



Shire of
Peppermint Grove

ORDINARY COUNCIL MEETING

DRAFT

AGENDA

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

TO BE HELD ON
TUESDAY 22 SEPTEMBER 2020
AT
5.30 PM



Shire of Peppermint Grove

DRAFT MEETING AGENDA ATTACHED

DISCLAIMER

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

Any statement, comment or decision made at a Council or Forum meetings regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity who has an application before the Shire must obtain, and should only rely on, written notice of the Shire's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Forum meetings.

Any advice provided by an employee of the Shire on the operation of a written law, or the performance of a function by the Shire, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the Shire. Any advice on a matter of law, or anything sought to be relied upon as a representation by the Shire should be sought in writing and should make clear the purpose of the request.



Shire of Peppermint Grove

TABLE OF CONTENTS

ITEM	SUBJECT HEADING	PAGE
1	DECLARATION OF OFFICIAL OPENING	5
2	RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE	5
2.1	ATTENDANCE	5
2.2	APOLOGIES	6
2.3	LEAVES OF ABSENCE	6
2.4	NEW REQUEST FOR A LEAVE OF ABSENCE	6
3	DELEGATIONS AND PETITIONS	6
3.1	DELEGATIONS	6
3.2	PETITIONS	6
4	PUBLIC QUESTION TIME	7
4.1	RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE FROM A PREVIOUS MEETING	7
4.2	QUESTIONS FROM MEMBERS OF THE PUBLIC	7
4.3	DEPUTATIONS OF THE PUBLIC	7
4.4	PRESENTATIONS FROM THE PUBLIC	7
5	DECLARATIONS OF INTEREST	8
5.1	FINANCIAL INTEREST	8
5.2	PROXIMITY INTEREST	8
5.3	IMPARTIALITY INTEREST	8
5.4	INTEREST THAT MAY CAUSE A CONFLICT	8
5.5	STATEMENT OF GIFTS AND HOSPITALITY	9
6	ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)	9

7	CONFIRMATION OF MINUTES	9
7.1	ORDINARY COUNCIL MEETING 25 AUGUST 2020	9
8	OFFICER REPORTS	10
8.1	MANAGER DEVELOPMENT SERVICES	10
8.1.1	33A Leake Street – Single House Renovation, Refurbishment and Garage	10
8.1.2	44 Irvine Street –Single House Deck (Renovation and Repair)	16
8.1.3	2020 – Review of Local Planning Policies	20
8.2	MANAGER INFRASTRUCTURE SERVICES	24
8.3	MANAGER CORPORATE AND COMMUNITY SERVICES	25
8.3.1	Financial Statements August 2020	25
8.3.2	Accounts Paid August 2020	25
8.3.3	Policy for Ex-Gratia Payments	26
8.4	CEO/ MANAGEMENT / GOVERNANCE / POLICY	29
8.4.1	Stirling Highway Footpath	29
8.4.2	Matters for Information and Noting	32
8.5	COMMITTEE REPORTS	34
9	NEW BUSINESS OF AN URGENT NATURE	34
10	MOTIONS ON NOTICE	34
11	CONFIDENTIAL ITEMS OF BUSINESS	34
12	CLOSURE	34

Shire of
Peppermint Grove

DRAFT ORDINARY COUNCIL MEETING AGENDA

1 DECLARATION OF OFFICIAL OPENING

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

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

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

Affirmation of Civic Duty and Responsibility

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

2 RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE

2.1 ATTENDANCE

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

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

Manager Development Services and A/CEO
Manager Corporate and Community Services
Manager Infrastructure Services

Mr R Montgomery
Mr M Costarella
Mr D Norgard

2.2 APOLOGIES

Chief Executive Officer

Mr D Burnett

2.3 LEAVES OF ABSENCE

Cr Greg Peters was granted a Leave of Absence at the Ordinary Council Meeting held on 25 August 2020.

