



Shire of
Peppermint Grove

ORDINARY COUNCIL MEETING

MINUTES

HELD ON
TUESDAY 25 MAY 2021
AT
5.30 PM



Shire of Peppermint Grove

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ORDINARY COUNCIL MEETING MINUTES

1 DECLARATION OF OFFICIAL OPENING

At 5.30pm, 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 caused the Affirmation of Civic Duty and Responsibility to be read aloud by Councillor Hohnen.

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

Cr R Thomas
Cr C Hohnen
Cr G Peters
Cr D Horrex
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

Elected Member

Cr P Macintosh

2.3 LEAVES OF ABSENCE

Elected Member

Cr K Farley

2.4 NEW REQUEST FOR A LEAVE OF ABSENCE

NIL

3 DELEGATIONS AND PETITIONS

3.1 DELEGATIONS

NIL

3.2 PETITIONS

NIL

4 PUBLIC QUESTION TIME

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

- 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

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

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

NIL

4.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

NIL

4.3 DEPUTATIONS OF THE PUBLIC

NIL

4.4 PRESENTATIONS FROM THE PUBLIC

NIL

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

NIL

5.2 PROXIMITY INTEREST

NIL

5.3 IMPARTIALITY INTEREST

NIL

5.4 INTEREST THAT MAY CAUSE A CONFLICT

NIL

5.5 STATEMENT OF GIFTS AND HOSPITALITY

NIL

6 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

The Shire President advised that she attended a breakfast with the guest speaker being the Hon. John Carey MLA, Minister for Housing, Local Government.

7 CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING 4 MAY 2021 (DEFERRED FROM 27 APRIL)

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM 7.1

Moved: Cr Hohnen

Seconded: Cr Horrex

That the Minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 4 May 2021 (Deferred from 27 April) be confirmed as a true and accurate record.

CARRIED 5/0

8 OFFICER REPORTS

8.1 MANAGER DEVELOPMENT SERVICES

8.1.1 Local Planning Policy 7 – Improved Local Access to Service Subdivision and Redevelopment – Version 2

URBAN PLANNING

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1	LPP 7 – Version 2
Attachment 2	Plan of right of way – land already ceded

Voting Requirement : Simple Majority
Previous Items : LPP 7 Version 1

Declarations of Interest : Nil

Planning Officer : Mr Josh Dallimore – Planning and Development Officer

Authorising Officer : Mr. Ross Montgomery – Manager Development Services

PURPOSE OF REPORT

Council is requested to consider the modifications undertaken to draft Local Planning Policy 7 (LPP 7)– Improved Local Access to Service Subdivision and Redevelopment (LPP 7). The initial draft policy was referred for public information and comment.

Although some comments were outside of the immediate ambit of the policy (i.e. to provide advice to the Western Australian Planning Commission (WAPC) several have been noted as part of a review of the advertised draft LPP 7 (attached).

Should Council agree with the proposed modifications then another round of advertising is recommended prior to Council adoption.

SUMMARY AND KEY ISSUES

- The subdivision of large single residential lots in the Shire creates smaller rear lots which use the adjacent rights of way for their vehicular access.
- A similar policy existed under the Shires Town Planning Scheme 3 which addressed how land should be subdivided with regard to adjacent public rights of way.
- All planning policies previously contained within TPS 3 were removed from Local Planning Scheme 4 at the request of the Department of Planning before it was gazetted in 2017.
- The Shire has been progressively reviewing and re-adopting planning policies as an adjunct to but separate to the LPS 4.
- LPP 7 refines previous policy in support of Shire advice on subdivision of land abutting rights of way to the WAPC.
- Although it is consistent with previous policy the continued intention of the Shire to request ceding of land as a condition of subdivision for new lots which abut a right of way has drawn some resident criticism during initial discussion and comment.
- This revised draft of LPP 7 clarifies the justification for ceding of land during subdivision and outlines the general intended use of ceded land.
- Once adopted by Council the modified policy will be referred as the basis for advice to the WAPC on relevant subdivision applications.

LOCATION

Local Planning Policy 7 applies to lots with future subdivision potential which abut a right of way within the Shire of Peppermint Grove.

