



SHIRE OF PEPPERMINT GROVE

MINUTES OF THE

HEALTH, BUILDING & TOWN PLANNING COMMITTEE MEETING

HELD ON

15 JUNE 2010

Health, Building & Town Planning Committee Meeting

15 June 2010

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Shire of Peppermint Grove

Minutes of the Shire of Peppermint Grove Health, Building & Town Planning Committee meeting held on Tuesday 15 June 2010 in the Council Chambers, 1 Leake Street, Peppermint Grove commencing at 5.30pm.

MINUTES

A1 DECLARATION OF OPENING AND RECORDING OF ATTENDANCE AND APOLOGIES

The Presiding Member declared the meeting opened at 5.37pm and called for the recording of attendance and apologies.

Attendance: Cr D Ward, Presiding Member
Cr R Thomas, Deputy Shire President
Cr K Farley - *arrived at 5.45pm*

Mrs A Banks-McAllister, Chief Executive Officer
Mr D Chidlow, Manager Development Services
Ms G Cooper, Executive Assistant

Apologies: Cr B Kavanagh, Shire President

A2 DELEGATION /DEPUTATIONS

DA1 Mr T Walsh, (owner)

DA2 Mr K Cragg (owner)

A3 QUESTIONS BY MEMBERS OF THE PUBLIC

Nil.

A4 DECLARATION OF INTEREST

Cr Farley declared an interest in common in item HOP1 however does not believe that this will cause a conflict of interest and will participate in the debate and voting of the item.

A5 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Moved Cr Farley, seconded Cr Thomas

Recommendation

That the Minutes of the Health, Building and Town Planning Committee meeting held on 11 May 2010 be confirmed as a true and accurate record of proceedings.

CARRIED UNANIMOUSLY

EH ENVIRONMENTAL HEALTH

EH1 APPOINTMENT OF AUTHORISED OFFICERS – FOOD ACT 2008

File Ref: TPL0
Author: David Chidlow, Manager of Development Services
Date: 2 June 2010

Background

The purpose of the report is to appoint Environmental Health Officer, David Chidlow as an Authorised Officer and Designated Officer - Food Act 2008 and the Chief Executive Officer, Anne Banks-McAllister, as a Designated Officer - Food Act 2008.

Report

The introduction of the Food Act 2008 to replace provisions under the Health Act 1911, Regulations and Local Laws requires the enforcement agency (Local Government) to appoint officers to enact the provisions of the Food Act 2008.

To carry out the provisions of the Food Act the Local Government is required to appoint Authorised Officers and Designated Officers.

A person who currently holds office as an Environmental Health Officer under the Health Act 1911 holds appropriate qualifications to be appointed as an Authorised Officer.

Pursuant to s126 (13) of the Food Act 2008 the enforcement agency is required to appoint Designated Officers for the purpose of issuing infringement notices. Authorised Officers (EHO) designated by the enforcement agency under subsection 13 may issue infringement notices for non compliance with the Act. However the Designated Officer (EHO) issuing an infringement notice cannot extend the period for payment, modify the penalty or withdraw the infringement notice. The issue must be reviewed by another Designated Officer (the CEO).

Strategic Implications

Nil

Policy Implications

Nil

Statutory Environment

The Food Act 2008 (the Act) was promulgated in October 2009.

Financial Implications

No financial resource impact.

Consultation

None required.

Officer and Committee Recommendation

Moved Cr Farley, seconded Cr Thomas

That Council:

1. **Appoint Environmental Health Officer David Chidlow as an Authorised Officer and Designated Officer - Food Act 2008.**
2. **Appoint Chief Executive Officer Anne Banks-McAllister as a Designated Officer – Food Act 2008.**

CARRIED UNANIMOUSLY

EH2 FEES AND CHARGES – FOOD PREMISES – FOOD ACT 2008

File Ref: TPL0

Author: David Chidlow, Manager of Development Services

Date: 2 June 2010

Background

The purpose of this report is to consider the introduction of fees and charges to be set under the Local Government Act 1995 for the notification, registration and inspection of food Businesses following the introduction of the Food Act 2008. It is recommended that a Schedule of Fees and Charges be adopted.

Staff Comment

The Food Act 2008 (The Act) passed in July 2008 and effective from October 2009, provides for food safety regulation over the entire food supply chain; and replaces all previous food and food licensing legislation, including the Health Act 1911, the Health (Food Hygiene) Regulations 1993, Health (Meat Hygiene) Regulations 2001, and Health (Pet Meat) Regulations 1990.

This represents a significant shift in the direction of food regulation and management in Western Australia and is consistent with other states and territories. The Shire of Peppermint Grove will be an enforcement agency under the new legislation.

The Act gives autonomy to Local Government to impose and recover fees under the Local Government Act 1995 Part 6 Division 5 Subdivision 2 for functions under the Act such as notification, registration, assessments, transfers etc. Fees should reflect the cost incurred in providing the service which includes regular risk assessments, sampling, education/training and administration.

The Local Government as part of its role as an enforcement agency will be required to undertake a risk assessment for each food business and review the assessment should circumstances change within the business.. All food businesses will now be required to notify and register the business in order that an assessment can be carried out to determine the level of risk.

The Food Act 2008 s107 applies to anyone who operates a food business and requires all premises selling food (as defined in the Act) and operating within the municipality to notify the Local Government on the prescribed form. The definition of a 'food business' has been expanded and now includes all businesses such as, but not limited to food manufacturers, supermarkets, butchers, newsagents and chemists.

Each food business will be required to notify the enforcement agency and pay a prescribed fee, referred to as the Notification Fee in the attachment.

The notification process will provide the agency with the information necessary for the classification of the food business by their potential risk into one of four categories - high, medium, low and very low. A matrix specified under the Australia New Zealand Food authority (ANZFA) - Priority Classification System for Food Businesses is used in determining the category of risk.

Risk categories have been defined to include:

- | | |
|-----------------|---|
| HIGH RISK - | Food premises that undertake extensive food preparation, or cooking, or that handle high risk foods, or premises that manufacture food with or without direct sales to the public. Examples: restaurants, take away premises, butchers, fish shops, cafes that cook food. |
| MEDIUM RISK - | Food premises that undertake limited food preparation, or Reheating foods, or that handle prepared foods that only require refrigeration or dry storage. Examples: lunch bars, sandwich bars and cafes that only reheat or prepare cold foods. |
| LOW RISK - | Food premises that handle pre-prepared or packaged food, with no food preparation undertaken. Examples: confectionery shop, ice-cream shop, supermarkets only selling groceries. |
| VERY LOW RISK - | Food premises that sell fruit, vegetables, or food that is wholly contained within protective packages that do not require special storage conditions. Examples: greengrocer, liquor store, chemist, new agencies and hairdressers providing coffee. |

Businesses requiring regular assessment (inspection) will be registered as part of the notification process and a certificate issued. Some businesses (the very low risk premises) will be exempt from registration and a letter will be issued notifying them of

their category and should the business change in operation a further assessment will be required.

