



Shire of  
Peppermint Grove

# **SPECIAL COUNCIL MEETING**

# **AGENDA**

**TO BE HELD ON  
TUESDAY 12 APRIL 2022  
AT  
6.00PM**



# Shire of Peppermint Grove

## NOTICE OF MEETING

Dear Councillor

It is advised that the **SPECIAL COUNCIL MEETING** will be held in the Council Chamber of the **Shire of Peppermint Grove**, 1 Leake Street, Peppermint Grove, on Tuesday 12 April, commencing at 6.00pm.

## MEETING AGENDA ATTACHED

Yours faithfully

A handwritten signature in black ink, appearing to read 'Donovan Norgard', is written over a light blue horizontal line.

**Mr Donovan Norgard**  
**A/CHIEF EXECUTIVE OFFICER**

**8 April 2022**

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### **DISCLAIMER**

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*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**

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Shire of  
Peppermint Grove

## **SPECIAL COUNCIL MEETING AGENDA**

### **1 DECLARATION OF OFFICIAL OPENING**

At \_\_\_\_ pm, the Shire President declared the meeting open 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.

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

#### **2.1 ATTENDANCE**

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

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

A/CEO Manager Infrastructure Services  
Manager Corporate Services & Community Services  
Manager of Development Services

Mr D Norgard  
Mr M Costarella  
Mr J Gajic

**Gallery**    \_\_\_\_\_ Members of the Public  
                  \_\_\_\_\_ Members of the Press

#### **2.2 APOLOGIES**

Chief Executive Officer

Mr D Burnett

### **3 DELEGATIONS AND PETITIONS**

#### **3.1 DELEGATIONS**

NIL

#### **3.2 PETITIONS**

NIL

#### **3.3 PRESENTATIONS FROM THE PUBLIC**

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

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

- The Agenda
- Question to Council Forms 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.

In the event there are no public members present, the Presiding Member will dispense with Public Question Time.

##### **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 Special 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**

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

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

### **5.2 PROXIMITY INTEREST**

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

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

### **5.3 IMPARTIALITY INTEREST**

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

### **5.4 INTEREST THAT MAY CAUSE A CONFLICT**

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



## **5.5 STATEMENT OF GIFTS AND HOSPITALITY**

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

## **6 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)**

Written announcements by the Presiding Member or important forthcoming functions to be tabled at this point. The Presiding Member may, at their discretion, wish to make verbal announcements.

## **7 CONFIRMATION OF MINUTES**

Nil adoption of Minutes at this meeting.

## 8 OFFICER REPORTS

### 8.1 MANAGER INFRASTRUCTURE SERVICES

#### 8.1.1 Budget Reallocation for CAPEX Projects

### INFRASTRUCTURE

#### ATTACHMENT DETAILS

<u>Attachment</u>	<u>Details</u>
Attachment	Nil

Voting Requirement	:	Absolute Majority
Subject Index	:	Infrastructure Grant
Disclosure of Interest	:	NIL
Author	:	Chief Executive Officer, Don Burnett
Responsible Officer	:	Chief Executive Officer Don Burnett

#### PURPOSE OF REPORT

Council is requested to reallocate Local roads and Community Infrastructure (LRCI) Phase 2 grant to an alternate capital works project (CAPEX)

#### SUMMARY AND KEY ISSUES

- The Federal government has provided local governments with capital works grants to facilitate economic development in response to COVID concerns and its impact on the economy.
- A phase 2 grant for \$78,623 was to be allocated to the parking/drainage project in Bay View Terrace and Keane Street.
- Infrastructure Australia has advised the Shire's request to delay the works for this project to the 2022/23 has been declined and the project must be completed by 30 June 2022.
- Originally a Phase 3 grant was allocated to upgrade the footpath along Stirling Highway south of Irvine to replace the paving. This would match the footpath upgrade from 488 Stirling Highway to Irvine Street, which was partially funded with a Phase 1 grant.
- This report recommends the phase 2 grant be reallocated to the footpath upgrade project, however it is problematic that a contractor can complete this project by 30 June.
- Alternate projects are submitted as back ups if the footpath project can't be delivered.

## **LOCATION**

N/A

## **BACKGROUND**

The Federal Government has provided LCRI grants to local governments in order to offset the anticipated negative effect to the economy because of COVID.

Phase 1 grant of \$49,642 was used as a contribution towards the footpath upgrade costs of the section of the Stirling Highway footpath from Cottesloe Shopping Centre to the Irvine Street intersection.

In the 2021/22 budget, Council allocated the Phase 2 grant of \$78,623 to the upgrade of parking around Manners Hill Park and the Peppermint Grove Tennis Club, along bay View Terrace and Keane Street.