BACKGROUND

The Shire is requested to provide comment to the Western Australian Planning Commission (WAPC) on all subdivision applications within the Shire.

The Shire previously recommended approval to subdivision for all new lots adjacent to a right of way on the condition land was to be ceded to improve right of way access.

The Town Planning Scheme (LPS 3 - now superseded) included a policy which provided the grounds for requested ceding of land. This approach had been supported by the Town Planning Board and the WAPC and was applied over many years. The Shire has many cases where new lots were created and rights of way enhanced through ceding of land.

LPS 4 was adopted and approved subject to the amended Planning and Development Regulations (2015). Reference to Shire policies was deleted prior to approval of the Scheme. The policies previously part of the Scheme are in the process of being re-constituted as separate Local Planning Policies within the Local Planning Framework.

Subdivision of land has proceeded in the meantime however most recently officers at the Department of Planning Lands and Heritage stopped supporting the Shire requests for land

to be ceded, because the Policy did not apply to the WAPC. The Shire has reviewed the previous policy, made some revisions and proposes Local Planning Policy 7 be adopted as the basis to assess and make recommendation to the Department/WAPC.

In the course of public consultation a related matter raised by the community is the future management of rights of way by the Shire. Comments received during the initial consultation period support the ongoing management by the Shire for rights of way to remain as informal laneways.

LPP 7 does not address the management of laneways because its focus is to advise the WAPC. There is no intention for laneways to be upgraded as gazetted roadways. Although not a component of this local policy the consultation identified a need for the Shire to do strategic work to articulate the design character guidance to developers. Should Council initiate this strategy, it should be developed in consultation with abutting owners and stakeholders for each of the rights of way.

Plans may then be prepared and implemented to better address concerns that design and management of rights of way into the future will meet community and local design objectives.

CONSULTATION

The first draft of LPP 7 was considered by Council at a Special Meeting of Council on 2 March 2021. Council endorsed the proposed policy as a draft for public consultation. The consultation period closed on 9 April 2021 although the Shire continued to receive and consider submissions until the middle of April.

The twelve submissions received provided comments about the form and content of the policy and these have influenced the updated version of LPP 7.

A number of residents signed an open proforma letter requesting more time to respond and for the Shire to convene a town hall public meeting. The request did not elaborate the agenda or terms for such a meeting.

Some comment questioned the principle to require ceding of land to the Crown as a condition of approval of subdivision. Other submissions addressed the detail and application of the proposed policy and its implications into the future. A number expressed support for the protection of laneways in their current form.

Planning officers have summarised and assessed comments received during the consultation period. Elected Members have received copies of the submissions under separate cover.

Should Council endorse the current attached version of LPP 7 for advertising it is recommended there be second consultation period of 21 days to provide residents a further opportunity to assess and comment on the revised draft policy.

STRATEGIC IMPLICATIONS

The policy is supported by the Local Planning Strategy and is consistent with the intent of WAPC Planning Bulletin 33 for these design issues to be addressed at both subdivision and development.

POLICY IMPLICATIONS

LPP 7 is required to form part of the Local Planning Policy structure and be given due regard during the assessment of subdivision applications referred to the Shire when advising the WAPC. As with all local planning policies it guides the exercise of discretion in making planning advice and decisions.

STATUTORY IMPLICATIONS

The policy is independent to the Scheme but informs decisions made with reference to the Scheme and guides Shire planning advice. Policy needs to be prepared, adopted and advanced for public information and comment to meet the requirements of Planning and Development Act 2015 – Regulations. A future review of the Scheme may assist in the implementation of the policy and management of rights of way.

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 policy targets the objectives of Local Planning Scheme 4 (a and d).

The strategic objectives for the policy are to :-

- Ensure future subdivision and new residential development enhances the neighbourhood design and character of Peppermint Grove and
- Provide sufficient space for residents of the new laneway houses to receive visitors, services and other utilities such as waste removal, conveniently and without impact on neighbours, and
- Allow for the future greening of laneways to establish their garden character and to create a recreational asset for all to use and enjoy.

