
4.7	RETAILER TAKEN TO OWN TROLLEY	18
PART 5 - TRADING IN THOROUGHFARES AND PUBLIC PLACES.....		19
	<i>Division 1 - Stallholders and traders.....</i>	<i>19</i>
5.1	INTERPRETATION.....	19
5.2	STALLHOLDER'S PERMIT.....	20
5.3	TRADER'S PERMIT	21
5.4	NO PERMIT REQUIRED TO SELL NEWSPAPER.....	21
5.5	RELEVANT CONSIDERATIONS IN DETERMINING APPLICATION FOR PERMIT	21
5.6	CONDITIONS OF PERMIT.....	22
5.7	EXEMPTIONS FROM REQUIREMENT TO PAY FEE OR TO OBTAIN A PERMIT.....	23
5.8	CONDUCT OF STALLHOLDERS AND TRADERS	23
	<i>Division 2 - Street entertainers.....</i>	<i>24</i>
5.9	INTERPRETATION.....	24
5.10	PERMIT REQUIRED TO PERFORM	24
5.11	VARIATION OF PERMITTED AREA AND PERMITTED TIME	24
5.12	DURATION OF PERMIT.....	25
5.13	CANCELLATION OF PERMIT.....	25
5.14	OBLIGATIONS OF PERMIT HOLDER	25
	<i>Division 3 - Outdoor eating facilities on public places.....</i>	<i>25</i>
5.15	INTERPRETATION	25
5.16	PERMIT REQUIRED TO CONDUCT FACILITY.....	25
5.17	MATTERS TO BE CONSIDERED IN DETERMINING APPLICATION.....	26
5.18	OBLIGATIONS OF PERMIT HOLDER	26
5.19	REMOVAL OF FACILITY UNLAWFULLY CONDUCTED	27
5.20	USE OF FACILITY BY PUBLIC.....	27
5.21	TEMPORARY REMOVAL OF FACILITY MAY BE REQUESTED	27
PART 6 - PERMITS		27
	<i>Division 1 – Applying for a permit</i>	<i>27</i>
6.1	APPLICATION FOR PERMIT	27
6.2	DECISION ON APPLICATION FOR PERMIT	28
	<i>Division 2 - Conditions.....</i>	<i>28</i>
6.3	CONDITIONS WHICH MAY BE IMPOSED ON A PERMIT.....	28
6.4	IMPOSING CONDITIONS UNDER A POLICY	29
6.5	COMPLIANCE WITH AND VARIATION OF CONDITIONS	29
	<i>Division 3 - General.....</i>	<i>29</i>
6.6	DURATION OF PERMIT.....	29
6.8	RENEWAL OF PERMIT	29
6.9	TRANSFER OF PERMIT	30
6.10	PRODUCTION OF PERMIT	30
6.11	CANCELLATION OF PERMIT.....	30
PART 7 - OBJECTIONS AND APPEALS.....		31
7.1	APPLICATION OF PART 9 DIVISION 1 OF ACT	31

PART 8 - MISCELLANEOUS NOTICES.....	31
8.1 NOTICE TO REDIRECT OR REPAIR SPRINKLER.....	31
8.2 HAZARDOUS PLANTS.....	31
8.3 NOTICE TO REPAIR DAMAGE TO THOROUGHFARE.....	31
8.4 NOTICE TO REMOVE THING UNLAWFULLY PLACED ON THOROUGHFARE.....	31
PART 9 - ENFORCEMENT.....	31
<i>Division 1 - Notices given under this local law.....</i>	<i>31</i>
9.1 OFFENCE TO FAIL TO COMPLY WITH NOTICE.....	31
9.2 LOCAL GOVERNMENT MAY UNDERTAKE REQUIREMENTS OF NOTICE.....	32
<i>Division 2 - Offences and penalties.....</i>	<i>32</i>
9.3 OFFENCES.....	32
9.4 PRESCRIBED OFFENCES.....	32
9.5 FORM OF NOTICES.....	32
SCHEDULE 1.....	33
PRESCRIBED OFFENCES.....	33

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

**ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES AND TRADING
LOCAL LAW 2020**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Peppermint Grove resolved on *[insert date]* to make the following local law.

PART 1 – PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Peppermint Grove Activities in Thoroughfares and Public Places and Trading Local Law 2020*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Definitions

In this local law unless the context otherwise requires –

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit;

authorised person means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

built-up area has the meaning given to it in the *Road Traffic Code 2000*;

bulk rubbish container means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

carriageway has the meaning given to it in the *Road Traffic Code 2000*;

CEO means the chief executive officer of the local government;

commencement day means the day on which this local law comes into operation;

Council means the council of the local government;

crossing means a crossing giving access from a public thoroughfare to -

- (a) private land; or
- (b) a private thoroughfare serving private land;

district means the district of the local government;

footpath has the meaning given to it in the *Road Traffic Code 2000*;

garden means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

intersection has the meaning given to it in the *Road Traffic Code 2000*;

kerb includes the edge of a carriageway;

lawn means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

liquor has the meaning given to it in section 3 of the *Liquor Licensing Act 1988*;

local government means the Shire of Peppermint Grove;

local government property means anything except a thoroughfare –

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;

lot has the meaning given to it in the *Planning and Development Act 2005*;

owner or occupier in relation to land does not include the local government;

penalty unit has the meaning given to it in the *Shire of Peppermint Grove Penalty Units Local Law 2020*;

permissible verge treatment means any one of the 4 treatments described in clause 2.7(2), and includes any reticulation pipes and sprinklers;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

premises for the purpose of the definition of public place in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

public place includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include –

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property;

Regulations means the *Local Government (Functions and General) Regulations 1996*;

sign includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;

thoroughfare has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management control of the local government;

town planning scheme means a town planning scheme of the local government made under the *Planning and Development Act 2005*;

vehicle includes –

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes –

- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
- (b) a pram, a stroller or a similar device; and

verge means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

1.5 Repeal

- (1) The *Shire of Peppermint Grove Activities on Thoroughfares and Trading in Thoroughfares and Public Place Local Law* published in the Government Gazette on 18 September 2001 is repealed.
- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2) specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

1.6 Assistance animals

This local law is subject to any written law and any law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Cwlth) section 9(2)

PART 2 – ACTIVITIES IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - General

2.1 General prohibitions

(1) A person shall not —

- (a) plant any plant on a verge which is 0.6m or greater in height or which creates a sightline obstruction to pedestrian or vehicular traffic;
- (b) plant any plant that is likely to be hazardous to any person using the thoroughfare;
- (c) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless —
 - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
 - (ii) the person is acting under the authority of a written law;
- (d) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (e) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (f) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (g) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (h) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

(2) Clause 2.1 (1) does not apply to an activity being undertaken by a person who —

- (a) is an employee or contractor of the local government and is authorised or engaged to undertake that activity; or

- (b) is otherwise lawfully authorised to undertake that activity.

2.2 Activities allowed with a permit - general

(1) A person shall not, without a permit —

- (a) dig or otherwise create a trench through or under a kerb or footpath;
- (b) subject to Division 3 of this Part, throw, place or deposit anything on a verge except for removal by the local government under a bulk rubbish collection, and then only in accordance with the terms and conditions and during the period of time advertised in connection with that collection by the local government;
- (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
- (d) cause any obstruction to a water channel or a water course in a thoroughfare;
- (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
- (f) damage a thoroughfare;
- (g) light any fire or burn anything on a thoroughfare other than in a stove or fireplace provided for that purpose;
- (h) fell any tree onto a thoroughfare;
- (i) unless installing, or in order to maintain, a permissible verge treatment —
 - (i) lay pipes under or provide taps on any verge; or
 - (ii) place or install anything on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
- (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
- (k) on a public place use anything or do anything so as to create a nuisance;
- (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
- (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.

(2) A person shall not, without a permit —The local government may exempt a person from compliance with subclause (1) on the application of that person.

2.3 No possession and consumption of liquor on thoroughfare

(1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless —

- (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
 - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 2 - Vehicle crossing

2.4 Temporary crossings

- (1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where –
- (a) a crossing does not exist; or
 - (b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.
- (2) The ***person responsible for the works*** in subclause (1) is to be taken to be –
- (a) The person named on the building permit issued under the *Building Act 2011*, if one has been issued in relation to the works; or
 - (b) the registered proprietor of the lot, if no building permit has been issued under the *Building Act 2011* in relation to the works.
- (3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

2.5 Removal of redundant crossing

- (1) Where works on a lot will result in a crossing no longer giving access to a lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.
- (2) The local government may give written notice to the owner or occupier of a lot requiring her or him to –
- (a) remove any part of or all of a crossing which does not give access to the lot; and
 - (b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.

Division 3 - Permissible Verge treatments

2.6 Interpretation

In clause 2.7, unless the context otherwise requires -

acceptable material means any material approved by the local government.

2.7 Permissible verge treatments

- (1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.
- (2) A permissible verge treatment is –
 - (a) the planting and maintenance of a lawn;
 - (b) the planting and maintenance of a garden provided that -
 - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare or using a driveway on land adjacent to the thoroughfare for access to or from the thoroughfare; and
 - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
 - (c) the installation of an acceptable material; or
 - (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

2.8 Only permissible verge treatments to be installed

- (1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.
- (2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.9.

2.9 Obligations of owner or occupier

An owner or occupier who installs or maintains a permissible verge treatment shall —

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment; and
- (c) not disturb a footpath on the verge.

2.10 Notice to owner or occupier

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

2.11 Transitional provision

(1) In this clause –

former provisions means the provisions of the repealed local law which permitted certain types of verge treatments, whether with or without the consent of the local government.

(2) A verge treatment which –

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

2.12 Power to carry out public works on verge

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority -

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any –
 - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
 - (ii) sprinklers, pipes or other reticulation equipment.

Division 4 - Property numbers

2.13 Assignment of numbers

- (1) The local government may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.
- (2) In this clause, **number** means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Division 5 - Fencing

2.14 Public place – Item 4(1) of Division 1, Schedule 3.1 of Act

A public place, as that term is defined in clause 1.4, is specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act.

Division 6 - Signs erected by the local government

2.15 Signs

- (1) A local government may erect a sign on a public place specifying any conditions of use which apply to that place.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

2.16 Transitional

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.15 if –

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

Division 7 - Driving on a closed thoroughfare

2.17 No driving on closed thoroughfare

- (1) A person shall not drive or take a vehicle on a closed thoroughfare unless –
 - (a) that is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
 - (b) the person has first obtained a permit.
- (2) In this clause –

closed thoroughfare means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

PART 3 – ADVERTISING SIGNS ON THOROUGHFARES

Division 1 - Preliminary

3.1 Interpretation

In this Part, unless the context otherwise requires -

advertising sign means a sign used for the purpose of advertisement and includes an election sign;

direction sign means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

election sign means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election;

portable direction sign means a portable free standing direction sign; and

portable sign means a portable free standing advertising sign.

Division 2 - Permit

3.2 Advertising signs and portable direction signs

- (1) A person shall not, without a permit –
- (a) erect or place an advertising sign on a thoroughfare; or
 - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m² in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.
- (3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign —
- (a) on a footpath;
 - (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;
 - (c) on or within 3m of a carriageway;
 - (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
 - (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

3.3 Matters to be considered in determining application for permit

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to -

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
- (d) whether or not the sign will create a hazard to persons using a thoroughfare; and

- (c) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

Division 3 – Conditions on permit

3.4 Conditions on portable sign

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions –

- (a) the portable sign shall -
 - (i) not exceed 1m in height;
 - (ii) not exceed an area of 1m² on any side;
 - (iii) relate only to the business activity described on the permit;
 - (iv) contain letters not less than 200mm in height;
 - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
 - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
 - (vii) be secured in position in accordance with any requirements of the local government;
 - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
 - (ix) be maintained in good condition; and
- (b) no more than one portable sign shall be erected in relation to the one building or business.

3.5 Conditions on election sign

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign –

- (a) being erected at least 30m from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;

- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;
- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

PART 4 – OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS

Division 1 - Animals and vehicles

4.1 Leaving animal or vehicle in public place or on local government property

- (1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorised to do so under a written law.
- (2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.
- (3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

4.2 Prohibitions relating to animals

- (1) In subclause (2), owner in relation to an animal includes –
 - (a) an owner of it;
 - (b) a person in possession of it;
 - (c) a person who has control of it; and
 - (d) a person who ordinarily occupies the premises where the animal is permitted to stay.
- (2) An owner of an animal shall not –
 - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
 - (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or

- (c) train or race the animal on a thoroughfare.
- (3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.
- (4) This clause does not apply to a person with a disability where the animal is a guide dog or assistance animal as defined in the Disability Discrimination Act 1992 (Commonwealth) Section 9(2).

Division 2 - Shopping trolleys

4.3 Interpretation

In this Division –

retailer means a proprietor of a shop in respect of which shopping trolleys are provided for the use of customers of the shop; and

shopping trolley means a wheeled container or receptacle supplied by a retailer to enable a person to transport goods.

4.4 Shopping trolley to be marked

A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers.

4.5 Person not to leave trolley in public place

A person shall not leave a shopping trolley in a public place other than in an area set aside for the storage of shopping trolleys.

4.6 Retailer to remove abandoned trolley

- (1) If a shopping trolley is found in a public place, other than in an area set aside for the storage of shopping trolleys, the local government may advise (verbally or in writing) a retailer whose name is marked on the trolley of the location of the shopping trolley.
- (2) A retailer shall remove a shopping trolley within 24 hours of being so advised under subclause (1), unless the retailer —
 - (a) requests the local government to collect and deliver the shopping trolley to the retailer; and
 - (b) pays any fee for that collection and delivery (imposed and determined under and in accordance with sections 6.16 to 6.19 of the Act) within the period specified by the local government.

4.7 Retailer taken to own trolley

In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley.

PART 5 - TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1 - Stallholders and traders

5.1 Interpretation

In this Part, unless the context otherwise requires —

assistant means a person who carries out trading on behalf of the permit holder in accordance with the permit issued to the permit holder;

Competition Principles Agreement means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

public place includes —

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property,

but does not include premises on private property from which trading is lawfully conducted under a written law.

stall means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

stallholder means a person in charge of a stall;

stallholder's permit means a permit issued to a stallholder;

trader means a person who carries on trading;

trader's permit means a permit issued to a trader; and

trading includes —

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of —
 - (i) offering them for sale or hire;
 - (ii) inviting offers for their sale or hire;
 - (iii) soliciting orders for them; or
 - (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and —

- (i) offering goods or services for sale or hire; or
 - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services,
- but does not include –
- (d) the delivery of pre-ordered goods or services to the purchaser of those goods or services or to the person nominated by the purchaser of those goods or services whether or not payment for those goods or services is accepted on delivery; or
the taking of further orders for goods or services from the purchaser of those pre-ordered goods or services or from the person nominated by the purchaser of those pre-ordered goods or services when those orders are taken at the same time as a previous order is being delivered, whether or not payment is made for those goods or services at the time of taking the order;
 - (e) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
 - (f) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
 - (g) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
 - (h) the selling or hiring or the offering for sale or hire of –
 - (i) goods by a person who represents a manufacturer of the goods; or
 - (ii) services by a person who represents a provider of the services,which are only sold directly to consumers and not through a shop.

5.2 Stallholder's permit

- (1) A person shall not conduct a stall on a public place unless that person is –
 - (a) the holder of a valid stallholder's permit; or
 - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall –
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
 - (c) specify the proposed location of the stall;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;

- (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
- (f) be accompanied by an accurate plan and description of the proposed stall.

5.3 Trader's permit

- (1) A person shall not carry on trading unless that person is –
 - (a) the holder of a valid trader's permit; or
 - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall –
 - (a) state the full name and address of the applicant;
 - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
 - (c) specify the location or locations in which the applicant proposes to trade;
 - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
 - (e) specify the proposed goods or services which will be traded; and
 - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.
- (3) The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.

5.4 No permit required to sell newspaper

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper only is not required to obtain a permit.

5.5 Relevant considerations in determining application for permit

- (1) In determining an application for a permit for the purposes of this Division, the local government is to have regard to –
 - (a) any relevant policies of the local government;
 - (b) the desirability of the proposed activity;
 - (c) the location of the proposed activity;
 - (d) the principles set out in the Competition Principles Agreement; and

- (c) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds –
 - (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought; or
 - (b) that –
 - (i) the applicant is an undischarged bankrupt or is in liquidation;
 - (ii) the applicant has entered into any composition or arrangement with creditors; or
 - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property.