The level of risk will determine the minimum number of assessments to be carried out each year ranging from 4 visits for high risk premises, to two visits per year for low risk premises. Risk assessments are likely to be more complex with an emphasis on outcomes rather than prescriptive requirements.

A new system of auditing involving vulnerable persons such as Nursing Homes and Child Care facilities has been included in the Act. All these activities create additional administrative activities and field work for Authorised Officers (Environmental Health Officers).

There is provision for certain food premises to be exempted from registration. Exempted food premises are defined under the Food Regulations 2009 and include food businesses which raise money solely for purposes of charity or the community. In these instances either the production of food shall not be potentially hazardous or the food after cooking is for immediate consumption (e.g. sausage sizzle). Notification is required in these instances however a fee would not be charged for the exempted premises. This is one way Councils can support their community organisations.

It is proposed that school canteens and small scale charity organisations within the Shire be exempted from the fees.

Most Local Governments in Western Australia are likely to adopt a similar system of registration with similar fee structures. The proposed fee structure is based on cost recovery only and includes assessments, education, administration and sampling. Where a fee is charged for a re-fit or construction of a new premises the fee reflects the assessment of drawings, negotiation with architects and builders and the re-assessment of the risk profile of the business.

It is recommended that the proposed Schedule of Fees and Charges for food premises be supported and the new fees commence from 1 July, 2010.

Strategic Implications

The implementation of fees and charges will allow for better cost recovery for services provided by the Environmental Health Service to the food businesses.

Policy Implications

Nil.

Statutory Environment

- Local Government Act 1995
- The Food Act 2008 gives Local Government autonomy to impose and recover fees under the Local Government Act 1995 Part 6 Division 5 Subsection 2 for:
 - ❖ Notification (s107)
 - ❖ Registration (s110)

- ❖ Any function performed under the Act (s140 (1))
- ❖ Provision of information or for carrying out any inspection (s140 (12))

Local Government Act 1995 section 6.19 requires Council to give public notice when introducing fees and charges outside the annual budget process. The Notice is to give the intention of introducing the fee and when the fee would be effective.

Local Government Act 1995 section 6.16(3) requires that fees and charges be adopted by an absolute majority decision of Council.

Financial Implications

Council has not in the past charged a fee for the registration and licence of food premises. Many Local Authorities have in the past charged such fees under Eating House Local Laws. The Shire of Peppermint Grove does not currently have Eating House Local laws. The introduction of the Food Act 2008 standardises the charging of cost recovery fees in the State, whereas previously fees were only charged where Eating House Local laws were in place.

Proposed fees are the same as recommended for Cottesloe Council. Cottesloe has yet to adopt their budget.

Very low risk and exempt premises such as canteens, chemists and newsagents will need to complete notification forms but will not be required to pay a fee.

Sustainability Implications

Where fees are not set under the new legislation, there is no alternative ability to charge fees and recover costs. The proposed fees are based on reasonable cost recovery for service provided and will be reviewed annually.

Consultation

The new legislation has received considerable media exposure and the legislation is well known to the Food Industry Associations.

The Health Department of Western Australia has consulted widely with stakeholders over a number of years during the development of the legislation.

Officer and Committee Recommendation:

Absolute Majority

Moved Cr Farley, seconded Cr Thomas

That Council:

1. **Adopt the following Schedule of Fees - Food Act 2008 and, with the exception of exempt premises, commence to charge the new fees from 1 July, 2010:**

SCHEDULE OF FEES - FOOD ACT 2008	
(A) Notification Fee	\$50

**Exempted Food Premises
Registration Fee**

**no fee
\$40**

Annual Risk Assessment/ Inspection Fee

RISK LEVEL	PRIMARY CLASSIFICATION	ADDITIONAL CLASSIFICATION
High Risk	\$400	\$200
Medium Risk	\$350	\$150
Low Risk	\$200	\$100
Very low risk	No fee	No fee

Note: Additional classification means other food businesses in addition to the primary classification within the same business.

Transfer Fee \$50

(B) Application Fee

Construction and Establishment of Food Premises (including one off notification fee)

RISK LEVEL	FEE
High / Medium	\$400
Low Risk	\$150
Very Low Risk	\$50
To amend or refurbish a good premises	\$200

2. Include the Schedule of Fees - Food Act 2008 within the draft Budget

CARRIED UNANIMOUSLY

DA DEVELOPMENT APPLICATIONS

DA1 APPLICATION FOR DEMOLITION OF TWO STOREY DWELLING, LOT 19 (No. 12) THE ESPLANADE, PEPPERMINT GROVE APPLIC NO. 010 - 38

File Ref: 010-38

Author: D Chidlow, Manager of Development Services

Date: 5 May 2010

Attachments:

Location plan

Background

Applicant: T & J Walsh

Owner: T & J Walsh

TPS No 3 Zoning: R10
Land Use: Single Dwelling
Lot Area: 1597m²

Report

An application has been received seeking approval for the demolition of an existing dwelling on the subject property.

The existing dwelling is listed on the Shires' Heritage Inventory under category 1.

This report recommends the application be refused due to the heritage category of the existing dwelling and the impact on the streetscape.

Heritage

The existing dwelling is listed on the Shires' Heritage Inventory under category 1;

Category 1 - Buildings which due to their character create the atmosphere of Peppermint Grove, therefore should be retained, but may be altered and extended in a manner which is both discreet and sympathetic to the original fabric and character so that a significant proportion of the original building is retained and from the Street the additions are seen to be a continuation of the same fabric and character.

The Shire of Peppermint Grove Municipal Heritage Inventory Place Record for this property identifies the style as Federation Queen, constructed around 1910.

Statement of significance – *this elevated rendered brick, timber and tile residence, in the Federation Queen Anne style, although considerably adapted has cultural significance because;*

- *It is one of the oldest surviving residences along The Esplanade from the pre-world War one period*
- *It is typical of the style and scale of pre-world War one residences that were constructed in this part of Peppermint Grove.*
- *It has associations with several peppermint Grove families over nine decades*
- *It is part of a cultural group*

In considering the application for development at No.10 The Esplanade, the Heritage Architect commissioned by Council stated in the report that;

The Esplanade remained little changed from the time of its completion until the late twentieth century, though it was not without change. The Esplanade is now a street with a diverse mixture of residences that cover a wide timeframe. The adjoining residences at 8 and 12 are both included in the Municipal Heritage

Inventory and are important to the cultural heritage values of the Shire on one of its primary streets.

