



Shire of
Peppermint Grove

ORDINARY COUNCIL MEETING MINUTES

**HELD ON
TUESDAY 17TH OCTOBER 2023
AT
5.30 PM**



Shire of Peppermint Grove

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Shire of
Peppermint Grove

ORDINARY COUNCIL MEETING MINUTES

1. DECLARATION OF OFFICIAL OPENING

At 5.30pm, the Shire President declared the meeting open and requested that the Affirmation of Civic Duty and Responsibility be read aloud by a Councillor and requested the recording of attendance and apologies.

Council recognises that it is permissible to record the Shire's Council and Forum Meetings in the written, sound, vision medium (or any combination of the mediums) when open to the public, however, people who intend to record meetings are requested to inform the Presiding Member of their intention to do so.

The Presiding Member will cause the Affirmation of Civic Duty and Responsibility to be ready aloud by Councillor Horrex.

Affirmation of Civic Duty and Responsibility

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

2. RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE

2.1 ATTENDANCE

Shire President	Cr Rachel Thomas
Deputy Shire President	Cr C Hohnen
Elected Member	Cr P Macintosh
Elected Member	Cr D Horrex
Elected Member	Cr D Jackson
Elected Member	Cr K Farley
Elected Member	Cr P Dawkins
Chief Executive Officer	Mr Don Burnett
Manager Development Services	Mr J Gajic
Manager Corporate & Community Services	Mr J Clapham
Manager Infrastructure Services	Mr D Norgard

Gallery 6 Members of the Public
 2 Members of the Press

2.2 APOLOGIES

NIL

2.3 LEAVES OF ABSENCE

NIL

2.4 NEW REQUEST FOR A LEAVE OF ABSENCE

NIL

3. DELEGATIONS AND PETITIONS

Item 8.1.1 52 The Esplanade; Linda and Tim Goyder

Item 8.1.1 52 The Esplanade; Ross Underwood

Item 8.1.1 52 The Esplanade; Phillipa Mowbray

4.0 PUBLIC QUESTION TIME

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

1. The Agenda;
2. Question to Council; and
3. 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

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

question. If the question relates to an item on the agenda, the item number should also be stated. In general, persons seeking to ask a question will be given 2 minutes within which to address their question to the Council. The person presiding may shorten or lengthen this time in their discretion.

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

Nil

4.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

Nil

5.0 DECLARATIONS OF INTEREST

Nil

5.1 FINANCIAL INTEREST

Nil

5.2 PROXIMITY INTEREST

Nil

5.3 IMPARTIALITY INTEREST

Nil

5.4 INTEREST THAT MAY CAUSE A CONFLICT

Nil

5.5 STATEMENT OF GIFTS AND HOSPITALITY

Nil

6.0 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

The Deputy President congratulated retiring Shire President Rachel Thomas and Cr Dawne Horrex on their dedicated service to Council and the community. The Shire President thanked councillors and staff for their support.

7.0 CONFIRMATION OF MINUTES

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 7.1

Moved: Cr Farley

Seconded: Cr Horrex

That the minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 26th September 2023 be confirmed as a true and accurate record.

CARRIED 7/0

8.0 OFFICERS REPORTS

8.1 MANAGER DEVELOPMENT SERVICES

8.1.1 52 The Esplanade, Peppermint Grove - Alterations and Additions to a Single House, and for Ancillary Accommodation and Ancillary Works

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Description</u>
Attachment 1	Development Application Submissions and Drawings (Redacted)
Attachment 2	Palassis Architects Heritage Report
Attachment 3	Kent Lyon Architect Independent Heritage Advice
Attachment 4	SHAWMAC Traffic Engineers Report

Location / Address : 52 The Esplanade, Peppermint Grove
 Application Number : DA2023/00016
 LPS No 4 Zoning : Residential R10
 Land Use : Single House
 Lot Area : 3,652m²
 Disclosure of Interest : Nil
 Previous Items : Nil
 Applicant : Philippa Mowbray Architecture & Interior Design
 Owners : Mr & Mrs Tim & Linda Goyder
 Assessing Officer : Mr J. Gajic
 Authorising Officer : Mr J. Gajic

PURPOSE OF REPORT

To seek Council determination for a development application for Alterations and Additions to a Single House, and for Ancillary Accommodation and Ancillary Works. The application seeks Council discretion in regard to Local Planning Policy 3 – Heritage Places and relies on the design principles contained in the Residential Design Codes of Western Australia (R-Codes) for lot boundary setback, site works, and vehicular access.

SUMMARY AND KEY ISSUES

- The subject land is zoned Residential (R10).
- A Single House and an Ancillary Dwelling are ‘P’ uses.
- The place is on the Heritage List (category 1).
- Significant portions of the existing single house will be demolished or altered in a manner that cannot be reversed.
- Supreme Court proceedings in 2019 ultimately confirmed the retention of the place on the Shire’s Heritage List as a Management Category 1 and circumvented a proposal for demolition and subdivision of the site.
- The application was directly advertised to three affected neighbours and was referred to the State Heritage Office and an independent Heritage Consultant for comment. The

scale of the works and prominence of the place further warranted the erection of a notice of development application and the publishing of selected plans on the Shire's website.

- The proponent has provided justification how the design principles, lot boundary setback, site works, and vehicular access have been satisfied.
- The proponent has provided justification how the Burra Charter and local planning policy provisions for heritage have been satisfied. A design response that better respects the original fabric of the façade is required.
- A report prepared by SHAWMAC Traffic Engineers has been provided as requested at the 21 September 2023 Concept Forum pertaining to access from the right-of-way and the access arrangements further modified.

LOCATION

52 The Esplanade Street, Peppermint Grove

BACKGROUND

The place is a landmark on the lower Esplanade due to its size, style and eye catching porte cochere (castle). The place has a remarkable stylistic coherence given the extensive change undertaken three decades after the original house was constructed. The stages of the place show considerable skill and deftness in the development, firstly, of a Federation Queen Anne house and, secondly, its enlargement into a Federation Queen Anne Bungalow, of mansion proportions, signalled with a dramatic porte cochere.

(Shire of Peppermint Grove Heritage Survey 2021)

Originally built for John McArdell in 1897, the design of the Federation Queen Anne cottage has been attributed to Wilkinson and Smith Architects. Considerable alterations and additions were made in 1927, This included the Post-War Gothic portico which demarcates the point at which the 1927 addition extends to the south. In 1945 the residence was converted into two independent flats. Further changes were made by successive owners to differing degrees. Extensive changes and additions were made during 1986.

52 The Esplanade forms part of a group of Federation style heritage places at the lower end of The Esplanade and Manners Hill Park. The locality is notable for expansive residences on large land holdings with predominantly unobstructed views of Freshwater Bay. 56 The Esplanade has recently been substantially redeveloped in a similar fashion.

Dain Pty Ltd commissioned a heritage assessment by GBA Heritage in 2018 to justify removal of the place from the Shire's Heritage List. The GBA Heritage assessment relied on the extent of alterations and additions to justify removal from the Heritage List. The GBA Heritage assessment was at odds with a subsequent heritage assessment prepared by John Taylor Architect. The Palassis Architects Heritage Impact Statement that accompanied the development application acknowledges that the current owners accept the general consensus of previous heritage assessments that the place is eligible for built heritage conservation, however the appropriate Management Category is yet to be satisfactorily resolved.

The proposed additions and alterations are considered to largely satisfy the design principles, provisions and policy objectives of the state and local planning policy framework as they

relate to the development of single houses. The design principles for lot boundary set back and visual privacy are accepted as they directly relate to the amenity of affected neighbours who have not objected and provided conditional support (respectively). The design principles for site works are also accepted. The variations sought to the deemed-to-comply requirements for siteworks have been assessed to be relatively minor in the broader context of the development and not adversely impact the streetscape. Notwithstanding that the design principles for vehicular access as they relate to the rear right-of-way are not accepted, it is inconceivable that a design solution could not be found.

It is acknowledged that components of the original building and early additions castle have been retained, nonetheless the alterations and additions are highly visible from the streetscape, are not seen to be a continuation of the same fabric and character, and are irreversible. The crux of the matter before the Council is whether the alterations and additions are consistent with the Burra Charter principles and the policy provisions of Local Planning Policy 3 – Heritage Places.

This report focuses on the heritage aspects of the planning framework, and on vehicular access as it relates to the rear right-of-way for which an alternative design response is recommended.

On 3 October 2023 the proponent provided additional traffic engineering justification pertaining to the right-of-way and modified plans that increased the gate width for access to the basement parking/service yard driveway. There was inadequate time at the drafting of this report to confirm that the modified plans otherwise aligned with the previous plan set. The report is premised on the assumption that the modifications were limited to the gate opening. Should additional changes be identified, they will be acknowledged under the heading Further Information in the report tabled at the October Ordinary Council Meeting.