5.6 Conditions of permit

- (1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include –
 - (a) the place, the part of the district, or the thoroughfare to which the permit applies;
 - (b) the days and hours during which a permit holder may conduct a stall or trade;
 - (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;
 - (d) the goods or services in respect of which a permit holder may conduct a stall or trade;
 - (e) the number of persons and the names of persons permitted to conduct a stall or trade;
 - (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;
 - (g) whether and under what terms the permit is transferable;
 - (h) any prohibitions or restrictions concerning the –
 - (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;
 - (ii) the use of amplifiers, sound equipment and sound instruments;
 - (iii) the use of signs; and
 - (iv) the use of any lighting apparatus or device;
 - (i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;

- (j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;
 - (k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;
 - (l) the acquisition by the stallholder or trader of public risk insurance;
 - (m) the period for which the permit is valid; and
 - (n) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.
- (2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law, the local government may at the request of that permit holder authorize another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

5.7 Exemptions from requirement to pay fee or to obtain a permit

- (1) In this clause –

"**charitable organisation**" means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and

"**commercial participant**" means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

- (2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on –
- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
 - (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.
- (3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

5.8 Conduct of stallholders and traders

- (1) A stallholder while conducting a stall or a trader while trading shall –

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;

- (b) not display a permit unless it is a valid permit; and
 - (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *National Measurement Act 1960 (Cth)*.
- (2) A stallholder or trader shall not –
- (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
 - (b) act in an offensive manner;
 - (c) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
 - (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

Division 2 - Street entertainers

5.9 Interpretation

In this Division, unless the context otherwise requires –

"perform" includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

"permit" means a permit issued for the purpose of clause 5.10;

"permitted area" means the area or areas, specified in a permit, in which the permit holder may perform; and

"permitted time" means the time or times, specified in a permit, during which the permit holder may perform.

5.10 Permit required to perform

A person shall not perform in a public place without a permit.

5.11 Variation of permitted area and permitted time

(1) The local government may by notice in writing to a permit holder vary –

- (a) the permitted area;
- (b) the permitted time; or
- (c) both the permitted area and the permitted time,

shown on a permit.

(2) The local government may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

5.12 Duration of permit

A permit is valid for a period of 3 months after the date on which it is issued unless it is sooner cancelled under this local law.

5.13 Cancellation of permit

The CEO may cancel a permit if in her or his opinion the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place, or if, in her or his opinion, or in the opinion of an authorised person, the performance otherwise constitutes a nuisance.

5.14 Obligations of permit holder

A permit holder shall not in a public place —

- (a) perform wearing dirty, torn or ragged clothing;
- (b) act in an offensive manner; or
- (c) place, install, erect, play or use any musical instrument or any device which emits music, including a loud speaker or an amplifier —
 - (i) other than in the permitted area; and
 - (ii) unless the musical instrument or device is specified in the permit.

Division 3 - Outdoor eating facilities on public places

5.15 Interpretation

In this Division -

"**Facility**" means an outdoor eating facility or establishment on any part of a public place in which furniture is provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public, but does not include such a facility or establishment on private land;

"**Food Act**" means the *Food Act 2008*;

"**food business**" has the meaning given to it in section 10 of the *Food Act 2008*;

"**furniture**" means chairs, tables, waiters' stations, planter boxes, umbrellas, screens, barriers, awnings and any other similar structure or equipment; licensed premises has the meaning given to it in section 3(1) of the *Liquor Control Act 1988*;

"**permit holder**" means the person to whom a permit has been issued for the purpose of clause 5.16; and

5.16 Permit required to conduct Facility

A person shall not establish or conduct a Facility without a permit.

5.17 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 5.16, the local government may consider in addition to any other matter it considers relevant, whether or not —

- (a) the Facility is conducted in conjunction with and as an extension of a food business which abut on the Facility, and whether the applicant is the person conducting such food business;
- (b) any abutting food business is registered in accordance with the *Food Act 2008* and whether the use of the business is permitted under the town planning scheme;
- (c) the Facility will comply with any other local law made by the local government under the Act;
- (d) users of the Facility will have access to proper and sufficient sanitary and ablutionary conveniences as per the Building Code of Australia;
- (e) the Facility would -
 - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
 - (ii) impede pedestrian access; and
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

5.18 Obligations of permit holder

(1) The permit holder for a Facility shall –

- (a) ensure that the Facility is conducted at all times in accordance with the provisions of this local law;
- (b) ensure that the eating area is kept in a clean and tidy condition at all times;
- (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times; and
- (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the Facility.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a Facility, the local government may give a notice to the permit holder for the Facility to carry out that work within the time limited by the notice.

(3) In subclause (2), “work” includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a Facility.

5.19 Removal of Facility unlawfully conducted

Where a Facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

5.20 Use of Facility by public

- (1) A person shall not occupy a chair or otherwise use the equipment in a Facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the Facility.
- (2) A person shall leave a Facility when requested to do so by the permit holder.

5.21 Temporary removal of Facility may be requested

- (1) The permit holder for a Facility is to temporarily remove the Facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service.
- (2) The permit holder may replace the Facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

PART 6 - PERMITS

Division 1 – Applying for a permit

6.1 Application for permit

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall —
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

6.2 Decision on application for permit

- (1) The local government may –
 - (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).
- (5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

Division 2 - Conditions

6.3 Conditions which may be imposed on a permit

The local government may approve an application for a permit subject to conditions relating to -

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

6.4 Imposing conditions under a policy

(1) In this clause –

"policy" means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 6.2(1)(a).

- (2) Under clause 6.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 6.2(2).
- (4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

6.5 Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

Division 3 - General

6.6 Duration of permit

A permit is valid for one year from the date on which it is issued, unless it is –

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 6.11.

6.7 Permits for outdoor facilities

Notwithstanding clause 6.6, a facility permit issued for the purposes of clause 5.16 will be valid from the date of issue until 30 June.

6.8 Renewal of permit

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of –
- (a) this Part; and
- (b) any other provision of this local law relevant to the permit which is to be renewed,

shall apply to an application for the renewal of a permit with all the necessary changes as required.

6.9 Transfer of permit

- (1) An application for the transfer of a valid permit is to –
 - (a) be made in writing;
 - (b) be signed by the permit holder and the proposed transferee of the permit;
 - (c) provide such information as the local government may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by –
 - (a) an endorsement on the permit signed by the CEO; or
 - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

6.10 Production of permit

A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

6.11 Cancellation of permit

- (1) Subject to clause 7.1, a permit may be cancelled by the local government if the permit holder has not complied with a -
 - (i) condition of the permit; or
 - (ii) provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder –
 - (a) shall return the permit as soon as practicable to the local government; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

PART 7 - OBJECTIONS AND APPEALS

7.1 Application of Part 9 Division 1 of Act

When the local government makes a decision —

- (a) under clause 6.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

PART 8 - MISCELLANEOUS NOTICES

8.1 Notice to redirect or repair sprinkler

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

8.2 Hazardous plants

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

8.3 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

8.4 Notice to remove thing unlawfully placed on thoroughfare

Where anything is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

PART 9 - ENFORCEMENT

Division 1 - Notices given under this local law

9.1 Offence to fail to comply with notice

Whenever the local government gives a notice under this local law requiring a person to do anything, if the person fails to comply with the notice, the person commits an offence.

9.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

Division 2 - Offences and penalties

9.3 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

9.4 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The number of modified penalty units for the prescribed offence is the number specified adjacent to the clause in Schedule 1.
- (3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that –
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

9.5 Form of notices

Unless otherwise specified, for the purposes of this local law -

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

SCHEDULE 1

PRESCRIBED OFFENCES
(clause 9.4)

CLAUSE	NATURE OF OFFENCE	MODIFIED PENALTY (UNIT)S
2.1(a)	Plant any plant on a verge which is above 0.6m in height or which creates a sightline hazard	15
2.1(c)	Damaging lawn or garden	15
2.1(d)	Plant (except grass) on thoroughfare within 2m of carriageway	15
2.1(e)	Placing hazardous substance on footpath	15
2.1(f)	Damaging or interfering with signpost or structure on thoroughfare	35
2.1(g)	Playing games so as to impede vehicles or persons on thoroughfare	15
2.1(h)	Riding of skateboard or similar device on mall or verandah of shopping centre	15
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	15
2.2(1)(b)	Throwing or placing anything on a verge without a permit	15
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	15
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	25
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	25
2.2(1)(f)	Damage a thoroughfare	30
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	35
2.2(1)(h)	Felling tree onto thoroughfare without a permit	15
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	15
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	35
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	15
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	15
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	15
2.3(1)	Consumption or possession of liquor on thoroughfare	15
2.4(1)	Failure to obtain permit for temporary crossing	25
2.5(2)	Failure to comply with notice to remove crossing and reinstate kerb	35
2.7(1)	Installation of verge treatment other than permissible verge treatment	25
2.9	Failure to maintain permissible verge treatment or placement of obstruction on verge	15
2.10	Failure to comply with notice to rectify a verge treatment	15
2.15(2)	Failure to comply with sign on public place	15

2.17(1)	Driving or taking a vehicle on a closed thoroughfare	35
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare without a permit	15
3.2(3)	Erecting or placing of advertising sign in a prohibited area	15
4.1(1)	Animal or vehicle obstructing a public place or local government property	15
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	15
4.2(2)(b)	Animal on public place with infectious disease	15
4.2(2)(c)	Training or racing animal on thoroughfare in built-up area	15
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	15
4.5	Person leaving shopping trolley in public place other than trolley bay	15
4.6(2)	Failure to remove shopping trolley upon being advised of location	15
5.2(1)	Conducting of stall in public place without a permit	35
5.3(1)	Trading without a permit	35
5.8(1)(a)	Failure of stallholder or trader to display or carry permit	15
5.8(1)(b)	Stallholder or trader not displaying valid permit	15
5.8(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	15
5.8(2)	Stallholder or trader engaged in prohibited conduct	15
5.10	Performing in a public place without a permit	15
5.11(2)	Failure of performer to move onto another area when directed	15
5.14	Failure of performer to comply with obligations	15
5.16	Establishment or conduct of outdoor eating facility without a permit	35
5.18	Failure of permit holder of outdoor eating facility to comply with obligations	15
5.20(1)	Use of equipment of outdoor eating facility without purchase of food or drink from facility	6
5.20(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	6
6.5	Failure to comply with a condition of a permit	15
6.10	Failure to produce permit on request of authorised person	15
9.1	Failure to comply with notice given under local law	15

Dated _____ 20__

The Common Seal of the)
Shire of Peppermint Grove)
was affixed by authority of a)
resolution of the Council in the)
presence of -)

Cr Rachel Thomas
President

Don Burnett
Chief Executive Officer

**ITEM 8.5.1
ATTACHMENT TWO**

CAT ACT 2011

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

CATS LOCAL LAW 2020

CONTENTS

CAT ACT 2011
LOCAL GOVERNMENT ACT 1995
SHIRE OF PEPPERMINT GROVE
CATS LOCAL LAW 2020
TABLE OF CONTENTS

PART 1 – PRELIMINARY.....	3
1.1 CITATION.....	3
1.2 COMMENCEMENT.....	3
1.3 APPLICATION.....	3
1.4 DEFINITIONS.....	3
PART 2 – CAT CONTROL.....	5
2.1 CAT NOT TO BE A NUISANCE	5
PART 3 – PERMITS FOR KEEPING CATS.....	5
3.1 INTERPRETATION.....	5
3.2 CATS FOR WHICH A PERMIT IS REQUIRED.....	5
3.3 APPLICATION FOR PERMIT	6
3.4 REFUSAL TO DETERMINE APPLICATION.....	6
3.5 FACTORS RELEVANT TO THE DETERMINATION OF APPLICATION	6
3.6 DECISION ON APPLICATION	7
3.7 CONDITIONS	7
3.8 COMPLIANCE WITH CONDITIONS OF PERMIT	7
3.9 DURATION OF A PERMIT	8
3.10 REVOCATION	8
3.11 PERMIT NOT TRANSFERABLE	8
3.12 PERMIT TO BE KEPT AT PREMISES AND AVAILABLE FOR VIEW	8
PART 4 – MISCELLANEOUS.....	8
4.1 GIVING OF AN INFRINGEMENT NOTICE	8
PART 5 – OBJECTIONS AND APPEALS.....	8
PART 6 – OFFENCES AND PENALTIES.....	9
6.1 OFFENCES.....	9
6.2 PRESCRIBED OFFENCES	9
6.3 FORMS.....	9
SCHEDULE 1 – ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS	10
A. PERMIT TO KEEP MORE THAN 3 CATS	10
B. PERMIT TO USE PREMISES AS A CATTERY OR CAT MANAGEMENT FACILITY	10
SCHEDULE 2	12
SCHEDULE 3 – CAT PROHIBITED AREAS.....	13

CAT ACT 2011
LOCAL GOVERNMENT ACT 1995
SHIRE OF PEPPERMINT GROVE
CATS LOCAL LAW 2020

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Peppermint Grove resolved on **INSERT DATE** to make the following local law.

Part 1 – Preliminary

1.1 Citation

This local law may be cited as the *Shire of Peppermint Grove Cats Local Law 2020*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Definitions

In this local law unless the context otherwise requires –

Act means the *Cat Act 2011*;

applicant means the occupier of the premises who makes an application for a permit under this local law;

authorised person means a person authorised by the local government to perform the functions conferred on an authorised person under this local law;

cat has the meaning given to it in the Act;

cat management facility has the meaning given to it in the Act;

cattery means any premises where more than 3 cats are kept, bred, boarded, housed or trained temporarily, whether for profit or otherwise, and where the occupier of the premises is not the ordinary owner of the cats;

CEO means the Chief Executive Officer of the local government;

district means the district of the local government;

effective control in relation to a cat means any of the following methods –

- (a) held by a person who is capable of controlling the cat;
- (b) securely tethered;

- (c) secured in a cage; or
- (d) any other means of preventing escape;

grouped dwelling (commonly referred to as a duplex, villa or townhouse) means a dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above the other, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property;

local government means the Shire of Peppermint Grove;

multiple dwelling (often called flats, apartments or units) means a dwelling in a group of more than one dwelling on a lot where any part of a dwelling is vertically above part of any other but –

- (a) does not include a grouped dwelling; and
- (b) includes any dwellings above the ground floor in a mixed use development;

nuisance means –

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

owner has the meaning given to it in the Act;

penalty unit has the meaning given in the *Shire of Peppermint Grove Penalty Units Local Law 2020*;

permit means a permit issued by the local government under Part 3;

permit holder means a person who holds a valid permit under Part 3;

premises has the meaning given to it in the Act;

RSPCA means the Royal Society for the Prevention of Cruelty to Animals (Inc) of Western Australia;

Schedule means a schedule to this local law;

Scheme means a planning scheme of the local government made by it under the *Planning and Development Act 2005* and its antecedents; and

Veterinarian has the meaning given to it in the Act.

Part 2 – Cat control

2.1 Cat not to be a nuisance

- (1) An owner shall not allow a cat to be or create a nuisance.
- (2) Where in the opinion of an authorised person, or where the local government receives signed complaints in the form of Schedule 2 from two or more persons each of whom occupy different premises that a cat is creating a nuisance, the local government may give written notice to the owner of the cat requiring that person to abate the nuisance.
- (3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government in the notice which period shall not exceed 28 days.
- (4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.

2.2 Cat prohibited areas

- (1) A cat shall not be in the places specified in Schedule 3 at any time, whether or not under effective control.
- (2) If a cat is in a Cat Prohibited Area in contravention of subclause (1), then the owner of the cat commits an offence unless the owner of the cat has first obtained written authorisation from the local government.

Part 3 – Permits for keeping cats

3.1 Interpretation

In this Part, and for the purposes of applying the definition of ‘cattery’, *cat* does not include a cat less than 6 months old.

3.2 Cats for which a permit is required

- (1) Subject to subclause (2) a person is required to have a permit to –
 - (a) keep more than 3 cats on any premises; or
 - (b) use any premises as a cattery or cat management facility.
- (2) A permit is not required under subclause (1) if the premises concerned are –
 - (a) a refuge of the RSPCA or any other body prescribed in regulation 4 of the *Cat Regulations 2012*;
 - (b) a cat management facility which has been approved by the local government;
 - (c) a veterinary surgery; or
 - (d) a pet shop.

3.3 Application for permit

- (1) An application for a permit under clause 3.2 shall be –
- (a) made in writing by an occupier of the premises in relation to those premises;
 - (b) in a form approved by the local government, describing and specifying the number of cats to be kept on the premises;
 - (c) accompanied by a brief reason and justification for the request;
 - (d) accompanied by the plans of the premises to which the application relates in the form determined by the local government from time to time;
 - (e) accompanied by the consent in writing of the owner of the premises where the occupier is not the owner of the premises to which the application relates; and
 - (f) accompanied by the application fee for the permit determined by the local government from time to time.

3.4 Refusal to determine application

The local government may refuse to determine an application for a permit if it is not made in accordance with clause 3.3.

