



Shire of
Peppermint Grove

ORDINARY COUNCIL MEETING

MINUTES

HELD ON
TUESDAY **27TH FEBRUARY 2024**
AT
5.30 PM



Shire of Peppermint Grove

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ORDINARY COUNCIL MEETING MINUTES

1. DECLARATION OF OFFICIAL OPENING

At 5.31pm 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 read aloud by Councillor Jackson.

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 Karen Farley SC
Deputy Shire President	Cr P Dawkins
Elected Member	Cr P Macintosh (from 5.40pm)
Elected Member	Cr J Mahony
Elected Member	Cr D Jackson
Elected Member	Cr E Bond
Elected Member	Cr C Hohnen
Chief Executive Officer	Mr D Burnett
Manager Development Services	Mr J Gajic
Manager Corporate & Community Services	Mr J Clapham
Manager Infrastructure	Mr D Norgard

Gallery ...1..... Members of the Public
 ...1.....Members of the Press

2.2 APOLOGIES

2.3 LEAVES OF ABSENCE

2.4 NEW REQUEST FOR A LEAVE OF ABSENCE

3. DELEGATIONS AND PETITIONS

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

8.0 OFFICERS REPORTS

8.1 MANAGER DEVELOPMENT SERVICES

8.1.1 28 (Lot 38) Johnston Street, Peppermint Grove – Single House and Ancillary Works

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Description</u>
Attachment 1	Development Application Submission

Voting Requirement : Simple Majority
Location / Address : 28 Johnston Street, Peppermint Grove
Application Number : DA2023/00014
LPS No 4 Zoning : Residential R20
Land Use : Single House
Lot Area : 513m²
Disclosure of Interest : Nil.
Previous Items : Nil.
Applicant : Design Better Builds
Owner : M & A Reyhani
Assessing Officer : L. Jaetschmann
Authorising Officer : J. Gajic

PURPOSE OF REPORT

To seek Council determination for a Single House and Ancillary Works. The development application seeks variations to the Part 4 - General Development Requirements contained in the Shire's Local Planning Scheme no. 4 pertaining to plot ratio and to the local planning policy framework and relies on the design principles contained in the Residential Design Codes of Western Australia (R-Codes) for open space, lot boundary setbacks and sightlines.

SUMMARY AND KEY ISSUES

- The subject land is zoned Residential (R20) a Single House is a 'P' use.
- The existing single storey house is proposed to be demolished.
- Should variations to the deemed-to-comply provisions of the R-Codes not otherwise be sought, the development would be exempt from planning approval in accordance with the deemed provisions contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- The proposal has been assessed by officers to be an over-development of the site and that it is impractical to conditionally approve the development.
- The Officer Report was withdrawn from the August 2023 Council Briefing Session agenda at the request of the proponent.
- The proponent and their builder have not been able to agree on design changes to further progress the application to achieve greater alignment with the planning policy

framework such that Council determination is sought on fundamentally the same design concept as originally submitted.

LOCATION

28 (Lot 38) Johnston Street, Peppermint Grove

BACKGROUND

28 Johnston Street is an early 1980's red brick and tile one storey house with an outbuilding at the rear. The house is largely obscured by a solid brick fence and landscaping. The lot is uniform in shape and is generally level. The built form of the adjoining properties is similar, and they are also obscured by solid masonry front fencing.

To justify variations and Council discretion the proponent is asserting that greater flexibility to the planning policy framework should be afforded due to the proposed single storey and low-pitched roof construction and compliant street setback.

The variations sought pertain to the building footprint, being open space and plot ratio, and a nil lot boundary setback for the double garage. This report focuses on these aspects of the development and whether Council discretion should be applied.

CONSULTATION

The proponent discussed the proposal at the time of lodgement and met planning officers to clarify the works and better understand the site conditions and potential impacts on neighbours.

Advertising to affected neighbours for a period of 14 days was required in accordance with the Shires Local Planning Policy 6 – Neighbour Consultation. The advertisement period has now concluded. No written objections were received.

The proponent was advised on multiple occasions that Council discretion to plot ratio is only granted in exceptional circumstances. After informing the proponent and owner of the officer's recommendation for refusal for the August 2023 Ordinary Council Meeting, the proponent requested to withdraw the item due to being unaware of the "gravity of the existing design-related concerns". No further design changes were received following multiple requests from planning staff. The application is now deemed to be refused due to no determination being made within ninety (90) days.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

LOCAL PLANNING POLICY IMPLICATIONS

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

STATUTORY IMPLICATIONS

The 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).

Assessment of the relevant Scheme provisions, R-Codes and Planning Policies are detailed in the table below.

LOCAL PLANNING SCHEME NO. 4	
Scheme Provisions/Modification of R-Codes	Assessment/Comment
<p>Building Height The maximum height of dwellings coded R10, R12.5, R15 and R20 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>Compliant. The Scheme prescribed requirement for a dwelling with a gable/skillion/concealed roof is 7m for walls and an 8m overall height.</p>

RESIDENTIAL DESIGN CODES	
Design Principles	Assessment/Comment
<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/R-Code Modification table above. The deemed-to-comply requirements for garages / carports are further varied by Local Planning Policy 1 – Design and Streetscape and addressed in the Scheme/Local Policy table below.</p> <p>Western Setback – The deemed-to-comply lot boundary setback is 1.5m based on the 29m wall length and 3.4m wall height (as per R-Codes measurement methodology). Walls built to the boundary are permissible provided they do not exceed 3.5m in height, or the greater of 9m in length or one third of the length of the boundary behind the front setback, are built behind the front setback, and up to two site boundaries. The proposal seeks a nil setback for the double garage that is setback 5.7m and 300mm forward of the front setback, thus it relies on the design principles. It is acknowledged that two carports are currently constructed with a nil setback to this lot boundary. The design principles take into consideration the impact of building bulk, solar access and ventilation, and overlooking on adjoining</p>