CONSULTATION

Prospective purchasers of the property and interested parties were advised of the local planning policy framework requirements and Council expectations pertaining to heritage places. Consistent advice was provided that the Shire was not supportive of the demolition or irreversible changes of any original fabric associated with a Management Category 1 place.

The proponent discussed the proposal prior to lodgement and sought clarification on pertinent aspects of the planning framework. The proponent additionally presented the merits and vision for the design concept to the Council at a Concept Forum prior to lodgement of the development application. At the time of drafting this report a date was being confirmed prior to the October Ordinary Council Meeting for a further presentation to Council and to obtain officer feedback regarding the assessment of heritage implications.

Advice was sought from Heritage WA. Upon reviewing the proposal and providing verbal advice Heritage WA declined to provide written comment.

Independent heritage advice was subsequently obtained from Kent Lyon Architect as to whether the proposal was consistent with the principles of the Burra Charter and, should the development be approved the most appropriate heritage Management Category. Clarification was sought by Kent Lyon regarding the removal or retention of the formal dining chimney

that prompted minor amendments to the plan set and to the Palassis Architects Heritage Impact Statement. A copy of the Kent Lyon Architect advice is an attachment to this report.

Six properties received courtesy notifications prior to assessment of the application. Three properties were deemed to be affected parties and were subsequently advertised to for a period of 14 days in accordance with Local Planning Policy 6 – Neighbour Consultation on Development. Due to the prominence of the heritage place and scale of the proposed development further consultative measures were undertaken. An A3 sized laminated sign was erected for the duration of the advertising period and abridged plans made available on the Shire's website under the heading 'latest news'. The advertisement period has now concluded. No written objection(s) were received during the advertising period.

The proponent has met with the three affected parties. The owners of number 50 and number 56 The Esplanade subsequently provided written submissions. Conditional support was received from the northern neighbour that has informed the officer recommendation.

The proponent has presented their proposal at two Concept Forums, the latest held on 21 September.

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. The Local Heritage Survey data sheet for the place will need to reflect any implemented modifications.

STATUTORY IMPLICATIONS

The statutory timeframe to determine an application that has been advertised is ninety (90) days excluding any period the application is on hold pending the submission of further information. After this date the application is 'deemed to be refused' for the purposes of enabling an application for determination to be lodged to the State Administrative Tribunal (SAT). The proponent sought to modify the plans prior to the commencement of formal advertising such that this application remains within the statutory timeframe.

The relevant Scheme provisions, R-Codes and Planning Policies are outlined in the table below.

LOCAL PLANNING SCHEME NO. 4	
Scheme Provisions	Assessment/Comment
<p>Building Height The maximum height of dwellings coded R10, shall be determined in accordance with the R-Codes for category B areas and not exceed two storeys excluding any basement. Height shall be measured in accordance with '<i>mean natural ground level</i>' as defined in the Scheme as opposed to '<i>natural ground level</i>' as defined in the R-Codes.</p> <p>The maximum height of ancillary dwellings shall be determined in accordance with the R-Codes for category A areas and not exceed one storey. Height shall be measured in accordance with '<i>mean natural ground level</i>' as defined in the Scheme as opposed to '<i>natural ground level</i>' as defined in the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement for a wall of a dwelling with a hipped and pitched roof is 7m and overall height is 10m. The mean natural ground level is 3.34mAHD. The maximum proposed building height is 9m and wall height 7m.</p> <p>The deemed-to-comply requirement for a wall of an ancillary dwelling with a concealed roof is 3.5m and overall height is 5m. The maximum proposed building height is 4.4m and wall height 4.2m. Council discretion is required to vary the wall height. Discretion is supported on the grounds that the ancillary dwelling:</p> <ul style="list-style-type: none"> ▪ is incorporated into the main residence, ▪ has a concealed roof, ▪ wall height measured from the natural ground level at the adjacent boundary varies from 3m - 3.2m, ▪ lot boundary setback is compliant, and ▪ does not present any obvious detriment to the affected neighbour who has not objected.
<p>Street Setbacks For R10 coded areas the setback from the front street boundary to any building, including a carport or garage, shall be a minimum of 9 metres from the primary street and 4.5 metres from the secondary street.</p>	<p>Compliant. The proposed primary street setback is 13.7m measured from the patio. The subject site has a single street frontage.</p>

RESIDENTIAL DESIGN CODES	
Design Principles	Assessment/Comment
<p>Site Area 5.1.1, Table 1 of the R-Codes.</p>	<p>N/A no new lots or additional dwelling(s) are proposed. The subject site occupies 3,652m² and development is not otherwise constrained.</p>
<p>Street and Lot Boundary Setbacks 5.1.2 & 5.1.3, Tables 1, 2a and 2b of the R-Codes.</p>	<p>The deemed-to-comply requirements for street setbacks are varied by clause 26(2) of the local planning scheme and addressed in the Scheme table above. The deemed-to-comply requirements for buildings built up to a boundary in areas coded R10 and R12.5 is varied by Local Planning Policy 11 and addressed in the Council Policy table below.</p>

	<p>Southern Boundary Setback Non-compliant. Two discrete calculation methods illustrated by figure Series 4 – Wall length for lot boundary setbacks were applied to fully capture the approximate 72m wall length. Design WA affirmed that the Shire’s deemed-to-comply setback calculation methodology was appropriate.</p> <p>The deemed-to-comply requirement behind the porte cochere is 1.5m for walls and 750mm for eaves. This portion of the wall is compliant.</p> <p>The deemed-to-comply requirement forward of the roofed guest parking bay is 5.7m for walls and 4.95m for eaves. This portion of the wall contains multiple articulations and has an average setback of approximately 4.53m. The walls and columns are offset between 595mm and 5.98m and the eaves 5m.</p> <p>The design principles are relied upon for the porte cochere. The porte cochere columns are a Tuscan design such that the shafts are further offset 50mm from the boundary (645mm).</p> <p>The design principles take into consideration the impact of building bulk, solar access and ventilation, and overlooking of adjoining properties.</p> <p>The affected neighbour was notified of this variation and did not object. The design principles are considered to be met.</p>
<p>Open Space 5.1.4, Table 1 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is 60%. 61.42% of open space has been provided.</p>
<p>Building Heights 5.1.6, Table 3 Figure Series 7 of the R-Codes.</p>	<p>The deemed-to-comply requirements for building height are varied by clause 26(1) of the local planning scheme and addressed in the Scheme table above.</p> <p>The proposal relies on Council discretion for the ancillary dwelling.</p>
<p>Setback of Garages and Carports 5.2.1, Table 1 Figure 8a and 8b of the R-Codes.</p>	<p>N/A. The deemed-to-comply requirements for street setbacks are varied by clause 26(2) of the local planning scheme and by Local Planning Policy 1 – Design and Streetscape. These requirements are further addressed in the Scheme table above and in the Council Policy table below.</p> <p>The proposal does not rely on Council discretion.</p>
<p>Garage Width 5.2.2, Figure 8c of the R-Codes</p>	<p>N/A. Basement parking and a carport is proposed.</p>
<p>Street Surveillance 5.2.3 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is for the street elevation(s) of the dwelling to address the street with clearly definable entry points visible and accessible from the street, at least one major opening from a habitable room to face the street.</p>
<p>Street Walls and Fences 5.2.4, Figure 12 of the R-Codes.</p>	<p>The deemed-to-comply requirement for street walls and fences is varied by Local Planning Policy 12 – Front Fences and addressed in the Council Policy table below.</p>
<p>Sight Lines 5.2.5, Figure 9a of the R-Codes.</p>	<p>Non-compliant. The deemed-to-comply requirement is for all walls, fences and other structures to be truncated or reduced in height to no more than 750mm within 1.5m of where the driveway intersects with the street or the right-of-way. The design principles require the provision of unobstructed sight lines at vehicle access points to ensures safety and visibility along access ways, streets, rights-of-way, communal streets, crossovers, and footpaths. The sightline requirement is premised on driveways being aligned at right angles to the street/right-of-way.</p> <p>The design principles are relied upon for both crossovers to the right-of-way. The design principles require unobstructed sightlines</p>