3.5 Factors relevant to the determination of application

- (1) In determining an application for a permit the local government may have regard to –
- (a) the reasons and justification provided for the request;
 - (b) the physical suitability of the premises for the proposed use;
 - (c) the suitability of the zoning of the premises under any Scheme which applies to the premises for the proposed use;
 - (d) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
 - (e) the structural suitability of any enclosure in which any cat is to be kept;
 - (f) the likelihood of a cat causing nuisance, inconvenience, or annoyance to the occupiers of adjoining land;
 - (g) the likely effect on the amenity of the surrounding area of the proposed use;
 - (h) the likely effect on the local environment including any pollution or other environmental damage, which may be caused by the use;
 - (i) any submissions received under subclause (2) within the time specified in subclause (2); and
 - (j) such other factors which the local government may consider to be relevant in the circumstances of the particular case.

- (2) The local government may require an applicant to –
 - (a) consult with nearby landowners; or
 - (b) advise nearby landowners that they may make submissions to the local government on the application for a permit within 14 days of receiving that advice,

before determining the application for the permit.
- (3) The local government may specify the extent of consultation with nearby residents, as specified in subclause 3.5(2)(a) and may specify which properties should be consulted.

3.6 Decision on application

- (1) The local government may –
 - (a) approve an application for a permit as it was submitted, in which case it shall approve it subject to the conditions in clause 3.7 and may approve it subject to any other conditions it sees fit;
 - (b) approve an application but specify an alternative number of cats permitted to be housed at the address; or
 - (c) refuse to approve an application for a permit.
- (2) If the local government approves an application under subclause (1), then it shall issue a permit to the applicant in the form determined by the CEO.
- (3) If the local government refuses to approve an application under subclause (1) then it shall advise the applicant accordingly in writing.

3.7 Conditions

- (1) Every permit is issued subject to the following conditions –
 - (a) each cat kept on the premises to which the permit relates shall comply with the requirements of the Act;
 - (b) each cat shall be contained on the premises unless under the effective control of a person;
 - (c) the permit holder will provide adequate space for the exercise of the cats;
 - (d) the premises shall be maintained in good order and in a clean and sanitary condition; and
 - (e) those conditions contained in Schedule 1.
- (2) In addition to the conditions in subclause (1) of this clause, a permit may be issued subject to other conditions, as the local government considers appropriate.

3.8 Compliance with conditions of permit

A permit holder shall comply with each condition of a permit.

3.9 Duration of a permit

- (1) Unless otherwise specified in a condition on a permit, a permit commences on the date of issue and expires –
 - (a) if it is revoked; or
 - (b) if the permit holder ceases to reside at the premises to which the permit relates.

3.10 Revocation

The local government may revoke a permit if the permit holder fails to observe any provision of this local law or a condition of a permit.

3.11 Permit not transferable

A permit is not transferrable either in relation to the permit holder or the premises.

3.12 Permit to be kept at premises and available for view

- (1) A permit issued by the local government shall be kept at the premises to which it applies and shall be provided to an authorised person on demand.
- (2) In the case of a registered cattery or cat management facility, the permit shall be displayed in a prominent place within the premises.

Part 4 – Miscellaneous

4.1 Giving of an infringement notice

- (1) A notice given under this local law may be given to a person –
 - a) personally;
 - b) by postal mail addressed to the person; or
 - c) by leaving it for the person at her or his address.

Part 5 – Objections and appeals

5.1 Objections and appeal rights

Any person who is aggrieved by the conditions imposed in relation to a permit, the revocation of a permit, or by the refusal of the local government to grant a permit may object or appeal against the decision under Division 1 of Part 9 of the *Local Government Act 1995*.

Part 6 – Offences and penalties

6.1 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Unless otherwise specified, any person who commits an offence under this local law is liable on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

6.2 Prescribed offences

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 62(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence shall be 20 penalty units.
- (3) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units.

6.3 Forms

- (1) The issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the Act.
- (2) An infringement notice in respect of an offence against this local law may be given under section 62 of the Act and is to be in the form of Form 6 in Schedule 1 of the *Cat Regulations 2012*.
- (3) A notice sent under section 65 of the Act withdrawing an infringement notice is to be in the form of Form 7 in Schedule 1 of the *Cat Regulations 2012*.

Schedule 1 – Additional conditions applicable to particular permits

[Clause 3.7]

A. Permit to keep more than 3 cats

Additional conditions:

- (1) In the case of a grouped dwelling where there is no suitable dividing fence or multiple dwellings on the same level, the written consent to the application for a permit of the occupier of the adjoining dwellings has been obtained.
- (2) Without the consent of the local government, the permit holder will not substitute or replace any cat that is the subject of a permit once that cat –
 - (a) dies; or
 - (b) is permanently removed from the premises.

B. Permit to use premises as a Cattery or Cat Management Facility

Additional conditions:

- (1) All building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements.
- (2) There is to be a feed room, wash area, isolation cages and maternity section.
- (3) Materials used in structures are to be approved by the local government.
- (4) The internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices and other defects.
- (5) All fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin.
- (6) Washing basins with a minimum of running cold water are to be available to the satisfaction of the local government.
- (7) The maximum number of cats to be kept on the premises stated on the permit is not to be exceeded.
- (8) A register is to be kept recording in respect of each cat the –
 - (a) date of admission;
 - (b) date of departure;
 - (c) breed, age, colour and sex; and
 - (d) name and residential address of the owner.
- (9) The register is to be made available for inspection on the request of an authorised person.
- (10) Enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease.

- (11) Any sick or ailing cat is to be removed from the premises or transferred to an isolation cage separated from other cats kept on the premises.
- (12) Any other matter which in the opinion of the local government is deemed necessary for the health and wellbeing of any cat, or person, or adjoining premises or the amenity of the area (or any part thereof).

Schedule 2

[Clause 2.1]

Shire of Peppermint Grove Cats Local Law 2020

Nuisance Form

TAKE NOTICE THAT a cat, believed to be a (1) _____
has created a nuisance by (2) _____
the cat is believed to belong to (3) _____
and is kept at (4) _____
and I (5) _____
of _____

request the Shire of Peppermint Grove to institute proceedings, if the nuisance does not stop, and undertake;

- (a) to give full information to the Shire of Peppermint Grove as to this matter;
and
- (b) to appear in Court and give evidence as a witness to the truth of this complaint.

Dated this _____ day of _____ 20 ____

.....
(to be signed by complainant)

- (1) Insert breed or kind of cat and, where possible, its sex and identifying marks.
- (2) Describe details of the alleged nuisance, including the kind of nuisance and, where possible, the dates and time on or between which the nuisance occurred, and where the cat was at the time of the nuisance.
- (3) State name and address of the person believed to be the owner.
- (4) State, if known, where the cat is usually kept.
- (5) Insert name and address of complainant.

Schedule 3 – Cat prohibited areas

[Clause 2.2]

Places where cats are prohibited:

Common Name	Physical Boundaries	Description

Dated **INSERT DATE**

The Common Seal of the)
Shire of Peppermint Grove)
was affixed by authority of a resolution)
of the Shire in the presence of-)

Cr Rachel Thomas
President

Don Burnett
Chief Executive Officer

**ITEM 8.5.1
ATTACHMENT THREE**

DOG ACT 1976

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

DOGS LOCAL LAW 2020

DOG ACT 1976

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

DOGS LOCAL LAW 2020

CONTENTS

PART 1 - PRELIMINARY

- 1.1 CITATION
- 1.2 COMMENCEMENT
- 1.3 APPLICATION
- 1.4 REPEAL
- 1.5 INTERPRETATION

PART 2 - IMPOUNDING OF DOGS

- 2.1 CHARGES AND COSTS
- 2.2 ATTENDANCE OF POUND KEEPER AT POUND
- 2.3 RELEASE OF IMPOUNDED DOG

PART 3 - KEEPING OF DOGS

- 3.1 DOGS TO BE CONFINED
- 3.2 LIMITATION ON THE NUMBER OF DOGS
- 3.3 OFFENCE TO EXCRETE

PART 4 - ENFORCEMENT

- 4.1 INTERPRETATION
- 4.2 OFFENCES AND GENERAL PENALTY
- 4.3 MODIFIED PENALTIES
- 4.4 ISSUE OF INFRINGEMENT NOTICE
- 4.5 FAILURE TO PAY MODIFIED PENALTY
- 4.6 PAYMENT OF MODIFIED PENALTY
- 4.7 WITHDRAWAL OF INFRINGEMENT NOTICE
- 4.8 SERVICE

SCHEDULE 1 - OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

DOG ACT 1976
LOCAL GOVERNMENT ACT 1995
SHIRE OF PEPPERMINT GROVE
DOGS LOCAL LAW 2020

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Peppermint Grove resolved on [insert date] to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Peppermint Grove Dogs Local Law 2020*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Shire of Peppermint Grove Dogs Local Law* published in the *Government Gazette* on 18 September 2001 is repealed.

1.5 Interpretation

In this local law unless the context otherwise requires -

Act means the *Dog Act 1976*;

assistance animal means an animal referred to in section 9 (Disability discrimination – guide dogs, hearing assistance dogs and trained animals) of the Disability Discrimination Act 1992 of the Commonwealth

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

CEO means the Chief Executive Officer of the local government;

dangerous dog has the meaning given to it in the Act;

district means the district of the local government;

dog has the meaning given to it in the Act

local government means the Shire of Peppermint Grove;

Shire of Peppermint Grove Dogs Local Law 2020 Final for Advertising

pound keeper means a person authorised by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

public place has the meaning given to it in the Act;

Regulations means the *Dog Regulations 2013*;

Schedule means a schedule in this local law;

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

PART 2 - IMPOUNDING OF DOGS

2.1 Charges and costs

- (1) The following are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995* -
 - (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
 - (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
 - (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.
- (2) The payment of fees in respect to the seizure, care, detention or destruction of a dog shall not relieve the owner of liability to a penalty under the Act, Regulations or this local law.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO or authorised person.

PART 3 - KEEPING OF DOGS

3.1 Dogs to be confined

(1) In this Part –

fence means any boundary structure, wall, door, gate, window, or physical barrier used to confine the dog within the premises where the dog is being kept, and may also include an electronic boundary fence and collar system that is –

- (a) installed as per the manufacturers recommendations;
- (b) the dog is trained in wearing the collar as per the manufacturers recommendations;
- (c) the fence and wire is properly maintained; and
- (d) the collar and unit is operating and working correctly.

(2) An occupier of premises on which a dog is kept must -

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opening in a manner that ensures the dog remains confined) and is fitted with a proper latch or other means of fastening it;
- (c) ensure the dog cannot be removed or released from the premises without the permission of the occupier of the property;
- (d) maintain the fence and all gates and doors in the fence in good order and condition; and
- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(3) Notwithstanding subclauses (1) and (2), the confinement of dangerous dogs is dealt with in the Act and Regulations.

3.2 Limitation on the number of dogs

- (1) The owner or occupier of any premises within the district shall not keep, permit or suffer to remain thereon more than two dogs over the age of three months.
- (2) A person wishing to keep more than two dogs but not more than six dogs on any premises may seek, upon application to Council, exemption for those provisions under section 26(3) of the Act.

3.3 Offence to excrete

- (1) A dog must not excrete on –
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.

- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.
- (3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 4 - ENFORCEMENT

4.1 Interpretation

In this Part -

infringement notice means the notice referred to in clause 5.3;

notice of withdrawal means the notice referred to in clause 5.6(1); and

penalty unit has the meaning given to it in the *Shire of Peppermint Grove Penalty Units Local Law 2020*

4.2 Offences and general penalty

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Unless otherwise specified, any person who commits an offence under this local law is liable on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.

4.3 Modified penalties

- (1) An offence against a clause specified in Schedule 1 is an offence in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the third column of Schedule 1 directly opposite an offence is the modified penalty payable in respect of that offence.
- (3) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty units.

4.4 Issue of infringement notice

- (1) Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, the authorised person may serve on the alleged offender a notice in the form of Form 8 in Schedule 1 of the Regulations informing the alleged offender that, if he or she does not wish to be prosecuted in court for the alleged offence, he or she may pay to the local government within the time specified in the notice, the amount prescribed as the modified penalty.

- (2) An infringement notice may be served on an alleged offender personally, or by leaving it at or posting it to her or his address as ascertained from the alleged offender, at the time of or immediately following the occurrence giving rise to the allegation of the offence, or as recorded by the local government under the Act.

4.5 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

4.6 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

4.7 Withdrawal of infringement notice

- (1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 9 of Schedule 1 of the Regulations.
- (2) A person authorised to issue an infringement notice under clause 5.4 cannot sign or send a notice of withdrawal.

4.8 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

SCHEDULE 1 - OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES
(clause 4.3)

Offence	Nature of offence	Modified penalty units
3.1	Failing to provide means for effectively confining a dog	20
3.3(2)	Failing to remove dog excreta from a public place	20

Dated..... 20__

The Common Seal of the)
Shire of Peppermint Grove)
was affixed by authority of a)
resolution of the Council in the)
presence of:)

Cr Rachel Thomas
President

Don Burnett
Chief Executive Officer

**ITEM 8.5.1
ATTACHMENT FOUR**

DIVIDING FENCES ACT 1961

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

FENCING LOCAL LAW 2020

SHIRE OF PEPPERMINT GROVE

FENCING LOCAL LAW 2020

PART 1 - PRELIMINARY	3
1.1 CITATION.....	3
1.2 COMMENCEMENT.....	3
1.3 APPLICATION.....	3
1.4 REPEAL.....	3
1.5 DEFINITIONS.....	3
1.6 LICENCE FEES AND CHARGES	5
PART 2 - FENCES	5
2.1 SUFFICIENT FENCES.....	5
2.2 STREET FRONTAGES.....	6
2.3 GATES IN FENCES	7
2.4 DEPOSITING FENCING MATERIAL ON PUBLIC PLACE	7
2.5 MAINTENANCE OF FENCES.....	7
2.6 FENCES ACROSS RIGHTS-OF-WAY, PUBLIC ACCESS WAYS OR THOROUGHFARES.....	7
2.7 FENCES UPON A RIGHT-OF-WAY, PUBLIC RESERVES, ACCESSWAYS OR THOROUGHFARES.....	7
2.8 GENERAL DISCRETION OF THE LOCAL GOVERNMENT	7
2.9 PROHIBITED FENCING MATERIALS	8
PART 3 - APPROVALS	8
3.1 APPLICATION FOR APPROVAL	8
3.2 DECISION ON APPLICATION FOR APPROVAL.....	8
3.3 COMPLIANCE WITH APPROVAL	9
3.4 DURATION OF APPROVAL	9
PART 4 - MISCELLANEOUS	9
4.1 FALSE OR MISLEADING STATEMENT	9
PART 5 - NOTICES OF BREACH	9
5.1 NOTICES OF BREACH	9
PART 6 - OBJECTIONS AND REVIEW	10
6.1 OBJECTIONS AND REVIEW	10
PART 7 - OFFENCES	10
7.1 OFFENCES AND PENALTIES.....	10
7.2 PRESCRIBED OFFENCE.....	10
7.3 FORM OF NOTICES	10
SCHEDULE 1	11
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT	11
SCHEDULE 2	13
SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT	13

DIVIDING FENCES ACT 1961
LOCAL GOVERNMENT ACT 1995
SHIRE OF PEPPERMINT GROVE
FENCING LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995* and the *Dividing Fences Act 1961* all other powers enabling it, the Shire of Peppermint Grove resolved on **[insert date]** to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Peppermint Grove Fencing Local Law 2020*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Repeal

The *Shire of Peppermint Grove Fencing Local Law* published in the *Government Gazette* on 18 September 2001 is repealed.