2.4 NEW REQUEST FOR A LEAVE OF ABSENCE

3 DELEGATIONS AND PETITIONS

3.1 DELEGATIONS

NIL

3.2 PETITIONS

NIL

4 PUBLIC QUESTION TIME

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

- The Agenda
- Question to Council and
- Deputation Forms

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

Rules for Council Meeting Public Question Time

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

4.1 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE FROM A PREVIOUS MEETING

NIL

4.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

4.3 DEPUTATIONS OF THE PUBLIC

4.4 PRESENTATIONS FROM THE PUBLIC

5 DECLARATIONS OF INTEREST

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

5.1 FINANCIAL INTEREST

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

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

5.2 PROXIMITY INTEREST

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

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

5.3 IMPARTIALITY INTEREST

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

5.4 INTEREST THAT MAY CAUSE A CONFLICT

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

5.5 STATEMENT OF GIFTS AND HOSPITALITY

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

6 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

7 CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING 25 AUGUST 2020

OFFICER RECOMMENDATION – ITEM 7.1

Moved:

Seconded:

That the Minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 25 August 2020 be confirmed as a true and accurate record.

8 OFFICER REPORTS

8.1 MANAGER DEVELOPMENT SERVICES

8.1.1 33A Leake Street – Single House Renovation, Refurbishment and Garage

URBAN PLANNING

ATTACHMENT DETAILS

Attachment No	Details
Attachment 1	Location Map
Attachment 2	Development Application Plans
Attachment 3	Heritage Assessment

Voting Requirement	:	Simple Majority
Acceptance Date	:	27/07/2020
Location / Property Index	:	6110
Application Index	:	DA2020/00015
LPS No 4 Zoning	:	Residential, R12.5
Land Use	:	Residential
Lot Area	:	1078m ²
Disclosure of any Interest	:	Nil.
Previous Items	:	DA2020/00010, DA2020/00012
Applicant	:	Suzanne Hunt Architects
Owner	:	Shane Farrell and Maureen Farrell
Assessing Officer	:	Josh Dallimore – Planning and Development Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager Development Services

COUNCIL ROLE

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

PURPOSE OF REPORT

Council is requested to consider the proposed renovations and additions at 33A Leake Street, Peppermint Grove. The proposed works seek to restore the single house which is on the Shire heritage list. The application seeks Council to grant discretion to allow an outbuilding to be constructed within the street setback area.

SUMMARY AND KEY ISSUES

- The landholding was subdivided into two lots. The lot with the heritage listed house is now described as 33A Leake Street. The house abuts a vacant lot on the corner of View and Leake Street.
- The existing house is on the Shire Heritage List. The MHI described the house (24 View Street) as having high conservation value (C1)
- This application is the third in a series. The application works replace the garage close to the street and restore the façade features and finishes. The renovation of the house and grounds will remove modern additions to restore architectural features which better replicate original finishes (such as brick pointing and timber verandas).
- The site of the previous garage (now demolished) has been allocated to create a garden in the rear.

LOCATION

33A Leake Street, Peppermint Grove

BACKGROUND

The landholding was subdivided into two lots in 2019. The existing house is on the Shire Heritage List. The MHI describes the house (24 View Street) as having high conservation value (C1) and warrants further restorative work.

The house is now described as 33A Leake Street and abuts the new vacant lot on the corner of View and Leake Streets.

Previously approved demolition of non-heritage structures will create a garden in the rear.

This application progresses works and will replace the garage closer to the street and restore the façade features and finishes. The renovation of the house and grounds will remove modern additions to restore architectural features which better replicate original finishes (such as brick pointing and timber verandas).

A heritage assessment was completed and submitted by the applicant as a part of the application which identifies the important heritage fabric.

CONSULTATION

The Shire advised neighbouring landowners on 4 August 2020 of the proposed works and opportunity to view plans at the offices. The consultation period was open for 14 days, during which 3 neighbours viewed the plans. The Shire received no written comments following the consultation period.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

Local Planning Policy 3 – Heritage Places

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

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

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

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

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

As per the requirements of LPP 2 the garage has been located to the west of the existing house to not interrupt views to the heritage house. The garage has also been designed in a way to create a cohesive structure with the original house.

