



Shire of  
Peppermint Grove

## **ORDINARY COUNCIL MEETING**

# **AGENDA**

**TO BE HELD ON**  
**TUESDAY 23 FEBRUARY 2021**  
**AT**  
**5.30 PM**

Shire of  
Peppermint Grove**NOTICE OF MEETING**

Dear Councillor

It is advised that the **COUNCIL MEETING** will be held in the Council Chamber of the **Shire of Peppermint Grove**, 1 Leake Street, Peppermint Grove, on Tuesday 23 February 2021, commencing at 5.30 pm.

Yours faithfully



Don Burnett  
**CHIEF EXECUTIVE OFFICER**

**19 FEBRUARY 2021**

**MEETING AGENDA ATTACHED****DISCLAIMER**

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# 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	<b>ORDINARY COUNCIL MEETING 15 DECEMBER 2020</b>	<b>9</b>
<b>8</b>	<b>OFFICER REPORTS</b>	<b>10</b>
8.1	<b>MANAGER DEVELOPMENT SERVICES</b>	<b>10</b>
8.1.1	28 View Street – Refurbishments to Heritage Property (Single Storey Addition)	10
8.1.2	40 Leake Street –Residential Building – Rental Lodgings – (4 Bedroom Boarding House) – This Item has been removed by request of the applicant	16
8.2	<b>MANAGER INFRASTRUCTURE SERVICES</b>	<b>16</b>
8.3	<b>MANAGER CORPORATE AND COMMUNITY SERVICES</b>	<b>16</b>
8.3.1	Financial Statements December 2020	16
8.3.2	Financial Statements for the period ended 31 January 2021	19
8.3.3	Accounts Paid December 2020 and January 2021	22
8.3.4	2020/21 Budget Review	24
8.4	<b>CEO/ MANAGEMENT / GOVERNANCE / POLICY</b>	<b>27</b>
8.4.1	Adoption of Local Laws 2021	27
8.4.2	Mode of Election – 16 October 2021	42
8.4.3	New Local Government Regulations	44
8.4.4	Matters for Information and Noting	48
8.5	<b>COMMITTEE REPORTS</b>	<b>50</b>
8.5.1	2019/20 Internal Audit Report – AdvantEdge Consulting	50
8.5.2	2019/20 Interim Audit Management Letter – Officer of Auditor General & Butler Settineri	54
<b>9</b>	<b>NEW BUSINESS OF AN URGENT NATURE</b>	<b>57</b>
9.1	Lord Mayors Distress Relief Fund	57
<b>10</b>	<b>MOTIONS ON NOTICE</b>	<b>57</b>
<b>11</b>	<b>CONFIDENTIAL ITEMS OF BUSINESS</b>	<b>57</b>
<b>12</b>	<b>CLOSURE</b>	<b>57</b>

Shire of  
Peppermint Grove

## ORDINARY COUNCIL MEETING AGENDA

### 1 DECLARATION OF OFFICIAL OPENING

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

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

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

#### **Affirmation of Civic Duty and Responsibility**

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

### 2 RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE

#### 2.1 ATTENDANCE

Shire President

Deputy Shire President

Elected Member

Elected Member

Elected Member

Elected Member

Elected Member

Cr R Thomas

Cr C Hohnen

Cr D Horrex

Cr K Farley

Cr G Peters

Cr P Macintosh

Cr P Dawkins

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

Mr D Burnett  
Mr R Montgomery  
Mr M Costarella  
Mr D Norgard

## **2.2 APOLOGIES**

## **2.3 LEAVES OF ABSENCE**

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

## **3 DELEGATIONS AND PETITIONS**

### **3.1 DELEGATIONS**

NIL

### **3.2 PETITIONS**

NIL

#### **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 15 DECEMBER 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 15 December 2020 be confirmed as a true and accurate record.**

## 8 OFFICER REPORTS

### 8.1 MANAGER DEVELOPMENT SERVICES

#### 8.1.1 28 View Street – Refurbishments to Heritage Property (Single Storey Addition)

#### URBAN PLANNING

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Development Application Plans
<b>Attachment 3</b>	Checklist
<b>Attachment 4</b>	Aerial Photo

Voting Requirement	:	Simple Majority
Acceptance Date	:	17/12/2020
Location / Property Index	:	6130
Application Index	:	DA2020/00032
LPS No 4 Zoning	:	Residential, R-12.5
Land Use	:	Residential
Lot Area	:	1,518m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Philippa Mowbray Architects
Owner	:	Elizabeth Perron
Assessing Officer	:	Josh Dallimore – Planning and Development Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager of Development Services

#### PURPOSE OF REPORT

Council is requested to consider the proposed refurbishment of existing wet areas and single storey addition to the heritage listed property at 28 View Street, Peppermint Grove

#### SUMMARY AND KEY ISSUES

- The proposed works are to a building included in the Shires Heritage List
- The application proposes a minimum 1.9m setback to the rear boundary (6m minimum compliant)
- The current house already encroaches on the 6m rear setback area at several places including a pool house in the north west corner (Nil Setback) and an existing portion of the house in the south west corner (1.2m minimum)
- There are no plot ratio or open space concerns as the house is located on a large block with significant front garden space

## **LOCATION**

28 View Street, Peppermint Grove

## **BACKGROUND**

28 View Street is included on the Shires Heritage List as a Category 1 property. The house has gone through a number of renovations since the Municipal Heritage Inventory was written in 1999.

The additions and alterations the subject of this application propose to extend an addition approved by the Shire in 2007 and renovate existing wet areas. The 2007 addition was designed to be fit within the theme of the heritage house but creates a notably new space to the development. The proposed extension will create new space within the existing addition to facilitate a kitchen/scullery, while continuing the heritage conscious design of the current structure.

The additions and alterations approved by the Shire in 2007 also gave a number of concessions on the setback of the development to the rear boundary, with the house currently setback approximately 1.2m from the rear. The proposed extension brings this section of the property in line with existing building setbacks.

## **CONSULTATION**

A letter to neighbours was sent on 23 December 2020 informing them of the proposed works at 28 View Street and inviting comments during the consultation period. Due to the consultation aligning with the Christmas period, the period during which the Shire would accept submissions was extended to 28 days.

The Consultation period closed on 20 January 2021. Two neighbours viewed the plans during this period and no comments were received.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **POLICY IMPLICATIONS**

Local Planning Policy 3 – Heritage Places (LPP 3) requires that all heritage listed properties receive planning approval for all works, and that works to the heritage house meet the following principles:

<b>Policy Principle</b>	<b>Assessment</b>
Significant heritage fabric should be retained, protected and restored with 'like for like' authentic restoration to original detail wherever possible	Exterior modifications are to an existing extension and will not impact on the heritage building.  Interior modifications are too wet areas and will modernise these spaces.
Original front elevations and features to be retained and/or restored wherever possible	No modifications are proposed to the front elevations.
Work that can be reversed in the future is desirable. Work that cannot be reversed may be supported, provided the heritage significance of the building is not compromised.	Work is to an extension approved by the Shire in 2007 and is not included in the heritage value of the property.
The location of 'new technologies' on a heritage building should be undertaken in an unobtrusive manner so they do not negatively impact upon the heritage significance of the building.	Any new technologies will be located in wet areas and will help modernise these spaces. LPP 3 also stipulates that, "heritage conservation should not preclude a dwelling from being upgraded to meet modern living standards."
Additions should not overwhelm the existing building in terms of bulk, form and scale.	Additions are single storey at the rear of the property and will not be seen from the street. The heritage building will remain the dominant structure on the lot.