1.5 Definitions

In this local law —

Act means the *Dividing Fences Act 1961*;

applicant means a person who makes an application for approval under this local law;

AS or AS/NZS means an Australian or Australian/New Zealand Standard as published by Standards Australia and as amended from time to time.

authorised person means a person authorised by the local government under section 9.10 of the Act to carry out functions with respect to this local law;

barbed wire fence means a wire or strand of wires having small pieces of sharply pointed wire twisted around it at short intervals;

Building Surveyor means a Building Surveyor acting on behalf of the local government;

CEO means the Chief Executive Officer of the local government;

commercial lot means a lot where a commercial use—

- (a) is or may be permitted under the local planning scheme; and
- (b) is or will be the predominant use of the lot;

dangerous in relation to any fence means—

- (a) an electrified fence other than a fence approved by the local government under this local law;
- (b) a fence containing barbed wire other than a fence erected and maintained in accordance with this local law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
- (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause; or
- (e) any fence or associated fixture which in the opinion of the Chief Executive Officer may injure or damage person, animal or property which may come into contact with the fence.

district means the district of the local government;

local planning scheme means a local planning scheme of the local government made under the *Planning and Development Act 2005* and in accordance with the *Planning and Development Regulations 2015 (Deemed Provisions)*;

dividing fence has the meaning given to it by the Act;

electrified fence means a fence carrying or designed to carry an electric charge;

fence means any structure, not including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare, the boundary line between the lot and the primary thoroughfare;

front fence means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

front setback area means the area between the building line of a lot and the street boundary of that lot;

height in relation to a fence means the vertical distance between—

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

licence means an electrified fence licence or a razor wire fence licence;

local government means the Shire of Peppermint Grove;

local government property means land or buildings —

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” under section 3.53 of the *Local Government Act 1995*

lot has the meaning given to it in the *Planning and Development Act 2005*;

notice of breach means a notice referred to in clause 5.1;

occupier has the meaning given to it in the *Local Government Act 1995*;

owner has the meaning given to it in the *Local Government Act 1995*;

penalty unit has the meaning given to it in the *Shire of Peppermint Grove Penalty Units Local Law 2020*;

razor wire fence means a coiled strong wire with pieces of sharp cutting edges set across it at close intervals;

residential lot means a lot where a residential use—

- (a) is or may be permitted under the local planning scheme; and
- (b) is or will be the predominant use of the lot;

retaining wall means any structure which is engineered and constructed to prevent the movement of soil or retains soil or structures in order to allow a change in ground levels (i.e. different elevations) to exist adjacent to one another;

Schedule means a Schedule to this local law;

sufficient fence means a fence described in clause 2.1; and

thoroughfare has the meaning given to it by the *Local Government Act 1995*, but does not include a private thoroughfare which is not under the management or control of the local government.

1.6 Licence fees and charges

All licence fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with section 6.16 of the *Local Government Act 1995*.

PART 2 - FENCES

2.1 Sufficient fences

- (1) It shall be an offence for a person to erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Subject to subclauses (3) and (4), a sufficient fence—

- (a) on a Residential Lot is a dividing or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 1; and
 - (b) on a Commercial Lot is a dividing or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2.
- (3) Where a fence is erected on or adjacent to the boundary between a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2.
- (4) An application must be made to the local government for the grant of consent to any variation to the specifications in Schedule 2.
- (5) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 1.
- (6) Where a dividing fence is constructed of masonry, stone or concrete, or is combined with a retaining wall structure, or exceeds 1800 mm in height, it shall not be considered for approval unless it has been assessed and certified to comply with Australian Standards and Building Code of Australia for structural stability – such certification shall be provided by a suitably qualified engineer to the satisfaction of the CEO.
- (7) Notwithstanding any other provision in this local law, a boundary fence abutting local government property and proposed to exceed 1800 millimetres in height shall not be constructed before the approval of the local government has been obtained for such a fence.

2.2 Street Frontages

- (1) A person shall not, without the written consent of the Chief Executive Officer, erect a fence along the front boundary or within the front set-back area of a Residential Lot unless the fence has :-
- a) open aspect construction (minimum of 80% ratio of openings to overall panel area); and
 - b) columns which shall not exceed 2.1 m in height above boundary height level, or natural ground level in the case of front setback; and exceed 600 mm in depth and 600 mm in width; and be less than 1.8 m clear of any adjoining column, pier or post.
- (2) Any infill panels forming part of a front boundary fence may be solid material to a height of 900 mm above natural ground level, and where taller than 900 mm shall be open timber, wrought iron, steel or aluminium palings spaced to ensure the width between each paling is at least equal to the width of the paling with a minimum space of 50 mm and a minimum open aspect of 50 % of the infill panel.
- (3) Proposals for a fence of a height greater than 1200 millimetres in the front setback area of a Residential Lot may only be considered for approval by the Council if the fence on each side of the driveway into the lot across the front boundary is to be angled into the lot for a distance of not less than 1500 millimetres along the frontage to a distance of not less than 1500 millimetres from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

- (4) The provision of subclause (3) shall not apply to a fence—
- (a) of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare; or
 - (b) that does not adjoin a footpath.

2.3 Gates in fences

All gates within a fence must either—

- (a) open entirely into the lot; or
- (b) slide parallel along the inside of the fence, to complete the fence alignment, when closed.

2.4 Depositing fencing material on public place

A person shall not deposit or permit the deposit of any materials whatsoever used in the construction or maintenance of any fence, on any thoroughfare, public place or local government property unless the approval of the local government has been obtained.

2.5 Maintenance of fences

An owner of a lot on which a fence is erected shall maintain the fence in good condition so as to prevent it from becoming dangerous, dilapidated, or unsightly to the amenity of the locality.

2.6 Fences across rights-of-way, public access ways or thoroughfares

A person must not, without the approval of the local government, erect or maintain a fence or obstruction of a temporary or permanent nature across any right-of-way, public access way or thoroughfare so as to impede or prevent use of those facilities in the manner for which they are intended and constructed.

2.7 Fences upon a right-of-way, public reserves, accessways or thoroughfares

The Council will not permit a fence or similar structure to be erected on public reserves managed by the local government on a permanent basis. Where a fence of similar structure has been erected to isolate or secure a portion of a public reserve the local government may issue a Notice to the owner of the adjacent land to remove such structures and to restore the ground to its adjacent level at no cost to the local government.

2.8 General discretion of the local government

- (1) The local government will not intervene beyond the jurisdiction of the *Dividing Fences Act 1961* on matters concerning boundary fences which divide abutting private properties and in such cases only insofar as to advise respective owners of their remedy through mediation or civil action.
- (2) Notwithstanding sub clause (1) in those cases where the fence structure is determined by a certified engineer to be unsound and dangerous, the local government may at its discretion, instruct the removal, modification or repair to a dividing fence (which is not a sufficient

fence) and that instruction is issued to all of the owners of the lots to be separated by the dividing fence for that purpose.

2.9 Prohibited fencing materials

A person shall not affix or use materials which may injure or otherwise cause detriment to persons or the environment. Prohibited materials include jagged or broken glass, razor or barbed wire, sharpened metal spikes or serrated edges, electric current, or other materials or finishes considered in the opinion of the local government to constitute a hazard likely to cause injury or detriment to persons or impact the environment with a moderate to high exposure to that hazard.

PART 3 - APPROVALS

3.1 Application for approval

- (1) Where a person is required to obtain the approval of the local government under this local law, that person shall apply for approval in accordance with subclause (2).
- (2) An application for approval under this local law shall—
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant and the owner of the lot;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the *Local Government Act 1995*.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for approval.
- (4) The local government may refuse to consider an application for approval which is not in accordance with subclauses (2) and (3).

3.2 Decision on application for approval

- (1) The local government may—
 - (a) approve an application for approval unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for approval.
- (2) If the local government approves an application for approval, it is to issue to the applicant an approval in the form determined by the local government.
- (3) If the local government refuses to approve an application for approval, it is to give written notice of that refusal to the applicant.
- (4) Where a clause of this local law refers to conditions which may be imposed on an approval or which are to be taken to be imposed on an approval, the clause does not limit the power of the local government to impose other conditions on the approval under subclause (1)(a).

3.3 Compliance with approval

Where an application for approval has been approved, the applicant and the owner or occupier of the lot to which the approval relates, shall comply with the terms and any conditions of that approval.

3.4 Duration of approval

Unless otherwise stated in the form of approval, an approval granted under this local law—

- (a) runs with the lot to which it relates;
- (b) may be relied upon by any subsequent occupier or owner of the lot; and
- (c) may be enforced by the local government against a subsequent occupier or owner of the lot; and
- (d) may be transferred by request of the local government or the Western Australian Planning Commission to apply to any new lots created by virtue of amalgamation or subdivision.

PART 4 - MISCELLANEOUS

4.1 False or misleading statement

A person shall not make a false or misleading statement in connection with any application, requirement or request under this local law.

PART 5 - NOTICES OF BREACH

5.1 Notices of breach

- (1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner of that lot.
- (2) A notice of breach shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state that the owner is required to remedy the breach within the time specified in the notice.
- (3) Should an owner fail to comply with a notice of breach, the local government may, by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner of the lot in a court of competent jurisdiction.
- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any entry on to land will be in accordance with Part 3, Division 3 of that Act.

PART 6 - OBJECTIONS AND REVIEW

6.1 Objections and review

When the local government makes a decision under clause 3.2, the provisions of Division 1 Part 9 of the *Local Government Act 1995*, and regulation 33 of the *Local Government (Functions and General) Regulations 1996*, apply to that decision.

PART 7 - OFFENCES

7.1 Offences and penalties

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

7.2 Prescribed offence

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the *Local Government Act 1995*.
- (2) The amount of the modified penalty for a prescribed offence shall be 25 penalty units.
- (3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.
- (4) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units.

7.3 Form of notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in sections 9.16 and 9.17 of the *Local Government Act 1995* is to be in the form of Form 2 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (b) the form of the withdrawal of infringement notice referred to in section 9.20 of the *Local Government Act 1995* is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

Schedule 1

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A RESIDENTIAL LOT

[clause 2.1(2)(a)]

Each of the identified categories in this Schedule is a sufficient fence on a residential lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

Timber fence

- (a) corner posts to be 125mm x 125mm x 2400mm and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;
- (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
- (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (e) rails to be 75mm x 50mm with each rail spanning 2 bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and affixed securely to each rail; and
- (g) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

Corrugated fence

A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting constructed to manufacturer's specifications or which satisfies the following specifications—

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm;
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturers written instructions; and
- (d) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

Brick, stone or concrete fence

A fence constructed of brick, stone or concrete, which satisfies the following requirements and specifications—

- (a) a site classification is to be provided by a professional engineer in accordance with AS 2870-2011 Residential slabs and footings (as amended);
- (b) the footing is to be designed in accordance with AS 2870-2011 Residential slabs and footings as amended;
- (c) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (d) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
- (e) expansion joints in accordance with the manufacturer's written instructions; and
- (f) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 2.2.

Composite fence

A composite fence which satisfies the following specifications for the brick construction—

- (1)
 - (a) brick piers of minimum 345mm x 345mm at 1800mm centres bonded to a minimum height base wall of 514mm;
 - (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
 - (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
 - (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
 - (e) control joints in brickwork shall be provided with double piers at a maximum of 6-metre centres;

or

- (2)
 - (a) brick piers of a minimum 345mm x 345mm x 2700mm centres bonded to the base wall; and
 - (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

Schedule 2

SPECIFICATIONS FOR A SUFFICIENT FENCE ON A COMMERCIAL LOT

[clause 2.1(2)(b)]

Each of the identified categories in this Schedule, with minimum and maximum specifications where stated, is a sufficient fence on a commercial lot and the fence design being certified by a practicing structural engineer as being suitable for wind loadings found in Region D Category 2 areas in accordance with the current edition of AS/NZS 1170.0:2002 Structural design actions - General principles.

Galvanised or PVC fence and gate

A fence constructed of galvanised or PVC coated non-rail link mesh, chain mesh or steel mesh which satisfies the following specifications—

- (a) corner posts to be minimum 50mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5m centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and 2 at each corner post and with footings 225mm x 600mm;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of 2 or more 3.15mm wires twisted together or single 4mm wire;
- (e) non-rail link, chain or steel mesh is to be to a height of 2000mm on top of which are to be 3 strands of barbed wire carrying the fence to a height of 2400mm in accordance with the requirements and standards of the local planning schemes; and
- (f) galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than 3.6m and shall be constructed of 25mm tubular framework with 1 horizontal and 1 vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

Other fences

- (a) a fence of cement sheet or steel sheeting constructed to the minimum specifications referred to in Schedule 1;
- (b) a fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1800mm but no greater than 2400mm; or
- (c) a fence of timber, brick, stone or concrete constructed to the minimum specifications referred to in Schedule 1.

Dated..... 20 ____

The Common Seal of the)
Shire of Peppermint Grove)
was affixed by authority of a resolution of)
the Shire in the presence of-)

Cr Rachel Thomas
President

Don Burnett
Chief Executive Officer

**ITEM 8.5.1
ATTACHMENT FIVE**

a

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

**LOCAL GOVERNMENT PROPERTY
LOCAL LAW 2020**

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2020

TABLE OF CONTENTS

PART 1 - PRELIMINARY	4
1.1 CITATION.....	4
1.2 DEFINITIONS.....	4
1.3 INTERPRETATION.....	6
1.4 APPLICATION.....	6
1.5 REPEAL.....	6
PART 2 - DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY	7
2.1 DETERMINATIONS AS TO USE OF LOCAL GOVERNMENT PROPERTY	7
2.2 PROCEDURE FOR MAKING A DETERMINATION	7
2.3 DISCRETION TO ERECT SIGN	8
2.4 DETERMINATION TO BE COMPLIED WITH	8
2.5 REGISTER OF DETERMINATIONS	8
2.6 AMENDMENT OR REVOCATION OF A DETERMINATION.....	8
2.7 ACTIVITIES WHICH MAY BE PURSUED ON SPECIFIED LOCAL GOVERNMENT PROPERTY	8
2.8 ACTIVITIES WHICH MAY BE PROHIBITED ON SPECIFIED LOCAL GOVERNMENT PROPERTY	9
2.9 SIGNS TAKEN TO BE DETERMINATIONS	10
PART 3 - PERMITS.....	11
3.1 APPLICATION OF PART	11
3.2 APPLICATION FOR PERMIT	11
3.3 DECISION ON APPLICATION FOR PERMIT	11
3.4 CONDITIONS WHICH MAY BE IMPOSED ON A PERMIT	11
3.5 IMPOSING CONDITIONS UNDER A POLICY	13
3.6 COMPLIANCE WITH AND VARIATION OF CONDITIONS	13
3.7 AGREEMENT FOR BUILDING	13
3.8 DURATION OF PERMIT	13
3.9 RENEWAL OF PERMIT	13
3.10 TRANSFER OF PERMIT	13
3.11 PRODUCTION OF PERMIT.....	14
3.12 CANCELLATION OF PERMIT.....	14
3.13 ACTIVITIES NEEDING A PERMIT	14
3.14 PERMIT REQUIRED TO CAMP OUTSIDE A FACILITY	15
3.15 PERMIT REQUIRED FOR POSSESSION AND CONSUMPTION OF LIQUOR.....	16
3.16 RESPONSIBILITIES OF PERMIT HOLDER	16
PART 4 - BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY	16
4.1 BEHAVIOUR WHICH INTERFERES WITH OTHERS.....	16
4.2 BEHAVIOUR DETRIMENTAL TO PROPERTY	16
4.3 TAKING OR INJURING ANY FAUNA.....	17
4.4 INTOXICATED PERSONS NOT TO ENTER LOCAL GOVERNMENT PROPERTY	17
4.5 NO PROHIBITED DRUGS	17
4.6 NO SMOKING	17
4.7 SIGNS.....	17
PART 5 - OBJECTIONS AND APPEALS.....	18

5.1 APPLICATION OF DIVISION 1, PART 9 OF THE ACT.....	18
PART 6 - MISCELLANEOUS	18
6.1 AUTHORISED PERSON TO BE OBEYED.....	18
6.2 PERSONS MAY BE DIRECTED TO LEAVE LOCAL GOVERNMENT PROPERTY	18
6.3 DISPOSAL OF LOST PROPERTY	18
6.4 LIABILITY FOR DAMAGE TO LOCAL GOVERNMENT PROPERTY	18
PART 7 - ENFORCEMENT	19
7.1 OFFENCE TO FAIL TO COMPLY WITH NOTICE.....	19
7.2 LOCAL GOVERNMENT MAY UNDERTAKE REQUIREMENTS OF NOTICE.....	19
7.3 OFFENCES AND GENERAL PENALTY	19
7.4 PRESCRIBED OFFENCES	19
7.5 FORM OF NOTICES	19
7.6 EVIDENCE OF A DETERMINATION.....	20
SCHEDULE 1.....	21
DETERMINATIONS	21

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Peppermint Grove resolved on *[insert date]* to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Peppermint Grove Local Government Property Local Law 2020*.

1.2 Definitions

In this local law unless the context otherwise requires -

Act means the *Local Government Act 1995*;

applicant means a person who applies for a permit under clause 3.2;

authorised person means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

boat means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

building means any building which is local government property and includes a –

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room; and
- (c) a building on a local government depot site;

CEO means the chief executive officer of the local government;

commencement day means the day on which this local law comes into operation;

Council means the council of the local government;

date of publication means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

determination means a determination made under clause 2.1;

district means the district of the local government;

function means an event or activity characterised by all or any of the following –

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

liquor has the same meaning as is given to it in section 3 of the *Liquor Licensing Act 1988*;

local government means the Shire of Peppermint Grove;

local government property means anything except a thoroughfare –

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;

penalty unit has the meaning given to it in the *Shire of Peppermint Grove Penalty Units Local Law 2020*;

permit means a permit issued under this local law;

permit holder means a person who holds a valid permit;

person does not include the local government;

Regulations means the *Local Government (Functions and General) Regulations 1996*;

sign includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

trading means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of –

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them; and

vehicle includes –

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes –

- (c) a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device; and
- (e) a boat.