In support of the application, the applicant refers to the report considering the demolition of the building known as the Cliffe. The applicant quotes from the Council report on the Cliffe demolition application that *the Shires inventory encourages owners of heritage buildings to retain and restore the structures wherever possible. The Council however, also recognizes that at times there may be a significant economic consequence when retaining these buildings and accepts that it is the owner's prerogative also to demolish part or all of the building.*

It is noted that the Cliffe does not have a significant streetscape with the majority of the site being hidden by other development. However number 10 The Esplanade has a prominent streetscape along one of the premier streets in the Shire as identified by the Heritage Architect.

The applicant has submitted the application on the basis that the proposed new dwelling at number 10 the Esplanade will cause significant adverse economic impact to their existing dwelling.

Given that the dwelling at number 10 has not as yet been constructed, there is no evidence of any significant adverse economic impact having been caused.

Consultation

In accordance with Council's Policy Advising Adjoining Owners on Development Proposals Policy the development was advertised in accordance with the policy for 14 days. No comments were received during the advertising period.

Policy Implications

Nil.

Legal Implications

Legal advice was sought on this matter and is provided as a confidential attachment to the report.

Budget Implications

Should the applicant decide to appeal the decision or conditions of approval for this application, costs may be incurred in defending the decision.

Officer Recommendation

Moved Cr Farley, seconded Cr Thomas

That Council refuse planning approval for demolition of a two storey dwelling, at lot 19 (12) The Esplanade Peppermint Grove for the following reasons;

1. The dwelling is listed as category 1 on the Shires' Heritage Inventory which states that *"Buildings which due to their character create the atmosphere of Peppermint Grove, therefore should be retained"*.

2. There is no evidence of any significant adverse economic impact.
3. There will be a negative impact on the heritage value of the streetscape by the demolition of this dwelling.

Note If an applicant is aggrieved by this determination there is a right to make an application to the State Administrative Tribunal for a review of the decision under Part 14 of the *Planning and Development Act 2005*. An application for review must be lodged within 28 days of the date of this letter and a copy of the application must be served on the Shire.

LOST

Committee Recommendation

Moved Cr Farley, seconded Cr Thomas

That the item be deferred until a Heritage Assessment can be undertaken by a heritage consultant on behalf of the Shire for this property.

CARRIED UNANIMOUSLY

**DA2 APPLICATION FOR TWO STOREY DWELLING, LOT 103 (NO. 48A)
IRVINE STREET, PEPPERMINT GROVE APPLIC NO. 010 - 41**

File Ref: 010-41
Author: D Chidlow, Manager of Development Services
Date: 2 June 2010

Attachments

Location plan
Plans of proposal
Photo

Background

Applicant: Phillipa Mowbray Architects
Owner: K Cragg
TPS No 3 Zoning: R12.5
Land Use: Single Dwelling
Lot Area: 880m²

Report

An application has been received seeking approval for a two story dwelling on the subject property.

The proposed dwelling complies with the Residential Design Codes, the Shire of Peppermint Grove Town Planning Scheme No.3 and Planning Policies. In addition the proposed dwelling is subject to a restrictive covenant for height.

The proposal was advertised to adjoining landowners and submissions were received. Due to the unique design of a neighbouring dwelling that relies on solar access that will be impacted by the proposed new dwelling, there has been a strong objection. This is further detailed in this report.

This report recommends that approval be granted with conditions.

Heritage

The site is not listed in the Municipal Heritage Inventory. There are no adjoining properties that are listed in the Inventory.

Plot Ratio

The plot ratio will be 0.45 which complies with the requirements of the Scheme which prescribes a maximum plot ratio of 0.5 under clause 4.9.5 of the Scheme.

Open Space

The open space will be 69% which complies with 55% minimum required under the Residential Planning Codes, Table No 1.

Front Setbacks

The proposed new dwelling will be constructed on a battleaxe lot. Whilst there is no street setback impacted, the proposed dwelling is situated more than 9 metres from the northern boundary.

Rear Setback

The rear setback does not comply with an average setback that meets the 6.0 metre setback requirement of the Residential Design Codes. However this is offset by the surrendered strip of land at subdivision stage which in effect provides a 6 m setback from the original ROW.

Side Boundary Setbacks

The side boundary setbacks comply with the Residential Design Codes at each building height level taking into account habitable rooms and major and minor openings.

Height

The proposed pitched roof height is 21.85 AHD which is below the maximum permitted roof height requirement of 23.60 AHD (10 metres above the average natural ground level of 13.60 AHD)

There is a private Restrictive Covenant over the land that restricts the maximum height of any walls and windows constructed to 17.90 AHD for a portion of the lot. The proposed dwelling complies with the height requirements of the Restrictive Covenant.

Privacy

There is a minor incursion for overlooking from the main bedroom terrace into the western neighbour. However this is offset by the height of the fence and retaining wall on this boundary. It is recommended that screening be installed to provide for a shorter section of fencing.

Overshadowing

The Residential Design Codes prescribes a maximum overshadowing of 25% at a neighbouring property as of midday on the 21 June each year. The shadow falls to the ROW and does not affect any adjoining properties. A shadow analysis in accordance with the Residential Design Codes is provided in the attachments.

Crossovers and Street Trees

Vehicle entry will be from an existing battleaxe driveway from Irvine Street and no street trees will be impacted.

Fencing

Being a battleaxe lot there is no front fence.

Applicants Comments

In designing this home much care was taken to keep within statutory requirements in order that the application is progressed swiftly.

As per our recent telephone conversation, we understand the comments from the owners of neighbouring property - 46R Irvine Street regarding this application are primarily concerning overshadowing. Undoubtedly there will be some impact with the building of a new 2 storey house, that replaces the single storey home that is currently on the site. However, the new development is well under the allowable height of 10m, and has setbacks that comply with the R Codes.

The site at 46R is substantially built up and retained -it has a ground line approx 2m higher than the ground line at 48a. This goes further to lessen the impact of the new development.

Using the Residential Design Codes of WA for the definition and calculation of overshadowing it would appear that the neighbouring property at 46R is not subject to any overshadowing effect from the proposed development.

Due to the North - South orientation of the site, the overshadowing effect of the proposed development falls only on the right of way to South of the property.

We would also like to point out that the existing retaining wall to 46R Irvine Street, already overshadows our client's site from the west thus negating afternoon sun penetrating into our client's property.

It is inevitable that any development in suburban areas of neighbouring properties alters the status quo of 'daylight', however by complying with the residential design codes the effect is minimised. The neighbouring site already has the advantage of a

significantly raised site and therefore the overall effect of the neighbouring proposed development is already minimised.