For the proposed development principle 3 of LPP 11 applies:

- For all side and rear boundaries, the incursion into the setback should not visually impose on adjoining property that is on the Shires Heritage List.
  - The proposed addition is single storey and abuts a nil setback property to the rear. As such, the impacts of the addition will be minimal on the amenity of neighbouring properties.

## **STATUTORY IMPLICATIONS**

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

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

<b>RESIDENTIAL DESIGN CODES</b>	
<b>Acceptable Development/Performance Criteria</b>	<b>Assessment/Comment</b>
<p><b>1.</b> 6m rear boundary setback for properties zoned R-12.5</p>	<p>The proposed extension will be setback 1.9m from the western property boundary, reducing the minimum required setback by 4.1m. Therefore, a design principles assessment of the proposal is necessary.</p> <p>Typically, a reduction of rear setback to this extent would not be considered by the Shire, however, site context makes the proposal viable.</p> <p>The proposed extension will be immediately adjacent to an existing house with a nil setback to the same boundary. Both properties abutting this boundary have already heavily developed along its length and the neighbouring property does not use this area for open garden spaces.</p> <p>The extension is single storey and will not dramatically overshadow or dominate the existing heritage property, or the western neighbour.</p> <p>The proposed extension will require removal of one small tree; however, the large mature tree will remain.</p> <p>With these points in mind, the application addresses design principles of the R-Codes and approval can be supported.</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 development proposed as a part of this application has two main areas for consideration and are addressed separately below:

### **Proposed Extension Setbacks**

The proposed extension of the existing house to the rear of the property will create a non-compliant rear setback. As discussed under the statutory implications, the proposed extension can be supported for the following reasons:

1. The boundary to which the setback is being reduced has been largely developed by the neighbouring property. The proposed extension is of a single storey and fits within the context of existing development.
2. A reduction of setback does not impact on the use or enjoyment of open outdoor spaces for neighbouring properties.
3. A small tree will need to be removed to facilitate the extension; however, a large mature tree will be retained. This will help to reduce the impact of increased building bulk at the rear.

As the extension is proposed to the rear there will be no impact of the development on the presentation of the heritage house to the street. The existing open garden with mature trees will be retained and offsets the added floor area, keeping the plot ratio of the whole property to 0.4.

### **Heritage Assessment**

The Shire typically requires a Heritage Impact Assessment to be completed as a part of the development approval process. In this case no heritage assessment has been conducted, however approval can still be considered for the following reasons:

1. The proposed extension is adding to an extension previously approved by the Shire in 2007. The existing extension was added after the establishment of the Municipal Heritage List and as such has no heritage value.
2. The extension is single storey and will maintain the style of the existing house ensuring the development does not dominate the heritage fabric.
3. The renovation of wet areas meets the principles of LPP 3 by reducing impact of new technologies and helps to upgrade the property into modern living standards.

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

That Council approves the proposed extension and renovation of wet spaces at 28 View Street, Peppermint Grove, received 15 December 2020, subject to the following conditions:

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

**Advice:**

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

- Rear lot boundary setback

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

8.1.2 40 Leake Street –Residential Building – Rental Lodgings – (4 Bedroom Boarding House)

**URBAN PLANNING**

This Item has been withdrawn at the request of the applicant.

**8.2 MANAGER INFRASTRUCTURE SERVICES**

NIL

**8.3 MANAGER CORPORATE AND COMMUNITY SERVICES**

8.3.1 Financial Statements December 2020

**CORPORATE**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment</b>	<b>Financial Statements for the period ended 30/12/20</b>

Voting Requirement : Simple Majority  
 Subject Index : FINANCIAL MANAGEMENT-2020/21 STATEMENTS  
 Disclosure of any Interest : Nil  
 Responsible Officer : Michael Costarella, Manager Corporate and Community Services

**PURPOSE OF REPORT**

To receive the financial statements for the period ended 31 December 2020

## **SUMMARY AND KEY ISSUES**

- **Total Operating Revenue** – The income is 5% less than the Year-to-date Budget. This is mainly due to anticipate grant in December for the Local Community Infrastructure Program
- **Total Operating expenditure-** This is some 8% less than the year to date budget and mainly relates to Insurance, materials and contractors.
- **Capital expenditure-** The capital expenditure for the 6 months to December 2020, shows the replacement of the Bore, partial reticulation upgrade and Purchase of Vehicles.

## **LOCATION**

N/A

## **BACKGROUND**

The Monthly Financial Statements are prepared in accordance with the requirements of the Local Government Act & Financial Management regulations and are presented to Council for information.

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

Objectives within the Governance section of the Strategic Community Plan

## **POLICY IMPLICATIONS**

Shire of Peppermint Grove Financial Management Policies

## **STATUTORY IMPLICATIONS**

Local Government (Financial Management) Regulations 1996

## **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications evident at this time.

## **SOCIAL IMPLICATIONS**

There are no social implications evident at this time.

## **OFFICER COMMENT**

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

(1) Fees and Charges-\$36,540

The actual fees and charges received, is \$36,000 more than the year-to-date budget and this relates to additional building licences for the same period.

(2) Grants & Subsidies- (\$35,000)

The main reason for the difference between the year-to-date budget and the actual income is that Council is awaiting the receipt of the Local Roads & Community Infrastructure Grant.

(3) Contributions & Reimbursements- \$35,000

The actual income is \$35,000 less than the year-to-date budget and this is currently being investigated. It a timing issue.

(4) Employee Costs- \$ 75,000

The additional amount of \$75,000 generally relates to the accruals for the 30 June 2020 that will be reversed at the conclusion of the audit as well as termination payment for a long term Staff members.

(5) Materials & Contract-(\$226,000)

This year's actual expenditure is some \$226,000 less than the year to date budget and relates to the works not yet commenced.

(6) Other Expenses- \$36,000

In adopting its 2020/21 budget, Council had anticipated a number of claims for rates subsidy as a result of the COVID 19 pandemic. There has been a minimal number of claims and this is the main difference between the actual expenditure and the year to date budget.

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

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

## 8.3.2 Financial Statements for the period ended 31 January 2021

### MANAGEMENT/GOVERNANCE/POLICY

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	Financial Statements for the period ended 31/01/2021

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

#### PURPOSE OF REPORT

To receive the financial statements for the period ended 31 January 2021

#### SUMMARY AND KEY ISSUES

- **Total Operating Revenue** – The income is 30% more than the year to date Budget. This is mainly due to contributions invoices sent for the Library joint venture.
- **Total Operating expenditure**- This is some 9% less than the year to date budget and mainly relates to Insurance, materials and contractors.
- **Capital expenditure**- The capital expenditure for the 7 months to January 2021, shows the works on the Johnston Street reseal, replacement of the bore, reserve fence, reticulation upgrade and purchase of vehicles.

#### LOCATION

N/A

#### BACKGROUND

The Monthly Financial Statements are prepared in accordance with the requirements of the Local Government Act & Financial Management regulations and are presented to Council for information.

