



Shire of  
Peppermint Grove

## **ORDINARY COUNCIL MEETING**

# **AGENDA**

**TO BE HELD ON**  
**TUESDAY 28 JULY 2020**  
**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 28 July 2020, commencing at 5.30 pm.

Yours faithfully



Don Burnett  
**CHIEF EXECUTIVE OFFICER**

**24 JULY 2020**

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

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

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

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

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



# Shire of Peppermint Grove

## TABLE OF CONTENTS

ITEM	SUBJECT HEADING	PAGE
1	DECLARATION OF OFFICIAL OPENING	5
2	RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE	5
2.1	ATTENDANCE	5
2.2	APOLOGIES	6
2.3	LEAVES OF ABSENCE	6
2.4	NEW REQUEST FOR A LEAVE OF ABSENCE	6
3	DELEGATIONS AND PETITIONS	6
3.1	DELEGATIONS	6
3.2	PETITIONS	6
4	PUBLIC QUESTION TIME	7
4.1	RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE FROM A PREVIOUS MEETING	7
4.2	QUESTIONS FROM MEMBERS OF THE PUBLIC	7
4.3	DEPUTATIONS OF THE PUBLIC	7
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

<b>7.1</b>	<b>ORDINARY COUNCIL MEETING 23 JUNE 2020</b>	<b>9</b>
<b>8</b>	<b>OFFICER REPORTS</b>	<b>10</b>
<b>8.1</b>	<b>MANAGER DEVELOPMENT SERVICES</b>	<b>10</b>
8.1.1	33A Leake Street – Repairs - Replace-roof tiles and Tuck Pointing	10
8.1.2	33A Leake Street – Partial Demolition (Garage outbuilding)	14
8.1.3	43 Johnston Street – Addition to the rear of existing heritage listed dwelling	18
8.1.4	14 The Esplanade – Amendment to DA2019/00007 - Single Residence	25
<b>8.2</b>	<b>MANAGER INFRASTRUCTURE SERVICES</b>	<b>31</b>
<b>8.3</b>	<b>MANAGER LIBRARY SERVICES</b>	<b>31</b>
<b>8.4</b>	<b>MANAGER CORPORATE AND COMMUNITY SERVICES</b>	<b>32</b>
8.4.1	Financial Statements	32
8.4.2	Accounts Paid June 2020	32
<b>8.5</b>	<b>CEO/ MANAGEMENT / GOVERNANCE / POLICY</b>	<b>35</b>
8.5.1	Local Law Review	35
8.5.2	Matters for Information and Noting	42
<b>8.6</b>	<b>COMMITTEE REPORTS</b>	<b>44</b>
<b>9</b>	<b>NEW BUSINESS OF AN URGENT NATURE</b>	<b>44</b>
<b>10</b>	<b>MOTIONS ON NOTICE</b>	<b>44</b>
<b>11</b>	<b>CONFIDENTIAL ITEMS OF BUSINESS</b>	<b>44</b>
11.1	CEO Performance Review 2020	44
<b>12</b>	<b>CLOSURE</b>	<b>44</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.

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

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

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

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

#### 2.1 ATTENDANCE

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

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

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

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

## **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

DRAFT

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

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

- The Agenda
- Question to Council and
- Deputation Forms

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

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

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

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

NIL

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

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

## **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**

#### Chief Executive Officer, Don Burnett – Item 11.1 CEO Performance Review

The nature of the interest being that the Item deals with his contract.

### **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 23 JUNE 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 23 June 2020 be confirmed as a true and accurate record.**

## 8 OFFICER REPORTS

### 8.1 MANAGER DEVELOPMENT SERVICES

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

#### URBAN PLANNING

#### ATTACHMENT DETAILS

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Schedule of Materials
<b>Attachment 3</b>	Consultant Heritage Report

Voting Requirement	:	Simple Majority
Acceptance Date	:	11/06/2020
Location / Property Index	:	33A Leake Street, Peppermint Grove
Application Index	:	DA2020/00012
LPS No 4 Zoning	:	Residential – R-12.5
Land Use	:	Residential
Lot Area	:	1078m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	DA2020/000010
Applicant	:	Shane Farrell
Owner	:	Shane Farrell
Assessing Officer	:	Mr Josh Dallimore – Planning and Development Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager Development Services

#### COUNCIL ROLE

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

## **PURPOSE OF REPORT**

Council is requested to consider the proposed re-roof and tuck pointing at 33A Leake Street, Peppermint Grove. The proposed works will include the installation of gutters, down pipes, removal of exterior paint, new roof tiles, and tuck pointing the bricks.

## **SUMMARY AND KEY ISSUES**

- The house is listed on the Shires Heritage List (Management Category 1).
- The proposed works will repair broken bricks and tiles and conserve heritage design features of the house and update the home in keeping with heritage values.
- A heritage report has been provided as a part of the application and the proposed works have been assessed to be sympathetic to the heritage fabric of the house.