It is important to point out that the current proposal for 48A is just shy of 2 metres below the maximum allowable building height. So to put forth the suggestion that our client reduces the height of the building or sinks it further is unreasonable. A flat roof is not an aesthetic option for our clients, similarly our clients cannot dictate to the submitter how the roof the proposed 2nd storey addition should be resolved.

We also would like to point out that it would be unfair for the 'potential' of our client's site 48a Irvine Street be curtailed based upon neighbour criticism. All properties have the potential to maximise their building envelope in accordance with the Residential Design Codes and the Town Planning Scheme. Whilst fully complying, the proposed development for our client at 48a Irvine St has not maximised the possible development potential of this site, and is not a massive residence out of scale with the block. The opportunity to maximise the potential of the site in accordance with the residential design code and the town planning scheme, would also be apply to any future development at 46R Irvine Street. The submitter mentioned at our meeting that they intend to develop this site and existing residence in the future, in which case the proposed development at 48a Irvine Street should not have to compromise to respond to the current building form which is subject to future change.

Consultation

In accordance with Councils' Policy Advising Adjoining Owners on Development Proposals Policy the development was advertised in accordance with the policy for 14 days. The following comments and responses are reproduced in detail as they address several planning issues associated with this development.

It is noted that this application was due to be presented to the May Council meeting, however in order to attempt to address the issues raised by the submitter, the application was delayed until this meeting to allow for an onsite meeting with the Architect.

Submitter Comments	Officer Response
48 R Irvine Street In response to your letter dated 23" April 2010, received 28th April. We viewed the drawings at the Shire Administration Office today and would like to express our <i>great concern</i> at what is proposed for this site neighboring our house. We own the adjacent property at 46r Irvine Street, a single level house with ALL the living areas having full height floor to ceiling windows (full glass walls in fact) facing east directly onto the	The proposed dwelling complies with the solar access requirements of the Residential Design Codes at neighbouring properties The unique design of the submitters dwelling relies on solar access along a wall that is adjacent to the proposed new dwelling. The dwelling relies on large full length glazing to maximize the solar access to the living rooms of the house. The submitters dwelling is higher than the existing single story dwelling on the

<p>proposed building. This proposed building is directly in front of the only windows in our home's living and dining areas and would completely block all our light and view of the sky.</p> <p>The size, scale and design of the proposed building right on our boundary, right in front of our only windows would completely destroy the ability of our family to live with enjoyment in our home, and I ask that you please give our concerns your urgent attention.</p> <p>It is out of character to build such a large house on a rear block, we would be in darkness most of the day, and it renders our house unlivable for my husband and I and our two small children.</p> <p>In addition to these issues, ours is an original and important architectural home in the modernist style by one of Western Australia's most eminent architects, Geoff Summerhayes in 1976. The house was recently featured in the ABC's Sunday Arts architecture story as an important historical example and one that should be preserved.</p> <p>We ask for an urgent suspension of any approvals pending consultation with the proposed architect (Pippa Mowbray would be familiar with the value of Mr Summerhayes' work and may be sympathetic), along with the owner, to design alterations to reduce the devastating impact the current design would have.</p> <p>In the mean time, I have spoken with David in your office and raised our concerns, he was going to delay this application's presentation to council pending more detailed drawings showing shadow cones onto our Property and site levels illustrating the</p>	<p>subject site and this dwelling is completely hidden from the submitters view by a high boundary retaining fence. This currently gives uninterrupted solar access above the existing fence height.</p> <p>The restrictive covenant for height does not apply adjacent to the submitters solar windows. There is some benefit for solar access from the restrictive covenant on the north east portion of the dwelling.</p> <p>Despite not being on the Shires' Municipal Heritage Inventory, the dwelling is an important architectural home that should be preserved. Restricting solar access would have an impact on the dwelling. The Architect for the proposed new dwelling was asked on behalf of the submitter to provide a solar cone analysis. This would be in addition to the shadow analysis requirements of the Residential Design Codes. It is apparent that there would be an impact on the submitters dwelling. At this stage the owner has agreed to a cone analysis at the cost of the submitter. Council may consider imposing the requirement for a cone analysis or paying for the analysis to satisfy its decision making. However this would be in the order of around \$2,000. The overlay of both the proposed and submitter dwellings with cross section as prepared by the Manager Development Services and provided as attachment demonstrates the potential impact of the new development.</p>
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height of the proposed in relation to our house. I would like this noted for the record.	
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Discretions to be Considered

It will be necessary for Council to exercise its discretion for a variation to the Scheme to include a rear setback of 2 metres.

Policy Implications

Nil.

Budget Implications

Approval will provide income by way of building licence fees. Development of the site will also provide increased rate income. Should the applicant decide to appeal the decision or conditions of approval for this application, costs may be incurred in defending the decision.

Officer and Committee Recommendation

Moved Cr Farley, seconded Cr Thomas

That Council grant planning approval for a two storey dwelling and pool at lot 103 (48A) Irvine Street Peppermint Grove in accordance with the plans and specifications submitted 21 April 2010 subject to:

- 1. The applicant providing at building licence application stage a management plan that addresses traffic management and parking arrangements for construction vehicles, dust mitigation measures during earthworks, demonstrated compliance with noise legislation and associated standards for all air conditioning units and pool, preservation and maintenance of street trees and verge during construction works, to the satisfaction of the CEO of the Shire.**
- 2. Screening of the balcony in accordance with the Residential Design Codes.**

The proponent is advised that Council, in granting planning consent approval for the development, has exercised its discretion in accordance with the Shire of Peppermint Grove Town Planning Scheme No. 3, for a reduced rear setback.

NOTES

- Note 1. If the development the subject of this approval is not completed within a period of 1 year, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.**

Note 2. Where an approval has so lapsed, no development shall be carried out without the further approval of the Shire having first been sought and obtained.

Note 3. If an applicant is aggrieved by this determination there is a right to make an application to the State Administrative Tribunal for a review of the decision under Part 14 of the *Planning and Development Act 2005*. An application for review must be lodged within 28 days of the date of this letter and a copy of the application must be served on the Shire.

ADVICE NOTES

Please note the following information:

- 1. This approval is a Planning Approval of the Shire of Peppermint Grove under its Town Planning Scheme No 3 and is not a building licence or an approval to commence or carry out development under any other law. It is the proponent's responsibility to obtain all necessary approvals, consents and licences required under any other law.**

CARRIED UNANIMOUSLY

DA3 APPLICATION FOR OUTBUILDINGS (STUDIO AND GARDEN SHED) LOT 1 (No.54) IRVINE STREET, PEPPERMINT GROVE APPLIC NO. 010 - 34

File Ref: 010-39
Author: D Chidlow, Manager of Development Services
Date: 2 June 2010

Attachments

Location plan
Plans of proposal

Background

Applicant: C Courtney
Owner: P & V Pascall
TPS No 3 Zoning: R12.5
Land Use: Single Dwelling
Lot Area: 1656m²

Report

An application has been received seeking approval for the construction of a studio and garden shed on the subject property.