#### CONSULTATION

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

#### STRATEGIC IMPLICATIONS

Objectives within the Governance section of the Strategic Community Plan

#### POLICY IMPLICATIONS

Shire of Peppermint Grove Financial Management Policies

## **STATUTORY IMPLICATIONS**

Local Government ( Financial Management) Regulations 1996

## **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications evident at this time.

## **SOCIAL IMPLICATIONS**

There are no social implications evident at this time.

## **OFFICER COMMENT**

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

(4) Fees and Charges-\$42,000

The actual fees and charges received, is \$42,000 more than the year to date budget and this relates additional development application fees and building licences for the same period.

(5) Grants & Subsidies- (\$36,000)

Council is awaiting the receipt of the Local Roads & Community Infrastructure Grant. Works are likely to commence in February 2021.

(6) Contributions & Reimbursements- \$270,000

The actual income is \$270,000 more than the year to date budget and is mainly due to the invoices for Library Joint Venture 3<sup>rd</sup> Quarter contributions being raised.

(7) Employee Costs- \$ 38,000

The additional amount of \$38,000 generally termination payment for a long term Staff members.

(8) Materials & Contract-(\$262,000)

This year's actual expenditure is some \$262,000 less than the year to date budget and relates to the works not yet commenced.

(9) Other Expenses- \$37,000

In adopting its 2020/21 budget, Council allocated funds for the possible claims for rates subsidy as a result of the COVID 19 pandemic. There has been a minimal number of claims and this is the main difference between the actual expenditure and the year to date budget.

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

**That Council receive the financial report for the period 1 July 2020 to 31 January 2021.**

**8.3.3 Accounts Paid December 2020 and January 2021**
**CORPORATE**
**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment</b>	<b>Accounts Paid – December 2020 &amp; January 2021</b>

Voting Requirement	:	Simple Majority
Subject Index	:	Financial Management
Disclosure of any Interest	:	Nil
Responsible Officer	:	Michael Costarella, Manager Corporate and Community Services

**PURPOSE OF REPORT**

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

**SUMMARY AND KEY ISSUES**

Significant payments in December 2020 & January 2021 included the following:

- GST & PAYG remittance to ATO;
- Waste Management Services
- IT Services
- WA Superannuation
- New Reticulation for Manners Hill Reserve
- Final Instalment for Insurance Premiums

**BACKGROUND**

Attachment 1 lists details of all payments made in **December 2020** since the last report. The following summarises the credit card payments, electronic fund transfers and direct debits included in the list presented for information.

<b>PAYMENT TYPE</b>	<b>NUMBER SERIES</b>	<b>AMOUNT</b>
EFT	EFT 384-391	\$471,609.39
Direct Debits	DD00192-197	\$7,096.18
BPAY	BPAY175-183	\$ 3,361.45
		<b>\$482,067.02</b>

Attachment 2 lists details of all payments made in **January 2021**. The following summarises the credit card payments, electronic fund transfers and direct debits included in the list presented for information

PAYMENT TYPE	NUMBER SERIES	AMOUNT
EFT	EFT 392-397	\$360,176.20
BPAY	BPAY184-197	\$ 4,305.80
Credit Cards	DD198	\$ 11,727.45
		<b>\$376,209.45</b>

### **CONSULTATION**

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

### **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

### **POLICY IMPLICATIONS**

There are no significant policy implications evident at this time.

### **STATUTORY IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

The payments processed by the Shire relate to expenditure approved in the 2020/21 annual budget.

### **OFFICER COMMENT**

The List of Accounts paid are provided to Council for information purposes and in accordance with the delegation to the CEO.

### **OFFICER RECOMMENDATION/S – ITEM NO.8.3.3**

**That Council receive the list of payment of accounts by cheques, electronic funds transfers, direct debit payments and credit card payments for the following months:**

-

- December totalling \$482,067.012; and
- January 2021 (inc October & November 2020 credit cards), totalling \$376,209.45.

**8.3.4 2020/21 Budget Review**
**CORPORATE**
**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
	<b>2020/21 Budget Review</b>

Voting Requirement	:	Absolute Majority
Subject Index	:	2020/21 Financial Management
Responsible Officer	:	Michael Costarella, Manager, Corporate & Community Services
Disclosure of Interest	:	Nil

**PURPOSE OF REPORT**

To consider and adopt a revised budget for the 2020/21 Financial year.

**SUMMARY AND KEY ISSUES**

- The 2020/21 annual budget review builds upon the adopted budget in the current financial year;
- The review has been undertaken and following a number of amendments the closing surplus has increased from \$6,872 to \$45,238.
- The review provides for an additional \$100,000 being transferred to Shire Reserve funds.

**LOCATION**

N/A

**BACKGROUND**

Staff have revised the income and expenditure of the 2020/21 adopted budget to provide for amendments that will reflect the amounts required by the 30 June 2021.

A comprehensive list of the major changes is included ( page 5 & 6) in the 2020/21 Budget Review document.

**CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **POLICY IMPLICATIONS**

There are no significant policy implications evident at this time.

## **STATUTORY IMPLICATIONS**

*Regulation 33A of the Local Government (Financial Management) Regulations 1996* requires:

- (1) *Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.*
- (2) *Consideration and review is to be given to a local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year.*

## **FINANCIAL IMPLICATIONS**

The proposed variations to the 2020/21 budget are included as an attachment.

The original 2020/21 budget forecast a surplus as at 30 June 2020 of \$6,872. The proposed net variations totalling \$38,366 has increase the closing surplus to \$45,238. This includes a transfer to Reserve of \$100,000.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

## **SOCIAL IMPLICATIONS**

There are no social implications at this time.

## **OFFICER COMMENT**

Staff have undertaken a major review of each account to ensure that funds are required until the 30 June 2021.

Whilst there maybe changing circumstance, staff believe that the changes that have been made are achievable and appropriate.

The following is a list of the major amendments to the budget (in excess of \$10,000):-

- Additional Rates Income with new subdivision \$25,000
- Local Roads and Community Infrastructure Program (Phase 2)- \$78,000
- Reduction in Admin Legal Fees - \$20,000
- Reduction in COVID 19 Claims- \$49,000
- Reduction in Bushfire/ Weed Management- \$12,000
- Reduction in Road Maintenance - \$18,000
- Reduction in ROW Maintenance - \$20,000
- Reduction in Street Tree Contractor- \$20,600
- Increase in income for Development Licence Application fees of \$36,000
- Reduction in Planning Legal Costs \$12,000
- Reduction in Library Building Maintenance -\$10,000
- Upgrade to Manners Hill Toilets to meet new Standards- \$15,000
- The Grove Asset Management Plan Projects- Deferred to future years- \$72,000
- Replacement of air conditioner bore- \$37,000
- Paving Areas – Lilla Street ACROD facilities- \$23,000
- Paving areas- Manners Hill toilets to Pavilion- \$20,000
- A transfer to the Roads Reserve of \$50,000
- A transfer to the Building/ Infrastructure Reserve \$50,000

**OFFICER RECOMMENDATION/S – ITEM No: 8.3.4**

**That Council adopts the revised 2020/21 budget as attached to this report.**

## 8.4 CEO/ MANAGEMENT / GOVERNANCE / POLICY

### 8.4.1 Adoption of Local Laws 2021

#### MANAGEMENT/GOVERNANCE/POLICY

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
	Draft local laws
1	Activities in Thoroughfares and Public Places and Trading Local Law 2021
2	Cats Local Law 2021
3	Dogs Local Law 2021
4	Fencing Local Law 2021
5	Local Government Property Local Law 2021
6	Parking and Parking Facilities Local Law 2021
7	Penalty Units Local Law 2021
8	Waste Local Law 2021

Voting Requirement	:	Absolute Majority
Subject Index	:	Adoption of Local Laws 2021
Location / Property Index	:	N/A
Disclosure of any Interest	:	Nil
Responsible Officer	:	CEO

#### PURPOSE OF REPORT

The purpose of this report is for the Council to consider the adoption of the attached suite of local laws, following the advertising of the local laws for public comment period which closed on 6 October 2020.