STATUTORY IMPLICATIONS

Local Planning Scheme No.4

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

LOCAL PLANNING SCHEME NO. 4	
Scheme Requirement/Clause	Assessment/Comment
1. 9m Front Setback	The application proposes a 7m front setback to the garage. The Shires LPS 4 dictates a 9m minimum setback to the street, however, this can be varied in accordance with Local Planning Policy 2.
RESIDENTIAL DESIGN CODES	
Acceptable Development/Performance Criteria	Assessment/Comment
1. Side Boundary Setback – 1m Wall with no major openings	<p>The application is proposing a 0m setback to the eastern boundary for the new garage. This stretch of 0m setback would run for 7.9m and have a 3.17m wall height, requiring a 1m setback under the R-Codes.</p> <p>The proposed work abuts a carport (open on 3 sides) to the east, setback approximately 0.5m from the boundary</p>

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The house was subdivided from the eastern portion of its original site in 2019. Prior to subdivision the house had a circular driveway, tennis court adjacent to View St and a linked garage at the rear (northern) boundary of the lot which was connected to Leake Street. The subdivided vacant lot had a tennis court and garden. The corner lot removes much of the garden area from the house and whereas the side veranda of the house faced onto the tennis court, this outlook is onto a side boundary of the yet to be developed lot.

This is the last of a series of development applications to re-allocate space and restore the present house to more directly orient towards Leake Street and re-allocate garaging and private garden space. The private garden area is now located with a northern aspect at the rear (formerly site of a garage outbuilding).

A new garage is proposed in the south-western (side and front setback) of the lot. It is designed to match the house in terms of architectural style, materials and form. The heritage architect assessment confirms the design and the location has minimal impact on the house.

A design principles approach is applied to test and confirm this advice.

The Shire is requested to approve varied side and street setbacks (see summary table - from 1m to 0m for the side setback and from 9m to 7m for the street setback).

The neighbouring house to the west already has a carport abutting the boundary where the garage is proposed (hence the zero side-setback will be acceptable), and so setting the garage with 7m street setback and zero side boundary setback will not impede views between the house and the street or block views along the street.

LPP 2 for the construction of garaging within the front setback area outlines principles for variation to permit building into the setback. Council has scope to vary R Code and LPS requirements where this will accommodate development which is sympathetic to the heritage values of a site, and has exercised this elsewhere previously to good effect.

Locating the garage on the west boundary the design has less of an impact on the heritage house and maintains sight lines to the house from the street. As the proposed garage will be located next to a similar use to the west the impacts of development up to the boundary are reduced. The design has a pitched roof, and materials which match the form and appearance of the house.

The Shire consultation process invited comment from adjacent neighbours. Several viewed the plans and there have been no objections received. The proposed application is therefore recommended for approval with conditions.

Considering the intention to re-orient and enhance the heritage streetscape for this house it is recommended there be a condition of approval for a landscape plan illustrating a coherent appropriate response to re-instatement of a heritage garden streetscape facing onto Leake Street.

The recommended condition requires the preparation and submission of a landscape masterplan for the whole property, to not only address the need to provide for a private garden open spaces and an appropriate heritage streetscape for the house and garage but in its allocation of spaces to allow for adequate deep planting areas, shade trees and to resolve a layout and style of garden in the street setback which matches the style and heritage values of the house.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.1

Council approves the application to renovate and add a double garage at 33A Leake Street, Peppermint Grove, in line with plans DA.01-DA.07, subject to the following conditions:

1. The development plans, as dated marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the “Approved Plans” as part of this application and shall form part of the development approval issued.
2. All works are to be subsequent to the issue of a Building Permit and shall not be carried out, other than in accordance with this Planning Approval and consistent with Building Permit certified/approved plans.
3. The development, the subject of this approval shall be substantially commenced within two years of the date of issue of the consent forms and be completed before the conclusion of the third year, whereby all works are to be completed and conditions met.
4. Prior to the commencement of works, the applicant shall submit for approval and thereafter implement to the satisfaction of the Shire of Peppermint Grove, a construction management plan detailing:
 - How materials and equipment will be delivered and removed from the site;
 - How materials and equipment will be stored on the site;
 - Parking arrangements for contractors;
 - Construction Waste disposal strategy and location of waste disposal bins;
 - Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - Other matters likely to impact on surrounding properties.
5. A Site Landscape Plan is to be prepared and lodged for the approval of the Chief Executive Officer of the Shire prior to the issue of a Building Permit. This Plan should indicate where the location of deep soil planting areas, removal of redundant driveway paving, and the establishment of a garden that compliments the streetscape presentation and heritage fabric of the house.