The proposed outbuildings are forward of the dwelling, which is well set back on the large lot. The outbuildings comply with the Shire of Peppermint Grove Town Planning Scheme No.3 and Planning Policies with the exception of the nil side boundary setback

of the garden shed, proposed construction of both outbuildings forward of the front of the dwelling and the total area of all outbuildings exceeding the current policy area. The proposal was advertised to adjoining landowners and no submissions were received.

This report recommends that approval be granted due to there being no practicable way to locate the outbuildings behind the existing dwelling.

Heritage

The existing dwelling is not listed on the Shires' Heritage Inventory. The adjoining dwellings at No.56 Irvine Street is listed under the Shires' Heritage Inventory as category 2. There is negligible impact from the proposed development given the minimal bulk, scale and maximum setback from No.56.

Plot Ratio

The plot ratio will be approximately 0.2 which complies with the requirements of the Scheme which prescribes a maximum plot ratio of 0.5 under clause 4.9.5 of the Scheme.

Open Space

The open space will be approximately 80% which complies with 55% required under the Residential Planning Codes, Table No 1.

Front Setbacks

The proposed front setback of the studio is 9 metres. There is an attached verandah that intrudes into the 9 metre front setback, however given the scale of the development this is considered minor.

Rear Setback

Not applicable.

Side Boundary Setbacks

The side boundary setbacks comply with the Residential Design Codes, it is noted that the western boundary of the studio is proposed to be 0.9 metres from the boundary and the eastern boundary of the garden shed has a nil setback. The Residential Design Codes performance criteria 6.3.2 P2 permit a lesser or nil setback from 1.0 metres where there is no significant adverse effect on the amenity of the adjoining property. Both neighbours have signed the plans approving of the proposed setbacks.

Crossovers and Street Trees

Not applicable.

Fencing

The front fence will comply with the Local Fencing Laws and comprises partially of a stone wall with glazed timber framed slot window. There will also be an entry gate. The remainder is open driveway.

Outbuilding Area

The proposed garden storage shed will be 12 square metres. The proposed Studio will be 51 square metres. An existing garage comprises approximately 42 square metres.

The proposed new structures will result in an additional 63 square metres of outbuilding and a total outbuilding area for the lot of 105 square metres.

Outbuilding Use

Because the structures will be separate from the main dwelling, and are therefore defined as outbuildings (non habitable structures) it is important to condition the approval that structures not be used for habitation so that there is no lack of clarity in the use of the buildings.

Policy

Town Planning Scheme No. 3 - Outbuildings Policy		
Requirement/Clause		Assessment/Comment
1.	Any wall of an outbuilding shall not exceed 3 m in height.	Garden Shed Wall height – 2.12m Ridge height – 4.3m Complies
	The maximum height of any part of the outbuilding shall not exceed 5 m	Studio Wall height – 3.4m Ridge height – 4.6m Complies
2.	A person shall not, without official approval of Council, construct more than two outbuildings or an outbuilding exceeding, or outbuildings exceeding in the aggregate 46.5 square metres. In any case the total development of a site shall not exceed a site cover of 0.5	The floor area does not comply with the Shires' outbuilding policy that sets a maximum outbuilding area of 46.5 square metres. However Council has previously granted approval for larger outbuildings than the policy based on a proposed increase in outbuilding sizes in proposed Town Planning Scheme No.4. It is also noted that the number of outbuilding will be three which exceeds the permitted maximum of two outbuildings under the policy. However given the large lot size and minimum size of the garden shed, this variation is recommended.

Consultation

Adjoining landowners signed a copy of the plans indicating their acceptance and approval for the proposed development.

Discretions to be Considered

It will be necessary for Council to exercise its discretion for the variations to the Scheme including –

1. 0.9 metre setback for the studio from the western side boundary.
2. Exceeding the maximum outbuilding area as set out in the Outbuildings Policy.
3. Exceeding the maximum number of outbuildings as set out in the Outbuildings Policy.
4. Minor intrusion of the verandah into the front setback.

Policy Implications

Discretion is required due to application exceeding Outbuildings Policy.

Budget Implications

Approval will provide income by way of building licence fees. Development of the site will also provide increased rate income. Should the applicant decide to appeal the decision or conditions of approval for this application, costs may be incurred in defending the decision.

Officer Recommendation

That Council grant planning approval for two outbuildings (studio and garden shed) at lot 1 (54) Irvine Street Peppermint Grove in accordance with the plans and specifications submitted 20 April 2010 subject to:

1. The applicant providing at building licence application stage a management plan that addresses traffic management and parking arrangements for construction vehicles.
2. The studio not to be used for habitation purposes.

The proponent is advised that Council, in granting planning consent approval for the development, has exercised its discretion in accordance with the Shire of Peppermint Grove Town Planning Scheme No. 3 for a reduced setback as well as for exceeding the maximum area and number of outbuildings .

NOTES

- Note 1. If the development the subject of this approval is not completed within a period of 1 year, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
- Note 2. Where an approval has so lapsed, no development shall be carried out without the further approval of the Shire having first been sought and obtained.
- Note 3. If an applicant is aggrieved by this determination there is a right to make an application to the State Administrative Tribunal for a review of the decision under Part 14 of the *Planning and Development Act 2005*. An application

for review must be lodged within 28 days of the date of this letter and a copy of the application must be served on the Shire.

ADVICE NOTES

Please note the following information:

1. This approval is a Planning Approval of the Shire of Peppermint Grove under its Town Planning Scheme No 3 and is not a building licence or an approval to commence or carry out development under any other law. It is the proponent's responsibility to obtain all necessary approvals, consents and licences required under any other law.

Amendment

Moved Cr Farley, seconded Cr Thomas

The following condition (3) to be added to the recommendation:

- (3) The front setback for all structures including the verandah to comply with the 9 metre front setback as per Council's Town Planning Scheme No. 3.

CARRIED UNANIMOUSLY

Committee Recommendation

Moved Cr Thomas, seconded Cr Farley

That Council grant planning approval for two outbuildings (studio and garden shed) at lot 1 (54) Irvine Street Peppermint Grove in accordance with the plans and specifications submitted 20 April 2010 subject to:

- 1. The applicant providing at building licence application stage a management plan that addresses traffic management and parking arrangements for construction vehicles.**
- 2. The studio not to be used for habitation purposes.**
- 3. The front setback for all structures including the verandah to comply with the 9 metre front setback as per Council's Town Planning Scheme No. 3.**

The proponent is advised that Council, in granting planning consent approval for the development, has exercised its discretion in accordance with the Shire of Peppermint Grove Town Planning Scheme No. 3 for exceeding the maximum area and number of outbuildings .