#### SUMMARY AND KEY ISSUES

- The *Local Government Act 1995* requires local laws to be reviewed every 8 years.
- This timeframe has not been adhered to and it is considered more efficient to repeal the old local laws and use WALGA's model local laws as a base to replace them.
- Two new local laws, being the Penalty Units Local Law and Waste Local Law, have been included in the suite of local laws to be adopted.

#### LOCATION

N/A

## **BACKGROUND**

The Draft Local Laws were presented to Council at its Ordinary Council Meeting on 28 July 2020 where it was resolved as follows:

*That Council, in accordance with section 3.12 of the Local Government 1995 resolves:*

*1. To approve the giving of local public notice of the following local laws in order to seek public comment:*

- Activities in Thoroughfares and Public Places and Trading Local Law 2020;*
- Cats Local Law 2020;*
- Dogs Local Law 2020;*
- Fencing Local Law 2020;*
- Local Government Property Local Law 2020;*
- Parking and Parking Facilities Local Law 2020;*
- Penalty Units Local Law 2020; and*
- Waste Local Law 2020.*

*2. To submit to the Minister for Local Government a copy of all proposed local laws.*

*3. To submit to the Minister for Environment a copy of the Waste Local Law 2020.*

*4. To amend Clause 2.1. (1) (a) of the local law should now read “a person shall not plant any plant on a verge not permitted under clause 2.6.”*

*5. To add clause 2.2 (3) “Blade fencing, where the depth of the infill picket of iron flat bar, proportionally more than the profile section facing the street, there shall be sufficient width so that views to the house are not obscured. This can be achieved where the gap between blades is a minimum of twice the depth. For instance, 25mm deep blades shall be spaced 50mm apart.”*

*6. To renumber existing clauses 2.2 (3) and 2.2 (4) to 2.2 (4) and 2.2 (5) respectively.*

**CARRIED 7/0**

### **Note:**

Part 4 in the above resolution relates to the Activities in Thoroughfares and Public Places and Trading Local Law 2020.

Parts 5 and 6 of the above resolution relates to the Fencing Local Law 2020. As a result of these changes there were also some consequential changes.

## **CONSULTATION**

Following the above resolution the suite of local laws was advertised in the West Australian Newspaper on 19 August 2020 and in the Post Newspaper on 22 August 2020. It was also advertised on The Grove Library Public Notice Board.

The closing date for submissions was Tuesday 6 October 2020.

At the close of the advertising period there were no comments received from the community.

The Department of Local Government, Sport and Cultural Industries (DLGSC) on behalf of the Minister for Local Government provided comments in respect to each of the proposed local laws.

The Department of Water and Environmental Regulation (DWER) on behalf of the Minister for Environment provided comments in respect of the proposed Waste Local Law 2021.

### **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**

The local laws are being developed in accordance with the *Local Government Act 1995* and other associated acts.

#### **3.12. Procedure for making local laws**

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) The local government is to —*
  - (a) give local public notice stating that —*
    - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
  - and*
  - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*

- (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

**\* Absolute majority required.**

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
- (a) *stating the title of the local law; and*
  - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (c) *advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*
- making** *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

*[Section 3.12 amended: No. 1 of 1998 s. 8; No. 64 of 1998 s. 6; No. 49 of 2004 s. 16(4) and 23; No. 26 of 2016 s. 5; No. 16 of 2019 s. 8.]*

**3.13. Procedure where significant change in proposal**

*If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.*

**3.14. Commencement of local laws**

- (1) *Unless it is made under section 3.17, a local law comes into operation on the 14<sup>th</sup> day after the day on which it is published in the Gazette or on such later day as may be specified in the local law.*
- (2) *A local law made under section 3.17 comes into operation on the day on which it is published in the Gazette or on such later day as may be specified in the local law.*

*[Section 3.14 amended: No. 1 of 1998 s. 9.]*

**3.15. Local laws to be publicised**

*A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.*

### **FINANCIAL IMPLICATIONS**

There are no significant 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 comments received from the DLGSC and DWER (in respect to the Waste Local Law) covered a number of aspects including general typographical, editorial and formatting issues. Any changes, which have not affected the intent of the proposed local laws, have been incorporated into the final documents.

Other comments from the DLGSC and DWER that may affect the intent of the proposed local laws are detailed in this report.

One change that has affected each local law is the need to change the year of adoption to 2021. This also required some consequential changes in the local laws.

It is felt the changes proposed to the local laws as a result of the consultation are not considered to be significantly different from what was first proposed and as such it is not necessary for any of the proposed local laws to be readvertised.

### **Activities in Thoroughfares and Public Places and Trading Local Law 2021**

#### **Purpose and Effect**

The purpose and effect of this local law is as follows:

#### **Purpose:**

To provide for the regulation, management and control of activities in thoroughfares and public places throughout the district.

#### **Effect:**

To establish the requirements with which any persons using or in thoroughfares and public property within the district, must comply.

Department of Local Government, Sport and Cultural Industries Comments

<p>Clause 4.7</p>	<p>Clause 4.7 provides that in the absence of evidence to the contrary, it will be assumed that a shopping trolley is owned by whichever retailer is marked on that trolley.</p> <p>As a rule, the plaintiff to a legal action is responsible for proving the elements of that legal action. This rule is presumed to apply except where enacting legislation has expressly stated otherwise.</p> <p>Since the <i>Local Government Act 1995</i> does not expressly state that local laws can reverse the onus of proof, it is debatable whether local governments have the power to make local laws which do this.</p> <p>The Joint Standing Committee on Delegated Legislation has previously explored this issue in the local laws of other local governments. In those cases, the Joint Standing Committee on Delegated Legislation concluded that it would permit the clause, since the burden on retailers was not particularly onerous.</p> <p><b>No change has been made to clause 4.7.</b></p>
<p>Clause 5.8(2)(d)</p>	<p>Clause 5.8(2)(d) of the local law states that a trader shall not trade in a public place unless there is appropriate parking for customers reasonably close to the place of trading.</p> <p>This paragraph is problematic, since:</p> <ol style="list-style-type: none"> <li>a. It will be difficult for traders to assess whether adequate parking is available within an area at any given time; and</li> <li>b. The terms “adequate parking” and “reasonably close” can be subject to a variety of interpretations.</li> </ol> <p>It is suggested that the Shire delete this paragraph or amend it to contain additional details.</p> <p><b>Clause 5.8(2)(d) has been deleted.</b></p>
<p>Clause 5.18(1)(d)</p>	<p>It is suggested that clause 5.18(1)(d) be deleted.</p> <p>The Joint Standing Committee on Delegated Legislation has previously requested that this paragraph be deleted from local laws. The Joint Standing Committee on Delegated Legislation hasn’t given reasons for why the deletion is necessary. However, the likely explanation is that it places an unfair burden on permit holders, since it potentially makes them liable for damages caused by third parties.</p> <p><b>Clause 5.18(1)(d) has been deleted.</b></p>