Advice:

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

- Front setback
- Side setback

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

8.1.2 44 Irvine Street –Single House Deck (Renovation and Repair)
URBAN PLANNING
ATTACHMENT DETAILS

Attachment No	Details
Attachment 2	Location Map
Attachment 2	Development Application Plans
Attachment 3	Heritage Assessment

Voting Requirement	:	Simple Majority
Acceptance Date	:	11 August 2020
Location / Property Index	:	44 Irvine Street, Peppermint Grove
Application Index	:	DA2020/00017
LPS No 4 Zoning	:	Residential, R-12.5
Land Use	:	Residential
Lot Area	:	878m ²
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Michael Dobson
Owner	:	Michael and Joan Hall
Assessing Officer	:	Mr. Josh Dallimore – Planning and Development Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager Development Services

COUNCIL ROLE

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

PURPOSE OF REPORT

Council is requested to consider a development application for the proposed renovation and repair to an existing timber deck attached to a heritage listed single house at 44 Irvine Street, Peppermint Grove.

SUMMARY AND KEY ISSUES

- The existing house is on the Shires Heritage List
- A heritage assessment of the work accompanies the application
- The application proposes to repair the single storey portion of the deck and renovate the second floor by replacing rotten beams. The works will also include a 1m extension onto the ground floor.
- The proposed extension will not change overlooking and has no impact on neighbouring properties
- The heritage fabric and significance of the house is not adversely impacted.

LOCATION

44 Irvine Street, Peppermint Grove.

BACKGROUND

The present house is on the Shire heritage list. The MHI describes the house as holding high value for its victorian italianate style. The timber decking is located at the rear of the premises and not mentioned in the citation of significance.

CONSULTATION

The proposed works are compliant with the Shires Local Planning Scheme 4 and R-Codes and the additional portion will not adversely impact neighbours. Consultation was not considered necessary.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

Local Planning Policy 3 – Heritage Place

The Shires Local Planning Policy 3 requires that all works to a heritage listed property require planning approval prior to the commencement of works. Were the proposed works occurring on a property not heritage listed planning approval would not be required and the proposed works could be dealt with under a building application.

STATUTORY IMPLICATIONS

The proposed changes are compliant with the R-Codes and Local Planning Scheme 4. There are no changes to the primary fabric of the house with all main setbacks remaining the same. The 1m extension of the back deck is towards the rear but well clear of the rear setback (excess of the LPS 4 6m required minimum).

The proposed modifications have only been referred to Council due to the heritage listing of the property. Modifications of this nature would have no statutory implications if the house was not included on the Shires Heritage List.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The proposed repairs will maintain the building and ensure residents can safely use the outdoor decking into the future. The additional portion does not impact or affect the heritage values.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.2

Council approves the application for renovation and repair to the deck at 44 Irvine Street, Peppermint Grove, subject to the following conditions:

- 1. The development plans, as dated marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the “Approved Plans” as part of this application and shall form part of the development approval issued.**
- 2. All works are to be subsequent to the issue of a Building Permit and shall not be carried out, other than in accordance with this Planning Approval and consistent with Building Permit certified/approved plans.**
- 3. The development, the subject of this approval shall be substantially commenced within two years of the date of issue of the consent forms and be completed before the conclusion of the third year, whereby all works are to be completed and conditions met.**
- 4. Prior to the commencement of works, the applicant shall submit for approval and thereafter implement to the satisfaction of the Shire of Peppermint Grove, a construction management plan detailing:**
 - How materials and equipment will be delivered and removed from the site;**
 - How materials and equipment will be stored on the site;**
 - Parking arrangements for contractors;**
 - Construction Waste disposal strategy and location of waste disposal bins;**
 - Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;**
 - Other matters likely to impact on surrounding properties.**