NOTES

- Note 1.** If the development the subject of this approval is not completed within a period of 1 year, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
- Note 2.** Where an approval has so lapsed, no development shall be carried out without the further approval of the Shire having first been sought and obtained.
- Note 3.** If an applicant is aggrieved by this determination there is a right to make an application to the State Administrative Tribunal for a review of the decision under Part 14 of the *Planning and Development Act 2005*. An application for review must be lodged within 28 days of the date of this letter and a copy of the application must be served on the Shire.

ADVICE NOTES

Please note the following information:

- 1.** This approval is a Planning Approval of the Shire of Peppermint Grove under its Town Planning Scheme No 3 and is not a building licence or an approval to commence or carry out development under any other law. It is the proponent's responsibility to obtain all necessary approvals, consents and licences required under any other law.

CARRIED UNANIMOUSLY

DA4 SIGNAGE APPLICATION – COTTESLOE CENTRO, LEAKE STREET PEPPERMINT GROVE APPLIC NO. 010 – 24

File Ref: 010-24
Author: D Chidlow, Manager of Development Services
Date: 2 June 2010

Attachments

Location plan
Photographs

Background

Applicant: Vitale Fine Properties
Owner: Primewest (Cottesloe) Pty Ltd
TPS No 3 Zoning: Commercial
Land Use: Shop

Report

A planning application has been received seeking Council approval for the placement of a sign on the northern wall of Cottesloe Centro off Leake Street.

The proposal will replace an existing wall feature as detailed in the submitted photograph. The proposed sign will comply with the Local Laws.

This report recommends that Council grant planning approval.

Scheme Implications

The proposed use is classified as an “advertisement” under the provisions of schedule 1 of the Scheme.

Clause 5.2.1.1 of TPS No.3 states;

For the purpose of this scheme, the erection, placement and display of advertisements and the use of land or buildings for that purpose is development within the definition of the Act requiring, except as otherwise provided, the prior approval of the Council. Planning approval is required in addition to any licence pursuant to Council’s Local Sign Laws .

Policy Implications

The new sign complies with the Activities on Thoroughfares and Trading in Public Places Local Law.

Budget Implications

Nil

Officer and Committee Recommendation

Moved Cr Thomas, seconded Cr Farley

That Council grant planning approval for a sign at 460 Stirling Highway on the northern wall of Cottesloe Centro off Leake Street in accordance with the plans submitted on 15 December 2009 subject to;

- 1. Compliance with the Activities on Thoroughfares and Trading in Public Places Local Law.**
- 2. Sign not to be illuminated.**

Note If an applicant is aggrieved by this determination there is a right to make an application to the State Administrative Tribunal for a review of the decision under Part 14 of the *Planning and Development Act 2005*. An application for review must be lodged within 28 days of the date of this letter and a copy of the application must be served on the Shire.

CARRIED UNANIMOUSLY

**DA5 APPLICATION FOR WIND TURBINES LOT 501 (No.1) LEAKE STREET,
PEPPERMINT GROVE APPLIC NO. 008 - 42**

File Ref: 008-42
Author: D Chidlow, Manager of Development Services
Date: 10 June 2010

Attachments

Location plan
Photographs

Background

Applicant:	Cox, Howlett & Bailey Woodland
Owner:	Shire of Peppermint Grove
TPS No 3 Zoning:	Parks and Recreation
Land Use:	Library, Community Centre, Shire Office
Lot Area:	3062m ²

Report

An application has been received seeking planning approval for two wind turbines to provide additional alternate power source to the new Library, Community Centre and Shire Office.

These units have been approved by the PCG committee and are submitted to Council for formal planning approval. This report recommends that approval be granted subject to conditions.

Proposed Development

The two wind turbines model UGE-1K are proposed to be located on support pylons 7m – 9m in height at the south-west corner of the lot as shown on the site plan. The final height will be determined based on the landscaping vegetation to ensure that trees do not impact on the use of the units.

These units are 2.2 m by 1.35 m in size and are rated at 1kw each.

Planning Comment

The most significant planning issue is potential noise levels generated from the wind turbines and any nuisance that may be caused. The location of the units close to the highway and commercial/retail area will cause least disturbance than any other location on the site. The units specifications have been acoustically assessed by an acoustician from AECOM and have been deemed to comply with noise standards. The architect will be purchasing the units on the condition that the units meet the stated standards and acceptance testing is undertaken.

The acoustician states that the unit will generate 38 dB(A) at 60 metres. Two units will produce a combined sound pressure level of 41 dB(A). For comparison a table of sound pressure levels is provided in the attachments.

Consultation

The proposed development is adjacent to a regional road reserve and requires comment from Main Roads WA. Any conditions that Main Roads specify should be placed on the planning conditions of approval. At this stage the proposal has been forwarded to Main Roads for comment.

Policy Implications

Nil.

Budget Implications

This item is part of the Library, Community Centre and Shire Office development. An alternate power source that is provided by wind generation will be a cost saving to the Shire.

Officer and Committee Recommendation

Moved Cr Farley, seconded Cr Thomas

That Council grant planning approval for two wind turbines at Lot 501 (No.1) Leake Street, Peppermint Grove in accordance with the plans submitted on 10 June 2010 subject to;

- 1. Main Roads WA approval and conditions of approval.**
- 2. Compliance with the specified sound pressure/power levels as specified in the application.**

Note If an applicant is aggrieved by this determination there is a right to make an application to the State Administrative Tribunal for a review of the decision under Part 14 of the *Planning and Development Act 2005*. An application for review must be lodged within 28 days of the date of this letter and a copy of the application must be served on the Shire.

CARRIED UNANIMOUSLY

SU SUBDIVISION APPLICATIONS

**SU1 APPLICATION FOR SUBDIVISION OF LOTS 182 & 183 VENN STREET
PEPPERMINT GROVE (BOUNDARY ADJUSTMENT ONLY)
APPLICATION NO. 142100**

File Ref: 142100
Author: D Chidlow, Manager of Development Services
Date: 2 June 2010

Attachments

Location plan
Plan of proposal

Background

Applicant: Property People Surveying
Owner: L Farrah
TPS No 3 Zoning: R12.5
Land Use: Single Dwelling
Lot Area: 1624m²

Report

The WA Planning Commission (WAPC) has received an application from Property People Surveying, on behalf of the owner of the abovementioned properties seeking approval for the amalgamation/subdivision of 17 Venn Street (lots 182 & 183).