	<p>to be provided at vehicle access points to ensure safety and visibility along a right-of-way.</p> <p>The proponent has provided the following initial justification to vary the deemed-to-comply requirement:</p> <p><i>The minimum dimensions for a single house driveway are 3m. When the additional dimensions of the truncation zones (1.5m x 2 = 3m) are added to this space the result is a minimum of 6m unobstructed sight between the boundary and driveway areas. Both exit points for the basement parking and the carer / service parking are a minimum of 6m and should therefore still capacitate ample sightlines for a vehicle exiting the property.</i></p> <p>The assumption that vehicles will access and egress from the centre of the basement parking/service yard driveway is not accepted due to the driveway not being aligned at a right angle to the right-of-way. It is further noted that the exit point width for the carer/services parking is 4.1m not 6m and the sightlines denoted on the plan set incorrectly assumes the gates are visually permeable. Vehicles and pedestrians commuting within a right-of way are particularly vulnerable to vehicles likely to be reversing from the service yard carers/services parking bay.</p> <p>It is not accepted that an unconstrained site of this size cannot suitably truncate boundary fencing to achieve mandated sightlines. The design principles are not considered to be met.</p>
<p>Outdoor Living Areas 5.3.1, Table 1 and Figure 13 of the R-Codes.</p>	<p>Compliant. An outdoor living area greater than 36m² has been provided behind the street setback area, directly accessible from the primary living space, with minimum dimensions of 4m, and with at least two-thirds of the required area without a permanent roof cover.</p>
<p>Landscaping 5.3.2 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement for landscaping of single houses is one tree occupying a minimum tree planting area of 2m x 2m that is free of impervious surfaces.</p> <p>The landscaping deemed-to-comply requirement is varied by Local Planning Policy 2 – Ecological Urban Design and Sustainability and addressed in the Scheme/Council Policy table below.</p>
<p>Parking 5.3.3 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is for each single house is for two bays.</p>
<p>Design of Car Parking Spaces 5.3.4 of the R-Codes.</p>	<p>Not Compliant. The deemed-to-comply requirement is for car parking spaces and manoeuvring areas to be designed and provided in accordance with AS2890.1 (as amended). All parking bays are adequately dimensioned; however, manoeuvrability within the right-of-way for the basement parking/service yard driveway is compromised. The proponent has provided additional turning templates for the basement parking/service yard driveway evidencing the ability of a 'B99' vehicle to access and egress the site with a single turn for two of the four possible manoeuvres and a three-point turn when accessing from the south or egressing southwards. AS2890.1 prescribes clearances for no more than two turns for access or egress from any parking bay.</p> <p>The design principles are for adequate parking to be provided on-site in accordance with the projected need related to the type, number and size of dwellings, the availability of on-street parking, and the proximity of the development to public transport and other facilities.</p>

	<p>The proponent has provided the following justification to vary the deemed-to-comply requirement:</p> <p><i>The basement parking is primarily intended for permanent or semi-permanent occupants as opposed to visitors. To mitigate issues for occasional guests, the proposed design provides a driveway and guest parking with a vehicle turn table that is accessible from the primary street.</i></p> <p><i>Furthermore, the carer/services parking can be accessed with minimal issue from either direction from the ROW, ensuring up to 2 spaces are always easily accessible to occasional visitors.</i></p> <p><i>Lastly, the client can always simply advise visitors that will use the basement parking to ensure they approach from the north. Access from the north and south ends of the ROW are relatively equal in convenience and the immediate locality is populated with roundabouts and private residential streets, ensuring that correction is at worst a quick and relatively easy process.</i></p> <p>Whilst the Australian Standard for off-street parking does have regard to the likely length of stay to inform bay width, manoeuvring requirements are standardised. Turning templates were requested to demonstrate access and egress for all scenarios between the right-of-way and the access ramp to the basement garage. Single turns were not achievable. Multiple point turns within the narrow (3.62m wide) two-way right-of-way has the potential to cause damage to the bitumen spray seal (installed at the cost of the adjacent neighbour), opposite fencing and delay vehicles.</p> <p>It is not accepted that an unconstrained site of this size cannot provide manoeuvring areas able to facilitate access and egress for all scenarios between the right-of-way and the access ramp to the basement garage.</p> <p>The design principles are not considered to be met. It is acknowledged that the Manager of Infrastructure Services has no objection to a three-point turn being required to achieve access from the south or egressing southwards. Should the Council support a three-point turn for a standard 'B99' vehicle within the right-of way a precedent will be established.</p>
<p>Vehicular Access 5.3.5 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is for access to onsite car parking spaces to be provided where available from a communal street or right-of-way, from a secondary street where no communal street or right-of-way exists, from the primary street frontage where no secondary street or communal street or right-of-way exists, no driveway wider than 6m at the street boundary and driveways in aggregate no greater than 9m for any one property, no closer than 500mm from a side lot boundary or street pole, no closer than 6m to a street corner, located to avoid street trees, and adequately paved and drained. Driveways designed for two-way access to allow for vehicles to enter the street in forward gear where the distance from an on-site car parking space is 15m or more.</p> <p>It is noted that a right-of-way is not treated as a street when calculating the aggregate driveway widths.</p>
<p>Site Works 5.3.7, Table 4 of the R-Codes.</p>	<p>Not Compliant. The deemed-to-comply requirements is for site works and retaining walls between the street boundary and the street setback to be 500mm or less, except where necessary to provide for pedestrian, universal and/or vehicular access, drainage works or natural light to a dwelling. Site works and retaining walls</p>

	<p>within 1m of any lot boundary to be 500mm or less. Site works and retaining walls behind the front setback is to comply with Table 4 of the R-Codes. Table 4 prescribes minimum setbacks that are broadly proportional to the height of the retaining wall.</p> <p>A maximum 1.1m of fill is proposed between the street boundary and the street setback to the southeast corner of the proposed patio.</p> <p>The design principles require development to take into consideration and respond to the natural features of the site and that requires minimal excavation/fill. Where excavation or fill is necessary, the finished levels are to respect the natural ground level at the lot boundary as viewed from the street. Retaining walls that result in the effective use of land are not to detrimentally affect adjoining properties.</p> <p>On balance the finished levels are considered to suitably respect the natural ground level at the lot boundary as viewed from the street. Weight has been afforded to the existing neighbourhood character that features expansive elevated and levelled front yard areas. Of particular note are the recently approved and similar siteworks at 56 The Esplanade. Due regard has also been afforded to the susceptibility of the immediate locality to inundation and potential further estuary level rises. Additionally, the retaining wall parallel to the northern property boundary is suitably off set from the boundary to respect visual privacy and the fill generally respects the levels of the adjoining lots.</p> <p>The design principles are considered to be met.</p>
<p>Stormwater Management 5.3.9 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is for all water draining from roofs, driveways, communal streets and other impermeable surfaces to be directed to garden areas, sumps or rainwater tanks within the development site where climatic and soil conditions allow for the effective retention of stormwater on-site. The control and containment of stormwater will be a conditional requirement of any subsequent development approval and will need to be detailed on the building application plan set.</p>
<p>Visual Privacy C5.4.1, Figure 10, 10a, 10b and 10c of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is for major openings raised more than 500mm above the natural ground level (measured at the adjacent lot boundary) to be adequately set back from a boundary as follows; bedrooms and studies 4.5m, habitable rooms other than bedrooms and studies 6m, and unenclosed outdoor active habitable spaces 7.5m.</p> <p>The master bedroom terrace is a source of overlooking for which a privacy screen was proposed to be affixed above the adjacent boundary wall to a height of 1.6m above the terrace level.</p> <p>The affected neighbour has not objected to the proposal on the grounds of visual privacy and has requested the privacy screen be deleted.</p> <p>The design principles are considered to be met.</p>
<p>Solar Access for Adjoining Sites 5.4.2 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is 35%. A shadow diagram has been provided and the proponent has assessed 56 The Esplanade will be overshadowed by 8.7%. It is noted that the deemed-to-comply requirement is limited to shadowing from buildings and dividing fences or walls greater than 2m in height.</p>

<p>Outbuildings 5.4.3, Tables 1 & 2a of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement for a small outbuilding is no more than one outbuilding per dwelling site, has no more than two boundary walls, does not exceed 10m² in area, does not exceed a wall and ridge height of 2.7m, not located within the primary or secondary street setback area, and does not reduce open space and outdoor living area requirements. The bin store/garden store is approximately 8.5m² in area and 2.4m in height. It is noted that the pool house incorporates both habitable and non-habitable components and is not defined as a large outbuilding. This building is defined as a dwelling and is assessable against alternative criteria.</p>
<p>External Fixtures, Utilities and Facilities 5.4.4 of the R-Codes.</p>	<p>N/A. The proposal does not detail solar collectors, aerials, antennas, satellite dishes or other external fixtures. The subsequent installation of external fixtures for heritage listed places are generally subject to further planning consent. It is noted that the drying court and bin store are appropriately located and that a bin stand is provided to ensure bins do not obstruct the right-of-way.</p>
<p>Ancillary Dwellings 5.5.1, Table 1 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is for an ancillary dwelling associated with a single house on a lot is not less than 350m² in area, there is a maximum plot ratio area of 70m², and parking is provided. The ancillary dwelling must be located behind the street setback line, designed to be compatible with the colour, roof pitch and materials of the single house on the same lot, and comply with all other R-Code provisions, only as they apply to single houses, with the exception of; site area, street surveillance (except where located on a lot with secondary street or right-of-way access), and outdoor living areas. The ancillary dwelling does not preclude the single house from meeting the required minimum open space and outdoor living area. The deemed-to-comply requirements for building height are varied by clause 26(1) of the local planning scheme and addressed in the Scheme table above.</p>