Clause 6.5	<p>Clause 6.5(2) provides for the variation of permit conditions.</p> <p>Currently, the clause is silent on when a variation comes into legal effect or whether the permit holder needs to be notified of a condition change. It is suggested that the Shire include these details.</p> <p><b>Clause 6.5 has been changed to reflect the suggestion.</b></p>
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## Cats Local Law 2021

### Purpose and Effect

The purpose and effect of this local law is as follows:

#### Purpose:

To make provisions about the keeping of cats, to control the number of cats that can be kept, the places where cats can be kept and prescribe areas in which cats are prohibited.

#### Effect:

To extend the control over cats which exist under the *Cat Act 2011*.

### Department of Local Government, Sport and Cultural Industries Comments

Schedule 3	<p>Schedule 3 is supposed to set out the cat prohibited areas which a cat is prohibited from entering under clause 2.2.</p> <p>Currently, Schedule 3 does not currently contain any information. If the local law is made in its current form, clause 2.2 will not apply to any specific area.</p> <p>The Shire should ensure that this reflects the Shire’s intentions. Once the local law has been adopted, any further changes to Schedule 3 will require an amendment local law to be made.</p> <p>Currently, the local law has been advertised to the public (and the Minister for Local Government) on the basis that Schedule 3 will be empty and no cat prohibited areas will be imposed.</p> <p>If the Shire changes its mind and wishes to add cat prohibited areas to the draft, this is likely to represent a “significantly different proposal”. This means the local law process will need to be restarted in accordance with section 3.13 of the <i>Local Government Act 1995</i>. A failure to restart the process may render the local law invalid.</p> <p><b>Schedule 3 and clause 2.2 have been deleted.</b></p>
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## Dogs Local Law 2021

### Purpose and Effect

The purpose and effect of this local law is as follows:

#### Purpose:

To provide for the additional controls and management of matters relating to dogs that is not specified in the *Dog Act 1976* and to promote and encourage responsible dog ownership.

#### Effect:

To provide regulatory measures in relation to impounding of dogs, the number of dogs that can be kept, and the manner in which dogs are to be confined by the occupier of the premises whilst providing authority to enforce the laws and administer fines.

### Department of Local Government, Sport and Cultural Industries Comments

<p>Clauses 4.2 and 4.3</p>	<p>Clause 4.2 provides that the general penalty for any offence is \$5000.</p> <p>This penalty will apply to clause 3.3. This means it is possible for a person to receive a penalty of \$5000 if they fail to clean up after their dog.</p> <p>While the <i>Dog Act 1976</i> allows for penalties of up to \$5000, it is suggested that a lower penalty be imposed for clause 4.3. The standard penalty in the WALGA model is \$1000 and a modified penalty of \$100.</p> <p>This can be achieved by inserting the following subclause:</p> <p><i>(4) Notwithstanding clause 4.2 and 4.3, the unmodified penalty for an offence under this clause is \$1000.</i></p> <p>The modified penalty in Schedule 1 should also be reduced accordingly.</p> <p>Currently the modified penalty is 20 penalty units equivalent to a penalty of \$200.</p> <p><b>It was agreed to leave the penalty as is so no change was made to the local law.</b></p>
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## Fencing Local Law 2021

### Purpose and Effect

The purpose and effect of this local law is as follows:

#### Purpose:

To prescribe a sufficient fence and building standards of fences throughout the district.

#### Effect:

To establish the minimum requirements for fencing within the district.

Department of Local Government, Sport and Cultural Industries Comments

Head of Power	<p>The Delegated Legislation Committee has concluded that while the <i>Dividing Fences Act 1961</i> makes references to local laws, the power to make these local laws is entirely provided by the <i>Local Government Act 1995</i>.</p> <p>It is suggested that the references to the <i>Dividing Fences Act 1961</i> should be removed from the title clause and the enacting provision.</p> <p>All other clauses in the local law which refer to the <i>Dividing Fences Act 1961</i> should be retained, since such references may be critical to the operation of this local law.</p> <p><b>The changes as suggested were made to the local law.</b></p>
Australian Standards	<p>The local law contains several references to Australian Standards. While it is common for Standards to be used in local laws, the Shire should ensure the following:</p> <ul style="list-style-type: none"> <li>• The full citation of the local law should be used at least once, either in the relevant clause or in an appropriate definition;</li> <li>• The full citation should be accurate and up to date; and</li> <li>• The Shire’s website should include information on where the Standard can be accessed by the public.</li> </ul> <p><b>A new definition for Building Code has been included in clause 1.5.</b></p>

## Parking and Parking Facilities Local Law 2021

### Purpose and Effect

The purpose and effect of this local law is as follows:

#### Purpose:

To provide for the regulation and management of parking within the district.

#### Effect:

To manage parking throughout the district to ensure the safe, fair and equitable use and access of parking facilities under the care and management of the local government.

### Department of Local Government, Sport and Cultural Industries Comments

<p>Clause 1.4</p>	<p>The Department of Local Government, Sport and Cultural Industries is aware that recent amendments were made to taxi legislation.</p> <p>The Shire should check the <i>Taxi Act 1994</i> and <i>Transport Co-ordination Act 1966</i> to ensure that the definition of <i>taxi</i> is still suitable.</p> <p><b>The interpretation for <i>taxi</i> has been changed to reflect its reference to the <i>Traffic Code 2000</i>.</b></p>
<p>Clause 6.15(2)(d)</p>	<p>It is suggested that clause 6.15(2)(d) be deleted.</p> <p>This matter is now addressed under the <i>Local Government (Parking for People with Disabilities) Regulations 2014</i>. These regulations are designed to be enforced directly, rather than via a local law.</p> <p>The remaining paragraphs can be retained, as they relate to parking bays which fall outside the Regulations.</p> <p><b>Clause 6.15(2)(d) has been deleted as suggested.</b></p>
<p>Clause 9.2</p>	<p>Clause 9.2 and Schedule 3 sets out the form for infringement notices.</p> <p>Many infringement notices in local laws recently needed amending due to changes which were made to the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i> (FPINE Act).</p> <p>It is suggested that the Shire amend clause 9.2 so that the local law refers to the forms prescribed in the <i>Local Government (Functions and General) Regulations 1996</i>. This will ensure that the infringement notices are consistent with State law.</p> <p>If the Shire chooses to retain Schedule 3, it is recommended that the wording be changed so it is consistent with the <i>Local Government (Functions and General) Regulations 1996</i> and the FPINE Act.</p>

	<b>Clause 9.2 has been changed to reflect the suggestion and Schedule 3 has been deleted.</b>
Schedule 4	<p>Schedule 4 doesn't contain any information. As a result, it serves no purpose and can be removed. If this is done, clause 1.6(4) and clause 3.10(1)(e) can also be deleted.</p> <p><b>Schedule 4 together with clauses 1.6(4) and 3.10(1)(e) have been deleted to reflect the suggestion.</b></p>

## Penalty Units Local Law 2021

### Purpose and Effect

The purpose and effect of this local law is as follows:

#### Purpose:

To provide for all modified penalties for offences listed within the Shire's local laws.