Local Planning Policy 7 guides the Shire in its advice to the WAPC when approving subdivision, to communicate local planning objectives and address impacts likely to arise with the development of the new lots.

It is necessary to affirm that LPP 7:-

- applies only to creation of new lots and development which requires all vehicular access to be from the right of way; and
- does not intend to make rights of way into gazetted roads, and
- is not concerned with future design and management of the rights of way, and
- does not contemplate removal of trees or fencing until the development of new housing warrants this action.

The ceding of land as a condition of subdivision approval is necessary to provide for good parking and access for new housing lots. The allocation of space to better manage future impacts and requirements is justified as a consequence of the subdivision application. The intrinsic benefit of further land development to the owner justifies and balances the need to augment services and utilities to facilitate that benefit. The requirement is in most cases reasonable and proportionate to the benefits achieved through an approved subdivision.

The history of subdividers being required to cede land as a condition of approval, by the WAPC (and previously the Town Planning Board) may not be fully recognised by public however the map of these past instances (Attachment 2) demonstrates the wide extent of this requirement and considerable footprint on the urban form of the neighbourhood.

New residential development on rights of way should be adequately serviced in terms of sufficient space for vehicular access. The 4.27m offset dimension for the ceded portion is consistent with past requirements of the WAPC and has been considered sufficient to achieve the space and attendant benefits for future residents.

Rights of way throughout the Shire provide a secondary network of low-speed access and this is not proposed to change. New housing lots abutting rights of way will depend on these routes for all daily access and for parking of service and utility vehicles.

The Shire receives regular complaint from residents about a lack of visitor and service vehicle parking in streets to the extent that in some streets the Shire has resorted to the issue of permits to ensure residents visitor and service needs can be met without congestion. Local streets will become more congested unless space is made for the additional vehicles close to the house adjacent to the right of way.

SUBMISSIONS

The Shire received 12 letters providing detailed responses to the draft policy, 59 signatures on a petition and 74 submissions on a proforma.

The letters with detailed responses are attached for Councillor information. The content is summarised as follows:

- Insufficient time for residents to properly understand the policy and respond.
- A Local Planning Policy *is* required to protect the laneways but needs to be updated and not necessarily just to repeat past practices and standards
- Laneways are primarily informal and should remain this way to provide quiet and shaded places to walk
- Laneways should be kept narrow to slow vehicles down
- Laneways as they are now are integral to the heritage character of the Shire
- Laneways should only be for access to lots abutting them, and not for creating ‘rat runs’ through the Shire.
- How is the land that has already been ceded to the Crown as part of the rights of way now going to be managed by the Shire?

Some residents identified their interest and concern for the future management and design of the rights of way as part of a network of local laneways. LPP 7 does not establish design or management standards for laneways. The Shire is not seeking the subdivider to construct or contribute to this future cost– but the future form and management is nevertheless a priority and something that requires a strategic approach, one which engages with abutting residents and local users. A separate strategic plan program is required to properly address this intention.

Residents have raised some matters which require changes be made to the draft of LPP 7 to clarify the scope, need and justification.

Wording has been amended to the policy to better address the following:-

- Rights of way will not become gazetted roads; and
- Policy does not levy road construction or upgrades on subdividers; and
- Ceding of land is required to make provision for parking and service vehicles; and
- Applies only to new lots *and* only where there has never been a past requirement for ceding of land for subdivision approval.

Revisions now made to the policy better explain the purpose, merits and justification for land to be ceded from property owners in terms of overall benefit to the locality and the specific lots proposed to be created.

Given the expression of interest in protecting and enhancing the quality of rights of way, the Shire may as a future priority consider the preparation of a strategy for the future management of rights of way to become a network of green local laneways

CONCLUSION

The need for the policy LPP 7 is justified and remains valid given the continuation of subdivision to create lots which abut rights of way.

The Shire in noting comments from residents has reviewed LPP 7 to clarify the following areas:

- Rights of way will not become gazetted roads; and
- Policy does not levy road construction or upgrades on subdividers; and
- Ceding of land is required to make provision for parking and service vehicles; and
- Applies only to new lots *and* only where there has never been a past requirement for ceding of land for subdivision approval.