SCHEME/COUNCIL POLICY	
Policy Type	Assessment/Comment
<p>Local Planning Policy 1 – Design and Streetscape</p>	<p>The proposal is substantively consistent with the policy intent for replacement dwellings or significant additions and outbuildings to be responsive to the existing context and contribute positively to the prevailing streetscape. The policy provisions provide guidance in circumstances where the prescribed primary and secondary street setbacks can be varied with specific reference to carports and garages, requires 50% soft landscaping within the front setback area, establishes the predominant building materials, requires clearly legible front entrances and discourages the dominance of garage doors on street elevations, encourages one single width crossover per dwelling site and seeks to limit parking bays in the front setback where access off a right-of-way is available, and establishes standards for minor structures within the street setback area. The provisions state that particular attention shall be given to situations where neighbouring dwellings are on the Shire’s Heritage List to</p>

	<p>ensure the values of these adjoining dwellings are not diminished. Front fencing is specifically addressed in Local Planning Policy 12 – Front Fences.</p> <p>The significant additions have been assessed to compromise the site context and views of the heritage place and, to a lesser extent, 56 The Esplanade when viewed from the streetscape. Heritage implications are further addressed in Local Planning Policy 3 – Heritage Places.</p> <p>The policy encourages single width crossovers to retain and protect green street verges and street trees. A 4.015m wide crossover is proposed. The additional width is justified in response to the irregular shape of the subject site and requirement for the driveway to be at a right angle to The Esplanade.</p> <p>A flag stone and relatively ‘busy’ pedestrian entry and landing arrangement is proposed. Whilst these features are not specifically referenced in the policy provisions, they broadly constitute minor structures. The flag stone and entry arrangements do not detract from the visual amenity of the streetscape and views to the street.</p>
<p>Local Planning Policy 2 – Ecological Urban Design and Sustainability</p>	<p>The proposal is consistent with the policy intent to conserve areas of each site for urban green space and ecological purposes and to provide guidance on building and site design. Whilst the policy aligns with the design principles contained in the R-Codes, deemed-to-comply requirements are varied for landscaping.</p> <p>The policy provisions encourage boundary setback areas to be principally used for landscaping or urban green space associated with a garden or private open space. Paving and sealing of the ground in setback areas is to be limited to areas used for thoroughfare or standing of vehicles.</p> <p>Greater than 20% of the total site is available for viable and functioning ecological green space (deep soil planting).</p>
<p>Local Planning Policy 3 – Heritage Places</p>	<p>The proposal is not consistent with the policy intent for alterations and additions to buildings on the Heritage List to meet the recommended guidelines of the Burra Charter without precluding a dwelling to be upgraded to meet modern living standards. There is a presumption against demolition and for development application to be accompanied by a report prepared by a heritage consultant detailing the work to be completed and their impacts on the heritage fabric of the building. The policy aligns with State planning policy 3.5 Historic Heritage Conservation and does not vary any deemed-to-comply requirements contained in the R-Codes.</p> <p>The proposed additions forward of the existing portico castle (living room and patio) were independently assessed to adversely affect the setting and relationship with 56 The Esplanade.</p> <p>Replacement of the roof to the original and 1927 components of the place was initially assessed to not be consistent with the policy intent to preserve the form and fabric of the place. Unlike recent major additions to heritage places at 45 Irvine Street and 56 The Esplanade, the changes to the significant and irreversible changes to the roof are highly visible when viewed from the streetscape.</p> <p>Notwithstanding, the independent assessment found that the slope of the roof away from the façade reduced the impact. It is further acknowledged that the Palassis Heritage Impact Statement states that the roof does not adhere to the original 1895 or 1927 roof form and the tiles are not original. Both heritage consultants reports set aside the initial officer concerns of this aspect of the development.</p>

	<p>The proposal will deliver conservation works for the retained portion of the place and remove all fabric and accretions from the 1986 works forward. It is acknowledged that due regard should be given to this aspect of the proposal when determining the application of Council discretion.</p> <p>The Management Category 1 afforded to the place pertains to: <i>Buildings, which due to their character create the atmosphere of Peppermint Grove, and therefore should be retained, but may only be altered and extended in a manner which is both discrete 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.</i></p> <p>The independent heritage assessment found in respect to the appropriate Heritage Category for the place that: <i>It is irrefutable that the place, compared to other places in both Management Categories 1 and 2 on the PGHS 2021, should remain the Management Category 1 to meet the community's interest in preserving heritage value properties.</i></p>
<p>Local Planning Policy 4 – Residential Building Heights</p>	<p>Compliant. The alterations and additions are limited to two storey and a basement. No variation to the deemed-to-comply requirements for a Category B building is sought.</p>
<p>Local Planning Policy 5 – Plot Ratio For R10 Coded areas the maximum plot ratio shall be 0.5</p>	<p>Compliant. The proposal has a plot ratio of approximately 0.433.</p>
<p>Local Planning Policy 6 – Neighbourhood Consultation on Development</p>	<p>The policy intent is to advise affected landowners adjoining development sites in residential areas before they proceed, and to ensure neighbours are consulted on applications that rely on variations to the R-Codes and are afforded an opportunity to make written submissions on non-compliant aspects of the development.</p> <p>Six properties received courtesy notifications prior to assessment of the application, three of which were deemed to be affected parties. The affected parties were subsequently advertised to for a period of 14 days in accordance with the policy requirements. The advertisement period has now concluded. No written objection(s) were received during the advertising period. Conditional support was received from the northern neighbour and no objection received from the southern neighbour. Both submissions have been distributed to Councillors.</p>
<p>Local Planning Policy 8 – Construction Management Plans</p>	<p>The policy requires owners and their contractors to undertake the effective management of approved development. Proponents are required as a condition of planning approval to submit a construction management plan for assessment and approval prior to the issuance of a demolition or building permit.</p> <p>The construction management plan will need to have specific regard to site access, right-of-way usage, erosion and dust control, and contractor parking. The submission of a construction management plan can be addressed with a condition of development approval.</p>

<p>Local Planning Policy 9 – Development Bonds</p>	<p>To ensure that any damage to public property caused by building work is fixed properly, the policy allows for the lodgement of a bond based on the value and nature of work being undertaken. The Manager of Infrastructure Services has been notified of the proposed development and will document the condition of assets in the road verge. A development bond will be required prior to the commencement of works.</p>
<p>Local Planning Policy 10 – Design Review Panels</p>	<p>N/A. The proposal does not meet the criteria to be considered by a Design Review Panel.</p>
<p>Local Planning Policy 11 – Building on Side and Rear Boundaries</p>	<p>For areas zoned R10 there are no deemed-to-comply requirements contained in the R-Codes for boundary walls. The design principles for buildings built up to boundaries (other than street boundaries) contained in the R-Codes apply.</p> <p>The proposal is consistent with the policy intent to ensure that the regular spacing or street rhythm is maintained and to provide a set of criteria where Council may consider boundary walls in areas zoned R10 or R12.5. The pertinent policy provisions are for side boundaries the incursion into the street setback should be located at least 3m behind the 9m primary street setback, for side boundaries the incursion into the setback should not be forward of an adjoining dwelling so as to block views to and from that place, for all side and rear boundaries the incursion into the setback should not visually impose on an adjoining property that is on the Municipal Heritage List, for boundaries abutting a right-of-way buildings should be set back sufficiently to allow for future road widening where this has been identified.</p> <p>Given the expansive lot area one could argue that construction on a boundary is not warranted. Notwithstanding, the bulk and scale of the bin store/garden store is negligible, and the porte cochere is significantly set back to not impact on the streetscape and the affected neighbour had no objection.</p> <p>Council discretion is recommended in this respect.</p>
<p>Local Planning Policy 12 – Front Fences</p>	<p>Compliant. The policy provides guidance on the circumstances and parameters whereby front fencing is able to be approved without causing detriment to the streetscape or the character of the neighbourhood or the loss of visibility of valued properties from the street such as heritage listed properties. An objective of the policy is to ensure front fencing to heritage places are of a complementary design, scale and materiality.</p> <p>The fencing is also compliant with the Draft Residential Fences policy as advertised.</p>
<p>Vehicular Crossover Policy and Technical Specification</p>	<p>The proposal requires works within the verge to establish the new (relocated) crossover. The crossover will need to be constructed in accordance with Shire specifications.</p> <p>Access from the rear right-of-way is separately addressed.</p>
<p>Tree Management Strategy</p>	<p>N/A. The proposal will not impact any street trees.</p>