1.3 Interpretation

In this local law unless the context otherwise requires a reference to local government property includes a reference to any part of that local government property.

1.4 Application

- (1) This local law applies throughout the district.
- (2) This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Cwlth) section 9(2).
- (3) Notwithstanding anything to the contrary in this local law, the local government may -
 - (a) hire local government property to any person; or
 - (b) enter into an agreement with any person regarding the use of any local government property.

1.5 Repeal

- (1) The *Shire of Peppermint Grove Local Government Property Local Law* published in the *Government Gazette* on 18 September 2001 repealed.
- (2) Where a policy was made or adopted by the local government under or in relation to a local law repealed by this local law, then the policy is to be taken to no longer have any effect on and from the commencement day.
- (3) The Council may resolve that notwithstanding subclause (2), specified policies continue, or are to be taken to have continued, to have effect on and from the commencement day.

PART 2 - DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

2.1 Determinations as to use of local government property

- (1) The local government may make a determination in accordance with clause 2.2 –
 - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
 - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
 - (c) as to the matters in clauses 2.7(2) and 2.8(2); and
 - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 1 –
 - (a) are to be taken to have been made in accordance with clause 2.2;
 - (b) may be amended or revoked in accordance with clause 2.6; and
 - (c) have effect on the commencement day.

2.2 Procedure for making a determination

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
 - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
 - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to –
 - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) amend the proposed determination, in which case subclause (5) will apply; or
 - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to –
 - (a) consider those submissions; and
 - (b) decide –
 - (i) whether or not to amend the proposed determination; or

(ii) not to continue with the proposed determination.

- (5) If the Council decides to amend the proposed determination, it is to give local public notice –
- (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

2.3 Discretion to erect sign

The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

2.4 Determination to be complied with

A person shall comply with a determination.

2.5 Register of determinations

- (1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

2.7 Activities which may be pursued on specified local government property

- (1) A determination may provide that specified local government property is set aside as an area on which a person may –
- (a) bring, ride or drive an animal;
 - (b) take, ride or drive a vehicle, or a particular class of vehicle;
 - (c) fly or use a motorised model aircraft or unmanned aerial vehicle (drone);

- (d) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (e) launch, beach or leave a boat;
 - (f) take or use a boat, or a particular class of boat;
 - (g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;
 - (h) play or practice –
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or
 - (iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
 - (j) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –
- (a) the days and times during which the activity may be pursued;
 - (b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
 - (e) may specify that the activity can be pursued by a class of persons or all persons; and
 - (f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property -
- (a) smoking on premises;
 - (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
 - (c) taking, riding or driving a vehicle or a particular class of vehicle on the property;

- (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
 - (e) taking or using a boat, or a particular class of boat;
 - (f) the playing or practice of -
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;
 - (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property;
 - (h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose; and
 - (i) flying of unmanned aerial vehicle.
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
- (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
 - (d) that an activity is prohibited in respect of a class of persons or all persons; and
 - (e) may distinguish between different classes of the activity.
- (3) In this clause –
- premises** means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

2.9 Signs taken to be determinations

- (1) Where a sign erected on local government property has been erected under a local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

PART 3 - PERMITS

3.1 Application of Part

This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government to do so.

3.2 Application for permit

- (1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law shall -
 - (a) be in the form determined by the local government;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The local government may require an applicant to give local public notice of the application for a permit.
- (5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

3.3 Decision on application for permit

- (1) The local government may -
 - (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the local government approves an application for a permit, it is to issue to the applicant, a permit in the form determined by the local government.
- (3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

3.4 Conditions which may be imposed on a permit

- (1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to -
 - (a) the payment of a fee;
 - (b) compliance with a standard or a policy of the local government adopted by the local government;

- (c) the duration and commencement of the permit;
 - (d) the commencement of the permit being contingent on the happening of an event;
 - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (f) the approval of another application for a permit which may be required by the local government under any written law;
 - (g) the area of the district to which the permit applies;
 - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
 - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government.
- (2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued—
- (a) when fees and charges are to be paid;
 - (b) payment of a bond against possible damage or cleaning expenses or both;
 - (c) restrictions on the erection of material or external decorations;
 - (d) rules about the use of furniture, plant and effects;
 - (e) limitations on the number of persons who may attend any function in or on local government property;
 - (f) the duration of the hire;
 - (g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;
 - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Licensing Act 1988*;
 - (i) whether or not the hire is for the exclusive use of the local government property;
 - (j) the obtaining of a policy of insurance in the names of both the local government and the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
 - (k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

3.5 Imposing conditions under a policy

(1) In this clause –

policy means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

- (2) Under clause 3.3(1)(a) the local government may approve an application subject to conditions by reference to a policy.
- (3) The local government shall give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 3.3(2).
- (4) An application for a permit shall be deemed not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- (5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy shall be deemed to be information within section 5.94(u)(i) of the Act.

3.6 Compliance with and variation of conditions

- (1) Where an application for a permit has been approved subject to conditions, the permit holder shall comply with each of those conditions.
- (2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

3.7 Agreement for building

Where a person applies for a permit to erect a building on local government property the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

3.8 Duration of permit

A permit is valid for one year from the date on which it is issued, unless it is –

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.12.

3.9 Renewal of permit

- (1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of this Part shall apply to an application for the renewal of a permit as though it were an application for a permit.

3.10 Transfer of permit

- (1) An application for the transfer of a valid permit is to –
- (a) be made in writing;

- (b) be signed by the permit holder and the proposed transferee of the permit;
 - (c) provide such information as the local government may require to enable the application to be determined; and
 - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO.
- (4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

3.11 Production of permit

A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

3.12 Cancellation of permit

- (1) Subject to clause 5.1, a permit may be cancelled by the local government if the permit holder has not complied with a –
- (a) condition of the permit; or
 - (b) determination or a provision of any written law which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit the permit holder -
- (a) shall return the permit as soon as practicable to the CEO; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

3.13 Activities needing a permit

- (1) A person shall not without a permit –
- (a) subject to subclause 3, hire local government property;
 - (b) advertise anything by any means on local government property;
 - (c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property;
 - (d) plant any plant or sow any seeds on local government property;
 - (e) carry on any trading on local government property unless the trading is conducted -

- (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
- (f) unless an employee of the local government in the course of her or his duties or on an area set aside for that purpose -
- (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
- (g) conduct a function on local government property;
- (h) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
- (i) light a fire on local government property except in a facility provided for that purpose;
- (j) parachute, hang glide, abseil or base jump from or on to local government property;
- (k) erect a building or a refuelling site on local government property;
- (l) make any excavation on or erect or remove any fence on local government property;
- (m) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person; or
- (n) store, secure or place a boat on the River Foreshore Reserve within the district.
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.14 Permit required to camp outside a facility

- (1) In this clause –
- facility** has the same meaning as is given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to a facility operated by the local government.
- (3) A person shall not without a permit—
- (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.

- (4) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.15 Permit required for possession and consumption of liquor

- (1) A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless –
- (a) that is permitted under the *Liquor Licensing Act 1988*; and
 - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

3.16 Responsibilities of permit holder

A holder of a permit shall in respect of local government property to which the permit relates -

- (a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;
- (b) leave the local government property in a clean and tidy condition after its use;
- (c) report any damage or defacement of the local government property to the local government; and
- (d) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose.

PART 4 - BEHAVIOUR ON ALL LOCAL GOVERNMENT PROPERTY

4.1 Behaviour which interferes with others

A person shall not in or on any local government property behave in a manner which -

- (a) is likely to interfere with the enjoyment of a person who might use the property; or
- (b) interferes with the enjoyment of a person using the property.

4.2 Behaviour detrimental to property

- (1) A person shall not behave in or on local government property in a way which is or might be detrimental to the property.

- (2) In subclause (1) –

detrimental to the property includes –

- (a) removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and

- (b) destroying, defacing or damaging any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

4.3 Taking or injuring any fauna

- (1) A person shall not, take, injure or kill or attempt to take, injure or kill any fauna which is on or above any local government property, unless that person is authorised under a written law to do so.
- (2) In this clause –

animal means any living thing that is not a human being or plant; and

fauna means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal –

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

4.4 Intoxicated persons not to enter local government property

A person shall not enter or remain on local government property while under the influence of liquor or a prohibited drug.

4.5 No prohibited drugs

A person shall not take a prohibited drug on to, or consume or use a prohibited drug on, local government property.

4.6 No smoking

- (1) A person shall not smoke in or on local government property—
 - (a) a building or vehicle; or
 - (b) an item of plant or machinery with an enclosed operator compartment.
- (2) Subclause (1) does not apply to local government property which is leased or hired to a person for private use.

4.7 Signs

- (1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.
- (2) A person shall comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is –
 - (a) not to be inconsistent with any provision of this local law or any determination; and

- (b) to be for the purpose of giving notice of the effect of a provision of this local law.

PART 5 - OBJECTIONS AND APPEALS

5.1 Application of Division 1, Part 9 of the Act

When the local government makes a decision as to whether it will—

- (a) grant a person a permit or consent under this local law; or
- (b) renew, vary, or cancel a permit or consent that a person has under this local law,

the provisions of Division 1 of Part 9 of the Act and regulations 32A and 33 of the Regulations apply to that decision.

PART 6 - MISCELLANEOUS

6.1 Authorised person to be obeyed

A person on local government property shall obey any lawful direction of an authorised person and shall not in any way obstruct or hinder an authorised person in the execution of her or his duties.

6.2 Persons may be directed to leave local government property

An authorised person may direct a person to leave local government property where she or he reasonably suspects that the person has contravened a provision of any written law.

6.3 Disposal of lost property

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.

6.4 Liability for damage to local government property

- (1) Where a person unlawfully damages local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of—
 - (a) reinstating the property to the state it was in prior to the occurrence of the damage; or
 - (b) replacing that property.
- (2) Unless there is proof to the contrary, a person is to be taken to have damaged local government property within subclause (1) where—
 - (a) a vehicle or a boat caused the damage, the person was the person responsible, at the time the damage occurred, for the control of the vehicle or the boat; or
 - (b) the damage occurred under a permit, the person is the permit holder in relation to that permit.
- (3) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

PART 7 - ENFORCEMENT

7.1 Offence to fail to comply with notice

Whenever the local government gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

7.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 7.1, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

7.3 Offences and general penalty

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

7.4 Prescribed offences

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence shall be 15 penalty units.
- (3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.
- (4) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units.

7.5 Form of notices

- (1) For the purposes of this local law -
 - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
 - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.
- (2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

7.6 Evidence of a determination

- (1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly made.

SCHEDULE 1

DETERMINATIONS

The following determinations are to be taken to have been made by the local government under clause 2.1.

PART 1 – PRELIMINARY

Definitions

1.1 In these determinations unless the context otherwise requires –

local law means the *Shire of Peppermint Grove Local Government Property Local Law 2020*;

Interpretation

1.2 Unless the context otherwise requires, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

Dated _____ 20__

The Common Seal of the)
Shire of Peppermint Grove)
was affixed by authority of a)
resolution of the Council in the)
presence of -)

Cr Rachel Thomas
President

Don Burnett
Chief Executive Officer

**ITEM 8.5.1
ATTACHMENT SIX**

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

PARKING AND PARKING FACILITIES LOCAL LAW 2020

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

PARKING AND PARKING FACILITIES LOCAL LAW 2020

CONTENTS

PART 1 - PRELIMINARY	1
1.1 Citation	1
1.2 Commencement	1
1.3 Repeal	1
1.4 Interpretation	1
1.5 Application of Particular Definitions	5
1.6 Application and pre-existing signs	5
1.7 Classes of vehicles	5
1.8 Part of thoroughfare to which sign applies	6
1.9 Powers of the local government	6
PART 2 - PARKING STALLS AND PARKING STATIONS	6
2.1 Determination of parking stalls and parking stations	6
2.2 Vehicles to be within parking stall on thoroughfare	6
PART 3 - PARKING GENERALLY	7
3.1 Restrictions on parking in particular areas	7
3.2 Parking vehicle on a carriageway	8
3.3 When parallel and right-angled parking apply	9
3.4 When angle parking applies	9
3.5 General prohibitions on parking	9
3.6 Authorised person may order vehicle on thoroughfare to be moved	10
3.7 Authorised person may mark tyres	10
3.8 No movement of vehicles to avoid time limitation	11
3.9 No parking of vehicles exposed for sale and in other circumstances	11
3.10 Parking on private land	11
3.11 Parking on reserves	11
3.12 Suspension of parking limitations for urgent, essential or official duties	11
PART 4 – PARKING AND STOPPING GENERALLY	12
4.1 No stopping and no parking signs, and yellow edge lines	12
PART 5 – STOPPING IN ZONES FOR PARTICULAR VEHICLES	12
5.1 Stopping in a loading zone	12
5.2 Stopping in a taxi zone or a bus zone	13
5.3 Stopping in a mail zone	13
5.4 Other limitations in zones	13
PART 6 – OTHER PLACES WHERE STOPPING IS RESTRICTED	13
6.1 Stopping in a shared zone	13
6.2 Double parking	13
6.3 Stopping near an obstruction	13
6.4 Stopping on a bridge or in a tunnel, etc.	13
6.5 Stopping on crests, curves, etc.	14

6.6	Stopping near a fire hydrant etc.....	14
6.7	Stopping at or near a bus stop.....	14
6.8	Stopping on a path, median strip, or traffic island	15
6.9	Stopping on verge.....	15
6.10	Obstructing access to and from a path, driveway, etc	15
6.11	Stopping near a letter box.....	15
6.12	Stopping on a carriageway – heavy and long vehicles.....	16
6.13	Stopping on a carriageway with a bicycle parking sign	16
6.14	Stopping on a carriageway with motor cycle parking sign	16
6.15	Stopping in a parking stall for people with disabilities	16
PART 7 – RESIDENTIAL PARKING PERMITS		17
PART 8 - MISCELLANEOUS		19
8.1	Removal of notices on vehicle.....	19
8.2	Unauthorised signs and defacing of signs	19
8.3	Signs must be complied with.....	19
8.4	General provisions about signs.....	19
8.5	Special purpose and emergency vehicles	19
8.6	Vehicles not to obstruct a public place.....	19
8.7	Name, address and date of birth to be given on demand.....	20
8.8	Causing or attempting to cause damage to Council Property.....	20
8.9	Hindrance of authorised person.....	20
PART 9 - PENALTIES		20
9.1	Offences and penalties.....	20
9.2	Form of notices.....	20
Schedule 1 - Parking region		21
Schedule 2 – Prescribed offences		22
Schedule 3 – Forms		26
FORM 1		26
FORM 2		27
FORM 3		28
FORM 4		30
Schedule 4 – Deemed parking stations		37

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

PARKING AND PARKING FACILITIES LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Peppermint Grove resolved on [insert date] to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Peppermint Grove Parking and Parking Facilities Local Law 2020*.

1.2 Commencement

This local law comes into operation 14 days after the date of publication in the *Government Gazette*.

1.3 Repeal

The *Shire of Peppermint Grove Parking and Parking Facilities Local Law* published in the *Government Gazette* on 28 September 2001 is repealed.