Resident submissions highlight concern for the retention and careful management of rights of way to remain as local laneways rather than roadways.

Heeding requests for more consultation it is recommended this modified Policy be agreed to proceed for further public information and comment before it can be considered for adoption by the Shire.

Council may consider affirming its intention to convene a resident reference group in the coming months to advise and liaise on how a strategic laneways plan can be prepared to better reflect local values and planning objectives when managing the Shire's laneways.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.1

That Council

1. Notes the submissions received.
2. Approves for the revised Local Planning Policy 7 – Improved Local Access to Service Subdivision and Redevelopment be advertised for public information and further comment for a period of 21 days after which the policy and any comments will be considered by Council at a future meeting.
3. Agrees to plan for further strategic planning options to address issues raised during the consultation period about ongoing management and design of rights of way to remain as local laneways.

COUNCIL DECISION – ITEM NO 8.1.1**Moved: Cr Hohnen****Seconded Cr Peters****That Council**

- 1 Notes the submissions received.**
- 2 Approves the following revisions be made to the revised Local Planning Policy 7 – Improved Local Access to Service Subdivision and Redevelopment (as attached to this report);**
 - **Page 1 (strategic objectives) add ‘s’ to enhance;**
 - **Page 2 (History) add the words ‘to manage’ subdivision;**
 - **Page 2 (Application) remove the word ‘additional’;**
 - **Page 2 (second bullet) Add the word ‘direct’ before effect;**
 - **Page 3 (Policy) point 2 replace Crown reserve with RoW**
 - **Page 3 (Policy) point 5 replace the word ‘instead’ with ‘and not’; and**

for the draft policy to be re-advertised for public information and further comment for a period of 28 days after which the policy and any comments received will be considered by Council at a future meeting.
- 3 Agrees to plan further strategic planning options to address issues raised during the consultation period about ongoing management and design of rights of way to remain as local laneways.**

CARRIED 5/0**8.2 MANAGER INFRASTRUCTURE SERVICES**

NIL

8.3 MANAGER CORPORATE AND COMMUNITY SERVICES

8.3.1 Financial Statements for Period Ended April 2021

CORPORATE

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	Financial Statements for the period ended 30/04/2021

Voting Requirement : Simple Majority
Subject Index : Financial Statements- 2020/21
Disclosure of Interest : Nil
Responsible Officer : Michael Costarella

PURPOSE OF REPORT

To receive the financial statements for the period ended 30 April 2021

SUMMARY AND KEY ISSUES

There are some variances between the year to date budget and the actual expenditure and income to the 30 April 2021. These include:-

- Employee Costs
- Materials and Contracts
- Capital Expenditure.

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) **Revised budget** versus actuals variances or forecasts that vary from the full year estimate that are greater than \$10,000.

(1) Employee Costs- \$ 55,000

The amount of \$55,000 is less than the year-to-date budget and relates to anticipated expenditure of :-

- Occupation Health & Safety program \$22,000
- Salary and Wages \$33,000 (timing)

(2) Materials & Contract-(\$277,000)

This year's actual expenditure is some \$277,000 less than the year to date budget and relates to anticipated expenditure of:-

- | | |
|------------------------------|--------------------------------------|
| 1. Consultancies- | \$72,000 (inc Cottesloe Hub Project) |
| 2. Materials and Contractors | \$185,000 (see below list) |
| a. Advertising | \$ 5,000 |
| b. Drainage Contractor | \$ 10,000 |
| c. Audit Fees | \$ 16,000 |
| d. Legal costs | \$ 8,000 |
| e. Records Management | \$ 18,000 |
| f. Reserves Mtce | \$ 48,000 |
| g. Events | \$ 13,000 |
| h. Road Repairs | \$ 34,000 |
| i. Green Waste | \$ 14,000 |
| j. Swimming Pool Insp | \$ 19,000 |

3. Building Maintenance & Others \$ 20,000

(3) Capital Expenditure- total Expenditure \$604,000

The total budget amount of capital works equate to \$1,086,544. As at the 30th April, there are a number of projects that (have commenced) and are to be completed by the end of June 2021 and these include:-

- Reticulation Upgrade - Manners Hill Park, Keanes Park and Foreshore
- Pavilion - renewal of paving
- Paving Areas- Lilla Street ACROD path to toilets- Keanes Point
- Paving - footpath from Depot public toilets to Pavilion
- Street furniture renewal – various
- Depot - operations area pedestrian fence installation

Note: Purchase Orders have been raised for these projects, however these are not included in the expenditure. It is anticipated that these projects are completed by 30 June 2021.