8.1.3 2020 – Review of Local Planning Policies (LPP)
URBAN PLANNING
ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachments	LPP 2 - Ecological Urban Design and Sustainability LPP 3 – Planning for Heritage Conservation LPP 4 – Residential Building Heights LPP 5 - Plot Ratio and Coverage of Site – Residential R10, R12.5, R15, R20. LPP 6 – Neighbour Consultation on Development LPP 8 - Construction Management Plans LPP 9 - Development Bonds LPP 10 - Design Review Panels LPP 11 - Building on Side and Rear Boundaries LPP 12 - Front Fences

Voting Requirement : Simple Majority
 Disclosure of any Interest : Nil.
 Previous Items : Nil.
 Authorising Officer : Mr. Ross Montgomery – Manager Development Services

COUNCIL ROLE

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

PURPOSE OF REPORT

Council is requested to consider the proposed Local Planning Policies for public consultation. The LPPs are being presented to Council as a result of a policy review conducted by Shire Officers.

SUMMARY AND KEY ISSUES

- Shire Officers have conducted a review on all current Local Planning Policies.
- Ten LPPs are being presented to Council for their endorsement to advertise for public consultation.
- The LPPs have been reviewed to help keep the Shires planning framework up to date and relevant under the current planning conditions.
- Some policies have only received minor amendments, while others have been re-written in sections to help address issues that have been identified in the Shires Development Application process.

BACKGROUND

The Shire prepared its current local planning policies LPP in 2016 and 2017 and for the past three years applied these to guide its discretion in matters which require planning and development judgement.

LPP are part of what is now referred to by the Western Australian Planning Commission as the Local Planning Framework (Scheme, Policy and other strategic work).

Policy is most effective where it directly relates to adopted planning objectives, and identifies the matters which need to be considered when assessing proposals at variance to the Local Planning Scheme deemed-to-comply standards and provisions. Policy also provides an elaboration of the process and approach to be adopted as part of influencing proposals to better match local planning intention.

Policy is not able to alter Scheme provisions unless the Scheme itself indicates possible variation, and in these cases the range of variation is stipulated to deliver a local outcome as good or better than the deemed to comply standard.

In the past two years there have been considerable refinements made to State Government planning policy and nomenclature and so it is an important task to update LPP to reflect current WAPC policy and procedure.

Policies require regular review to provide clarity and assist designers and developers to do their best to reflect local planning and neighbourhood values in development proposals.

LPP have now been revised based upon the past three-years' of experience and the application to the various design and land use proposals received and assessed by the Council.

CONSULTATION

Council is required to consider the draft LPP and endorse their draft content as the basis to begin the community consultation.

STRATEGIC IMPLICATIONS

Local Planning Policies are strategically important because they articulate the values of the Council and how these will be applied in matters which require judgement to suit varied local design and site circumstances.

POLICY IMPLICATIONS

Policy to guide decisions made subject to Local Planning Scheme 4.

STATUTORY IMPLICATIONS

Clause 67 of the Deemed Provisions outlines the case and procedure for the preparation and adoption of LPP. The draft LPP requires public advertisement for review and comment.

FINANCIAL IMPLICATIONS

This decision raises no financial implications..

ENVIRONMENTAL IMPLICATIONS

The LPP is consistent with Shire Community Strategic Plan objectives.

SOCIAL IMPLICATIONS

These policies reflect social values in the Community Strategic Plan.

OFFICER COMMENT

The Shire of Peppermint Grove relies upon Local Planning Policies (LPP) as part of the Local Planning Framework (LPF). Policies augment the Local Planning Scheme (LPS) and guide the exercise of Council discretion on matters of Scheme design and land use approvals.