1.4 Interpretation

In this local law unless the context otherwise requires –

ACROD sticker has the meaning given to it by the Code;

Act means the *Local Government Act 1995*;

authorised person means a person appointed by the local government under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

authorised vehicle means a vehicle authorised by the local government, CEO, authorised person or by any written law to park on a thoroughfare or parking facility;

bicycle has the meaning given to it by the Code;

bicycle path has the meaning given to it by the Code;

bus has the meaning given to it by the Code;

bus embayment has the meaning given to it by the Code;

bus stop has the meaning given to it by the Code;

bus zone has the meaning given to it by the Code;

caravan means a vehicle that is fitted or designed to allow human habitation and which is drawn by another vehicle, or which is capable of self-propulsion;

carriageway means a portion of thoroughfare that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and where a

thoroughfare has two or more of those portions divided by a median strip, the expression means each of those portions, separately;

centre in relation to a carriageway, means a line or a series of lines, marks or other indications –

- (a) for a two-way carriageway – placed so as to delineate vehicular traffic travelling in different directions; or
- (b) in the absence of any such lines, marks or other indications – the middle of the main, travelled portion of the carriageway;

children’s crossing has the meaning given to it by the Code;

CEO means the Chief Executive Officer of the local government;

Code means the *Road Traffic Code 2000*;

commercial vehicle means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers, and includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

disability parking permit means a current document issued by the National Disability Service (ACN 008 445 485), consisting of –

- (a) an Australian Disability Parking Permit; and
- (b) an ACROD Parking Program Card;

district means the district of the local government;

driver means any person driving or in control of a vehicle;

edge line for a carriageway means a line marked along the carriageway at or near the far left or the far right of the carriageway;

emergency vehicle has the meaning given to it by the Code;

footpath has the meaning given to it by the Code;

GVM (which stands for gross vehicle mass) has the meaning given to it by the Code;

Loading Zone means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked ‘Loading Zone’;

local government means the Shire of Peppermint Grove;

mail zone has the meaning given to it by the Code;

median strip has the meaning given to it by the Code;

motorcycle has the meaning given to it by the Code;

motor vehicle means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

no parking area has the meaning given to it by the Code;

no parking sign means a sign with the words 'no parking' in red letters on a white background, or the letter 'P' within a red annulus and a red diagonal line across it on a white background;

no stopping area has the meaning given to it by the Code;

no stopping sign means a sign with the words 'no stopping' or 'no standing' in red letters on a white background or the letter 'S' within a red annulus and a red diagonal line across it on a white background;

occupier has the meaning given to it by the Act;

owner

- (a) where used in relation to a vehicle licensed under the Road Traffic Act, means the person in whose name the vehicle has been registered under that Road Traffic Act;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

park in relation to a vehicle, means to permit a vehicle, whether attended or not by any person, to remain stationary except for the purpose of –

- (a) avoiding conflict with other traffic; or
- (b) complying with the provisions of any law; or
- (c) taking up or setting down persons or goods (maximum of 2 minutes);

parking area has the meaning given to it by the Code;

parking facilities includes land, buildings, shelters, parking stalls and other facilities open to the public generally for the parking of vehicles and signs, notices and facilities used in connection with the parking of vehicles;

parking region means the area described in Schedule 1;

parking stall means a section or part of a thoroughfare or of a parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

parking station means any land, or structure provided for the purpose of accommodating vehicles;

pedestrian crossing has the meaning given to it by the Code;

penalty unit has the meaning given to it in the *Shire of Peppermint Grove Penalty Units Local Law 2020*;

public place means any place to which the public has access whether or not that place is on private property;

reserve means any land:

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;

Road Traffic Act means the *Road Traffic Act 1974*;

Schedule means a Schedule to this local law;

shared zone has the meaning given to it by the Code;

sign includes a traffic sign, inscription, road marking, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols, and which is placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking of vehicles;

special purpose vehicle has the meaning given to it by the Code;

stop in relation to a vehicle means to stop a vehicle and permit it to remain stationary, except for the purposes of avoiding conflict with other traffic or of complying with the provisions of any law;

symbol includes any symbol specified by Australian Standard 1742.11-1999 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law shall be also deemed to include a reference to the corresponding symbol;

taxi means a taxi within the meaning of the *Taxi Act 1994* or a taxi-car in section 47Z of the *Transport Co-ordination Act 1966*;

taxi zone has the meaning given to it by the Code;

thoroughfare has the meaning given to it by the Act;

traffic island has the meaning given to it by the Code;

trailer means any vehicle without motive power of its own, designed for attachment to a motor vehicle for the purpose of being towed, including a boat trailer, but does not include the rear portion of an articulated vehicle, or a side car;

vehicle has the meaning given to it by the Code; and

verge means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line but does not include a footpath.

1.5 Application of Particular Definitions

- (1) For the purposes of the application of the definitions 'no parking area' and 'parking area' an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is deemed to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.
- (2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act or in the Code, then the term shall have the meaning given to it in that Act or the Code.

1.6 Application and pre-existing signs

- (1) Subject to subclause (2), this local law applies to the parking region.
- (2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.
- (3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.
- (4) Where a parking facility or a parking station is identified in Schedule 4, then the facility or station shall be deemed to be a parking station to which this local law applies and it shall not be necessary to prove that it is the subject of an agreement referred to in subclause (2).
- (5) A sign that –
 - (a) was erected by the local government or the Commissioner of Main Roads prior to the coming into operation of this local law; and
 - (b) relates to the parking of vehicles within the parking region, shall be deemed for the purposes of this local law to have been erected by the local government under the authority of this local law.
- (6) An inscription or symbol on a sign referred to in subclause (5) operates and has effect according to its tenor, and where the inscription or symbol relates to the stopping of vehicles, it shall be deemed for the purposes of this local law to operate and have effect as if it related to the parking of vehicles.
- (7) The provisions of Parts 2, 3, and 4 do not apply to a bicycle parked at a bicycle rail or bicycle rack.

1.7 Classes of vehicles

For the purpose of this local law, vehicles are divided into classes as follows –

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and

- (e) all other vehicles.

1.8 Part of thoroughfare to which sign applies

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign shall be read as applying to that part of the thoroughfare which –

- (a) lies beyond the sign;
- (b) lies between the sign and the next sign beyond that sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

1.9 Powers of the local government

The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

PART 2 - PARKING STALLS AND PARKING STATIONS

2.1 Determination of parking stalls and parking stations

- (1) The local government may by resolution constitute, determine and vary –
 - (a) parking stalls;
 - (b) parking stations;
 - (c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;
 - (d) permitted classes of vehicles which may park in parking stalls and parking stations;
 - (e) permitted classes of persons who may park in specified parking stalls or parking stations; and
 - (f) the manner of parking in parking stalls and parking stations.
- (2) Where the local government makes a determination under subsection (1) it shall erect signs to give effect to the determination.

2.2 Vehicles to be within parking stall on thoroughfare

- (1) Subject to subclause (2), (3) and (4), a person shall not park a vehicle in a parking stall in a thoroughfare otherwise than –
 - (a) parallel to and as close to the kerb as is practicable;
 - (b) wholly within the stall; and
 - (c) headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.

- (2) Subject to subclause (3) where a parking stall in a thoroughfare is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.
- (3) If a vehicle is too long or too wide to fit completely within a single parking stall then the person parking the vehicle shall do so within the minimum number of parking stalls needed to park that vehicle.
- (4) A person shall not park a vehicle partly within and partly outside a parking area.

2.3 Parking prohibitions and restrictions

- (1) A person shall not –
 - (a) park a vehicle so as to obstruct an entrance to, or an exit from a parking station, or an access way within a parking station;
 - (b) except with the permission of the local government or an authorised person park a vehicle on any part of a parking station contrary to a sign referable to that part;
 - (c) permit a vehicle to park on any part of a parking station, if an authorised person directs the driver of such vehicle to move the vehicle; or
 - (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked 'M/C', if the bicycle is parked in accordance with subclause (2).
- (2) No person shall park any bicycle –
 - (a) in a parking stall other than in a stall marked 'M/C'; and
 - (b) in such stall other than against the kerb.
- (3) Despite subclause (1)(b), a driver may park a vehicle in a parking stall or station (except in a parking area for persons with a disability) for twice the length of time allowed, provided that –
 - (a) the driver's vehicle displays an ACROD sticker; and
 - (b) a person with a disability to which that ACROD sticker relates is either the driver of, or a passenger in, the vehicle.

PART 3 - PARKING GENERALLY

3.1 Restrictions on parking in particular areas

- (1) Subject to subclause (2), a person shall not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station –
 - (a) if by a sign it is set apart for the parking of vehicles of a different class;
 - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
 - (c) during any period when the parking of vehicles is prohibited by a sign.

- (2) (a) This subclause applies to a driver if –
 - (i) the driver's vehicle displays an ACROD sticker; and
 - (ii) a person with a disability to which the ACROD sticker relates is either the driver of the vehicle or a passenger in the vehicle.
- (b) The driver may park a vehicle in a thoroughfare or a part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates for twice the period indicated on the sign.
- (3) A person shall not park a vehicle:
 - (a) in a no parking area;
 - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this local law; or
 - (c) in a stall marked 'M/C' unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (4) A person shall not park a motorcycle without a sidecar or a trailer, or a bicycle in a parking stall unless the stall is marked 'M/C'.
- (5) A person shall not, without the prior permission of the local government, the CEO, or an authorised person, park a vehicle in an area designated by a sign stating 'Authorised Vehicles Only'.

3.2 Parking vehicle on a carriageway

- (1) A person parking a vehicle on a carriageway other than in a parking stall shall park it –
 - (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
 - (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
 - (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
 - (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a motorcycle without a trailer, or a bicycle parked in accordance with this local law; and
 - (e) so that it does not obstruct any vehicle on the carriageway,unless otherwise indicated on a parking regulation sign or markings on the roadway.

- (2) In this clause, 'continuous dividing line' means –
- (a) a single continuous dividing line only;
 - (b) a single continuous dividing line to the left or right of a broken dividing line; or
 - (c) 2 parallel continuous dividing lines.

3.3 When parallel and right-angled parking apply

Where a traffic sign associated with a parking area is not inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is:

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area shall park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area shall park it at approximately right angles to the centre of the carriageway.

3.4 When angle parking applies

- (1) This clause does not apply to:
- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over 3 tonnes; or
 - (b) a person parking either a motor cycle without a trailer or a bicycle.
- (2) Where a sign associated with a parking area is inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area shall park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

3.5 General prohibitions on parking

- (1)
- (a) This clause does not apply to a vehicle parked in a parking stall nor to a bicycle in a bicycle rack.
 - (b) Subclauses (2)(c), (c) and (g) do not apply to a vehicle which parks in a bus embayment.
- (2) Subject to any law relating to intersections with traffic control signals a person shall not park a vehicle so that any portion of the vehicle is –
- (a) between any other stationary vehicles and the centre of the carriageway;
 - (b) on or adjacent to a median strip;
 - (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
 - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;

- (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
 - (f) on any footpath or pedestrian crossing;
 - (g) between the boundaries of a carriageway and any double longitudinal line consisting of two continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
 - (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
 - (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
 - (j) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
 - (k) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked,

unless a sign or markings on the carriageway indicate otherwise.
- (3) A person shall not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of –
- (a) a sign inscribed with the words ‘Bus Stop’ or ‘Hail Bus Here’ (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or
 - (b) a children’s crossing or pedestrian crossing.
- (4) A person shall not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of –
- (a) a sign inscribed with the words ‘Bus Stop’ or ‘Hail Bus Here’ (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
 - (b) a children’s crossing or pedestrian crossing.

3.6 Authorised person may order vehicle on thoroughfare to be moved

The driver of a vehicle shall not park that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

3.7 Authorised person may mark tyres

- (1) An authorised person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person shall not remove a mark made by an authorised person so that the purpose of the affixing of such a mark is defeated or likely to be defeated.

3.8 No movement of vehicles to avoid time limitation

- (1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person shall not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person shall not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least 2 hours.

3.9 No parking of vehicles exposed for sale and in other circumstances

A person shall not park a vehicle on any portion of a thoroughfare –

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

3.10 Parking on private land

- (1) In this clause a reference to ‘land’ does not include land –
 - (a) which belongs to the local government;
 - (b) of which the local government is the management body under the *Land Administration Act 1997*;
 - (c) which is an ‘otherwise unvested facility’ within section 3.53 of the Act;
 - (d) which is the subject of an agreement referred to in clause 1.5(2); or
 - (e) which is identified in Schedule 4.
- (2) A person shall not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person shall not park a vehicle on the land otherwise than in accordance with the consent.

3.11 Parking on reserves

No person other than an employee of the local government in the course of his or her duties or a person authorised by the local government shall drive or park a vehicle upon or over any portion of a reserve other than upon an area specifically set aside for that purpose.

3.12 Suspension of parking limitations for urgent, essential or official duties

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the local government, the CEO or an authorised

person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time in order that the person may carry out urgent, essential or official duties.

- (2) Where permission is granted under subclause (1), the local government, the CEO or an authorised person may prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates, for the duration of that permission.

PART 4 – PARKING AND STOPPING GENERALLY

4.1 No stopping and no parking signs, and yellow edge lines

- (1) No stopping

A driver shall not stop on a length of carriageway, or in an area, to which a ‘no stopping’ sign applies.

- (2) No parking

A driver shall not stop on a length of carriageway or in an area to which a ‘no parking’ sign applies, unless the driver is –

- (a) dropping off, or picking up, passengers or goods;
- (b) does not leave the vehicle unattended; and
- (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

unattended, in relation to a vehicle, means that the driver has left the vehicle so that the driver is more than 3 metres from the closest point of the vehicle.

- (3) No stopping on a carriageway with yellow edge lines

A driver shall not stop at the side of a carriageway marked with a continuous yellow edge line.

PART 5 – STOPPING IN ZONES FOR PARTICULAR VEHICLES

5.1 Stopping in a loading zone

A person shall not stop a vehicle in a loading zone unless it is:

- (a) a commercial vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) in accordance with the sign associated with the loading zone,
and, in any event, shall not remain in that loading zone:
 - (c) for longer than a time indicated on the ‘loading zone’ sign; or
 - (d) longer than 15 minutes (if no time is indicated on the sign).

5.2 Stopping in a taxi zone or a bus zone

- (1) A driver shall not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver shall not stop in a bus zone unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

5.3 Stopping in a mail zone

A person shall not stop a vehicle in a mail zone.

5.4 Other limitations in zones

A person shall not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to any limitation in respect to classes of persons or vehicles, or specific activities allowed, as indicated by additional words on a traffic sign that applies to the zone.

PART 6 – OTHER PLACES WHERE STOPPING IS RESTRICTED

6.1 Stopping in a shared zone

A driver shall not stop in a shared zone unless –

- (a) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (c) the driver is dropping off, or picking up, passengers or goods; or
- (d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

6.2 Double parking

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.
- (2) This clause does not apply to –
 - (a) a driver stopped in traffic; or
 - (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

6.3 Stopping near an obstruction

A driver shall not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

6.4 Stopping on a bridge or in a tunnel, etc.

- (1) A driver shall not stop a vehicle on a bridge, causeway, ramp or similar structure unless –

- (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
 - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) A driver shall not stop a vehicle in a tunnel or underpass unless –
- (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
 - (b) the driver of a motor vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

6.5 Stopping on crests, curves, etc.

- (1) Subject to subclause (2), a driver shall not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.
- (2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

6.6 Stopping near a fire hydrant etc

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless –
 - (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
 - (b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.
- (2) In this clause a driver leaves the vehicle ‘unattended’ if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

6.7 Stopping at or near a bus stop

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10 metres of the departure side of a bus stop, unless –
 - (a) the vehicle is a public bus stopped to take up or set down passengers; or
 - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) In this clause –
 - (a) distances are measured in the direction in which the driver is driving; and

- (b) a trailer attached to a public bus is deemed to be a part of the public bus.

6.8 Stopping on a path, median strip, or traffic island

The driver of a vehicle (other than a bicycle or an animal) shall not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless the driver stops in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

6.9 Stopping on verge

- (1) A person shall not –
- (a) stop a vehicle (other than a bicycle);
 - (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
 - (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,
- so that any portion of it is on a verge.
- (2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.
- (3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

6.10 Obstructing access to and from a path, driveway, etc.

- (1) A driver shall not stop a vehicle so that any portion of the vehicle is in front of a path, in a position that obstructs access by vehicles or pedestrians to or from that path, unless –
- (a) the driver is dropping off, or picking up, passengers; or
 - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.
- (2) A driver shall not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless –
- (a) the driver is dropping off, or picking up, passengers; or
 - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

6.11 Stopping near a letter box

A driver shall not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver –

- (a) is dropping off, or picking up, passengers or mail; or

- (b) stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

6.12 Stopping on a carriageway – heavy and long vehicles

- (1) A person shall not park a vehicle or any combination of vehicles that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes –
 - (a) on a carriageway in a built-up area, for any period exceeding 1 hour, unless engaged in the picking up or setting down of goods; or
 - (b) on a carriageway outside a built-up area, except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of goods vehicles.
- (2) Nothing in this clause mitigates the limitations or condition imposed by any other clause or by any local law or traffic sign relating to the parking or stopping of vehicles.

6.13 Stopping on a carriageway with a bicycle parking sign

The driver of a vehicle (other than a bicycle) shall not stop on a length of carriageway to which a 'bicycle parking' sign applies, unless the driver is dropping off, or picking up, passengers.

6.14 Stopping on a carriageway with motor cycle parking sign

The driver of a vehicle shall not stop on a length of carriageway, or in an area, to which a 'motor cycle parking' sign applies, or an area marked 'M/C' unless –

- (a) the vehicle is a motor cycle; or
- (b) the driver is dropping off, or picking up, passengers.

6.15 Stopping in a parking stall for people with disabilities

- (1) A driver shall not stop in a parking area for people with disabilities unless:
 - (a) the driver's vehicle displays a current ACROD sticker; and
 - (b) the ACROD sticker must be valid for either the driver or the passenger in that vehicle.
- (2) In this clause a 'parking area for people with disabilities' is a length or area:
 - (a) to which a 'permissive parking' sign displaying a people with disabilities symbol applies;
 - (b) to which a 'people with disabilities parking' sign applies;
 - (c) indicated by a road marking (a 'people with disabilities road marking') that consists of, or includes, a people with disabilities symbol; or
 - (d) set aside within a parking region as a 'parking stall for use of a disabled person' under the *Local Government (Parking for Disabled Persons) Regulations 1988*.