The Local Road and Community Infrastructure Program (LRCI - Phase 2) has been deferred and will be carried forward to the 2021/22 financial year. Council has until the 31 December 2021 to complete the project.

The estimated closing surplus for the 2020/21 financial year is projected to be higher than the mid-year budget review surplus, however the actual amount is still being determined.

Full details of the individual project costs are shown on page 11 of the Financial Statements.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO. 8.3.1

Moved: Cr Hohnen

Seconded Cr Horrex

That Council receive the financial report for the period 1 July 2020 to 30 April 2021.

CARRIED 5/0

8.3.2 Accounts Paid April 2021**CORPORATE****ATTACHMENT DETAILS**

<u>Attachment No</u>	<u>Details</u>
Attachment	Accounts Paid – April 2021

Voting Requirement	:	Simple Majority
Subject Index	:	Financial Management
Disclosure of 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 March 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

The Attachment lists details of all payments made in February 2021 since the last report. The following summarises the cheques, credit card payments, electronic fund transfers and direct debits included in the list presented for information.

PAYMENT TYPE	NUMBER SERIES	AMOUNT
EFT	EFT409-412	\$186,927.86
Direct Debits	DD224-232	\$12,172.49
BPAY	BPAY206	\$36.90
Cheque- Petty Cash	CN441-442	\$340.75
Credit Cards- March		\$5455.19
TOTAL		\$204,933.19

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/COUNCIL DECISION – ITEM NO 8.3.2

Moved: Cr Hohnen

Seconded Cr Dawkins

That Council receive the list of payment of accounts by:

- 1. Cheques, electronic funds transfers, direct debit payments for the month of April 2021, totalling \$ 199,478.00;**
- 2. Credit card payments for March 2021 totalling \$5,455.19**

CARRIED 5/0

8.4 CEO/ MANAGEMENT / GOVERNANCE / POLICY

8.4.1 Adoption of Code of Conduct for Council Members, Committee Members and Candidates

MANAGEMENT/GOVERNANCE/POLICY

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
1.	Local Government (Model Code of Conduct) regulations 2021.
2.	Code of Conduct for Council Members, Committee Members and Candidates.
3.	Code of Conduct Behaviour Complaints Management Policy
4.	Behaviour Complaints Committee Terms of Reference.

Voting Requirement : Absolute Majority
Subject Index : Code of Conduct Adoption
Disclosure of any Interest : Nil
Responsible Officer : CEO

PURPOSE OF REPORT

Amendments made to the *Local Government Act 1995* on 2 February 2021 placed a requirement on local governments to prepare and adopt a new Code of Conduct which is based on the Model Code of Conduct.

SUMMARY AND KEY ISSUES

- This report seeks to adopt a new Code of Conduct for Council Members, Committee Members and Candidates based on the Model Code and to ensure the legislative timeframe is met.
- A Code of Conduct Behaviour Complaints Management Policy is required to be adopted.
- Terms of reference for a Behaviour Complaints Committee are to be considered.

LOCATION

N/A

BACKGROUND

On Tuesday 2 February 2021, the final aspects of Phase 1 of the Local Government Act Review were proclaimed and amendments to the Local Government (Administration) Regulations 1996 were gazetted. The new Local Government (Model Code of Conduct) Regulations 2021 were also gazetted. These final aspects of the Local Government Act review cover Council Member, Committee Member and Candidate Code of Conduct

This means that, as of Tuesday 2 February 2021, the Shire's adopted Code of Conduct (policy 1.1) no longer applies and the Model Code of Conduct, as written in Schedule 1 of the Local Government (Model Code of Conduct) Regulations 2021 applies to Council Members, Committee Members and Candidates until such time as Council adopts its new Code of Conduct.