## **LOCATION**

33A Leake Street, Peppermint Grove

## **BACKGROUND**

The property is listed in the Shires Municipal Heritage List, and MHI citation describes it as having cultural significance because of the notable original architect/designer and for prominent resident citizens in the local community. The property was subdivided last year.

Ms Suzanne Hunt Architect provided a written heritage report which describes in detail the proposed works to repair the existing external structure as being necessary to “ensure that it (the building) will be used and appreciated for decades to come and the buildings remain the dominant structures on the site and in good condition.”

The Shire also received a separate development application to demolish a garage at this property which is a more recent construction than the house (Item 8.1.2 refers to this as a separate assessment).

## **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**

### Local Planning Policy 3 – Heritage Places

Local Planning Policy 3, (works to a building on the Shires Heritage List) requires a development application for any proposed works to be submitted as a planning application to Council.

The applicant obtained an assessment by a heritage architect of the proposal and its potential impact on the property. This describes the work as necessary to update the house and maintain heritage significance by retaining as much of the original building fabric as possible and repairs will respect the aesthetic and heritage values.

The materials proposed are described as being sympathetic to the heritage aspects of the building and are 'like for like' where applicable. The applicant indicates all heritage areas are to be photographed prior to work commencement and again upon completion. This photographic record and any accompanying drawings will be completed and provided to the Shire for record purposes.

## **STATUTORY IMPLICATIONS**

There are no specific statutory requirements in respect to this matter.

## **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

## **SOCIAL IMPLICATIONS**

There are no social implications at this time.

## **OFFICER COMMENT**

The proposed works are required to repair and re-tile the roof of the heritage listed property to prevent decay to the roof structure. The Heritage Assessment report submitted with the application justifies the works to be suitable and necessary to conserve and enhance the heritage value of the house which is listed on the LPS 4 heritage list. (see attached).

A summary of works to be undertaken follows :-

- Replace terracotta tiles on a leaking roof and update of gutters/downpipes – This work is necessary to repair and conserve the building and maintains the home to be liveable and up to contemporary standards
- Removal of paint from bricks to restore the original surfaces of brick work
- Tuckpoint the brickwork.

The proposed works will respect the heritage value and authenticity of the property and arrest decay of the premises. The works will not increase the size and scale of the house.

Any damaged materials will be removed and replaced with equivalent materials, so that colours and finishes to maintain the heritage appearance and value.

On this basis the application is recommended for approval with conditions.

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

**That Council approves the application to re-roof and tuck point the existing residence at 33A Leake Street, Peppermint Grove, subject to the following conditions:**

- 1. The development plans, as dated marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the “Approved Plans” as part of this application and shall form part of the development approval issued.**
- 2. All works are to be subsequent to the issue of a Building Permit and shall not be carried out, other than in accordance with this 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 to manage and prevent local traffic impacts and associated nuisance. The plan will address:**
  - Delivery and removal of materials and equipment to and from the site;**
  - Storage of materials and equipment to be kept on the site;**
  - Parking arrangements for contractors;**
  - Construction Waste disposal strategy and location of waste disposal bins on-site;**
  - Details of cranes, large trucks or similar bulky equipment which may block public thoroughfares during construction;**
  - Other matters likely to impact surrounding properties.**

**8.1.2 33A Leake Street – Partial Demolition (Garage outbuilding)**
**URBAN PLANNING**
**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Development Application Plans
<b>Attachment 3</b>	Heritage Assessment and Photos

Voting Requirement	:	Simple Majority
Acceptance Date	:	04/06/2020
Location / Property Index	:	33A Leake Street
Application Index	:	DA2020/00010
LPS No 4 Zoning	:	Residential – R-12.5
Land Use	:	Residential
Lot Area	:	1078m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	DA2020/00012
Applicant	:	Shane Farrell
Owner	:	Shane Farrell
Assessing Officer	:	Mr. Josh Dallimore – Planning Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager Development Services

**COUNCIL ROLE**

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

## **PURPOSE OF REPORT**

Council is requested to consider the proposed demolition of a garage at 33A Leake Street, Peppermint Grove. Item 8.1.1 refers to repairs proposed for the main house. The garage is located in the north-west corner of the property separate from the heritage listed house. It is not cited to be part of the heritage significance. The application is referred to Council due to the heritage listing of the property as required by LPP 3.

## **SUMMARY AND KEY ISSUES**

- Garage is a more modern outbuilding separate from the house and with no assessed heritage value.
- A consultant heritage report has been provided by the applicant detailing how the proposed works might affect the heritage value of the property. The conclusion is the works will not detract from the heritage value of the house.