#### Effect:

All modified penalties shall be governed by the local law unless otherwise provided in the Act, regulations or other written law.

### Department of Local Government, Sport and Cultural Industries Comments

Clause 5	<p>It is suggested that a new clause 5 being the application clause be inserted.</p> <p><b>A new clause 5 has been inserted.</b></p>
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## Local Government Property Local Law 2021

### Purpose and Effect

The purpose and effect of this local law is as follows:

#### Purpose:

To regulate the care, control and management of all property of the local government except thoroughfares.

#### Effect:

To control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour in or on local government property.

Department of Local Government, Sport and Cultural Industries Comments

<p>Clause 1.6</p>	<p>It is suggested that the local law include a commencement clause, so that readers can see when the local law came into operation.</p> <p><b>A new clause 1.6 has been inserted.</b></p>
<p>Clause 6.4(2)(b)</p>	<p>Clause 6.4(2)(b) provides that in the absence of evidence to the contrary, a permit holder in possession of local government property is presumed to be responsible for any damage occurring to that property.</p> <p>As a rule, the plaintiff to a legal action is responsible for proving the elements of that legal action. This rule is presumed to apply except where enacting legislation has expressly stated otherwise.</p> <p>Since the <i>Local Government Act 1995</i> does not expressly state that local laws can reverse the onus of proof, it is debatable whether local governments have the power to make local laws which do this.</p> <p>It is suggested that paragraph (b) be deleted. If it is retained, it is possible that the Joint Standing Committee on Delegated Legislation Committee may raise issues with it.</p> <p><b>Clause 6.4(2)(b) has been deleted.</b></p>
<p>Clause 2.8(1)(a) and clause 4.6</p>	<p>Clause 2.8(1)(a) provides that a determination can be made prohibiting smoking on specified local government property.</p> <p>However, clause 4.6 prohibits smoking on all local government property, except when the property has been leased or hired for private use.</p> <p>Presumably, the Shire intends to prohibit smoking on all local government property and only use clause 2.8(1)(a) in situations where it wishes to prevent smoking on leased or hired local government property. However, the Shire should confirm whether this is the case.</p> <p><b>Clause 2.8(1)(a) has been retained and clause 4.6 has been rewritten prohibiting smoking within 5 metres of the facility.</b></p>
<p>Schedule 1</p>	<p>This schedule contains no determinations. As a result it serves no purpose and can be deleted. If it is removed, clause 2.1(2) can also be deleted.</p> <p><b>Schedule 1 and clause 2.1(2) have been deleted.</b></p>

## Waste Local Law 2021

### Purpose and Effect

The purpose and effect of this local law is as follows:

#### Purpose:

To provide for the regulation, control and management of waste services, including the use and control of receptacles for the deposit and collection of waste, undertaken by or on behalf of the local government within the district.

#### Effect:

To establish the requirements with which any owner or occupier of premises using local government waste services, including the use of receptacles for the deposit and collection of waste within the district, must comply.

### Department of Local Government, Sport and Cultural Industries Comments

Consent of CEO of DWER	<p>The Shire will need to obtain the consent of the CEO of the DWER.</p> <p>The Shire is aware of the requirement to obtain consent of the CEO of DWER and will forward two copies of the final draft for consent. It is noted that DWER consent is required before the Council resolves to adopt and publish the Waste Local Law 2021 in the Government Gazette.</p>
Compliance with WALGA Model	<p>DWER has advised that all waste local laws must now comply with the WALGA template model.</p> <p><b>The Shire has broadly followed the WALGA model with the exception of using Penalty Units in lieu of specified monetary amounts.</b></p>

### Department of Water and Environment Regulation Comments

Inclusion of penalty units	<p>Any future amendments to the Shire of Peppermint Grove Penalty Units Local Law 2020 must be consented to by CEO of DWER in order to preserve the validity of the modified penalty provisions in Schedule 2 of the proposed Waste Local Law 2021.</p> <p>Alternatively, the Shire may decide that the penalty units used in the proposed Waste Local Law 2021 should be replaced with specified monetary amounts.</p> <p><b>The Shire has noted the requirement but has decided to retain the penalty units for administrative consistency across other local laws.</b></p>
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Clause 2.10(1)	Clause 2.10 (1) Replace the wording in this subclause with that of the template waste local law.  <b>The wording has been changed as requested.</b>
Clause 4.4	Clause 4.4(2) – replace the wording with the following:  “(2) the amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 2.”  Clause 4.4(3) – replace the wording with the following:  “(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 number of penalty units by the value of a penalty unit as prescribed in the <i>Shire of Peppermint Grove Penalty Units Local Law 2020</i> .”  <b>The wording has been changed as requested.</b>
Schedule 2	Items 29 and 30 – WALGA has advised the DWER that it was a deliberate decision by WALGA not to include penalties for clauses 3.3(a) and (b) in Schedule 2 in the template on policy grounds. This was to ensure that no penalty could be incurred by a person who deposited household, commercial or other waste from any premises into, or removed any waste from, a receptacle provided for the use of the general public in a public place. However, it is still within the Shire’s discretion to include such a penalty in Schedule 2 to the Waste Local Law 2021.  <b>The Shire has determined to retain these penalties within the Waste Local Law 2021.</b>

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

That Council, in accordance with section 3.12 of the *Local Government 1995* resolves:

1. to note that no community submissions were received in relation to the following local laws:
  - **Activities in Thoroughfares and Public Places and Trading Local Law 2021;**
  - **Cats Local Law 2021;**
  - **Dogs Local Law 2021;**
  - **Fencing Local Law 2021;**
  - **Local Government Property Local Law 2021;**
  - **Parking and Parking Facilities Local Law 2021;**
  - **Penalty Units Local Law 2021; and**
  - **Waste Local Law 2021.**

2. to determine that the proposed changes outlined in the reports and included in the:

- **Activities in Thoroughfares and Public Places and Trading Local Law 2021;**
- **Cats Local Law 2021;**
- **Dogs Local Law 2021;**
- **Fencing Local Law 2021;**
- **Local Government Property Local Law 2021;**
- **Parking and Parking Facilities Local Law 2021;**
- **Penalty Units Local Law 2021; and**
- **Waste Local Law 2021.**

are not considered significantly different to that which was originally advertised.

3. to determine to accept all proposed changes and to adopt the:

- **Activities in Thoroughfares and Public Places and Trading Local Law 2021;**
- **Cats Local Law 2021;**
- **Dogs Local Law 2021;**
- **Fencing Local Law 2021;**
- **Local Government Property Local Law 2021;**
- **Parking and Parking Facilities Local Law 2021;**
- **Penalty Units Local Law 2021; and**
- **Waste Local Law 2021.**

4. to advertise the adopted local laws in the *Government Gazette*.

5. to submit to the Minister for Local Government, following advertising in the *Government Gazette*, a copy of the adopted local laws.