At the Ordinary Council Meeting of 23 February 2021, Council resolved to appoint the Chief Executive Officer as the complaints officer for complaints under Division 3 of the Model Code of Conduct and approved the form to be used.

The last step in these new requirements is to adopt a new Code of Conduct, which was to be done before 3 May 2021. The WA Local Government Association (WALGA) model for Code of Conduct has been used to develop the Shire's Code (attachment 2) along with the WALGA draft policy for the Code of Conduct Behaviour Complaints management (attachment 3) and are both recommended for adoption.

CONSULTATION

Public consultation was not required in the development of this report.

STRATEGIC IMPLICATIONS

There are no strategic plan implications evident at this time.

POLICY IMPLICATIONS

The Shire's current policy 1.1 – Code of Conduct is to be rescinded and a new Code of Conduct adopted.

STATUTORY IMPLICATIONS

Section 5.104 of the Local Government Act 1995 requires local governments to adopt a Code of Conduct to be observed by council members, committee members and candidates that incorporates the model code by absolute majority by 3 May 2021. Although Council won't have adopted the Code by 3 May 2021, the Model Code will apply in the interim until the Code is adopted.

If Elected Members wish to make any amendments to the Code, these amendments must be consistent with the model and cannot be contrary to the intent of the original model.

Additionally, Divisions 2 and 4 of the model code cannot be amended by a local government when adopting their own individual codes.

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

Each local government was previously required to develop their own code of conduct. that applied to Council Members, Committee Members and employees and manage behaviour in accordance with that code.

Local governments are now required to adopt a Code of Conduct for Council Members, Committee and Candidates that is based on the Model Code of Conduct.

The Chief Executive Officer is responsible for approving a new Code of Conduct for staff which will applies to employees and contractors of the City.

The Model Code of Conduct provides for a high-level process to deal with complaints to ensure a more consistent approach between local governments and across the sector. The intent of the Model Code is to address behaviour through education and training rather than sanctions.

The Model Code outlines:

- overarching principles to guide behaviour.
- behaviours that are required to be managed by Council; and
- rules of conduct breaches that will continue to be considered by the Standards Panel.

The purpose of the Model Code is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for council members, committee members and candidates to clearly reflect community expectations of behaviour and ensure consistency between local governments.

The Code of Conduct as presented takes the wording directly from the WALGA Model Code of Conduct.

Complaint's process

The process for consideration of a complaint is at the discretion of the local government, however, the Model Code requires that after considering the complaint, the local government must make a finding as to whether the breach occurred. It is recommended that in the event of a complaint being received, a Behaviour Complaint Committee (Complaint Committee) is established. It is proposed that the Committee is only established in the event of a complaint being received.

A local government is also required to dismiss a complaint if it is satisfied that the complaint relates to behaviour which occurred at a council or committee meeting that has already been dealt with or the person responsible for the behaviour has taken remedial action in accordance with the Shire's policy on meeting procedure.

It is a requirement, in accordance with 11(3), that before making a finding, the person to whom the complaint relates, is given a reasonable opportunity to be heard. A finding about whether the breach has occurred is based on whether it is more likely than not that the breach occurred. This is the same premise used by the Standards Panel in its decision making.

After a finding has been made, written notice of the outcome should be given to the Complainant and the person to whom the complaint relates. If a finding of a breach is made, the local government can choose to take no further action or develop a plan to address the person's behaviour. This could include training, mediation, counselling or any other action considered appropriate.

Clause 12 provides that the procedure for dealing with complaints is a matter for the local government (to the extent it is not inconsistent with clause 11). If a complaint is made about a candidate, the alleged breach cannot be dealt with unless the candidate is elected as a council member.