In effect the application is for the adjustment of the boundary between the two lots that currently runs north/south to be moved to run east/west. The current boundary traverses the existing dwelling on the property, the newly configured lots will result in the dwelling being free of any traversing boundaries and will create a vacant lot with the remainder. The lots will remain as two lots, there is no proposed increase in lot yield.

The Commission has invited Council to provide any relevant information, comment or recommended conditions for the proposed subdivision of the property by 2 July 2010. After this date the Commission will determine the application.

This report recommends that Council advise the WAPC that it supports the proposed subdivision with conditions.

Residential Design Codes

The proposed new lots meet the requirements of the Residential Design Codes with a variation to the minimum site area for proposed lot 2. The variation is within the permitted variation specified in 6.1.3 of the Codes that permits a variation of up to 5%. The proposed variation is 2.29%. Due to the location of an existing dwelling on one of the proposed new lots, the reduced size is justified. The discretion for this variation lies with the WAPC.

Lot	Site Area	Required Site Area
Proposed Lot 1	940 square metres	700 square metres
Proposed Lot 2	684 square metres	700 square metres

Consultation

The Shire is making comment on the proposed subdivision and therefore there is no requirement for further consultation.

Policy Implications

The proposed subdivision abuts a Right of Way (ROW) and therefore Councils' Policy on Rights of Way is to be taken into account.

The policy statement point 4.2.6 states that;

4.2.6 At the time of application for subdivision of lots abutting all right-of-ways, Council will request that a strip of land 4.27m wide along the right-of-way be surrendered by the subdivider for the purposes of a future street. In addition where lots are at the intersection of a right-of-way or at the intersection of a right-of-way and a street, a truncation will be required.

The truncation of the corner with the street and ROW is strongly recommended to provide a better line of sight for pedestrians and motorists.

The issue that is not so clear is that of the surrender of the 4.27m wide strip of land for future widening of the ROW. Council does not support the creation of battleaxe lots which means that there is unlikely to be opportunity to create the intended full length widening of the ROW. Should Council and the WAPC require the surrender of the strip of land, this will severely impact on the existing residence which is constructed closer to the subject boundary than the 4.27m width to be excised.

Budget Implications

Nil

Officer Recommendation

Moved Cr Farley, seconded Cr Thomas

That Council advise the WAPC that it supports the proposed subdivision of Lots 182&183 Venn Street subject to;

1. The truncation of the corner of the street and ROW.
2. Demolition of the garage and lean to on proposed Lot 2

LOST

New Motion

Moved Cr Thomas, seconded Cr Farley

That Council advise the WAPC that it supports the original approved subdivision (no. 134504) of Lots 182 & 183 Venn Street subject to:

1. The truncation of the corner of the street and ROW.
2. Demolition of the garage and lean-to on proposed Lot 2.
3. The proposed Lot 2 is a minimum of 700sqm.

CARRIED UNANIMOUSLY

Committee Recommendation

Moved Cr Thomas, seconded Cr Farley

That Council advise the WAPC that it supports the original approved subdivision (no. 134504) of Lots 182 & 183 Venn Street subject to:

- 1. The truncation of the corner of the street and ROW.**
- 2. Demolition of the garage and lean-to on proposed Lot 2.**
- 3. The proposed Lot 2 is a minimum of 700sqm.**

CARRIED UNANIMOUSLY

BLD BUILDING

BLD1 BUILDING/DEMOLITION LICENSES APPROVED

File Ref: BUI20/BUI7
Author: David Chidlow, Manager of Development Services
Date: 9 June 2010

Purpose

The purpose of this report is to inform Council of the Building Licences and Demolition Licences approved during the reporting period.

Background

Council Policy delegates authority to the Building Surveyor to approve licenses for the construction and demolition of buildings provided the following requirements are met: -

1. The use of any discretionary power by Council has previously been addressed by the Council.
2. Development approval has been granted in accordance with the requirements of the Shire of Peppermint Grove Town Planning Scheme No.3.
3. Development approval conditions being complied with.
4. Compliance with the Building Code of Australia.
5. Compliance with any conditions previously stated by Council.

Report

The following building licenses have been approved during the reporting period, in accordance with Council's Policy:

Building Licences

Building Lic. No.	Owner	Address	Description	Amount \$
3192	Woodland	155R Forrest Street	Removal of an internal wall	\$3000
3193	Marzec	9 Bungalow Court	New dwelling	\$1,200,000
3194	Lauder	28 Irvine Street	Pergola	\$6,811

Demolition Licences

Demolition Lic. No.	Owner	Address	Description
D09-24 DA Approval granted: 27 July 2009	Mr & Mrs Jeyadevan	12 Crossland Court	Demolition of a single storey residence

Policy Implications

Nil

Budget Implications

Nil

Officer and Committee Recommendation

Moved Cr Farley, seconded Cr Thomas

The information be received.

CARRIED UNANIMOUSLY

HOP OPERATIONAL ISSUES

HOP1 CONSTRUCTION/REPLACEMENT OF FENCE ON CEDED LAND ADJOINING RIGHT-OF-WAY – LOT 303 (37) IRVINE STREET PEPPERMINT GROVE

File Ref: ROW
Author: D Chidlow, Manager of Development Services
Date: 2 June 2010

Background

This item was presented to the Ordinary Council meeting held on 17 May 2010. Council resolved to defer this item pending further investigation of an objection

received on the day of the meeting. Both neighbours have made a submission on the application reproduced below.

Report

The owners of lot 303 (37) Irvine Street have made a submission to Council seeking approval to reconstruct/replace the existing fence on the rear boundary of the parent lot of the ceded land adjoining the right-of-way at the rear. The applicant has provided additional comment as detailed below;

“Regarding our application for approval to build a new boundary fence at the back of our property. I wish the council to note:

- 1. We have gone to considerable expense in designing the fence and interlocking gates to accommodate our neighbours desire to be able to park their boat at the back of their house.*
- 2. We are prepared to give our neighbours unlimited access to the interlocking gates to enable them to park their boat at their convenience.*
- 3. We doubt anybody has ever gone to such expense and inconvenience to accommodate a neighbour parking their boat.*
- 4. The fence as designed will be similar to all boundary fences along the lane way. That is all other boundary fences are on right angles not 45°*
- 5. I understand it has been suggested in the objection that the fence design may lead to some danger. Ingress and egress from the neighbour's property will be no more or less dangerous than from any other property on the laneway. The laneway fortunately is closed to thru traffic.*

In all the circumstances we consider the objection to be unreasonable and our application should be approved.”

Consultation

The following submission was received from the neighbouring landowner.