6. to submit to the Minister for Environment following advertising in the *Government Gazette*, a copy of the adopted Waste Local Law 2021.

7. to advertise, as a local public notice, the adoption of the local laws.

8. to submit the Explanatory Memorandum and associated papers to the Joint Standing Committee on Delegated Legislation.

**8.4.2 Mode of Election – 16 October 2021****MANAGEMENT/GOVERNANCE/POLICY****ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
Voting Requirement	: Absolute Majority
Subject Index	: Mode of Election 2021
Location / Property Index	: N/A
Disclosure of any Interest	: NIL
Responsible Officer	: CEO

**PURPOSE OF REPORT**

Council's consideration of the mode of election at the 2021 Ordinary Local Government Election on 16 October 2021.

**SUMMARY AND KEY ISSUES**

- Notification of the next election day
- Quotation for the WA Electoral Commission to conduct a postal vote is \$14000.

**LOCATION**

N/A

**BACKGROUND**

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

**CONSULTATION**

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

**STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

**POLICY IMPLICATIONS**

There are no significant policy implications evident at this time.

### **STATUTORY IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

An amount of \$14,000 has been quoted by the WAEC and which will be provided in the 2021/22 budget

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

### **SOCIAL IMPLICATIONS**

There are no social implications at this time.

### **OFFICER COMMENT**

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

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

### **OFFICER RECOMMENDATION/S – ITEM No. 8.4.2**

**That Council requests that the WAEC be responsible for the 2021 Local Government Elections, and:**

- 1. Declares, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2021 ordinary elections together with any other elections or polls which may be required; and**
- 2. Decides, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.**

### 8.4.3 New Local Government Regulations

## MANAGEMENT/GOVERNANCE/POLICY

### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
1.	<b>WALGA Information Page</b>
2.	<b>Code of Conduct Breach Form</b>

Voting Requirement	:	Simple Majority
Subject Index	:	New LG Regulations
Location / Property Index	:	N/A
Disclosure of any Interest	:	Nil
Responsible Officer	:	CEO

### PURPOSE OF REPORT

New regulations relating to CEO standards, Model Code of Conduct for Elected Members and Employee Code of Conduct have come into force on 3 February. This report will deal with the actions required by Council to comply with the regulations.

### SUMMARY AND KEY ISSUES

- Regulations relating to the hiring, performance review and termination will require the Shire to adopt CEO standards for recruitment, performance review and termination of their CEO.
- Council is required to adopt a model Code of Conduct for elected members, appoint a complaints officer and develop a complaints handling policy.
- The CEO is required to adopt a new Code of Conduct for employees.

### LOCATION

N/A

### BACKGROUND

As a consequence of the Local Government Act 1995 review, the Department of Local Government, Sport and Cultural Industries (DLGSC) has developed changes to the management of CEO's and Code of Conducts for elected members and staff.

Attached is a WALGA Info page that provides further background on the regulations.

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **POLICY IMPLICATIONS**

Council will be required to adopt a policy on complaints handling.

## **STATUTORY IMPLICATIONS**

Council is required to comply with the new and amended regulations – Local Government (Model Code of Conduct) regulation 2021, Local Government (Administration) Amendment regulation 2021 and Local Government Regulations Amendment (Employees Code of Conduct) Regulations 2021.

## **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**

There are a number of actions Council will need to do to comply with the regulations

- Local Government (Administration) Amendment Regulations (CEO Standards)

Council is required to adopt CEO standards by 3 May 2021. A further report will be presented to Council for the adoption of CEO Standard.

- Local Government (Model Code of Conduct) Regulations 2021 (Model Code of Conduct).

Council is required to replace its current Code of Conduct with the new model Code of Conduct. This code will also deal with candidates for Council elections. Council required to deal with breaches of the Code. The new Code is required to be adopted by 3 May 2021. A complaints officer is to be appointed and complaints form adopted. It is recommended that the CEO be appointed as the complaints officer and that the attached complaints form also be adopted.

- Local Government Regulations Amendment (Employees Code of Conduct) regulations 2021 (Employees Code of Conduct Regulations).

The CEO is required to develop a new Code of Conduct for employees.

- Gifts

There are a number of changes on how gifts are dealt with by elected members and staff;

- The former gift exemption categories no longer apply, and council members and CEOs must declare any gift received in their capacity as a council member or CEO valued at \$300 or above (or where the cumulative value of gifts from the one donor exceeds \$300 in a 12-month period). See sections 5.87A and 5.87B.
- If a council member receives any gift (or a series of gifts in a 12-month period) valued at \$300 or above and the donor has a matter before council, the council member must disclose an interest and remove themselves from the meeting (unless approval is granted by the council or the Minister, depending on the value of the gift). The donor becomes a closely associated person in accordance with section 5.62.
- Similarly, gifts received by the CEO will exclude them from involvement in a matter requiring a local government decision (unless approval is granted by the council or the Minister, depending on the value of the gift).
- Gifts that will not create an interest are those involving attendance at events as approved by council in accordance with the Attendance at events policy and those from specified entities. These must still be disclosed.
- Local governments are required to develop and publish a policy covering council member and CEO attendance at events, which also addresses who will pay for the tickets.
- The former definition of a gift has been deleted, and a new definition of gift in the Act now includes contributions to travel.
- CEOs are responsible for publishing and maintaining a gift register on the local government's official website which now needs to be updated within ten days of a disclosure being made

**OFFICER RECOMMENDATION/S – ITEM NO 8.4.3**

**That Council;**

- 1. Note the requirements to adopt new Code of Conducts for elected members and staff and a complaints policy to comply with the amended regulations.**
- 2. Note that the CEO will be developing a new Code of Conduct for staff to comply with the amended regulations.**
- 3. Appoint the CEO as the complaints Officer in accordance with Local Government (Model Code of Conduct) regulations 2021 (Model Code of Conduct).**
- 4. Adopt the attached complaint form in accordance with the requirements of Local Government (Model Code of Conduct) regulations 2021 (Model Code of Conduct).**

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

<b><u>Attachment</u></b>	<b><u>Details</u></b>
	<b>Building Permits Issued</b> <b>Planning Approvals Issued</b> <b>Infringements Issued</b> <b>Library Statistics</b> <b>Recycling Statistics</b> <b>MWRA Land transfer</b>

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

**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
- Infringements for parking/dogs etc
- Waste and recycling data
- Library statistics
- MWRA Land Transfer

## **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. Recycling Statistics
6. MWRA Land Transfer

## **CONSULTATION**

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

## **OFFICER COMMENT**

MRWA have advised as per below. This is small portion of land (23m<sup>2</sup>) at the corner of Stirling Hwy and Forrest Street. The transfer is being actioned.

Main Roads has been carrying out a review of the outstanding main roads dedications in the metropolitan area. Among the dedications that have yet to be occur is the parcel of freehold land along Stirling Highway within the Shire of Peppermint Grove, as shown on the attached plan.

As can be noted from the attached copy of Certificate of Title, this lot is held by the Shire of Peppermint Grove. The presence of this freehold land within the Stirling Highway road corridor, which is owned and maintained by Main Roads, is a tenure anomaly.

