

14.3 Notice of Motion 105 - 201 Ferndale Road, Sassafras

SUMMARY: Director City Strategy and Integrity, Matt Kelleher

The Council considered 'Notice of Motion 105 – 201 Ferndale Road Sassafras' in July 2020 and resolved to receive a report by February 2021 on this matter. Due to limited availability on the Council schedule and a delay in obtaining information from interested parties, Council subsequently resolved in February 2021 to receive a report in March 2021.

Council is still awaiting the legal advisor to finalise their report on this matter and it is recommended that Council agree to 'Notice of Motion 105 – 201 Ferndale Road Sassafras' now being presented to the April 2021 Council Meeting.

RECOMMENDATION

That Council note that Notice of Motion 105 – 201 Ferndale Road Sassafras will be presented to the April 2021 Council meeting.

1. INTRODUCTION

The Council at the July 2020 meeting resolved that:

1. *An independent review be conducted into Council's handling of enforcement related complaints and enforcement actions taken, or not taken, for the property at 201 Ferndale Road, Sassafras, and adjacent properties;*
2. *This review should include, but not be limited to:*
 - a. *the taking of written and oral submissions from interested parties,*
 - b. *the review any relevant aerial photographs, and*
 - c. *any other evidence that may be offered;*
3. *As part of the review process, any new evidence obtained will be reviewed and recommendations for action issued to Authorised Officers of Council, noting the Statute of Limitations and requirements of relevant legislation;*
4. *This review should determine, as far as possible, whether any enforcement action taken, or not taken, and if so, why (or why not);*
5. *This review should determine if enforcement action taken to any adjacent property was undertaken reasonably and objectively;*
6. *This review should draw findings and recommendations as relevant to the handling of enforcement complaints and actions relevant to 201 Ferndale Road, Sassafras and adjoining properties in the form of a report, which should also include any opportunities for improvement for ongoing enforcement activities if identified;*
7. *This review be conducted by a person with sufficient knowledge of planning/building enforcement who has no connection to Council or any landowner at or adjacent to 201 Ferndale Road, Sassafras or with anyone who has taken a public position regarding this issue;*
8. *The review be undertaken with adherence to the relevant COVID-19 pandemic Government restrictions and requirements;*

9. *This enforcement review be reported back to the CEO and Council no later than February 2021.*

2. DISCUSSION

Marcus Lane Group Lawyers have been appointed to undertake the independent review into Council's handling of enforcement related complaints and actions regarding 201 Ferndale Road, Sassafra and adjacent properties. There has been considerable work undertaken to date in responding to this Notice of Motion, including engagement with interested parties.

However, through the limited availability of time on Issues Briefings agendas, in addition to the need to provide more time for interested parties to submit further information to the review, it has not been possible to present the report to Council February Meetings. In the intervening period the legal team preparing the review have experienced higher than usual tribunal caseloads and the report is not due to be received in time for the April Council Meeting. To ensure a rigorous and comprehensive review report is provided to Council for its consideration, it is recommended that Council agree to 'Notice of Motion 105 – 201 Ferndale Road Sassafra' being deferred to April 2021 for consideration.

3. CONSULTATION

Nil

4. ENVIRONMENTAL/AMENITY ISSUES

Nil

5. FINANCIAL & ECONOMIC IMPLICATIONS

Nil

6. SOCIAL IMPLICATIONS

Nil

7. RELEVANCE TO KNOX COMMUNITY AND COUNCIL PLAN 2017-2021

Goal 1 - We value our natural and built environment

Strategy 1.3 - Ensure the Knox local character is protected and enhanced through the design and location of urban development and infrastructure

Goal 8 - We have confidence in decision making

Strategy 8.1 - Build, strengthen and promote good governance practices across government and community organisations

8. CONFLICT OF INTEREST

The officers contributing to and responsible for this report have no conflicts of interest requiring disclosure under Chapter 5 of the Governance Rules of Knox City Council. Author – Director City Strategy & Integrity, Matt Kelleher - In providing this advice as the Author, I have no disclosable interests in this report. Officer Responsible – Chief Executive Officer, Tony Doyle - In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

9. CONCLUSION

To ensure a rigorous and comprehensive review report is presented to Councillors for consideration, it is recommended that the Council agree to this matter being deferred to April 2021 for consideration.

10. CONFIDENTIALITY

There is no content in this report that meets the definition of confidential information from the Local Government Act 2020.

Report Prepared By: Director City Strategy and Integrity, Matt Kelleher

Report Authorised By: Chief Executive Officer, Tony Doyle

Attachments

Nil