Previous community advice confirms the Shire values to be based upon:-

- built heritage and local lifestyle
- natural landscapes and streetscapes.
- attractive houses set in gardens with tree lined streets
- parkland and river foreshores for public use and enjoyment of residents
- vibrant and healthy ecosystem
- access to a clean Swan River, ocean beaches and local shopping.

Recognising and making decisions which reinforce these valued attributes contributes to social and environmental capital to maintain values of property associated with Peppermint Grove. Our LPP will build and protect the local character of the Shire and guide decisions.

Review of the LPPs will update the LPP to better inform statutory planning conditions on building, development and subdivision. The updated LPPs seek to follow the principles identified in the “Community Strategic Plan” and reinforce the provisions of the Shires Local Planning Scheme 4.

LPP are of statutory importance once they are formally adopted by the Council (*Clause 67 Deemed Provisions*) because they have been formally considered, referred for community comment and represent seriously entertained position of the local government regarding development and related decisions. LPPs augment the Local Planning Scheme (LPS) and can be referenced in support of decisions and when these are called for review by SAT.

Where a policy is inconsistent with an approved local planning scheme or seeks to counter or vary a state planning policy this would warrant referral to WAPC.

The new policies proposed are consistent in their intent and apply in conjunction with documentation in the LPP (LPS 4, R Codes as varied in the Shire, Precinct and other local area plans) and will guide decisions where the LPS allows and requires judgement of individual cases and site circumstances.

The Shire on behalf of the community is committed to achieving sustainability, healthy natural ecology, resilient urban systems such as drainage and local access.

Provided these policy values are able to be incorporated into development designs each new development will add to our capability to deliver the urban development our community values, and to retain our heritage, our streetscapes and lifestyle of landscape urbanism.

A new policy, Local Planning Policy 2 – Ecological Urban Design and Sustainability has been written to articulate Council approach with this matter in mind. LPP 2 aims to address environmental implications by ensuring proposed developments achieve a sustainable balance of buildings, hard surfaces and land available for deep planting. This policy once applied will result in redevelopment which is required to demonstrate it has been designed to deliver sustainability as part of our mission for a healthy vital Shire.

Policies can influence better design and execution of development works toward better community outcomes with minimal local and site impacts.

It is recommended the draft policies be considered acceptable and endorsed by Council for the purposes of advertisement and community comment for a 42 day period.

A further report will be presented to Council to communicate submissions and any modifications to LPP prior to final adoption.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.3

Council endorses the following policies for public comment:

- **LPP 2 – Ecological Urban Design and Sustainability**
- **LPP 3 - Heritage Places**
- **LPP 4 - Residential Building Heights**
- **LPP 5 – Residential Plot Ratio**
- **LPP 6 – Consultation**
- **LPP 8 - Construction Management Plans**
- **LPP 9 - Development Bonds**
- **LPP 10 - Design Review Panels**
- **LPP 11 - Building on Side and Rear Boundaries**
- **LPP 12 - Front Fences**

8.2 MANAGER INFRASTRUCTURE SERVICES

NIL

8.3 MANAGER CORPORATE AND COMMUNITY SERVICES

8.3.1 Financial Statements August 2020

CORPORATE

This report will be included and circulated in the FINAL Ordinary Council Meeting Agenda. This is due to the Agenda Briefing Forum being so close to the end of the previous month.

8.3.2 Accounts Paid August 2020

CORPORATE

This report will be included and circulated in the FINAL Ordinary Council Meeting Agenda. This is due to the Agenda Briefing Forum being so close to the end of the previous month.

8.3.3 Policy for Ex-Gratia Payments






CORPORATE

ATTACHMENT DETAILS

Attachment No	Details
Attachment 1	Policy for Ex- Gratia Payments and Release Statement

Voting Requirement	:	Simple Majority		
Subject Index	:	Risk Management		
Responsible Officer	:	Michael Costarella,	Manager	Corporate & Community Services

COUNCIL ROLE

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

PURPOSE OF REPORT

The purpose of this report is for Council to adopt a Policy for Ex-Gratia Payments where there is no actual "legal liability or "legal obligation" on the Shire of Peppermint Grove to make a payment.