STATE POLICY	
Assessment/Comment	Assessment/Comment
State Planning Policy 2.10 Swan-Canning River System	<p>Compliant. State Planning Policy 2.10 identifies the key issues that should be taken into account in planning and decision-making in relation to the Swan and Canning rivers. The policy contains guiding principles for future land use and development.</p> <p>The promotion of sensitive design and built form to complement the river landscape encourages the selection and use of external finishes and materials based on materials and hues naturally occurring or predominantly used in the locality. Proposals for development should be considered in the context of the river setting and the characteristics of the development site, particularly in regard to building height, bulk, scale, form, orientation and location.</p> <p>The containment of stormwater within the site will be a conditional requirement of any development approval.</p>

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The proposed Alterations and Additions to a Single House, and for Ancillary Accommodation and Ancillary Works have been assessed to partially satisfy the pertinent design principles, provisions and policy objectives of the state and local planning policy framework. The proponent has made several modifications to the original plan set to better align the development with the planning framework. The original written submission containing justification for Council discretion has been superseded by subsequent submissions for which it was not practical to attach in their entirety to this report. The proponent has actively engaged with the affected parties to who the application was advertised. Notwithstanding that a detailed landscaping plan had not been finalised at this time, sufficient design detail and supporting documentation has been provided to inform the officer’s recommendation to Council. It is further noted that independent heritage advice was sought from Kent Lyon Architect. Kent Lyon Architect was requested to provide advice on two matters:

1. Whether the proposed development was consistent with the principles of the Burra Charter, and
2. What is the appropriate heritage listing should the development proceed as proposed. The current category one heritage listing was supported.

It is the officer's assessment that the remaining non-compliant elements of the development can be modified without wholesale change that would otherwise warrant reassessment and the item coming back before Council. As such, conditional approval is recommended.

There are two key disparities between the proponent's and the officer's assessment. These relate to the extent to which the heritage fabric has been respected and preserved, and vehicular access to and from the rear right-of-way. The proponent asserts that the proposal should be supported without further modification and has advocated their position to the Council.

The original 1900 and 1927 fabric of the place has been generally retained. It is the officer's and the Shire's independent heritage assessment that most aspects relating to the principles of the Burra Charter are satisfied by the proposal. The independent heritage advice is preferred to that of Palassis Architects with respect to Burra Charter principles for Setting and New Work. Construction forward of the building line (taken along a north-south axis) will diminish the original fabric's significance, importantly when viewed from the street. The scale and height of the living room exceeds that of the castle and the new hipped roof will impact the ability to discern between the 1927 fabric and the new addition. Construction forward of the current building line will also impede views from the street of the heritage place at 56 The Esplanade. It is the officer's view that should the current building line be respected that the scale of the façade additions would be acceptable. It is the officer's assessment that should the current building line and that of neighbouring properties be respected that the scale and height of the living room will be acceptable.

The R-Codes provide a comprehensive basis for the control of residential development throughout Western Australia. Heritage conservation is outside the remit of the R-Codes. Where a proposal does not meet the deemed-to-comply provisions of the R-Codes and addresses design principles, the decision-maker is required to exercise judgement to determine the application. The rear right-of-way access and egress arrangements have been assessed to not meet the design principles for sightlines and design of car parking spaces. The deemed-to-comply requirements are for unobstructed sightlines to be provided at vehicle access points to ensure safety and visibility along a right-of-way, and for car parking spaces and manoeuvring areas to be designed and provided in accordance with AS2890.1 (Parking facilities - Off-street parking). AS2890.1 prescribes clearances requiring no more than two turns for access or egress from any parking bay. This is not achievable for all possible manoeuvres although it is acknowledged that once familiar with the access arrangements visitors and contractors to the site will likely access and egress to the north.

Utilisation of available rights-of-way for vehicular access is encouraged to mitigate the visual impact of vehicular crossovers on the streetscape. The rear right-of-way facilitates two-way traffic movements and is constrained by its 3.62m width that does not allow vehicles to pass. It has been brought to the officer's attention that the timber fencing opposite the subject site has been previously impacted by vehicles. Manoeuvrability from all directions and visibility is further complicated as access to the basement and service vehicle bay is not proposed at a right angle. Laneways are typically 6m in width allowing sufficient distance for a single forward gear manoeuvre from either direction to or from a right-angle driveway. Prescribed sightlines have not been rigorously enforced and have contributed to numerous potential conflict points, particularly for access legs and along rights-of-way. The draft Residential Fencing local planning policy now references the deemed-to-comply sightlines requirement

contained in the R-Codes and encourages compliant fencing and sightlines to be retrospectively achieved.

Historically, unobstructed sightlines to ensure safety and visibility and visual permeability have not been provided in accordance with the deemed-to-comply requirements contained in the R-Codes. Proposals for replacement houses, significant alterations or additions, or where an existing street wall or fence is proposed to be modified are encouraged to retrospective address any such non-compliance.

(Draft Local Planning Policy 12 – Residential Fences)

Whilst local planning policies are not deemed to be a law or statute and must not be applied inflexibly, the number of parking bays accessed from the right-of-way heightens the necessity to ensure compliance in this respect. The proposed crossover width to The Esplanade, construction on the boundary, and siteworks within the street setback has been assessed under the policy intent and associated design principles as acceptable.

The proposal has been assessed as not consistent with the policy intent for alterations and additions to buildings on the Heritage List, nor to wholly meet the recommended guidelines of the Burra Charter. That extent of inconsistency is limited to that extent of the living room forward of the existing building line that equates to approximately 2.6m and 21.5m² of floor area and the associated patio. A conditional requirement for modified plans is recommended given (in the context of the overall development) this extent of construction is relatively modest and could be readily modified.

The recommended conditions of development approval will ensure that the construction phase can be managed to not adversely impact on the amenity of the area, and that works within the verge will comply with Shire's technical specifications.

Development Application DA2022/00016 is recommended for Conditional Approval for the reasons articulated above.

Should the Council be of the view that the heritage fabric and contribution to the streetscape is adequately preserved and that the right-of-way access arrangements are adequate, it is suggested that the advice note acknowledging the further application of Council discretion and condition 1 be deleted.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.1

That Council approves DA2023/00016 for Alterations and Additions to a Single House, and for Ancillary Accommodation and Ancillary Works at 52 The Esplanade, Peppermint Grove in accordance with the submitted plans and application lodged on 31 May 2023 and subject to the following conditions:

- 1. Prior to this permit having force or effect amended plans generally in accordance with the submitted plans dated 4 August 2023 shall be submitted to the satisfaction of the CEO and endorsed. The amended plans shall have further regard to the following:**

- a) No part of the dwelling including patio shall be constructed forward of the current building line of the castle and that of the neighbouring properties as identified with a blue dashed line in the Shire’s independent heritage advice.
- b) Vehicular access from the right-of-way shall be modified to achieve the deemed-to-comply requirement for sightlines and to provide sufficient manoeuvring space to complete for possible movements in no more than two turns in accordance with AS2890.1 (Parking facilities - Off-street parking).
- c) Further detail pertaining to the roof terrace barrier including acknowledgement of installation prior to any use of the terrace.
- d) Deletion of the privacy screen to 1.6m above terrace level on the northern property boundary.

Once approved, the amended plan set shall form part of this permit.

2. The approved buildings, works and layout as identified on the endorsed plans together with any requirements and annotations detailed thereon shall not be substantially altered without the prior written consent of the CEO.

Prior to undertaking any departure from the endorsed plans Development Services must be contacted to determine whether an amendment to this development approval is required, or whether the departure is permissible to be documented on ‘as constructed’ plans to be submitted to Development Services for endorsement upon the completion of the development.