## **LOCATION**

33A Leake Street, Peppermint Grove

## **BACKGROUND**

The Shire received and is currently assessing two applications (required by LPP 3) in relation to this property. The house is on the heritage list and is assessed in the MHI to be management Category 1. The owner proposes works to redevelop and update the house to conserve the heritage materials and values and remove non-heritage structures. The garage is an outbuilding with no heritage significance. All works have been reviewed by Suzanne Hunt a heritage architect engaged by the applicant. She reports the work will not adversely impact on the heritage value of the property.

## **CONSULTATION**

The approval to demolish the garage will not adversely affect neighbouring landowners in a planning context and therefore no consultation has been conducted. Should the proposed demolition be approved by issue of a licence, a condition will require that neighbours be notified prior to works commencing.

## **STRATEGIC IMPLICATIONS**

No relevance to the Strategic Plan.

## **POLICY IMPLICATIONS**

Local Planning Policy 3 – Heritage Places

LPP 3 dictates that all works to a heritage listed property be referred to Council for development assessment. In accordance with State Planning Policy 3.5 Council holds the view that demolition of heritage places should be avoided wherever possible. In this case the garage is not part of the MHI citation and is not considered to hold heritage value.

The submitted heritage assessment is by an architect who formerly advised other local governments and the State Heritage Office's Development Committee. The assessment supports the proposed demolition, highlighting that the garage to be demolished is not original, has no heritage significance and is not complimentary to the era of the house.

### **STATUTORY IMPLICATIONS**

There are no specific statutory requirements in respect to this matter.

### **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**

This application is for the demolition of a garage currently located separate and at the rear of the heritage listed property. The property is included on the Shires Heritage List due to the house and its heritage values. The listing of 33A Leake Street therefore requires referral to Council for planning assessment and would require approval prior to the commencement of any works, as per LPP 3.

The applicant obtained a brief heritage impact assessment of the demolition works and has submitted this in support of the application. This assessment identifies that the garage was constructed in the 1960s or 1970s. The assessment indicates that the garage is in a dilapidated and dangerous state and this condition impairs its use and given its more recent construction it adds no heritage value to the house.

Since the application does not propose to demolish any aspect of the original heritage house, the application to demolish the garage should be approved. The repair works proposed to the original house are assessed separately in the planning report for DA2020/00012.

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

**That Council approves the proposed demolition of the garage at 33A Leake Street, Peppermint Grove, subject to the following conditions:**

- **Demolition work shall address vermin control, notification of neighbours and management of dust, noise and debris. (Building permit conditions too)**
- **There shall be no demolition works adjacent to other buildings or related systems.**
- **A Demolition Permit must be issued by the Shire and conditions are to be assessed to be met prior to works on site begin.**

**Advice:**

**In approving this application for demolition Council notes that a heritage assessment included with the application found the existing garage holds no heritage value.**

DRAFT

**8.1.3 43 Johnston Street – Addition to the rear of existing heritage listed dwelling**
**URBAN PLANNING**
**ATTACHMENT DETAILS**

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

Voting Requirement	:	Simple Majority
Acceptance Date	:	15/05/2020
Location / Property Index	:	43 Johnston Street, Peppermint Grove
Application Index	:	DA2020/00007
LPS No 4 Zoning	:	Residential – R12.5
Land Use	:	Residential
Lot Area	:	743m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Angela Quin
Owner	:	Angela Quin
Assessing Officer	:	Josh Dallimore
Authorising Officer	:	Mr. Ross Montgomery – Manager Development Service

**COUNCIL ROLE**

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

## **PURPOSE OF REPORT**

Council is requested to consider the proposed addition to the rear of an existing residence at 43 Johnston Street, Peppermint Grove. The works occur in the north east corner of the lot.

## **SUMMARY AND KEY ISSUES**

- The application proposes a 36m<sup>2</sup> laundry and pantry addition in the north east corner of the lot. It will not be visible from the street.
- The proposed addition is located at the rear of the property and backs on to the rear of the neighbour's driveway and hardstand parking area.
- The application proposes a reduced rear boundary setback of 3.17m (6m required)

## **LOCATION**

43 Johnston Street, Peppermint Grove

## **BACKGROUND**

The Shire received the application for additions to the rear of an existing property at 43 Johnston Street, Peppermint Grove, on 13 May 2020. The proposal introduces a 36m<sup>2</sup> extension to the rear of the house. Griffiths Architects (heritage architect) was engaged by the applicant to assess any impact of the proposed development on the street or the heritage value of the front section of the house.

The property has a large open garden in front of the house, and a garage is built in the front setback area. The front garden is approximately 225m<sup>2</sup> in size. The works will not affect the front garden or the street appearance of the house.