SUMMARY AND KEY ISSUES

- Incidents occur that the Shire of Peppermint Grove may not be legally liable for but morally feel some sense of responsibility for.
- Legally the Shire of Peppermint Grove is only responsible for a claim where it is negligent i.e. owes a duty of care, breaches the duty of care and damages or loss occurs to a claimant as a result of the breach.
- Payment may prejudice the Shire of Peppermint Grove's legal position by being perceived as an admission of liability.

BACKGROUND

The Shire of Peppermint Grove is a member of the Municipal Liability Scheme administered by the Local Government Insurance Services (LGIS) and is provided public liability and professional indemnity insurance coverage by the scheme. Each year the Shire of Peppermint Grove receives around 5 public liability claims.

The most common cause of public liability claims has been tree branches falling on or making contact with property or persons. Recently the Shire of Peppermint Grove has made an ex-gratia payment where the claim had been presented and declined by LGIS. The payment made is for the reimbursement of a claimant property or vehicle insurance excess.

CONSULTATION

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

STRATEGIC IMPLICATIONS

There are no Strategic Implications for this item.

POLICY IMPLICATIONS

Draft Policy Attached

STATUTORY IMPLICATIONS.

There are no Statutory Implications for this item.

FINANCIAL IMPLICATIONS

Maximum amount payable will be \$500. Provision will be made in the review of the 2020/21 budget

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

During each year incidents may occur causing loss, damage or suffering to claimants or their property. These incidents may occur through the negligence or through no fault of the Shire of Peppermint Grove or other parties. Following such incidents the Shire of Peppermint Grove may receive a request for restitution for property damage or personal injury.

When such a request is received a preliminary investigation into the circumstances is undertaken by Officers with answers and the request for restitution being forwarded to LGIS for ultimate determination.

In determining whether to accept a request for restitution LGIS will base their decision on the law of negligence. The law of negligence has three aspects that must be satisfied in order for the Shire of Peppermint Grove to be held liable;

- The Shire of Peppermint Grove must owe a duty of care to the claimant
- A breach of the duty of care must have occurred
- The claimant must have suffered actual loss or damage to persons or property as a result of the breach.

If all three aspects are identified, then the Shire of Peppermint Grove is legally liable for damages otherwise no legal liability arises. LGIS will attempt to settle on behalf of the Shire of Peppermint Grove cases where liability is admitted.

If LGIS determine Shire of Peppermint Grove not to be negligent they will deny liability. Should claimants wish to appeal the decision in the first instance this is done through LGIS, with claimants requested to provide any further evidence that they believe will demonstrate the Shire of Peppermint Grove to be negligent.

If LGIS continue to decline the claim then some claimants again approach the Shire of Peppermint Grove for reimbursement.

Should the draft policy be adopted by Council it would only come into effect only after LGIS has declined the claim to a maximum of \$500. The claimant would also need to sign the attached statement of release prior to any claim being paid.

OFFICER RECOMMENDATION/S – ITEM NO 8.3.3

That Council adopt the Policy for Ex-Gratia payments as attached to the OCM Agenda of the 25 September 2020.

8.4 CEO/ MANAGEMENT / GOVERNANCE / POLICY

8.4.1 Stirling Highway Footpath upgrade and Federal Grant

MANAGEMENT/GOVERNANCE/POLICY

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
1	Upgrade Plan

Voting Requirement	:	Absolute majority
Subject Index	:	Stirling Hway Footpath Upgrade 2020
Location / Property Index	:	N/A
Disclosure of any Interest	:	Nil
Responsible Officer	:	CEO

COUNCIL ROLE

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

PURPOSE OF REPORT

This report has two considerations, the first being the allocation of a Federal Local Roads and Community Infrastructure Program (LRCI) grant and the second being approval to utilise this grant on a proposed upgrade of the footpath along Stirling hwy.