At the December 2021 Council meeting, Council resolved to reallocate the phase grant in total to the upgrade of the Shire's street furniture in accordance with the Shire's asset plan. The reallocation was done due to the uncertainty the timing of Stirling Highway reseal works to be undertaken by Main Roads WA (WRWA).

Infrastructure Australia have since advised that the extension of time requested by the Shire for the Phase 2 grant for the parking/drainage project won't be approved, as these grant funds have to be expended by 30 June 2022.

## **CONSULTATION**

There has been no specific consultation undertaken in respect to this matter. The Shire has been working with the Peppermint Grove Tennis Club regarding the drainage issue at the Club and further discussions will need to take place over the impact on this project as a consequence grant funding change.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **POLICY IMPLICATIONS**

There are no significant policy implications evident at this time.

## **STATUTORY IMPLICATIONS**

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

## **FINANCIAL IMPLICATIONS**

Council adopted the 2021/22 CAPEX budget based on the Phase 2 and 3 grants being received. The recommendation of this report does not impact on the financial position of the Shire as it is reallocating the grant to a different CAPEX project.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

## **SOCIAL IMPLICATIONS**

The Shire's CAPEX project contributes to the social amenity of the Shire for residents and visitors.

## **OFFICER COMMENT**

With Infrastructure Australia advising that the drainage/parking project proposed for the phase 2 grant won't be approved because it can't be completed by 30 June 2022, Council needs to allocate the grant to a project that be completed by 30 June.

MRWA have completed the Stirling Highway reseal project, so the phase 2 grant can now be reallocated to this project, however arranging for a contractor to complete the job is problematic.

Alternate projects for consideration could be the installation of a digital parking availability advisory sign at the entrance of the Grove underground carpark or replacing the timber decking at the Community Centre courtyard and café outdoor space at the Grove building. Synthetic decking would save on ongoing maintenance costs of having to oil the timber decks on a regular basis. Either project can only be undertaken if they can be completed by 30 June. It is also pointed out that these two projects would normally be funded through the Library Management Agreement, with the Towns of Mosman Park and Cottesloe making financial contributions, however the use of the grant funds for either of these projects is a better option compared to returning the grant.

The reallocation of this grant from the parking/drainage project will mean this project scope of works will need to be reconsidered. The original CAPEX budget was \$278,823, off which grants were \$115,350 (phase 2 and part of phase 3 grant) and \$163,000 was from the Shire reserve/municipal funds.

It is proposed that the LCRI Phase 2 grant of \$78,623 is allocated to the footpath upgrade, replacing the red paving bricks, along Stirling Highway from Irvine Street south to 504 Stirling Highway, however backup projects should be considered if a contractor can't complete the job by 30 June.

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

**That Council:**

- 1. Reallocate the LCRI Phase 2 grant of \$78,623 from the Bayview Terrace/Keane Street parking and drainage project to the Stirling Highway footpath upgrade from Irvine Street south to 504 Stirling Highway.**
- 2. Authorise the CEO to allocate the grant to an alternate project of either the digital parking availability sign or decking replacement if the footpath project can't be completed by 30 June 2022**
- 3. Review the scope of works for Bayview Terrace/Keane Street parking and drainage project in the 2022/23 budget**

## 8.2 MANAGER DEVELOPMENT SERVICES

### 8.1.2 WALGA Submission on Development Assessment Panel Regulations 2011

#### URBAN PLANNING

##### ATTACHMENT DETAILS

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 1</b>	WALGA Draft Submission on Development Assessment Panel Regulations
<b>Attachment 2</b>	DAP Reforms Overview (DPLH)
<b>Attachment 3</b>	DAP Reforms Special Matters Development Assessment Panel (DPLH)

Voting Requirement	:	Simple Majority
Subject Index	:	Infrastructure Grant
Disclosure of Interest	:	NIL
Author	:	Manager of Development Services, Mr J Gajic
Responsible Officer	:	Manager of Development Services, Mr J Gajic

##### PURPOSE OF REPORT

To provide a brief overview of the key proposed amendments to the *Development Assessment Panel Regulations 2011* (draft Regulations) and to seek Council support for the Western Australian Local Government Association (WALGA) submission to the Department of Planning, Lands and Heritage (DPLH) on the draft Regulations.

##### SUMMARY AND KEY ISSUES

The State Government is making changes to Western Australia's Development Assessment Panel (DAP) system. The changes were identified in the Action Plan for Planning Reform released in August 2019 and in the additional planning reforms legislated in the *Planning and Development Amendment Act 2020*.

The Amendment Act 2020 made changes to the current DAP system by introducing the ability for:

- A District DAP to be established for one (1) or more districts, and
- A Special Matters DAP to be created to determine matters of State and regional importance.