PART 7 – RESIDENTIAL PARKING PERMITS

7.1 Residential Parking Permit

- (1) A person may apply for a permit to park a vehicle on a thoroughfare provided the person is:
 - (a) An occupier of a lot abutting that thoroughfare; and
 - (b) The holder of the requisite vehicle licence under the Road Traffic Act for the vehicle; and
 - (c) Subject to subclause (2) described on the vehicle licence as residing at the lot.
- (2) An applicant for a permit who is not described in accordance with subclause (1)(c), may apply for a temporary permit by stating (by way of a statutory declaration) on an application for such he or she resides at that lot.
- (3) An application for a permit shall be made in the form determined by the local government.
- (4) The local government may in respect of an application for a permit for the purpose of subclause (1) or (2):
 - (a) Approve it and issue a permit, or
 - (b) Approve it subject to such conditions as the local government considers appropriate; or
 - (c) Refuse to approve it.
- (5) Where the local government makes a decision under subclauses (4) (a) or (b), it shall issue a permit in the form determined by it to the person who applied for the permit.
- (6) A temporary permit issued for the purpose of subclause (2):
 - (a) Will expire 3 months after it is issued; and
 - (b) Is not renewable or transferable.
7. A permit issued for the purpose of subclause (1) may be either:
 - (a) A Permit issued for a period not exceeding one year and expiring on 31 December in the year of issue; or
 - (b) A temporary permit, issued for a period not exceeding 3 months from the date of issue.
- (8) Every permit issued for the purpose of subclause (1) is to specify:
 - (a) A permit number; and
 - (b) The registration number of the vehicle linked to the permit; and
 - (c) The name of the thoroughfare to which the exemption granted by clause 7.2 applies; and

- (d) The date on which it expires.

7.2 Condition of exemption for residential parking permits

Where parking of a vehicle on any part of a thoroughfare within the district is prohibited for more than a specified time, or without an unexpired parking ticket being displayed within the vehicle, the holder of a permit issued under clause 7.1 is exempted from such prohibitions if:

- (a) The vehicle is parked on a thoroughfare specified in the permit, but not adjacent to retail premises where parking of all vehicles is subject to time restriction;
- (b) The permit is affixed to the windscreen of the vehicle in a prominent position;
- (c) The period in respect to the permit was issued has expired; and
- (d) If the holder of the permit at the time of parking the vehicle still resides at the lot in respect of which the permit was issued.

7.3 Removal and cancellation of residential parking permit

The holder of a permit issued subject to clause 7.1 and who changes place of residence or vehicle shall advise the local government and remove the permit from the vehicle to which is affixed. The permit shall be deemed to be cancelled on and from the date the holder changes residence or vehicle.

PART 8 - MISCELLANEOUS

8.1 Removal of notices on vehicle

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, shall not remove from the vehicle any notice put on the vehicle by an authorised person.

8.2 Unauthorised signs and defacing of signs

A person shall not without the authority of the local government –

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write upon any part of a sign set up or exhibited by the local government under this local law.

8.3 Signs must be complied with

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

8.4 General provisions about signs

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first three letters of any day of the week when used on a sign indicate that day of the week.

8.5 Special purpose and emergency vehicles

Notwithstanding anything to the contrary in this local law, the driver of –

- (a) a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop, or park the vehicle in any place, at any time; and
- (b) an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop, or park the vehicle at any place, at any time.

8.6 Vehicles not to obstruct a public place

- (1) A person shall not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the local government or unless authorised under any written law.
- (2) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

8.7 Name, address and date of birth to be given on demand

- (1) An authorised person or a member of the police force who finds a person committing, or who on reasonable grounds suspects a person of having committed a breach of the provisions of these local laws, may demand from that person their name, place of abode and date of birth.
- (2) If a person without lawful excuse refuses to state his or her name, place of abode and date of birth or who states a false name, place of abode and date of birth, commits an offence.

8.8 Causing or attempting to cause damage to Council Property

A person shall not cause or attempt to cause damage to the property of the local government in any way.

8.9 Hindrance of authorised person

A person shall not in any way obstruct or hinder an authorised person in the execution of his or her duties.

PART 9 - PENALTIES

9.1 Offences and penalties

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.
- (3) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (4) The number of modified penalty units for the prescribed offence is the number specified adjacent to the clause in Schedule 2.

9.2 Form of notices

For the purposes of this local law:

- (a) the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 3;
- (b) the form of the infringement notice referred to in section 9.17 of the Act is that of Form 2 in Schedule 3;
- (c) the form of the infringement notice referred to in section 9.17 of the Act which incorporates the notice referred to in section 9.13 of the Act, is that of Form 3 in Schedule 3; and
- (d) the form of the notice referred to in section 9.20 of the Act is that of Form 4 in Schedule 3.

Schedule 1 - Parking region

The parking region is the whole of the district, but excludes the following portions of the district:

1. the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
2. prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
3. any road which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads or has been delegated by the Commissioner to the local government.

Schedule 2 – Prescribed offences

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY UNITS
1	2.2	Failure to park wholly within parking stall	5
2	2.2(4)	Failure to park wholly within parking area	5
3	2.3(1)(a)	Causing obstruction in parking station	10
4	2.3(1)(b)	Parking contrary to sign in parking station	5
5	2.3(1)(c)	Parking contrary to directions of authorised person	10
6	2.3(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	5
7	3.1(1)(a)	Parking wrong class of vehicle	5
8	3.1(1)(b)	Parking by persons of a different class	5
9	3.1(1)(c)	Parking during prohibited period	8
10	3.1(3)(a)	Parking in no parking area	8
11	3.1(3)(b)	Parking contrary to signs or limitations	5
12	3.1(3)(c)	Parking vehicle in motor cycle only area	5
13	3.1(4)	Parking motor cycle in stall not marked 'M/C'	5
14	3.1(5)	Parking without permission in an area designated for 'Authorised Vehicles Only'	8
15	3.2(1)(a)	Failure to park on the left of two-way carriageway	8
16	3.2(1)(b)	Failure to park on boundary of one-way carriageway	8
17	3.2(1)(a) or 3.2(1)(b)	Parking against the flow of traffic	8
18	3.2(1)(c)	Parking when distance from farther boundary less than 3 metres	8
19	3.2(1)(d)	Parking closer than 1 metre from another vehicle	5

20	3.2(1)(e)	Causing obstruction	10
21	3.3(b)	Failure to park at approximate right angle	5
22	3.4(2)	Failure to park at an appropriate angle	5
23	3.5(2)(a) and 6.2	Double parking	10
24	3.5(2)(b)	Parking on or adjacent to a median strip	8
25	3.5(2)(c)	Denying access to private drive or right of way	206
26	3.5(2)(d)	Parking beside excavation or obstruction so as to obstruct traffic	20
27	3.5(2)(e)	Parking within 10 metres of traffic island	10
28	3.5(2)(f)	Parking on footpath/pedestrian crossing	10
29	3.5(2)(g)	Parking contrary to continuous line markings	10
30	3.5(2)(h)	Parking on intersection	10
31	3.5(2)(i)	Parking within 1 metre of fire hydrant or fire plug	10
32	3.5(2)(j)	Parking within 3 metres of public letter box	10
33	3.5(2)(k)	Parking within 10 metres of intersection	10
34	3.5(3)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	10
35	3.5(4)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	10
36	3.6	Parking contrary to direction of authorised person	10
37	3.7(2)	Removing mark of authorised person	10
38	3.8	Moving vehicle to avoid time limitation	10
39	3.9(a)	Parking in thoroughfare for purpose of sale	10
40	3.9(b)	Parking unlicensed vehicle in thoroughfare	10
41	3.9(c)	Parking a trailer/caravan on a thoroughfare	10

42	3.9(d)	Parking in thoroughfare for purpose of repairs	10
43	3.10(1) or (2)	Parking on land that is not a parking facility without consent	10
44	3.10(3)	Parking on land not in accordance with consent	10
45	3.11	Driving or parking on reserve	15
46	4.1(1)	Stopping contrary to a 'no stopping' sign	10
47	4.1(2)	Parking contrary to a 'no parking' sign	8
48	4.1(3)	Stopping within continuous yellow lines	10
49	5.1	Stopping unlawfully in a loading zone	8
50	5.2	Stopping unlawfully in a taxi zone or bus zone	8
51	5.3	Stopping unlawfully in a mail zone	10
52	5.4	Stopping in a zone contrary to a sign	5
53	6.1	Stopping in a shared zone	5
54	6.3	Stopping near an obstruction	10
55	6.4	Stopping on a bridge or tunnel	10
56	6.5	Stopping on crests/curves etc	10
57	6.6	Stopping near fire hydrant	10
58	6.7	Stopping near bus stop	10
59	6.8	Stopping on path, median strip or traffic island	10
60	6.9	Stopping on verge	5
61	6.10	Obstructing path, a driveway etc	10
62	6.11	Stopping near letter box	10
63	6.12	Stopping heavy or long vehicles on carriageway	10
64	6.13	Stopping in bicycle parking area	5
65	6.14	Stopping in motorcycle parking area	5

66	6.15	Stopping in a disabled parking area	50
67	7.3	Failure to remove permit when residence or vehicle changed	10
68	8.1	Removal notices from a vehicle	10
69	8.2	Unauthorised signs and defacing of signs	50
70	8.6	Leaving vehicle so as to obstruct a public place	10
71	8.7	Name, address and date of birth to be given on demand	10
72	8.8	Causing or attempting to cause damage to Council Property	50
73	8.9	Hindrance of authorised person	20
74		All other offences not specified	5

Schedule 3 – Forms

LOCAL GOVERNMENT ACT 1995

FORM 1

PARKING AND PARKING FACILITIES LOCAL LAW 2020

NOTICE TO OWNER OF VEHICLE INVOLVED IN OFFENCE

Date / /

To: (1)
of: (2)

It is alleged that on / / at (3)
at (4) your vehicle:

make: ;
model: ;
registration:

was involved in the commission of the following offence -
.....
.....
.....

contrary to clause of the Parking and Parking Facilities Local Law 2020.

You are required under section 9.13 of the *Local Government Act 1995* to identify the person who was the driver or person in charge of the vehicle at the time when the offence is alleged to have been committed.

If you do not prove otherwise, you will be deemed to have committed the offence unless:

- (a) within 28 days after being served with this notice;
 - (i) you inform the Chief Executive Officer or another authorised officer of the local government as to the identity and address of the person who was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed; and
 - (ii) you satisfy the Chief Executive Officer that the vehicle had been stolen, or was being unlawfully used, at the time the offence is alleged to have been committed;

or

- (b) you were given an infringement notice for the alleged offence and the modified penalty specified in it is paid within 28 days after the notice was given or such further time as is allowed.

(5)

(6)

Insert:

- (1) Name of owner or 'the owner'
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Signature of authorised person
- (6) Name and title of authorised person giving notice

LOCAL GOVERNMENT ACT 1995

FORM 2

PARKING AND PARKING FACILITIES LOCAL LAW 2020

INFRINGEMENT NOTICE

Serial No

Date / /

To: (1)
of: (2)

It is alleged that on / / at (3)
at (4)
in respect of vehicle:

make: ;

model: ;

registration: ;

you committed the following offence:

.....
.....
.....

contrary to clause of the Parking and Parking Facilities Local Law 2020.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person at (5) within a period of 28 days after the giving of this notice.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6)

(7)

Insert:

- (1) Name of alleged offender or 'the owner'
- (2) Address of alleged offender
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorised person
- (7) Name and title of authorised person giving notice

LOCAL GOVERNMENT ACT 1995

FORM 3

PARKING AND PARKING FACILITIES LOCAL LAW 2020

INFRINGEMENT NOTICE

Serial No

Date / /

To: (1)

of: (2)

It is alleged that on / / at (3)
at (4)
in respect of vehicle:

make:

model:

registration:

you committed the following offence:

.....
.....
.....

contrary to clause of the Parking and Parking Facilities Local Law 2020.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid to an authorised person at (5) within a period of 28 days after the giving of this notice.

Unless within 28 days after being served with this notice:

- (a) you pay the modified penalty; or
- (b) you:
 - (i) inform the Chief Executive Officer or another authorised officer of the local government as to the identity and address of the person who was the driver or person in charge of the above vehicle at the time the offence is alleged to have been committed; or
 - (ii) satisfy the Chief Executive Officer that the above vehicle had been stolen or was being unlawfully used at the time the offence is alleged to have been committed,

you will, in the absence of proof to the contrary, be deemed to have committed the above offence and court proceedings may be instituted against you.

If you take no action this infringement notice may be registered with the Fines Enforcement Registry after which your driver's licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable.

If the above address is not your current address, or if you change your address, it is important that you advise us immediately. Failure to do so may result in your driver's licence or any vehicle licence you hold being suspended without your knowledge.

(6)

(7)

Insert:

- (1) Name of owner or 'the owner'
- (2) Address of owner (not required if owner not named)
- (3) Time of alleged offence
- (4) Location of alleged offence
- (5) Place where modified penalty may be paid
- (6) Signature of authorised person
- (8) Name and title of authorised person giving notice

LOCAL GOVERNMENT ACT 1995

FORM 4

PARKING AND PARKING FACILITIES LOCAL LAW 2020

WITHDRAWAL OF INFRINGEMENT NOTICE

Serial No

Date / /

To: (1)
of: (2)

Infringement Notice No. dated / /

in respect of vehicle:

make: ;

model: ;

registration: ;

for the alleged offence of
.....
.....

has been withdrawn.

The modified penalty of \$

- has been paid and a refund is enclosed.
- has not been paid and should not be paid.
- delete as appropriate.

(3)

(4)

Insert:

- (1) Name of alleged offender to whom infringement notice was given or 'the owner'.
- (2) Address of alleged offender.
- (3) Signature of authorised person
- (4) Name and title of authorised person giving notice

Schedule 4 – Deemed parking stations

Dated..... 20 ____

The Common Seal of the }
Shire of Peppermint Grove }
was affixed by authority of a }
resolution of the Council in the }
presence of: }

Cr Rachel Thomas
President

Don Burnett
Chief Executive Officer

**ITEM 8.5.1
ATTACHMENT SEVEN**

**LOCAL GOVERNMENT ACT 1995
SHIRE OF PEPPERMINT GROVE
PENALTY UNITS LOCAL LAW 2020**

Under the powers conferred by the *Local Government Act 1995*, and all other powers enabling it, the Council of the Shire of Peppermint Grove resolved on [insert date of resolution] to make the following local law.

1. Citation

This local law may be cited as the *Shire of Peppermint Grove Penalty Units Local Law 2020*.

2. Commencement

The local law comes into operation 14 days after the date of publication in the *Government Gazette*.

3. Penalty units

- a) In this clause a **local law** means a local law made by the Shire of Peppermint Grove.
- b) Where a local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units.

4. Penalty unit value

The value of a penalty unit is \$10.00.

Dated..... 20___

The Common Seal of the)
Shire of Peppermint Grove)
was hereunto affixed by)
authority of its Council in)
the presence of —)

Cr Rachel Thomas
President

Don Burnett
Chief Executive Officer

**ITEM 8.5.1
ATTACHMENT EIGHT**

**WASTE AVOIDANCE AND
RESOURCE RECOVERY ACT 2007**

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

WASTE LOCAL LAW 2020

CONTENTS

Part 1 - Preliminary	1
1.1 Citation.....	1
1.2 Commencement.....	1
1.3 Application	1
1.4 Meaning of terms used in this local law	1
1.5 Local public notice of determinations	3
1.6 Rates, fees and charges	4
1.7 Power to provide waste services	4
Part 2 - Local government waste.....	4
2.1 Supply of receptacles.....	4
2.2 Deposit of waste in receptacles	4
2.3 General waste receptacles	4
2.4 Recycling waste receptacles	5
2.5 Organic waste receptacles	5
2.6 Direction to place or remove a receptacle.....	5
2.7 Duties of owner or occupier	5
2.8 Exemption	6
2.9 Damaging or removing receptacles	6
2.10 Verge collections	7
Part 3 - General duties	7
3.1 Duties of an owner or occupier	7
3.2 Removal of waste from premises	8
3.3 Receptacles and containers for public use	8
3.4 Waste control on building site	8
Part 4 - Enforcement.....	9
4.1 Objection and appeal rights	9
4.2 Offences and general penalty.....	9
4.3 Other costs and expenses	9

4.4	Prescribed offences	9
4.5	Form of notices.....	10
	Schedule 1 - Meaning of 'non-collectable waste'	11
	Schedule 2 - Prescribed offences	12

WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007

LOCAL GOVERNMENT ACT 1995

SHIRE OF PEPPERMINT GROVE

WASTE LOCAL LAW 2020

Under the powers conferred on it by the *Waste Avoidance and Resource Recovery Act 2007*, the *Local Government Act 1995* and under all other enabling powers, the Council of the Shire of Peppermint Grove resolved on **[insert date]** to make the following local law.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *Shire of Peppermint Grove Waste Local Law 2020*.