## **CONSULTATION**

The Shire contacted affected landowners on 3 June 2020 informing them of the proposed development at 43 Johnston Street. The consultation period ran for 14 days and closed on 17 June 2020, one comment on the proposed development was received.

The comment received by the Shire objected to the proposed addition, with the primary concern being the reduced rear setback. The submission highlights that, *"This will affect the front yard of... [the] property which directly abuts the area proposed for the extension."*

The submission contends the proposed application does not warrant approval for the following reasons:

- The proposed extension does not attempt to reduce the impact of building bulk on adjoining properties
- The proposed extension does not provide adequate sun into the building or into open spaces on the site.
- The proposed extension has the ability to reduce the loss of privacy and overlooking between properties.

- The proponent has other areas available on the property to undertake an extension.

### **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

### **POLICY IMPLICATIONS**

Local Planning Policy 3 – Heritage Places

The proposed development site is included on the Shires Heritage List and Municipal Heritage Inventory (Category 1). Therefore, the proposed development is required to meet the six principles for all development included in LPP 3.

The addition at the rear of the property has been assessed against the principles of LPP 3 below:

<b>Development Principle</b>	<b>Assessment/Comment</b>
Significant heritage fabric should be retained, protected and restored with 'like for like' authentic restoration to original detail wherever possible.	The proposed extension is at the rear of the property and will only remove a small section of exterior wall to connect to the extension.
Original front elevations and features are to be retained and/or restored wherever possible.	Front elevation and section of the house is not being altered.
Intrusive finishes and elements which are not original or where they conceal or negatively impact upon the heritage significance of a building may be removed.	A small amount of the original heritage building is being altered however the façade is not changed.
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.	Proposed work is not reversible without completely demolishing the proposed addition. Locating the addition to the rear reduces impact on the heritage building and streetscape.
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.	'New Technologies' are located within the addition and do not involve the original section of the house.
Additions should not overwhelm the existing building in terms of bulk, form and scale.	The proposed addition is at the rear and of a single storey. It fits within the scale of the existing house and does not overshadow the original house or neighbours.

The proposal also includes several smaller changes to the property which are within the planning compliance of the proposal. All of the proposed additions and alterations to the property have been assessed by a heritage architect and this assessment indicates no impact on the heritage fabric of the building.

## **STATUTORY IMPLICATIONS**

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

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

<b>RESIDENTIAL DESIGN CODES</b>	
<b>Acceptable Development/Performance Criteria</b>	<b>Assessment/Comment</b>
<b>1.</b> Rear Setback – 6m (R-Codes Table 1)	<p>The proposed development at the rear of 43 Johnston Street has a varied setback with 3.17m the closest from the rear lot boundary. There are however other sections of the rear of the house which exceed the 6m setback and so if the averaging rule is accepted this would equate to a 9m average setback from the entire rear boundary. In this case the reduction for a section is considered acceptable.</p> <p>The location of the proposed addition allows for logical connection with the existing house, however, to limit the impact of the modern development on the heritage portion of the house away from the original front section of the house and the façade.</p> <p>The proposed addition is single storey and does not overlook neighbours.</p> <p>The location of the addition allows for effective use of space in other areas at the rear of the lot, including sufficient space for a landscaped garden and a courtyard area.</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 application for 43 Johnston Street, Peppermint Grove, extends the house towards the rear boundary. Although it comes as close as 3.17m to the boundary at one section, the averaging rule if applied to the entire rear of the building meets a 9m average setback from the rear boundary. This would be considered acceptable.

The proposed plans were referred to neighbours for comment and one objection was received, objecting primarily to the impact of the proposed reduced rear setback on their property. That objection states that the proposed addition will have an adverse impact which could be avoided by building the extension on another area of the property. It is noted that section adjacent to the rear lot abuts a driveway and a hardstand area. There is a small area of outdoor living space on the neighbouring property, however a majority of outdoor space is located to the rear of the affected neighbours land and is unlikely to impact its use.

As the application is seeking a variation to the R-Codes a design principles approach is required for assessment. For the proposed development to be approved it would need to demonstrate that meets the design principles of the R-Codes relating to setbacks. In particular, the development should:

1. Reduce impacts of building bulk on adjoining properties;
2. Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and
3. Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.

The proposed single storey extension will not overlook the neighbours and will therefore have little impact on adjoining dwellings due to this low height. The extension is adjacent to a driveway connecting the rear property to the street, and a hard stand area at the end of the driveway in front of the house. This open area, type of use for those spaces and aspect provide that, points 1 and 3 are met.

The proposed extension is located in the north east corner of the lot and will have no effect on overshadowing on neighbouring properties. The proposed extension may shade the backyard for a part of the morning however there will be open access to natural light during the afternoon. This satisfies point 2.

Notwithstanding the objection raised by a neighbour the proposed development is assessed to have minimal impact and only for a part of the morning. It is therefore considered acceptable.