Key changes include:

- Reducing the number of geographically grouped panels from the current five (5) to three (3). These will be known as 'District DAPs'.
- Fixed term Presiding Members and Deputy Presiding Members (3 to 5 years) for the District DAPs to be employed by the Department of Planning, Lands and Heritage (DPLH). The third specialist member will initially be drawn from a pool, which may change to the same arrangements as the Presiding and Deputy Presiding Members. No changes are proposed to local government representation on a District DAP.
- Creating a Special Matters DAP. The Special Matters DAP will be able to consider and determine projects of State or regional importance, or certain types of applications in precincts of State or regional importance.
- The Special Matters DAP will operate within the existing planning framework. The Special Matters DAP will not have the power to operate outside of the planning framework. The Special Matters DAP will have the ability to exercise discretion when making a decision.
- There are no precincts of State or regional importance planned within the Shire of Peppermint Grove; however, Cottesloe Beach is one such nominated precinct.
- Redevelopment of the Cottesloe Central Shopping Centre and further development of the Presbyterian Ladies' College campus are the only foreseeable developments for which the Special Matters DAP process would apply under the advertised thresholds.
- The Special Matters DAP will replace the contentious State Development Assessment Unit (SDAU) approvals pathway that need not have regard to the applicable local planning policy framework.
- The current exclusions from the DAP system will apply to the Special Matters DAP. In addition, developments wholly on reserved land under a region planning scheme and development applications for public works will be exempt.
- General process and administrative reforms that seek to improve transparency, consistency and efficiency.

The changes to the DAP system are anticipated to be implemented at the beginning of 2023. Transitional arrangements will be included. These are not yet determined.

WALGA has prepared a draft submission on behalf of its members for which comment is sought by 22 April 2022. WALGA's final submission to the DPLH Planning Reforms team is anticipated to be lodged in early May.

Whilst a number of the proposed reforms align with WALGA advocacy positions, WALGA has prepared a submission outlining key areas of concern for the Local Government sector and proposed amendments to the reforms to address these.

## **CONSULTATION**

WALGA ran a webinar for the Local Government sector on 31 March 2022 with DPLH outlining key aspects of the amendments and their implications for Local Governments.

WALGA has requested feedback on its draft submission by 22 April 2022.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **LOCAL PLANNING POLICY IMPLICATIONS**

There are no Local Planning Policy implications evident at this time.

## **STATUTORY IMPLICATIONS**

The proposed *Development Assessment Panel Regulations 2011* will bind proponents to follow the approval pathway

## **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time. Local government will be required to clear conditions for Special Matters DAP approvals as is the case for DAP approvals. No fees are proposed to go to local government in the DAP Regulations.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

## **SOCIAL IMPLICATIONS**

There are no social implications at this time.

## **OFFICER COMMENT**

The WALGA submission is considered to carry greater weight than a submission from an individual local government authority. A submission to WALGA is considered a more effective means of influencing the final drafting of the amendments to the *Development Assessment Panel Regulations 2011*.



WALGA's Comments and Recommendations are holistic and reflective of the views of local government expressed at the webinar on 31 March 2022 and the consistent narrative of the local government sector that the DAP process has failed to meet its intended aims. Of particular note is the WALGA advocacy of third party appeal rights for decision made by a DAP and for the DPLH to be responsible for the clearing and enforcement of conditions recommended for inclusion on approvals.

Local government will be responsible for clearing and the enforcement of development approval conditions regardless of which agency imposed them. There is no mechanism for cost recovery for these actions that may include multiple clearance inspections. It is recommended that condition clearance be treated in the same manner as the clearance of subdivision conditions and be cleared by DPLH or the responsible agency. Local government may not have the expertise to clear conditions of a technical or specialist nature such as those pertaining to utility services or ecological conservation. It may also be unreasonable for local government to clear a condition which was opposed by the local community and/or the local government. As noted above, there is no cost recovery proposed for the clearing of conditions.

The proposed amendments to the current DAP system to form a reduced number of District DAP's are relatively minor and are not considered to adversely impact on the Shire of Peppermint Grove. The termination of the SDAU approval pathway in 2023 is considered a positive outcome. However; there is no obvious merit for the replacement of the SDAU with a Special Matters DAP.

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

**That Council Subject to further feedback provides their support to WALGA for their draft submission on Development Assessment Panel Regulations.**

**9 NEW BUSINESS OF AN URGENT NATURE**

NIL

**10 MOTIONS ON NOTICE**

*(Automatically sent back to Administration for consideration at the next Council meeting)*

**11 CONFIDENTIAL ITEMS OF BUSINESS**

NIL

**12 CLOSURE**

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

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

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

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

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

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

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

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

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

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

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

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

## **FINANCIAL & PROXIMITY INTERESTS**

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

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

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

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

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

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