1.2 Commencement

This local law commences 14 days after the day on which it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Meaning of terms used in this local law

(1) In this local law—

authorised person means a person appointed by the local government under section 9.10 of the LG Act to perform any of the functions of an authorised person under this local law;

collectable waste means local government waste that is not—

- (a) liquid refuse;
- (b) liquid waste; or
- (c) non-collectable waste;

collectable waste receptacle means a receptacle for the deposit and collection of collectable waste that is—

- (a) a recycling waste receptacle;
- (b) a general waste receptacle; or
- (c) an organic waste receptacle;

collection when used in relation to a receptacle, means the collection and removal of collectable waste from the receptacle by the local government or its contractor;

collection day means the day determined by the local government for the collection of collectable waste in the district or a part of the district;

collection time means the time on the collection day determined by the local government for the collection of collectable waste in the district or a part of the district;

costs of the local government include administrative costs;

Council means the council of the local government;

district means the district of the local government;

general waste receptacle means a receptacle for the deposit and collection of collectable waste that is not recycling waste;

LG Act means the *Local Government Act 1995*;

LG Regulations means the *Local Government (Functions and General) Regulations 1996*;

local government means Shire of Peppermint Grove;

local government waste has the same meaning as in the WARR Act;

non-collectable waste has the meaning set out in Schedule 1;

occupier in relation to premises, means any or all of the following—

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises;

organic waste means waste that decomposes readily, such as garden waste or food waste;

organic waste receptacle means a receptacle for the deposit and collection of organic waste;

owner has the same meaning as in the LG Act;

penalty unit means the amount prescribed by the local government as a standard penalty unit in the *Shire of Peppermint Grove Penalty Units Local Law 2020*;

public place includes a place to which the public ordinarily have access, whether or not by payment of a fee;

receptacle means a receptacle—

- (a) that has been supplied for the use of the premises by the local government or its contractor, or which has otherwise been approved by the local government; and

- (b) the waste from which is collected and removed from the premises by the local government or its contractor;

recycling waste receptacle means a receptacle for the deposit and collection of recycling waste;

recycling waste means—

- (a) paper and cardboard;
- (b) plastic containers comprised of polyethylene terephthalate or high density polyethylene;
- (c) glass containers;
- (d) steel containers;
- (e) aluminium containers;
- (f) liquid paper board; and
- (g) any other waste determined by the local government to be recycling waste;

specified means specified by the local government or an authorised person, as the case may be;

street alignment means the boundary between the land comprising a street and the land that abuts the street;

WARR Act means the *Waste Avoidance and Resource Recovery Act 2007*;

WARR Regulations means the *Waste Avoidance and Resource Recovery Regulations 2008*;

waste has the same meaning as in the WARR Act;

waste facility means a waste facility, as defined in the WARR Act, that is operated by the local government; and

waste service has the same meaning as in the WARR Act.

- (2) Where, in this local law, a duty or liability is imposed on an owner or occupier, or on an owner and occupier, the duty or liability is taken to be imposed jointly and severally on each of the owners or occupiers.

1.5 Local public notice of determinations

Where, under this local law, the local government has a power to determine a matter—

- (a) local public notice, under section 1.7 of the LG Act, must be given of the matter determined;
- (b) the determination becomes effective only after local public notice has been given;

- (c) the determination remains in force for the period of one year after the date that local public notice has been given under subclause (a);
- (d) after the period referred to in subclause (c), the determination continues in force only if, and for so long as, it is the subject of local public notice, given annually, under section 1.7 of the LG Act; and
- (e) the determination must be recorded in a publicly accessible register of determinations that must be maintained by the local government.

1.6 Rates, fees and charges

The local government's powers to impose rates, fees and charges in relation to waste services are set out in sections 66 to 68 of the WARR Act and sections 6.16 and 6.17 of the LG Act.

1.7 Power to provide waste services

The local government's power to provide, or enter into a contract for the provision of waste services is dealt with in section 50 of the WARR Act.

Part 2 - Local government waste

2.1 Supply of receptacles

- (1) The local government is to supply, for the use of each premises that are, or are capable of being, occupied or used for residential purposes, one or more receptacles for the collection and removal, from those premises, of collectable waste.
- (2) The owner of premises to which subclause (1) applies must—
 - (a) ensure that the fee or charge (if any) imposed by the local government in relation to each receptacle is paid to the local government; and
 - (b) ensure that each receptacle is used, in respect of those premises, in accordance with this local law.

2.2 Deposit of waste in receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a receptacle any non-collectable waste.
- (2) A person must not deposit waste in a receptacle that has been provided for the use of other premises without the consent of the owner or occupier of those premises.

2.3 General waste receptacles

- (1) An owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle—
 - (a) where the receptacle has a capacity of 240 litres—more than 70 kilograms of collectable waste; or
 - (b) where the receptacle has any other capacity—more than the weight determined by the local government.

- (2) Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.
- (3) Where the local government supplies organic waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any organic waste.

2.4 Recycling waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle—

- (a) anything other than the particular type of recycling waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of recycling waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.5 Organic waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in an organic waste receptacle—

- (a) anything other than the particular type of organic waste for which that receptacle was provided by the local government for those premises;
- (b) where the receptacle has a capacity of 240 litres—more than 70 kilograms of organic waste; or
- (c) where the receptacle has any other capacity—more than the weight determined by the local government.

2.6 Direction to place or remove a receptacle

- (1) The local government or an authorised person may give a written direction to an owner or occupier of specified premises—
 - (a) to place a receptacle in respect of those premises for collection; or
 - (b) to remove a receptacle in respect of those premises after collection.
- (2) The direction under subclause (1) may specify when the placement or removal is to occur, or where the receptacle is to be placed, or both.
- (3) An owner or occupier of premises must comply with a direction given under this clause.

2.7 Duties of owner or occupier

An owner or occupier of premises must—

- (a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment;
- (b) take reasonable steps, if placing a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, ensure that, within a reasonable period before collection time, each receptacle is—
 - (i) within 1 metre of the carriageway;
 - (ii) placed so that it does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
 - (iii) facing squarely to the edge of and opening towards the carriageway,or in such other position as is approved in writing by the local government or an authorised person;
- (c) take reasonable steps to ensure that the premises are provided with an adequate number of receptacles; and
- (d) if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event.

2.8 Exemption

- (1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause 2.7(a) or (b).
- (2) The local government or an authorised person may grant, with or without conditions, or refuse an application for exemption from compliance under this clause.
- (3) An exemption granted under this clause must state—
 - (a) the premises to which the exemption applies;
 - (b) the period during which the exemption applies; and
 - (c) any conditions imposed by the local government or the authorised person.
- (4) An exemption granted under this clause ceases to apply –
 - (a) if the local government decides, on reasonable grounds, that there has been a failure to comply with a condition of the exemption; and
 - (b) from the date that the local government informs the owner or occupier of its decision under clause 2.8(4)(a).

2.9 Damaging or removing receptacles

A person, other than the local government or its contractor, must not—

- (a) damage, destroy or interfere with a receptacle; or

- (b) except as permitted by this local law or as authorised by the local government or an authorised person, remove a receptacle from any premises to which it was delivered by the local government or its contractor.

2.10 Verge collections

- (1) Where the local government has advertised a scheduled or on demand verge waste collection (such as a green waste, or a bulk waste, verge collection) a person, unless with and in accordance with the approval of the local government or an authorised person—
 - (a) must deposit waste only during the period of time, and in accordance with other terms and conditions, as advertised by the local government in relation to that verge waste collection; and
 - (b) must otherwise comply with those terms and conditions.
- (2) Where waste has been deposited on a verge for a verge waste collection, a person must not remove any of that waste for a commercial purpose but may remove it for any other purpose.
- (3) Except where waste is lawfully removed from a verge under this clause, a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.
- (4) Clause 2.10(2) does not apply to the local government or a person engaged or contracted by the local government in relation to the verge waste collection.

Part 3 - General duties

3.1 Duties of an owner or occupier

An owner or occupier of premises must—

- (a) take reasonable steps to ensure that a sufficient number of receptacles are provided to contain all waste which accumulates or may accumulate in or from the premises;
- (b) ensure that each receptacle is kept in good condition and repair;
- (c) take all reasonable steps to—
 - (i) prevent fly breeding and keep each receptacle free of flies, maggots, cockroaches, rodents and other vectors of disease;
 - (ii) prevent the emission of offensive or noxious odours from each receptacle; and
 - (iii) ensure that each receptacle does not cause a nuisance to an occupier of adjoining premises; and
- (d) whenever directed to do so by the local government or an authorised person, thoroughly clean, disinfect, deodorise and apply a residual insecticide to each receptacle.

3.2 Removal of waste from premises

- (1) A person must not remove any waste from premises unless that person is—
- (a) the owner or occupier of the premises;
 - (b) authorised to do so by the owner or occupier of the premises; or
 - (c) authorised in writing to do so by the local government or an authorised person.
- (2) A person must not remove any waste from a receptacle without the approval of—
- (a) the local government or an authorised person; or
 - (b) the owner or occupier of the premises at which the receptacle is ordinarily kept.

3.3 Receptacles and containers for public use

A person must not, without the approval of the local government or an authorised person—

- (a) deposit household, commercial or other waste from any premises on or into; or
- (b) remove any waste from,

a receptacle provided for the use of the general public in a public place.

3.4 Waste control on building sites

- (1) In this clause –

building work means –

- (a) building work for which a building permit is required under the *Building Act 2011*; and
- (b) demolition work for which a demolition permit is required under the *Building Act 2011*;

building work waste means all waste from building work that is capable of being windblown; and

receptacle means a receptacle the waste from which is collected and removed otherwise than by the local government or its contractor.

- (2) A person must not allow, commence or continue any building work on premises unless, at all times while the building work is being undertaken –
- (a) there is located on the premises, as close as practicable to the building work a receptacle with a capacity of not less than four cubic metres, or as otherwise

approved by the local government, suitable for the collection and disposal of building work waste; and

- (b) building work waste is deposited and kept in the receptacle.

Part 4 - Enforcement

4.1 Objection and appeal rights

Division 1 of Part 9 of the LG Act applies to a decision under this local law to grant, renew, vary or cancel —

- (a) an approval under clause 2.7(b);
- (b) an exemption under clause 2.8(2);
- (c) an approval under clause 2.9(b);
- (d) an approval under clause 2.10(1);
- (e) an authorisation under clause 3.2(1)(c);
- (f) an approval under clause 3.2(2); and
- (g) an approval under clause 3.3.

4.2 Offences and general penalty

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law a person is prohibited from doing, commits an offence.
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to a further penalty not exceeding \$500 in respect of each day or part of a day during which the offence has continued.

4.3 Other costs and expenses

- (1) A person who is convicted of an offence under this local law is to be liable, in addition to any penalty imposed under clause 4.2, to pay to the local government the costs and expenses incurred by the local government in taking remedial action such as removing and lawfully disposing of toxic, hazardous or poisonous waste.
- (2) The costs and expenses incurred by the local government are to be recoverable, as a debt due to the local government, in a court of competent civil jurisdiction.

4.4 Prescribed offences

- (1) An offence against a clause specified in Schedule 2 is a prescribed offence for the purposes of section 9.16(1) of the LG Act.
- (2) The number of modified penalty units for a prescribed offence is the number specified adjacent to the clause in Schedule 2.

- (3) If this local law expresses a modified penalty as a number of penalty units, the monetary value of the modified penalty is the number of dollars obtained by multiplying the value of the penalty unit by the number of penalty units.

4.5 Form of notices

- (1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the LG Act is that of Form 1 in Schedule 1 of the LG Regulations.
- (2) The form of the infringement notice given under section 9.16 of the LG Act is that of Form 2 in Schedule 1 of the LG Regulations.
- (3) The form of the infringement withdrawal notice given under section 9.20 of the LG Act is that of Form 3 in Schedule 1 of the LG Regulations.

Schedule 1 - Meaning of 'non-collectable waste'
[Clause 1.5(1)]

non-collectable waste means –

- (a) hot or burning material;
- (b) household hazardous waste, including paint, acids, alkalis, fire extinguishers, solvents, pesticides, oils, gas cylinders, batteries, chemicals and heavy metals;
- (c) any other hazardous material, such as radioactive waste;
- (d) any explosive material, such as flares or ammunition;
- (e) electrical and electronic equipment;
- (f) hospital, medical, veterinary, laboratory or pathological substances;
- (g) construction or demolition waste;
- (h) sewage;
- (i) 'controlled waste' for the purposes of the *Environmental Protection (Controlled Waste) Regulations 2004*;
- (j) any object that is greater in length, width, or breadth than the corresponding dimension of the receptacle or that will not allow the lid of the receptacle to be tightly closed;
- (k) waste that is or is likely to become offensive or a nuisance, or give off an offensive or noxious odour, or to attract flies or cause fly breeding unless it is first wrapped in non-absorbent or impervious material or placed in a sealed impervious and leak-proof container; and
- (l) any other waste determined by the local government to be non-collectable waste.

Schedule 2 - Prescribed offences

Item No.	Clause No.	Description	Modified Penalty Units
1	2.1(2)(a)	Failing to pay fee or charge	35
2	2.1(2)(b)	Failing to ensure lawful use of receptacle	35
3	2.2(1)	Depositing non-collectable waste in a receptacle	35
4	2.2(2)	Depositing waste in another receptacle without consent	35
5	2.3(1)	Exceeding weight capacity of a general waste receptacle	35
6	2.3(2) and (3)	Depositing unauthorised waste in a general waste receptacle	35
7	2.4(a)	Depositing unauthorised waste in a recycling waste receptacle	35
8	2.4(b) and (c)	Exceeding weight capacity of a recycling waste receptacle	25
9	2.5(a)	Depositing unauthorised waste in an organic waste receptacle	35
10	2.5(b) and (c)	Exceeding weight capacity of an organic waste receptacle	35
11	2.6(3)	Failing to comply with a direction concerning placement or removal of a receptacle	25
12	2.7(a)	Failing to keep a receptacle in the required location	25
13	2.7(b)	Failing to place a receptacle for collection in a lawful position	25
14	2.7(c)	Failing to provide a sufficient number of receptacles	25
15	2.7(d)	Failing to notify of a lost, stolen, damaged or defective receptacle	5
16	2.9(a)	Damaging, destroying or interfering with a receptacle	40
17	2.9(b)	Removing a receptacle from premises	40
18	2.10(1)	Failing to comply with a term or condition of verge waste collection	40
19	2.10(2)	Removing waste for commercial purposes	35
20	2.10(3)	Disassembling or leaving in disarray waste deposited for collection	25
21	3.1(a)	Failing to provide a sufficient number of receptacles	25
22	3.1(b)	Failing to keep a receptacle clean and in a good condition and repair	25
23	3.1(c)(i)	Failing to prevent fly breeding and vectors of disease in a receptacle	35
24	3.1(c)(ii)	Failing to prevent the emission of offensive odours from a receptacle	35
25	3.1(c)(iii)	Allowing a receptacle to cause a nuisance	35
26	3.1(d)	Failing to comply with a direction to clean, disinfect or deodorise receptacle	30
27	3.2(1)	Unauthorised removal of waste from premises	25

Item No.	Clause No.	Description	Modified Penalty Units
28	3.2(2)	Removing waste from a receptacle without approval	25
29	3.3(a)	Depositing unauthorised waste into waste receptacle provided for use of the general public	35
30	3.3(b)	Removing waste from waste receptacle provided for use of the general public	35
31	3.4(2)(a)	Failing to provide receptacle for building waste	25
32	3.4(2)(b)	Failing to deposit and keep building waste in receptacle	35

Dated this _____ of _____ 2020

The Common Seal of the Shire of Peppermint Grove
was affixed by authority of a resolution
of the Council in the presence of:

)
)
)

Cr Rachel Thomas
President

Don Burnett
Chief Executive Officer

Consented to:

CHIEF EXECUTIVE OFFICER
DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION

Dated this _____ of _____ 2020



Ordinary Council Meeting

8.5.2 – Matters for Information and Noting

Matters for Information and Noting

Building Permits Issued June 2020

Application Number	Location	Type of Work	Delegated Authority
BA2020/00018	145 Forrest Street	Demolition	Officer
BA2020/00017	488-490 Stirling Highway	Fit-Out	Officer
BA2020/00012	Lilla Street (RFBYC)	Fit-Out	Officer

Development Approvals Issued June 2020

Application Number	Location	Delegated Authority
DA2020/00005	20/128 Forrest Street	Council

Infringements Issued June 2020

Date of Issue	Infringement Location	Value of Infringement
19/06/2020	Forrest Street	\$45.00

Library Statistics for June 2020

	June 2020	June 2019
Loans	14,838	16,980
New Borrowers	264	346