As the property is on the LPS 4 Heritage List it is important that the heritage fabric of the building is protected. A heritage assessment of the property and proposed changes confirms no impact of the proposed works on the heritage fabric of the house. Some minor works to the property involve replacement/enclosure of windows, and changes to walls to the rear of the house.

The heritage assessment reports several changes to the original (c.1905) four-room house, and these include an addition to the rear and a second storey. The heritage architect report supports the proposed modifications to the house because they are assessed to have no

negative impact on the heritage house and may enhance the value by removing subsequent and non-original additions. This may reveal the original form.

The application to develop additions to the rear of the house is assessed to improve the amenity of the house for contemporary living and improves the liveability of the house. The works do not impact the heritage value and unlikely to affect neighbouring properties.

**Further Information provided following the Agenda Briefing Meeting held on 14 July 2020**

***That the following Advice note could be added:***

***Advice Note***

***When considering this development application, the Shire noted an objection citing overlooking of a neighbouring property. The Shire confirms both properties have second storey windows which overlook the intervening yard areas. The overlooking windows are located a sufficient distance from their respective shared boundary to meet R Codes privacy standards and are not associated with or altered by this application.***

***The addition proposed in this application is a single storey and the reduction in setback which is sought for approval does not affect or change this pre-existing instance of overlooking second storey windows. The objection is therefore not supported and is independent of the Shire considering this application. Should neighbours wish to resolve any current overlooking or perceived loss of privacy of the existing houses – it is for them to agree to a screening solution on the boundary – one that can be managed by both parties and does not require further Shire involvement.***

**OFFICER RECOMMENDATION/S – ITEM NO 8.1.3**

That Council approves the proposed additions at 43 Johnston Street, Peppermint Grove, in line with plans 1-7 submitted to the Shire, 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 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 with regard to the Shires Local Planning Scheme 4 and the Design Principles of the R-Codes, and exercised discretion on the following areas:

- Building within the rear setback area.

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

**8.1.4 14 The Esplanade – Amendment to DA2019/00007 - Single Residence**
**URBAN PLANNING**
**ATTACHMENT DETAILS**

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

Voting Requirement	:	Simple Majority
Acceptance Date	:	27/05/2020
Location / Property Index	:	14 The Esplanade (6570)
Application Index	:	DA2020/00008
LPS No 4 Zoning	:	Residential – R10
Land Use	:	Residential
Lot Area	:	1177m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	DA2019/00007 & DA2020/00002
Applicant	:	Grounds Kent Architect
Owner	:	Jon and Carolyn Stewart
Assessing Officer	:	Josh Dallimore – Planning and Development Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager Development Services

**COUNCIL ROLE**

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

## **PURPOSE OF REPORT**

Council is requested to consider the proposed amendment to DA2019/00007 for a “New Limestone and Slate Roof House” at 14 The Esplanade, Peppermint Grove.

## **SUMMARY AND KEY ISSUES**

- Council approved the original development application (DA2019/00007) in April 2019.
- The applicant amended the design by application in February 2020 approved by Council (DA2020/00002).
- A redesign has been prompted by several issues concerning ground levels and alignment of the building with boundaries. The revised plans address and diminish the need to retain the northern boundary and also introduce a even gradient for the driveway into the garage.
- The applicant has advised abutting neighbours of the proposed changes prior to submitting the application. Both neighbours responded.

## **LOCATION**

14 The Esplanade, Peppermint Grove

## **BACKGROUND**

In 2015 The Shire approved the demolition of a house on the Shires Municipal Heritage List via planning approval. One of the grounds for approving the demolition was that any future replacement house should respect the position of the former house (now demolished) in relation to abutting properties. The planning approval to demolish was extended in 2017 and the house was demolished in 2019.

The condition about respecting the situation of the previous house was placed on the demolition approval (in an attempt to link two separate planning applications, one for the demolition, and one for the new house).

Although it may be considered expired once the demolition had been completed, Council has nevertheless been mindful when considering the replacement house that it needs to respect the position of the former house, its corner aspect and relationship to abutting houses.

Abutting houses are heritage listed and are set well back from the common boundaries but themselves have varied street setbacks.

The Shire approved a development application (DA2019/00007) at 14 The Esplanade for a new single house of limestone and slate construction in April 2019. That proposed design was the result of a series of presentations and discussion with Council by the applicant to address several site-specific design issues such as reflecting the streetscape and corner location, as well as meeting LPS 4 and policy requirements.

That design was in a similar position to the previous house, however the replacement house was located slightly closer to the Esplanade and sat lower in height than the demolished

house. The approved house, like its predecessor addresses the corner location with a stepped façade and offers an outlook towards both Forrest Street and The Esplanade.