3. The prior written consent of the CEO is required to alter the demolition and conservation measures as outlined in the approved Palassis Architects Heritage Impact Assessment dated 7 September 2023.
4. The construction works shall only occur between the hours of 7.00am and 7.00pm, Monday to Saturday, and not at all on Sunday or Public Holidays. Any variation to the above hours must be identified in an approved Construction Management Plan or, the prior written consent of the CEO otherwise obtained.
5. Prior to this permit having force or effect the applicant shall submit for approval and to the satisfaction of the CEO a Construction Management Plan (CMP) binding all contractors working on the site. Unless otherwise approved in writing by the CEO, all management and mitigation measures contained within the CMP shall be adhered with at all times.

Once approved, the CMP shall form part of this permit.

6. Unless otherwise varied by an endorsed CMP or the prior written consent of the CEO, all temporary buildings for construction purposes, building materials, machinery, or vehicles remaining overnight must be stored or parked wholly within the development site and removed upon the completion of building works.
7. In accordance with the Shire of Peppermint Grove Local Planning Policy 9 – Development Bonds a development bond to the satisfaction of the CEO must be submitted to the Shire prior to the issuance of a Building Permit to ensure any

damage to public property caused by building works is rectified and the satisfactory completion of the development including the street and boundary walls and gates, removal of the redundant crossover, establishment of landscaping and installation of the roof terrace barrier.

8. A detailed Landscaping Plan to the satisfaction of the CEO shall be submitted to the Shire prior to the issuance of a Building Permit.
9. The new vehicular crossover must be constructed and; thereafter, maintained in accordance with the Shire of Peppermint Grove Vehicular Crossovers General Requirements and Specifications.
10. Within twelve (12) months of the commencement of works or within three (3) months of the completion of works (whichever is the lesser), the redundant vehicular crossover must be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare reinstated in accordance with the Shire of Peppermint Grove Vehicular Crossovers General Requirements and Specifications.
11. All works identified on the endorsed plans shall be wholly located within the lot boundaries of the subject site.
12. Stormwater run-off from the approved development shall be retained on site.
13. Temporary buildings for construction purposes must not be used for overnight accommodation at any time.
14. The site shall be securely fenced during the construction stage to prevent the entry of unauthorised persons.
15. This approval shall remain current for development to commence within two years of the date of issue of this notice. All works associated with this approval (once commenced) shall be completed before the end of the third year from the date of issue of this notice.

Advice Notes.

1. In approving this application Council has assessed the proposal against Local Planning Scheme No. 4, Local Planning Policies and the design principles of the Residential Design Codes of Western Australia and has and has exercised its discretion in relation to the following matters:
 - Lot boundary setbacks;
 - Siteworks; and
 - Crossover width.
2. The development and use shall at all times comply with the provisions of the Shire of Peppermint Grove Town Planning Scheme, the *Building Code of Australia*, the *Environment Protection Act 1986* and any other relevant Acts, Regulations, Local Laws or Council policies.

3. In respect to condition 15, a further two years is added to the decision date by which the development shall be substantially commenced, pursuant to Schedule 4, Clause 4.2 of the Clause 78H Notice of Exemption from Planning Requirements During State of Emergency signed by the Minister for Planning on 8 April 2020 (as amended).
4. No building works are to be undertaken prior to the issue of a Building Permit. Your Building Application plan set must align with the plans approved as part of any Development Approval granted by the Shire in relation to the building the subject of this Permit.
5. Building Applications will be placed on hold unless the plan set include duplicates of those endorsed as part of any corresponding Development Approval, or the applicant certifies that the plan set is consistent with those endorsed as part of any corresponding Development Approval or demonstrates to the satisfaction of the CEO that any variations are trivial.
6. In respect to Development Bonds, the Shire requires the applicant to arrange for the inspection of all Shire infrastructure including the street verge adjacent to the property post completion to confirm the satisfactory completion of works and determine any necessary remediation of impacts on public infrastructure and lands. Should any necessary remediation works not be satisfactorily completed by the proponent in a reasonable time frame, funds from the bond may be used to satisfactorily complete the works. Project management and/or administrative fees may also apply.
7. In respect to Development Bonds, should the situation on the street verge be dangerous in the opinion of the CEO, funds from the bond may be used to make the site safe or to a standard under any approved Construction Management Plan. Project management and/or administrative fees may also apply.
8. The Shire does not warrant or exempt the applicant from any civil claim(s) arising from damage to private property associated with the approved works.
9. The roof terrace barrier shall be constructed of rigid materials and shall not be removed without the prior written consent of the CEO.
10. In respect to condition 5 the CMP shall have specific regard to the demolition component of the approved works including:
 - i. Notification to the electricity corporation, gas corporation or other supply authorities, and arrangements for the disconnection of energy services in proximity of the structure to be demolished.
 - ii. The provision and maintenance of a suitable rubbish receptacle for the receipt of all refuse generated on the site.
 - iii. Appropriate dust suppression measures to ensure excess dust does not leave the demolition site for the prescribed duration of the works.
 - iv. Where a site contains asbestos, confirmation that adequate instruction will be provided to contracted personnel/employees on the measures and work

to be undertaken for the removal and disposal of asbestos material in accordance with the requirements of the Environmental Protection (Controlled Waste) Regulations 2004 under the Environmental Protection Act 1986.

- v. Where a site contains asbestos, the transportation and disposal of asbestos waste in accordance with all relevant State legislation and guidelines. Regulation 472 requires that asbestos waste is contained and labelled in accordance with Schedule 9 clause 8 of the Work Health and Safety (General) Regulations 2022.
 - vi. The notification of adjoining properties of the timing and nature of the demolition works.
 - vii. Dilapidation reporting before and after construction to assess any damage, which may occur during the course of the works for any immediate adjoining sites.
11. Unless otherwise varied by a permit under the Activities in Thoroughfares and Public Places and Trading Local Law 2021 or an approved Construction Management Plan, all construction materials associated with the approved works shall be wholly stored within the subject land.
 12. The prior written approval of CEO is required for the temporary closure of any footpath, road or right-of-way.
 13. Attention is drawn to '[Guideline for managing impacts of dust \(www.wa.gov.au\)](http://www.wa.gov.au) (DEC, March 2011)' and, specifically, Appendix 1 Site risk assessment/classification for activities generating uncontaminated dust .
 14. The proponent is responsible for ensuring all contractors adhere to the construction hours. In the event of enforcement action being undertaken, infringement notices will be issued to the proponent.
 15. It is the responsibility of the proponent to search the title of the property to ascertain the presence of any easements that in any case must not be built upon without the prior consent of the affected party.
 16. During the construction stage adjoining lots are not to be entered without the prior written consent of the affected owner(s).
 17. Should the proponent and/or owner be aggrieved by this decision, or any of the conditions imposed, there is a right of review under the *Planning and Development Act 2005*. An application for review must be submitted in accordance with Part XIV of the *Planning and Development Act 2005* within 28 days of the date of this decision to: the State Administrative Tribunal, GPO Box U1991, Perth, WA 6845. Further information regarding this right of review is available on the SAT website www.sat.justice.wa.gov.au or by phoning 9219 3111 or 1300 306 017.

COUNCIL MOTION – ITEM 8.1.1

Moved Cr Thomas

Seconded Cr Hohnen

That Council approves DA2023/00016 for Alterations and Additions to a Single House, and for Ancillary Accommodation and Ancillary Works at 52 The Esplanade, Peppermint Grove in accordance with the submitted plans and application lodged on 31 May 2023 and amended East Elevation dated 13 October 2023 and subject to the following conditions:

- 16. Prior to this permit having force or effect amended plans generally in accordance with the submitted plans dated 4 August 2023 shall be submitted to the satisfaction of the CEO and endorsed. The amended plans shall have further regard to the following:**
- e) Reduction to the height of the living room roof ridge line and patio as acknowledged by figure 11 dated 13 October 2023.**
 - f) Further detail pertaining to the roof terrace barrier including acknowledgement of installation prior to any use of the terrace.**
 - g) Deletion of the privacy screen to 1.6m above terrace level on the northern property boundary.**

Once approved, the amended plan set shall form part of this permit.

- 17. The approved buildings, works and layout as identified on the endorsed plans together with any requirements and annotations detailed thereon shall not be substantially altered without the prior written consent of the CEO.**

Prior to undertaking any departure from the endorsed plans Development Services must be contacted to determine whether an amendment to this development approval is required, or whether the departure is permissible to be documented on ‘as constructed’ plans to be submitted to Development Services for endorsement upon the completion of the development.

- 18. The prior written consent of the CEO is required to alter the demolition and conservation measures as outlined in the approved Palassis Architects Heritage Impact Assessment dated 7 September 2023.**
- 19. The construction works shall only occur between the hours of 7.00am and 7.00pm, Monday to Saturday, and not at all on Sunday or Public Holidays. Any variation to the above hours must be identified in an approved Construction Management Plan or, the prior written consent of the CEO otherwise obtained.**
- 20. Prior to this permit having force or effect the applicant shall submit for approval and to the satisfaction of the CEO a Construction Management Plan (CMP) binding all contractors working on the site. Unless otherwise approved in writing by the CEO, all management and mitigation measures contained within the CMP shall be adhered with at all times.**

Once approved, the CMP shall form part of this permit.