1. A Complaints Committee will be established in accordance with section 5.8 of the Act for the purpose of dealing with complaints.
2. The Complaints Committee will have the delegated authority to make a finding in relation to an alleged breach and also to dismiss a complaint (section 12 and 13 of the Local Government (Model Code of Conduct) Regulations 2021). The policy has been drafted to be flexible and to enable discretion to be exercised by the Complaints Committee dependent on the nature of the complaint, the complexity and alleged severity of the matter.
3. The membership of the Complaints Committee will be outlined in a Complaints Committee Terms of Reference. It is recommended that all the members are on the committee with the exception of the complainant and the respondent.
4. The Complaints Committee must follow all legislative requirements and will comply with the principles of procedural fairness and natural justice.

5. The Complaints Committee will take all reasonable steps to ensure complaints are dealt with efficiently, cost effectively and in a timely manner.
6. The Complaints Committee will take all reasonable steps to maintain confidentiality when dealing with a complaint.
7. At the Complaints Committee Meeting, the Complaints Committee will consider the information available including the nature of the complaint, the complexity and alleged severity of the matter, the time and cost implications when determining an appropriate next step. Some possible options include making a finding, dismissing a complaint, deferring a complaint, any other course of action such as alternative dispute resolution.
8. Under the Model Code, if the Complaints Committee makes a finding that the alleged breach has occurred the Complaints Committee may decide to take no further action or prepare and implement a plan to address the behaviour of the person to whom the complaint relates (Plan). The policy states that the Complaints Committee may consider a number of factors when deciding between the two:
 - the nature and seriousness of the breach(es).
 - the Respondent's submission in relation to the contravention.
 - whether the Respondent has breached the Code of Conduct knowingly or carelessly.
 - whether the Respondent has breached the Code of Conduct on previous occasions.
 - the likelihood or not of the Respondent committing further breaches of the Code of Conduct.
 - personal circumstances at the time of conduct.
 - the impact of the conduct on the Complainant.
 - the need to protect the public through general deterrence and maintain public confidence in Local Government and the Shire; and
 - any other matters which may be regarded as contributing to or the conduct or mitigating its seriousness.
9. The Complaints Committee will report to Council by way of a written report at the conclusion of an investigation.
10. The Complaints Committee will report to Council on any complaints that are withdrawn.

11. The Shire will provide access to counsellors for any council member, committee member or employees involved in a complaint.

A draft term of reference for the Behaviour Complaints Committee is attachment 4.

OFFICER RECOMMENDATION/S – ITEM NO 8.4.1

Moved: Cr Peters

Seconded: Cr Horrex

That Council

- 1. Rescinds policy 1.1 – Code of Conduct.**
- 2. Adopt the Shire's Code of Conduct for Council Members, Committee Members and Candidates, as detailed in attachment 2.**
- 3. Adopts the Code of Conduct Behaviour Complaints Management Policy as detailed in attachment 3.**
- 4. Adopts the Behaviour Complaints Committee terms of Reference as detailed in attachment 4.**

CARRIED 5/0

8.4.2 Model Standards for CEO Recruitment, Performance and Termination**MANAGEMENT/GOVERNANCE/POLICY****ATTACHMENT DETAILS**

<u>Attachment No</u>	<u>Details</u>
1.	Department of Local Government Guidelines for CEO Recruitment and Selection, Performance Review and Termination.
2.	Shire of Peppermint Grove Standard for CEO Recruitment, Performance and Termination.

Voting Requirement	: Absolute Majority
Subject Index	: CEO Model Standards 2021
Disclosure of any Interest	: The Standard deals with matters affecting the CEO
Responsible Officer	: CEO

PURPOSE OF REPORT

Amendments made to the Local Government Act 1995 on 2 February 2021 placed a requirement on local governments to adopt the Model Standards for CEO Recruitment, Performance and Termination by 3 May 2021. Although Council won't have adopted the Standard by 3 May, the Model Standards apply in the interim until adoption.

The Department of Local Government, Sport and Cultural Industries released guidelines for these standards (attachment 1).

SUMMARY AND KEY ISSUES

This report seeks to adopt the Model Standards CEO Recruitment, Performance and Termination and to ensure the legislative timeframe is met.

LOCATION

N/A

BACKGROUND

On Tuesday 2 February 2021, the final aspects of the Local Government Act Review were proclaimed and amendments to the Local Government (Administration) Regulations 1996 were gazetted. Schedule 2 of the Regulations details the Model Standards for CEO Recruitment, Performance and Termination. Council considered a report on the matter at its 23 February 2021 meeting.