Prior to this application and post approval in April 2019, a subsequent redesign to shift the entire house further away from the northern boundary and closer to Forrest Street (south) was approved. The setbacks from both the Esplanade and Forrest Street still complied with LPS 4 and the R Codes. Council approved that revision to the plans in March 2020.

Some further architectural examination of the site now proposes this redesign to re-configure the house so as to improve the access from the street to the garage and create a clearly defined setback from the boundary shared with the property to the north.

### **CONSULTATION**

All redesign changes are compliant with the LPS 4 and R Codes. Shire staff assess that the redesign reduces any potential adverse impact on the property to the north and maintains an equivalent impact on the property to the west.

The proposal is compliant with LPS 4 and the R Codes and therefore does not involve greater exercise of discretion than previous approvals.

The redesign arose to address matters raised by neighbours about reduction of retaining wall structures and therefore no further formal consultation was conducted by the Shire.

The applicant advised the two abutting neighbours as a courtesy of this further redesign in response to their ongoing discussion and prior to submission. Both neighbours provided further comment. No further referral of plans to neighbours is necessary.

Of the comments, one advised of their support for the revised design (22th June 2020). *“In particular the issues that may affect us are that the laundry is within 3m of the boundary, the garage roof area and the proposed adjoining retaining wall. We have had the opportunity to review these plans and have no objection to them as drawn.”*

The other neighbour responded as summarised below:

- Supports the new application overall, as it is a significant improvement on the previous design in terms of its potential to impact the common boundary of their land (the northern boundary).
- Objects to the reduction of the setback to The Esplanade from the original approval (DA2019/00007) because it may restrict their views along the street.
- Submits that the setback should be no less than 15.5m in order to respect the location of the demolished house.

### **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **POLICY IMPLICATIONS**

### Local Planning Policy 3 – Heritage Places

- New development within the immediate locality of a heritage area or precinct is respectful of the heritage area or precinct and does not detract from its heritage significance.
- Demolition and Recording:
  - If following further historical research, it is assessed by a qualified heritage architect, that demolition can be considered, the replacement building should recognise and respect by its position the adjoining residences and precinct.

## **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>	
1.	Rear Setback – 6m (R-Codes Table 1)  The amendment is proposing to reduce the rear setback of the development to 3.5m. This is offset by the landscaped garden which is set back approximately 20m from the boundary. With averaging applied the rear setback equates to approximately 15m. As a part of the application a letter of support is submitted from the neighbour affected by this aspect of the development.

## **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**

This application proposes a design refinement of the building on the property.

This redesign retracts the house from the northern boundary thereby removing the need to intrude onto and under the abutting property boundary to the north. It will reduce the need for complex structural earth works and engineering structures at the boundary. This redesign does not alter the height of the building, it does however shift just a portion of the Esplanade façade closer to the street.

This revision seeks to improve the design by better addressing the steeply sloping site (it slopes down to the south and the east). The property located immediately to the north is also approved to redevelop. Ongoing discussions have involved the two sets of architects, builders (and others engaged on behalf of the applicant and neighbours) to mediate and improve 'design interface' and site development issues.

The setback now proposed from the Esplanade meet the LPS 4 distances (9m), and is also setback further from the Esplanade than the approved neighbouring development (which was granted a reduced street setback).

These changes proposed better address the sloping landform of the site, and reduce the need for extensive retaining wall structures along the northern boundary.

The objection relating to the possible reduction in views down the street is noted and considered.

It cites a need to respect the position of the demolished house and abutting heritage houses, referring to an earlier advice made by the Shire when it approved demolition of the earlier house at 14 The Esplanade.

Since this time however approval granted to a redevelopment of the house to the north will allow it to be built closer to The Esplanade and closer to the common boundary with 14 The Esplanade.

This represents a significant alteration and changes the relationship of adjacent houses to each other and the street. It is therefore no longer relevant to insist on a previous alignment and design because of the extent of the setback concessions granted for the redevelopment of the property to the north has changed any historical spatial relationship.

The minor reduction in the setback which is actually compliant with LPS 4 is unlikely to impinge on views from adjacent properties because the house and the site are situated 3-4 metres lower. The replacement house is also lower than the demolished house. Views out towards the street and along the street will therefore not be impinged.

The revised design for 14 The Esplanade will improve street impact to create a more cohesive streetscape as it steps around the corner.

The neighbour to the west supports the revision to the configuration of the garage heights at the western portion of the house. The redesign will improve the driveway grade from Forrest Street and will not disrupt the grade of the footpath. This revision is a necessary improvement.

The revised design achieves better disposition of open spaces across the site and reduced impact on landform and boundary levels. It is compliant with the LPS 4 and R Codes and generally meets design objectives about the façade stepping around the corner.

The reservations expressed by the neighbour should be considered in the context of all approved redevelopment for the locality which has changed any historical relationship between properties and buildings.