Submitter Comments	Officer Response
<p><u>39 Irvine Street</u></p> <p>I am writing to you to tell you how I use my laneway access so you can see that any change to this area (marked “red” on the attached Diagram) will dramatically affect my amenity and use of the laneway.</p> <p>I use the laneway to store and use a boat and a trailer at the rear of my property, my family and I also use it to access the</p>	<p>The submitter has been provided with copies of the plans for comment. The submitter has verbally advised that he does not support the use of a common gate.</p> <p>Providing a single gate will be a better outcome that either a truncation or fully fencing the area. However there are</p>

<p>village on foot or to go to the gym early in the morning. As you may (or may not) know the laneway at the eastern end is cut off with a barrier which means when bringing the boat or trailer back to the rear of my property I have to reverse it all the way up from the shopping centre carpark and as I approach my property the extra width in the laneway allows me to get a turn in that directs the trailer / boat towards the rear entrance to our property and allows a successful parking to take place. When the property was re-subdivided well before our occupancy the access leg to the laneway was only 3 metres wide which further exacerbates the need for a proper width for turning.</p> <p>For us to continue to enjoy the access to the laneway we would ask that you reject any enclosure of this 4.27 metre wide strip at the rear of our property and the “dogleg” that belongs to the neighbours. It is absolutely necessary for vehicle and trailer access to be continued to be enjoyed by our family, and even more importantly for safety reasons I do not wish to see created a narrow dark unsafe entrance to the rear of our property which is exactly what would happen if this land owned by the Government was enclosed by a fence onto the existing laneway.</p> <p>For this reason I ask you to not approve the request , its impact on the use of our home would be detrimental both in access and safety terms.</p>	<p>concerns that if the neighbours are in dispute, that access to the gate may be restricted. If the neighbours agree, the use of the gate should be detailed in the lease agreement to include both parties and that the gate is to be removed if the agreement is broken.</p>
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Discretions to be Considered

Council may enter into discussions and negotiations with the affected landowner regarding the development of a right of way in accordance with the Shire of Peppermint Grove Town Planning Scheme No. 3 Policy on Right of Ways.

The owner of Lot 303 has a right to apply for use of the land that abuts the rear of his property as has been approved to other landowners in a similar situation within the Shire. The adjoining landowner that has a limited width access via

the battleaxe leg has a valid argument that the fencing of this area will impede the use of his access way for egress of his boat. The option of a shared gate is a reasonable compromise and is supported subject to the agreement being within the lease and linked to both titles.

Budget Implications

The costs associated with the surveying of the property boundary, the construction of a boundary fence and preparation and placement and removal of a Notification on the property title and lease are to be borne entirely by the property owner.

Officer Recommendation

Moved Cr Farley, seconded Cr Thomas

That

- (1) The Chief Executive officer be granted delegated authority to enter into a lease with the landowners.
- (2) Council grant approval for the ceded land at the rear of lot 303 (37) Irvine Street Peppermint Grove to replace/construct a fence on the rear boundary of the original parent lot adjoining the right of way in accordance with the application submitted subject to –
 - (a) Approval of the Minister for Lands for a lease.
 - (b) The property owner submitting an Application for Approval to Erect a Fence and that the proposed fence is in accordance with the requirements of the Shire of Peppermint Grove Local Laws Relating to Fencing
 - (c) The rear boundary of the original parent lot being surveyed by a registered surveyor to ensure that fence does not encroach into the right of way
 - (d) A Notification being placed upon the property title of lots 303 (37) Irvine Street and subject to agreement of the landowner lot 65 (39) Peppermint Grove in accordance with Section 70A of the Transfer of Land Act, 1893. The Notice is to ensure that prior to property purchase any future owner/s of the lots become formally aware of their obligation to relinquish the ceded land should and when the Shire of Peppermint Grove require the land for the development of a roadway, parking, drainage or any other use that the Shire may determine from time-to-time. The notification is to also advise of the shared arrangement of the gate if this is agreed by both parties.
 - (e) The property owner entering into a lease to the satisfaction of the Shire. The lease to include reciprocal rights of access and use of the gate between the two landowners and their successors in title subject to agreement of both landowners.
 - (f) The Shire giving six months notice to a land owner to remove all boundary fences and other improvement within the ceded land.

- (g) All costs associated with the removal of boundary fences, structure and other improvements within the ceded land and reinstatement of the survey lot boundary of the relevant lot to be borne entirely by the property owner.

Amendments

Moved Cr Farley, seconded Cr Thomas

That the following conditions be amended:

- (2) The word 'part' be inserted before the words 'of the ceded land';
 - (d) the following words and sentence to be deleted from this condition:

"and subject to agreement of the landowner lot 65 (39) Peppermint Grove"

"The notification is to also advise of the shared arrangement of the gate if this is agreed by both parties" be deleted.
 - (e) the sentence *"The lease to include reciprocal rights of access and use of the gate between the two landowners and their successors in title subject to agreement of both landowners."* be deleted.

A new condition (h) to be added:

- (h) The fence be truncated on the eastern side of the boundary to the satisfaction of the Chief Executive Officer.

Committee Recommendation

Moved Cr Farley, seconded Cr Thomas

That

- (1) The Chief Executive Officer be granted delegated authority to enter into a lease with the landowners.**
- (2) Council grant approval for part of the ceded land at the rear of lot 303 (37) Irvine Street Peppermint Grove to replace/construct a fence on the rear boundary of the original parent lot adjoining the right of way in accordance with the application submitted subject to –**
 - (a) Approval of the Minister for Lands for a lease.**

- (b) The property owner submitting an Application for Approval to Erect a Fence and that the proposed fence is in accordance with the requirements of the Shire of Peppermint Grove Local Laws Relating to Fencing
- (c) The rear boundary of the original parent lot being surveyed by a registered surveyor to ensure that fence does not encroach into the right of way
- (d) A Notification being placed upon the property title of lots 303 (37) Irvine Street in accordance with Section 70A of the Transfer of Land Act, 1893. The Notice is to ensure that prior to property purchase any future owner/s of the lots become formally aware of their obligation to relinquish the ceded land should and when the Shire of Peppermint Grove require the land for the development of a roadway, parking, drainage or any other use that the Shire may determine from time-to-time.
- (e) The property owner entering into a lease to the satisfaction of the Shire.
- (f) The Shire giving six months notice to a land owner to remove all boundary fences and other improvement within the ceded land.
- (g) All costs associated with the removal of boundary fences, structure and other improvements within the ceded land and reinstatement of the survey lot boundary of the relevant lot to be borne entirely by the property owner.
- (h) The fence be truncated on the eastern side of the boundary to the satisfaction of the Chief Executive Officer.

CARRIED UNANIMOUSLY

CLOSURE

These minutes were confirmed as a true and accurate record of proceedings at the Health, Building and Town Planning Committee Meeting held on 15 June 2010.

Presiding Member

Date