21. Unless otherwise varied by an endorsed CMP or the prior written consent of the CEO, all temporary buildings for construction purposes, building materials, machinery, or vehicles remaining overnight must be stored or parked wholly within the development site and removed upon the completion of building works.
22. In accordance with the Shire of Peppermint Grove Local Planning Policy 9 – Development Bonds a development bond to the satisfaction of the CEO must be submitted to the Shire prior to the issuance of a Building Permit to ensure any damage to public property caused by building works is rectified and the satisfactory completion of the development including the street and boundary walls and gates, removal of the redundant crossover, establishment of landscaping and installation of the roof terrace barrier.
23. A detailed Landscaping Plan to the satisfaction of the CEO shall be submitted to the Shire prior to the issuance of a Building Permit.
24. The new vehicular crossover must be constructed and; thereafter, maintained in accordance with the Shire of Peppermint Grove Vehicular Crossovers General Requirements and Specifications.
25. Within twelve (12) months of the commencement of works or within three (3) months of the completion of works (whichever is the lesser), the redundant vehicular crossover must be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare reinstated in accordance with the Shire of Peppermint Grove Vehicular Crossovers General Requirements and Specifications.
26. All works identified on the endorsed plans shall be wholly located within the lot boundaries of the subject site.
27. Stormwater run-off from the approved development shall be retained on site.
28. Temporary buildings for construction purposes must not be used for overnight accommodation at any time.
29. The site shall be securely fenced during the construction stage to prevent the entry of unauthorised persons.
30. This approval shall remain current for development to commence within two years of the date of issue of this notice. All works associated with this approval (once commenced) shall be completed before the end of the third year from the date of issue of this notice.

Advice Notes.

2. In approving this application Council has assessed the proposal against Local Planning Scheme No. 4, Local Planning Policies and the design principles of the

Residential Design Codes of Western Australia and has and has exercised its discretion in relation to the following matters:

- Lot boundary setbacks;
 - Siteworks;
 - Vehicular access;
 - Sightlines; and
 - Crossover width.
18. The development and use shall at all times comply with the provisions of the Shire of Peppermint Grove Town Planning Scheme, the *Building Code of Australia*, the *Environment Protection Act 1986* and any other relevant Acts, Regulations, Local Laws or Council policies.
 19. In respect to condition 2, aside from the 5.6m AHD wall denoted on the submitted plans, further enclosure of the patio is subject to the prior written consent of the CEO.
 20. In respect to condition 15, a further two years is added to the decision date by which the development shall be substantially commenced, pursuant to Schedule 4, Clause 4.2 of the Clause 78H Notice of Exemption from Planning Requirements During State of Emergency signed by the Minister for Planning on 8 April 2020 (as amended).
 21. No building works are to be undertaken prior to the issue of a Building Permit. Your Building Application plan set must align with the plans approved as part of any Development Approval granted by the Shire in relation to the building the subject of this Permit.
 22. Building Applications will be placed on hold unless the plan set include duplicates of those endorsed as part of any corresponding Development Approval, or the applicant certifies that the plan set is consistent with those endorsed as part of any corresponding Development Approval or demonstrates to the satisfaction of the CEO that any variations are trivial.
 23. In respect to Development Bonds, the Shire requires the applicant to arrange for the inspection of all Shire infrastructure including the street verge adjacent to the property post completion to confirm the satisfactory completion of works and determine any necessary remediation of impacts on public infrastructure and lands. Should any necessary remediation works not be satisfactorily completed by the proponent in a reasonable time frame, funds from the bond may be used to satisfactorily complete the works. Project management and/or administrative fees may also apply.
 24. In respect to Development Bonds, should the situation on the street verge be dangerous in the opinion of the CEO, funds from the bond may be used to make the site safe or to a standard under any approved Construction Management Plan. Project management and/or administrative fees may also apply.

25. The Shire does not warrant or exempt the applicant from any civil claim(s) arising from damage to private property associated with the approved works.
26. The roof terrace barrier shall be constructed of rigid materials and shall not be removed without the prior written consent of the CEO.
27. In respect to condition 5 the CMP shall have specific regard to the demolition component of the approved works including:
 - i. Notification to the electricity corporation, gas corporation or other supply authorities, and arrangements for the disconnection of energy services in proximity of the structure to be demolished.
 - ii. The provision and maintenance of a suitable rubbish receptacle for the receipt of all refuse generated on the site.
 - iii. Appropriate dust suppression measures to ensure excess dust does not leave the demolition site for the prescribed duration of the works.
 - iv. Where a site contains asbestos, confirmation that adequate instruction will be provided to contracted personnel/employees on the measures and work to be undertaken for the removal and disposal of asbestos material in accordance with the requirements of the Environmental Protection (Controlled Waste) Regulations 2004 under the Environmental Protection Act 1986.
 - v. Where a site contains asbestos, the transportation and disposal of asbestos waste in accordance with all relevant State legislation and guidelines. Regulation 472 requires that asbestos waste is contained and labelled in accordance with Schedule 9 clause 8 of the Work Health and Safety (General) Regulations 2022.
 - vi. The notification of adjoining properties of the timing and nature of the demolition works.
 - vii. Dilapidation reporting before and after construction to assess any damage, which may occur during the course of the works for any immediate adjoining sites.
28. Unless otherwise varied by a permit under the Activities in Thoroughfares and Public Places and Trading Local Law 2021 or an approved Construction Management Plan, all construction materials associated with the approved works shall be wholly stored within the subject land.
29. The prior written approval of CEO is required for the temporary closure of any footpath, road or right-of-way.
30. Attention is drawn to '[Guideline for managing impacts of dust \(www.wa.gov.au\)](http://www.wa.gov.au) (DEC, March 2011)' and, specifically, Appendix 1 Site risk assessment/classification for activities generating uncontaminated dust .
31. The proponent is responsible for ensuring all contractors adhere to the construction hours. In the event of enforcement action being undertaken, infringement notices will be issued to the proponent.

32. It is the responsibility of the proponent to search the title of the property to ascertain the presence of any easements that in any case must not be built upon without the prior consent of the affected party.
33. During the construction stage adjoining lots are not to be entered without the prior written consent of the affected owner(s).
34. Should the proponent and/or owner be aggrieved by this decision, or any of the conditions imposed, there is a right of review under the *Planning and Development Act 2005*. An application for review must be submitted in accordance with Part XIV of the *Planning and Development Act 2005* within 28 days of the date of this decision to: the State Administrative Tribunal, GPO Box U1991, Perth, WA 6845. Further information regarding this right of review is available on the SAT website www.sat.justice.wa.gov.au or by phoning 9219 3111 or 1300 306 017.

CARRIED 7/0

8.1.2 Adoption of Draft Local Planning Policy 12 – Residential Fences

ATTACHMENT DETAILS

Attachment No	Description
Attachment 1	Draft Local Planning Policy 12 – Residential Fences

Voting Requirement	:	Simple Majority
Disclosure of Interest	:	Nil.
Previous Items	:	Item 9.1 - 24 November 2020 Item 10.1 - 28 March 2023
Assessing Officer	:	Mr J. Gajic
Authorising Officer	:	Mr J. Gajic

PURPOSE OF REPORT

To seek Council support to the amendment of Local Planning Policy 12 - Front Fences (LPP12).

SUMMARY AND KEY ISSUES

- Item 10.1 contained within in the 28 March 2023 Ordinary Council Meeting Minutes identifies the key advertised changes to LPP12.
- Amended LPP12 has now been advertised for public comment for a period of twenty-one days closing on 24 September 2023.
- No written submissions were received.
- In response to a recent development application for a basketball ball court a minor change to the advertised LPP12 is recommended

BACKGROUND

LPP12 presents an opportunity for the scope of LPP12 to be expanded and to confirm its prevalence over the Shire’s Fencing Local Law 2021 where they do not align. It is additionally an opportunity to establish standards for fencing abutting a right-of-way and for courts, and to reinforce that the current front fence standards apply to communal streets.

The Information Sheet – Residential Development will be updated subsequent to adoption of LPP12 to reflect the broadened scope of the policy and key development requirements.

CONSULTATION

The amended LPP5 was required under Schedule 2, Part 2, Division 3, Clause 4(2) of the Deemed Provisions to be advertised for a period not less than twenty-one days. Advertising closed on 24 September 2023. The amended LPP12 was uploaded to the Shire's website and published in The Post newspaper (2 September edition).