This redesign is assessed to better match the landform and changes in elevation and will complement a corner location to reduce potential impacts on neighbouring properties. The revised plans are recommended to replace the Approved Plans for the purposes of redevelopment of this site as per DA2019/00007.

#### **OFFICER RECOMMENDATION/S – ITEM NO 8.1.4**

**Council approve the application to amend Development Approval DA2019/00007 at 14 The Esplanade, Peppermint Grove to replace the Approved Plans with a revised set of plans (A10, A11, A12, A20, A30, A31), and for these to be implemented subject to the conditions included on the existing approval and with any submitted Building Permit Plans (which are to be consistent with the Approved Plans in all ways and at all times).**

#### **Advice:**

**The design has been assessed with regard to LPS 4, the R-Codes and Shire Local Planning Policies.**

**The redesign is assessed to improve the site and streetscape design because it:-**

- **Distributes the bulk of the house across the site to better match the sloping landform; and**
- **Retracts the building away from common boundary to the north thereby reducing the need for extensive engineering and earthworks; and therefore**
- **Better reflects design objectives for creating a favourable streetscape and built form for a visually exposed corner development site.**

**Council notes comments offered about previous buildings and respectful siting and location of buildings, however considering the scope of redevelopment approved on this and adjacent sites and design variations already granted for setbacks it is satisfied this redesign achieves a continuity from the past in terms of corner aspect and street elevation.**

**8.2 MANAGER INFRASTRUCTURE SERVICES**

NIL

**8.3 MANAGER LIBRARY SERVICES**

NIL

DRAFT

## 8.4 MANAGER CORPORATE AND COMMUNITY SERVICES

### 8.4.1 Financial Statements

Due to End of Financial Year (EOFY) the draft financial statements will be provided at a later date.

### 8.4.2 Accounts Paid June 2020

#### CORPORATE

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
<u>Attachment</u>	<u>Accounts Paid</u>

Voting Requirement : Simple Majority  
 Subject Index : FM045A  
 Disclosure of any Interest : N/A  
 Responsible Officer : Michael Costarella, Manager Corporate and Community Services

#### COUNCIL ROLE

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

## **PURPOSE OF REPORT**

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

## **SUMMARY AND KEY ISSUES**

Significant payments in June 2020 included the following:

- GST & PAYG remittance to ATO;
- Payments for waste disposal to WMRC;
- Staff & Shire superannuation contributions.
- Payment of ESL to DFES
- Admin Building Eastern Footpath Project Payment

## **LOCATION**

N/A

## **BACKGROUND**

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

PAYMENT TYPE	FUND	NUMBER SERIES	AMOUNT
EFT	MUNI 1	350-353	\$271,884.25
TEFT	TRUST	NA	NA
Direct Deposit	MUNI 1	153-154	\$75.89
BPAY	MUNI 1	153-156	\$5,931.02
Cheque	MUNI 1	433	\$210.25
Credit Card	MUNI 1	7	\$5,769.15

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **POLICY IMPLICATIONS**

There are no significant policy implications evident at this time.

## **STATUTORY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

The payments processed by the Shire relate to expenditure approved in the 2019/20 annual budget.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

**SOCIAL IMPLICATIONS**

There are no social implications at this time.

**OFFICER COMMENT**

Nil

**OFFICER RECOMMENDATION/S – ITEM NO. 8.4.2**

**That Council receive the list of payment of accounts by cheques, electronic funds transfers, direct debit payments and credit card payments for June 2020, totalling \$283,870.56**

## 8.5 CEO/ MANAGEMENT / GOVERNANCE / POLICY

### 8.5.1 Local Law Review

#### MANAGEMENT/GOVERNANCE/POLICY

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
	Draft local laws
<b>1</b>	Activities in Thoroughfares and Public Places and Trading Local Law 2020
<b>2</b>	Cats Local Law 2020
<b>3</b>	Dogs Local Law 2020
<b>4</b>	Fencing Local Law 2020
<b>5</b>	Local Government Property Local Law 2020
<b>6</b>	Parking and Parking Facilities Local Law 2020
<b>7</b>	Penalty Units Local Law 2020
<b>8</b>	Waste Local Law 2020

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

#### COUNCIL ROLE

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

## **PURPOSE OF REPORT**

The purpose of this report is for the Council to consider the attached suite of proposed local laws, for the Presiding Member to give notice of the purpose and effect of each local law and for approval to advertise seeking community comments on the proposed local laws.

## **SUMMARY AND KEY ISSUES**

- The Local Government Act 1995 requires local laws to be reviewed every 8 years
- This timeframe has not been adhered and it is considered more efficient to repeat the old local laws and use WALGA's model local laws to preplace them.
- It is proposed to introduce one new local law, being the Waste Local Law.