SUMMARY AND KEY ISSUES

- The Shire has received a LRCI grant of \$49,642, excluding GST, for a capital works project as part of the Federal Governments COVID stimulus package.
- The Shire's adopted 2020/21 CAPEX budget showed this grant as income, but a specific project was not identified for the funds to be used against.
- It is proposed that the footpath along Stirling Hwy from 478 Stirling Hwy (dentist adjoining Cottesloe Central Shopping Centre) to 500 at the intersection of Irvine be upgraded.
- The developer of 484 Pagion Pty Ltd is constructing a show room and café/small bar and is undertaking a forecourt upgrade and part of the footpath upgrade at the front of the liquor store/TAB complex.

LOCATION

478 to 500 Stirling Hwy

BACKGROUND

As part of an economic response to the impact of COVID 19, the Federal Government provided local governments with LRCI grants for new capital works projects aimed at stimulating the economy and job creation. The Shire will receive \$49,642 excluding GST. The notification of this grant was received by the Shire when the 2020/21 budget was being developed and a suitable project was not identified. The income was included in the budget, but a project not allocated.

The developer of 484 Stirling Hwy, which is being refurbished as a showroom/office and a café/small bar has recently approached Council about upgrading the footpath at the front of their development in order to improve the streetscape and visual amenity of this area.

CONSULTATION

No specific consultation, other than with Pagion Pty Ltd the developer of 484 Stirling Hwy has taken place.

STRATEGIC IMPLICATIONS

There are no strategic plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

There are no significant statutory implications evident at this time.

FINANCIAL IMPLICATIONS

The LRCI grant would be used to offset the proposed works. Any shortfall would be met from the Shire CAPEX budget allocation of \$29,500 (COA 41131) for footpath renewals.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

Attached is plan showing the proposed area of the upgrade works. The pavers used would be similar to the current paving outside of Cottesloe Central Shopping Centre. The LRCI grant would be used for parts A (shaded on the plan as yellow), B (green) and part C (blue) and the developer of 484 would complete the footpath between part A & B at their cost. The upgrade for all sections would be utilising the same style of paver and the intent is that it is all done at the same time.

The Shire has received an estimate for parts A, B & C, however additional quotes are still to be received. There is a significant cost for traffic management for this section of Stirling Hwy and although this is included in the estimate received, Main Roads WA are still to approve of any traffic management along this section.

If required, the Shire can meet costs over the LRCI grant from the budgeted footpaths funds in 41131.

OFFICER RECOMMENDATION/S – ITEM NO 8.4.1

That Council;

- 1. Allocated the LRCI grant of \$49,642, excluding GST, towards the upgrading of the footpath from 478 – 500 Stirling Hwy**
- 2. Approve the upgrading of the footpath outside 484 by Pagion Pty Ltd to the specifications provided by the Shire.**
- 3. Allocate any additional funds for this project from account 41131.**

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

<u>Attachment No</u>	<u>Details</u>
	1. Building Permits Issued 2. Planning Approvals Issued 3. Infringements Issued 4. Library Statistics 5. SUEZ Statistics

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

COUNCIL ROLE

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

PURPOSE OF REPORT

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

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

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

- Building permits issues
- Demolition permits issued
- Seal register advising of when the Shire seal has been applied
- Shine statistics
- Infringements for parking/dogs etc
- Waste and recycling data
- Library statistics

Effective from this meeting, monthly statistics provided by Councils recycling contractor SUEZ will be included in future reports.

SUMMARY AND KEY ISSUES

The following reports are presented to Council:

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

CONSULTATION

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

OFFICER RECOMMENDATION – ITEM NO. 8.4.2

That Council receives the information in this report.

8.5 COMMITTEE REPORTS

NIL

9 NEW BUSINESS OF AN URGENT NATURE

NIL

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

NIL

12 CLOSURE

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

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

TO: Chief Executive Officer
SHIRE OF PEPPERMINT GROVE

NAME: _____

POSITION: _____

MEETING DATE: _____

ITEM NO & SUBJECT: _____

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

EXTENT OF INTEREST: _____

SIGNATURE: _____

DATE: _____

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

FINANCIAL & PROXIMITY INTERESTS

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

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

DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

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

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

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