The Model Standards contains more detail on how to manage the Recruitment, Performance and Termination processes for CEO's compared to the details originally specified in the Act.

The Department of Local Government, Sport and Cultural Industries states these Model Standards are intended to ensure best practice and greater consistency in these processes between local governments.

The Department of Local Government, Sport and Cultural Industries also released in February 2021 "Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination". These guidelines presented in Attachment 2 outline the recommended practice for local governments in undertaking these processes and are intended to assist local governments in meeting the model standards prescribed in the regulations.

The Shire of Peppermint Grove Standards for CEO Recruitment, Performance and Termination as presented in Attachment 2 takes the wording directly from the Model Standards.

CONSULTATION

Public consultation was not required in the development of this report.

STRATEGIC IMPLICATIONS

There are no strategic plan implications evident at this time.

STATUTORY AND POLICY IMPLICATIONS

The Shire is required to comply with the Standard when dealing with CEO recruitment, performance review and termination.

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 Model Standard, as developed by the WA Local Government Association (WALGA) is attached.

Adopting the Model Standards now, does not preclude the City from making changes to the standards in the future, as long as those amendments are not inconsistent with the Model Standards.

The CEO must publish an up-to-date version of the adopted standards on the local government's official website.

Further information from Agenda Briefing Forum 11 May 2021

The Code of Conduct has a duplicated section – Division 1- Preliminary provision of page 2 of the Code - this has been deleted.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 8.4.2

Carried: Cr Horrex

Seconded: Cr Peters

That Council adopt the Shire of Peppermint Grove Standards for CEO Recruitment, Performance Review and Termination as provided in Attachment 2.

CARRIED 5/0

8.4.3 Delegations Register Review May 2021**MANAGEMENT/GOVERNANCE/POLICY****ATTACHMENT DETAILS**

<u>Attachment No</u>	<u>Details</u>
Attachment	Delegations Register with Track Changes

Voting Requirement	:	Absolute Majority
Subject Index	:	Delegations Register Review 2021
Disclosure of any Interest	:	Nil
Responsible Officer	:	CEO

PURPOSE OF REPORT

The purpose of this report is to review the Shire's delegation register.

SUMMARY AND KEY ISSUES

- The Shire's Delegation to the CEO is required to be reviewed every 12 months
- The delegations had an extensive review in June 2019.
- Minor changes are recommended in this review.

LOCATION

N/A

BACKGROUND

The Shire's delegations to the CEO are made to ensure the effective and efficient of the Shire are maintained. The delegations had an extensive review undertaken in June 2019. Only minor changes are recommended in this review.

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

The Local Government Act 1995, section 5.42 provides for the delegation of certain functions by Council to the CEO. Section 5.43 specifies what functions can't be delegated. Section 5.46 (2) requires Council to review the delegations at least once in a financial year.

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 Delegations register had a substantial review in June 2019. This review proposes several minor adjustments, and these are shown as track changes in the attached document.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 8.4.3

Moved: Cr Dawkins

Seconded: Cr Horrex

That Council Reaffirm the delegations as contained in the attached register, noting minor changes.

CARRIED 5/0

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

<u>Attachment</u>	<u>Details</u>
	Building Permits Issued Planning Approvals Issued Infringements Issued Library Statistics Recycling Statistics

Voting Requirement : Simple majority
Subject Index : Matters for Information May 2021
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
- Library Management Group Meeting Notes

SUMMARY AND KEY ISSUES

The following reports are presented to Council 25 May 2021:

1. Building Permits Issued April 2021
2. Planning Approvals Issued April 2021
3. Infringements Issued April 2021
4. Library Statistics April 2021
5. Recycling Statistics March 2021

CONSULTATION

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

OFFICER RECOMMENDATION – ITEM NO. 8.4.4

Moved: Cr Hohnen

Seconded: Cr Horrex

That Council receives the information in this report.

CARRIED 5/0

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 5.50pm, there being no further business the meeting closed.