## **LOCATION**

N/A

## **BACKGROUND**

The Shire of Peppermint Grove (the Shire) engaged BHW Consulting to assist with the development of new local laws for the Shire. This report relates to a proposal to commence, under s3.12 of the *Local Government Act 1995* (the Act), the adoption of new local laws.

Section 3.12 of the Act outlines the procedure for making local laws which is broadly as follows:

- the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law;
- the Shire is to give local public notice stating:
  - the local government proposes to make a local law the purpose and effect of which is summarized in the notice;
  - a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
  - 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;
- give a copy of the proposed local law and a copy of the notice to the Minister for Local Government and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- provide a copy of the proposed local law to any person requesting it;
- at the close of submissions consider any submissions made and take into consideration any comments provided;
- adopt, by absolute majority, the local law as originally published or as amended, subject to the amendments not substantially altering the intent of the local law;
- publish the local law in the *Government Gazette*;
- give a copy of the local law to the Minister for Local Government and, if another Minister administers the legislation under which the local law is proposed to be made, to that other Minister;
- after the local law has been published in the *Government Gazette* the local government is to give local public notice:

- stating the title of the local law;
  - summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - advising that copies of the local law may be inspected or obtained from the local government's office; and
- within 10 days of the publication in the *Government Gazette* submit the local law to the Joint Standing Committee on Delegated Legislation.

This process is likely to take around 6 months and is dependent on meeting schedules.

### **CONSULTATION**

There were several workshops with the Shire's CEO, Senior Managers and the Consultant to assist in the development of the draft local laws. The proposal to adopt the local laws will be advertised locally inviting comment from the community. The respective Ministers/Government Agencies will also be advised of the proposals and requested to make comment.

### **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.

### **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 proposed local laws are outlined below together with their respective purpose and effect.

### **Activities in Thoroughfares and Public Places and Trading Local Law 2020**

#### **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.

### **Cats Local Law 2020**

#### **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*.

### **Dogs Local Law 2020**

#### **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.

## **Fencing Local Law 2020**

### 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.

## **Local Government Property Local Law 2020**

### 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.

## **Parking and Parking Facilities Local Law 2020**

### 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.

## **Penalty Units Local Law 2020**

### 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.

## **Waste Local Law 2020**

### 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.

### **Further Information provided following the Agenda Briefing Meeting held on 14 July 2020**

***Attachment Six Parking Local Law the penalty unit 25 Denying access to private drive or right of way in Schedule 2 Prescribed Offences has been corrected to 20 units***

***Attachment One Activities in Thoroughfares and Public Places Local Law has been amended to reflect the Shire's recently reviewed policy on Street Tree and Verge Management Policy dealing with lawn on the verge:***

- ***Clause 1.4 - the definition of lawn has been changed to remove any plant other than lawn.***
- ***Clause 2.1(1)(a) – this has been changed to prohibit the planting of any plant other than lawn on a verge.***
- ***Clause 2.1(1)(b) – prohibits the planting of a tree as according to the Shire's policy it has the responsibility of planting, pruning etc a street tree.***
- ***Clause 2.1(1)(c) – removed reference to garden and plant as these cannot be planted.***
- ***Clause 2.1(1)(d) – has been deleted as plants are not permitted***
- ***Clause 2.6 – has been deleted as there is now no need to have acceptable materials as all that is allowed to be planted is lawn.***
- ***Clause 2.7(2) – in accord with the Shire policy have limited the verge treatment to the planting of certain types of grass. The balance of the clause is now redundant.***
- ***Clause 2.9(a) – deleted reference to garden.***

***Schedule 1 – changed the wording on the penalties***

***The updated draft local laws are attached reflecting these changes.***

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

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.

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

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

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

**COUNCIL ROLE**

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

## **PURPOSE OF REPORT**

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

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

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

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

## **SUMMARY AND KEY ISSUES**

The following reports are presented to Council at the Ordinary Council Meeting of 23 June 2020:

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

## **CONSULTATION**

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

## **OFFICER RECOMMENDATION – ITEM NO. 8.5.2**

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

## 8.6 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

***As per subsection (1)(b), the council or committee may Local Government Act 1995 Administration Part 5 Council meetings, committees and their meetings and electors' meetings Division 2 s. 5.23 close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following***

***—(2) (a) a matter affecting an employee or employees***

### **OFFICER RECOMMENDATION/S – ITEM NO 11.1**

***That Council in accordance with Section 5.23 (2) (a) of the LG Act close to members of the public the meeting, as this report deals with a matter affecting an employee***

### **11.1 CEO Performance Review 2020**

## 12 CLOSURE

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

---

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

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

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

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

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

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

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

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

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

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

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

## **FINANCIAL & PROXIMITY INTERESTS**

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

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

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

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

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

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