In order to rationalise this situation, I now request that the Shire's agreement to transfer this land to the State of Western Australia so that it can be dedicated as road pursuant to section 168(5) of the Planning and Development Act 2005.

## **OFFICER RECOMMENDATION – ITEM NO. 8.4.4**

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

## 8.5 COMMITTEE REPORTS

### 8.5.1 2019/20 Internal Audit Report – AdvantEdge Consulting

#### CORPORATE

#### ATTACHMENT DETAILS

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

Voting Requirement	:	Simple Majority
Subject Index	:	Financial management Audit
Disclosure of any Interest	:	Nil
Responsible Officer	:	Michael Costarella, Manager Corporate & Community Services

#### PURPOSE OF REPORT

The purpose of this report is to present to Council the 2019/20 Internal Audit report for information

#### SUMMARY AND KEY ISSUES

The Internal Auditor undertook an audit of the internal control and processes for various administrative function and has provided a report on the actions to be undertaken. Staff have included Management comments which include a number of written procedures to be developed and that will be assessed in the follow-up in 2020.

## **BACKGROUND**

The CEO is required to provide the Audit Committee with a report on the internal procedures and processes in accordance with the Financial Management regulations. Our Internal Auditor has been engaged to undertake a review of a number of functions including:-

- Revenue Collection & Cash Handling
- Cash Investments
- Rates & Charges
- Gift Register & Councillor Payment
- Bonds & Trust Deposits

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

There are no Strategic Implications identified at this time.

## **POLICY IMPLICATIONS**

Financial Management Policies

## **STATUTORY IMPLICATIONS.**

Local Government (Financial Management ) Regulations 1996

### ***5. CEO's duties as to financial management***

- (1) *Efficient systems and procedures are to be established by the CEO of a local government —*
  - (a) *for the proper collection of all money owing to the local government; and*
  - (b) *for the safe custody and security of all money collected or held by the local government; and*
  - (c) *for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process); and*
  - (d) *to ensure proper accounting for municipal or trust —*
    - (i) *revenue received or receivable; and*
    - (ii) *expenses paid or payable; and*
    - (iii) *assets and liabilities;**and*
  - (e) *to ensure proper authorisation for the incurring of liabilities and the making of payments; and*
  - (f) *for the maintenance of payroll, stock control and costing records; and*

- (g) *to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.*
- (2) *The CEO is to —*
  - (a) *ensure that the resources of the local government are effectively and efficiently managed; and*
  - (b) *assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and*
  - (c) *undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.*

Local Government (Audit Regulations) 1996

#### **17. CEO to review certain systems and procedures**

- (1) *The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —*
  - (a) *risk management; and*
  - (b) *internal control; and*
  - (c) *legislative compliance.*
- (2) *The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review not less than once in every 3 financial years.*
- (3) *The CEO is to report to the audit committee the results of that review.*

#### **FINANCIAL IMPLICATIONS**

There are no Financial Implications identified at this time.

#### **ENVIRONMENTAL IMPLICATIONS**

There are no Environmental Implications identified at this time.

#### **SOCIAL IMPLICATIONS**

There are no Social Implications identified at this time.

**OFFICER COMMENT**

In March 2020, Council received a number of reports on the various administrative function which highlighted the need to develop written procedures. All matter were consider low risk and could be resolved by the development of written procedures.

**OFFICER/COMMITTEE RECOMMENDATION/S – ITEM NO 8.5.1**

**That Council notes the reports on the Internal Audit 2019/20 attached to the Audit Governance and Risk Management Committee Agenda.**

**8.5.2 2019/20 Interim Audit Management Letter – Officer of Auditor General & Butler Settineri**

**CORPORATE**

**ATTACHMENT DETAILS**

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

Voting Requirement	Simple Majority
Subject Index	Financial Management Audit
Disclosure of any Interest	Nil
Responsible Officer	Michael Costarella, Manager Corporate & Community Services

**PURPOSE OF REPORT**

To provide information to Council regarding an interim audit report undertaken by Council's Auditor in May 2020.

**SUMMARY AND KEY ISSUES**

- To provide the committee with correspondence received from its Auditors relating to the findings identified during the interim audit. The Attachment includes management responses to the findings.

**LOCATION**

N/A

## **BACKGROUND**

The Shire's Auditor conducted the interim audit in May 2020 and have provided a draft interim audit report that included a number of findings. Staff have provided comments on the findings Council on the results of the audit findings. The report referred to the following issues:-

1. Library – accounting for the Joint Operation
2. Unrecognised assets
3. Assessment of new accounting standards
4. Journal Entries not independently approved
5. Purchase orders dated after invoice dates
6. Opening balance trial balance not in agreement with the audited financial statements
7. Bank Reconciliations
8. ICT Disaster Recovery Plan

The Shire provided responses that satisfied to most issues included in the Management Letter, however the matters may require further addressing following our responses being considered by the OAG.

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

There are no Strategic Implications identified at this time.

## **POLICY IMPLICATIONS**

Financial Management Policies

## **STATUTORY IMPLICATIONS.**

Part 7 of the Local Government Act 1995

## **FINANCIAL IMPLICATIONS**

There are no Financial Implications identified at this time.

## **OFFICER COMMENT**

The draft interim audit report identified 8 areas for improvement and Management has addressed these areas. These include:-

- Library – accounting for the Joint Operation- *This relates to the Shire only including 9.09% of income and expenditure in the 2019/20 Annual financial statements as well the 2018/19 and 2017/18 financial years.*
- 2. Unrecognised assets- *This relates to the inclusion of Council's ownership portion of 555 Gibney street Cottesloe*
- 3. Assessment of new accounting standards- *This is currently being undertaken*
- 4. Journal Entries not independently approved- *This was corrected for the year end journals which are now authorised by the Manager of Corporate Services.*
- 5. Purchase orders dated after invoice dates- *Procurement Procedures have been provided to all staff who raise Purchase Orders and reminded of the importance of the process.*
- 6. Opening balance trial balance not in agreement with the audited financial statements- *An explanation was provided to the Auditor and our understanding is that this is no longer an issue.*
- 7. Bank Reconciliations- *This related to 2 bank reconciliations that were not found due to the changeover of staff.- Bank reconciliations are completed every month and signed by the Manager of Corporate Services.*
- 8. ICT Disaster Recovery Plan- *A Plan will be developed within the next 12 months.*

## **OFFICER/COMMITTEE RECOMMENDATION/S – ITEM NO 8.5.2**

**That Council notes the interim audit report and management comments:**

## 9 NEW BUSINESS OF AN URGENT NATURE

### 9.1 Lord Mayors Distress Relief Fund

#### CORPORATE

#### OFFICER COMMENT

The Lord Mayor Distress Relief fund has been launched in view of the devastation caused by the recent fire in the Wooroloo and Hills bushfire. There 86 homes lost to the fires and nearly 11,000HA was destroyed.

#### OFFICER RECOMMENDATION – ITEM NO. 9.1

That Council:

1. Donate an amount of \$5,000 to the Lord Mayors Distress Relief Fund for the Wooroloo and Hills Fires 2021; and
2. Fund the amount from account 38250- Donations.

## 10 MOTIONS ON NOTICE

NIL

## 11 CONFIDENTIAL ITEMS OF BUSINESS

NIL

## 12 CLOSURE

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

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**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.*