No written submissions were received during the advertising period. Any late submissions received after the drafting of this report will be made available to Councillors.

The Department of Planning, Lands and Heritage provided written confirmation that the endorsement of the Western Australian Planning Commission was not required.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

LOCAL PLANNING POLICY IMPLICATIONS

The proposed revisions to LPP12 do not directly or adversely impact other local planning policies.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The current LPP12 is limited in its scope to street walls and fences. There is an identified need to provide greater guidance on other types of residential fencing and to recognise that Council discretion need not be necessary for limited exceedances to what constitutes a sufficient fence as defined by the Shire's Fencing Local Law 2021.

The updated LPP12 will reflect the Shire's current practices and expectations when assessing residential fencing and, in doing so, will improve the consistency of decision-making.

It is not a statutory requirement to readvertise minor amendments. The single modification to the advertised LPP12 will broaden the tennis court fencing standards to also apply to basketball and other courts.

Council can proceed with the advertised amended LPP12 with or without further modifications or can resolve to not proceed with the policy. The current LPP12 may also be revoked and not updated subject to publishing of a notice in a locally circulated newspaper. Should the Council resolve to proceed with the amended policy a further public notice will be published confirming adoption.

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Macintosh

Seconded Cr Farley

That Council adopts Local Planning Policy 12 – Residential Fences (as amended) and directs the CEO to publish a notice in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.

CARRIED

7/0

8.2 MANAGER INFRASTRUCTURE

NIL

8.3 MANAGER CORPORATE AND COMMUNITY SERVICES

8.3.1 List of Accounts Paid – September 2023

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Description</u>
Attachment 1	Accounts Paid –September 2023 Credit Cards – August 2023

Voting Requirement	Simple Majority
Subject Index	: Financial Management
Disclosure of Interest	: Nil
Responsible Officer	: Jeremy Clapham, Manager Corporate and Community Services

PURPOSE OF REPORT

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

SUMMARY AND KEY ISSUES

Significant payments (over \$20,000) in September 2023 included the following:

- ATO - BAS - \$28,669.53
- Superannuation - \$35,151.09 and \$33,174.99 (for July and August)
- DFES – Emergency Services Levy - \$128,388.14
- Minchin & Sims – Building Application - \$28,985.00
- Paperbark Technologies – tree assessment works - \$21,164.00
- Veolia – Waste Services - \$20,225.45
- DMIRS – Building Service Levies - \$42,430.72

BACKGROUND

The Attachment lists detail all payments made in September 2023. The following summarise credit card payments, electronic fund transfers, direct debits and BPAY included in the list presented for information.

PAYMENT TYPE	NUMBER SERIES	AMOUNT
EFT	EFT00529-532	\$563,038.08
Direct Debits	DD00436-443	\$8,553.28
BPAY	BPAY298-300	\$0
Credit Cards – August 2023		\$10,494.32
TOTAL		\$582,085.68

CONSULTATION

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

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The payments processed by the Shire relate to expenditure approved in the 2023/24 Adopted Budget.

COMMENT

The list of Accounts paid are provided to Council for information purposes and in accordance with the delegation to the CEO.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO. 8.3.1

Moved: Cr Jackson

Seconded: Cr Hohnen

That Council receive the list of payment of accounts by:

- 1. Electronic funds transfers, cheque, direct debit & BPAY payments for the month of September 2023, totalling \$571,591.36**
- 2. Credit Card payments for August 2023 totalling \$10,494.32**

CARRIED 7/0

8.3.2 Financial Statements for the period ending 30th September 2023

Financial Management report for the period ended 30th September 2023 will be presented to the November 2023 Council meeting.

8.4.1 CEO MANAGEMENT/GOVERNANCE/POLICY

MANAGEMENT/GOVERNANCE/POLICY

8.4.1 Child Safe Awareness Policy

ATTACHMENT DETAILS

<u>Attachment</u>	<u>Details</u>
Attachment 1	Draft Child Safe Awareness Policy

Voting Requirement	:	Simple
Subject Index	:	Policy
Disclosure of Interest	:	Nil
Author	:	Jennifer Court, Executive Services
Responsible Officer	:	Don Burnett, Chief Executive Officer

PURPOSE OF REPORT

The purpose of the report is for Council to consider the draft Child Safe Awareness Policy. The policy outlines guidelines and practices that promote child safety and awareness and cyber safety within the Shire.

SUMMARY AND KEY ISSUES

The policy aims to ensure that children and young people are kept free from harm, both in a physical and digital space by:

- Promoting the National Principles for Child Safe Organisations which ensure child safety and wellbeing is embedded in the Shire’s leadership, governance and culture;
- Providing clear responsibilities for Child Safety within the Grove Library;
- Utilizing cyber safety measures;
- Reporting and responding to concerns within the Shire; and
- Promoting physical and online environments promote safety and wellbeing and minimise the opportunity for children to be harmed.

BACKGROUND

General principles were developed in response to the Royal Commission into Institutional Responses to Child Sexual Abuse, recommendation 6.12. The draft Child Safe Awareness policy acknowledges these recommendations and promotes a culture of safety for children and young people who visit the Shire.

CONSULTATION

Library staff sought feedback from some parents on safety within the library and their responses were supportive of the initiatives in the draft policy.

STRATEGIC IMPLICATIONS

There are no strategic implications identified in this report.

POLICY IMPLICATIONS

This draft policy is consistent with the National Principles for Child Safe Organisations and the Commonwealth Child Safe Framework.

STATUTORY IMPLICATIONS

There are no statutory implications.

FINANCIAL IMPLICATIONS

There are no financial implications.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

A safe and welcoming environment will be experienced by children and young people who visit the Shire Offices, Depot and the Grove Library.

OFFICER COMMENT

The draft 'Child Safe Awareness Policy' has been developed in response to recommendations from the Royal Commission into Child Sexual Abuse. The draft policy acknowledges child safety principles outlined by both the State and Federal government.

The policy also outlines workplace practices it will undertake in the library to promote child safe messages, connect community groups to relevant resources and promote messages outlining how a complaint is to be registered.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO. 8.4.1

Moved: Cr Farley

Seconded Cr Macintosh

That Council, adopt the policy on Child Safe Awareness.

CARRIED 7/0

MANAGEMENT/GOVERNANCE/POLICY

8.4.2 Matters for Information and Noting

ATTACHMENT DETAILS

Attachment	Description
Attachment 1	Building/Planning Statistics
Attachment 2	Infringements Issued
Attachment 3	Library Statistics
Attachment 4	Recycling Statistics

Voting Requirement : Simple Majority
 Subject Index : Matters for Information September 2023
 Disclosure of Interest : Nil
 Author : Jennifer Court, Executive Services
 Responsible Officer : Mr Don Burnett, Chief Executive Officer

PURPOSE OF REPORT

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

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

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

- Building Permits issued
- Demolition permits issued
- Seal register advising of when the Shire seal has been applied
- Infringements for parking and dogs etc.
- Recycling Statistics
- Library Statistics

SUMMARY AND KEY ISSUES

The following reports are presented to Council:

- Planning Approvals
- Building Approvals
- Infringements
- Library Statistics
- Recycling

OFFICER COMMENT

The Shire Seal was applied to consent to Curtin Heritage Living Wearne Site Agreement to lease and sub-lease both:

- Tenancy Three, 40 Marine parade Cottesloe; and
- Tenancy Two, 40 Marine parade Cottesloe.

CONSULTATION

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

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 8.4.2

Moved: Cr Hohnen

Seconded: Cr Horrex

That Council receives the information in this report.

CARRIED 7/0

9. COMMITTEE REPORTS

Nil

10. NEW BUSINESS INTRODUCED BY DECISION OF COUNCIL

COUNCIL MOTION – ITEM 10

Moved Cr Macintosh

Seconded Cr Dawkins

Council resolved that this matter could be dealt with as urgent business.

CARRIED 7/0

COUNCIL MOTION – ITEM 10

Moved Cr Thomas

Seconded Cr Farley

That the CEO

1. Review compliance for 32 the Esplanade pertaining to Building and Development Consents with particular regard to alignment between endorsed plans and the currency of the Building Approval.
2. Prepare a report to Council should issues arise needing further Council consideration.

CARRIED 7/0

11. MOTIONS ON NOTICE

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

12. CONFIDENTIAL ITEMS OF BUSINESS

13. CLOSURE OF MEETING

At 5.55pm, there being no further business the meeting closed.

Confirmed by Kate Farley ^{28th} this day of November 2023

PRESIDING MEMBER