	<p>properties. It is accepted practice to build up to a boundary where the wall abuts an existing or simultaneously constructed boundary wall of equal or greater dimensions. The neighbour was notified of this variation and did not object.</p> <p>In isolation, the design principles for this element are considered to be met.</p>
<p>Open Space 5.1.4, Table 1 of the R-Codes.</p>	<p>Not compliant. The deemed-to-comply requirement is 50%. Planning officers have assessed the open space to be 42.2%. This represents a shortfall of approximately 40m².</p> <p>The proposal relies on the design principles that take into consideration streetscape character, solar access, building bulk, landscaping and the usability of open space.</p> <p>The proponent has justified the design principles being satisfied as follows, “<i>The increased front set back allows for maximum usability of North facing courtyard. This will increase the landscaping to front courtyard</i>”.</p> <p>Whilst it is not contested that the proposed development will contribute to the streetscape, the usability of open space is compromised by the lot boundary setbacks for all elevations with the exception of the eastern elevation behind the alfresco area being predominantly the minimum deemed-to-comply distance. The increased street setback is minimal and is restricted by the need to compensate for the double garage. The garage encroaches 300mm into the street setback area and is setback the minimum distance necessary to accommodate additional onsite parking spaces. It is further acknowledged that dedicated storage for garden equipment or the like has not been proposed.</p> <p>The design principles are not considered to be met.</p>
<p>Building Heights 5.1.6, Table 3 Figure Series 7 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirements for building height are varied by clause 26(1) of the local planning scheme and addressed in the Scheme/R-Code Modification table above.</p> <p>The proposal does not rely on Council discretion.</p>
<p>Setback of Garages and Carports 5.2.1, Table 1 Figure 8a and 8b of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirements for street setbacks are varied by Local Planning Policy 1 – Design and Streetscape. These requirements are further addressed in the Scheme/Local Policy table below.</p>
<p>Garage Width 5.2.2, Figure 8c of the R-Codes</p>	<p>Compliant. The deemed-to-comply requirement is for a garage door and its supporting structures to no occupy more than 50% of the frontage at the setback line as viewed from the street.</p> <p>The deemed-to-comply requirements for garages/carport door width is varied by Local Planning Policy 1 – Design and Streetscape and addressed in the Scheme/Local Policy table below.</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>Compliant. The deemed-to-comply requirement for street walls and fences to be visually permeable above 1.2m and solid pillars to not exceed 1.8m has been met. The deemed-to-comply requirements are varied by Local Planning Policy 12 – Front Fences and addressed in the Scheme/Council Policy table below.</p>

<p>Sight Lines 5.2.5, Figure 9a of the R-Codes.</p>	<p>Compliant. All walls, fences and other structures are no higher than 750mm within 1.5m of where the driveway intersects with the street.</p>
<p>Outdoor Living Areas 5.3.1, Table 1 and Figure 13 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is for an outdoor living area greater than 30m² with a minimum dimension of 4m to be provided behind the street setback area, directly accessible from the primary living space. 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. 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 requirements is for two (2) bays. Onsite parking for up to fourteen (14) vehicles has been provided including uncovered tandem parking and a car lift.</p>
<p>Site Works 5.3.7, Table 4 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirements is for site works and retaining walls between the street boundary and the street to be 0.5m 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 within 1m of a lot boundary to be 0.5m or less. Site works and retaining walls behind the front setback is to comply with Table 4 of the R-Codes. Spot heights and finished design levels confirm that excavation or fill will not exceed 500mm.</p>
<p>Design of Car Parking Spaces 5.3.4 of the R-Codes.</p>	<p>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). Although turning templates have not been provided evidencing the ability for all denoted vehicles to turn and exit the site in forward gear, sufficient turning space is available subject to the arrangement of other parked vehicles. Adequate on-site parking has been evidenced in accordance with the projected need, the availability of on-street parking, and the proximity of the development to public transport and other facilities. It is further acknowledged that gradient for the driveway servicing the garage is approximately 1:20 such that the gradient and grade change transitions are well within standards.</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 shall 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 of stormwater within the subject site is a standard condition of development approval.</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. The finished floor level of the dwelling is not raised more than 500mm above the natural ground level.</p>
<p>Solar Access for Adjoining Sites 5.4.2 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is a maximum of 25% overshadowing to any adjoining property.</p>

External Fixtures, Utilities and Facilities 5.4.4 of the R-Codes.	The proposal does not include details of solar collectors, aerials, antennas, satellite dishes or other external fixtures.
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SCHEME/COUNCIL POLICY	
Policy Type	Assessment/Comment
Local Planning Policy 1 – Design and Streetscape	Compliant. The proposal is 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. Whilst the double garage door exceeds 4.5m in width, the garage does not dominate the street elevation (unlike 24B and 30A Johnston Street).
Local Planning Policy 2 – Ecological Urban Design and Sustainability	Not Compliant. The proposal is inconsistent 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. Specifically, the policy recognises the importance of boundary setbacks to break up the built form across properties and encourages such setbacks to be principally used for landscaping or private open space. The case for variation is limited to where that variation can be demonstrated to deliver a superior design outcome for the site and with no detrimental impact on the ecological quality or green space on the site.
Local Planning Policy 4 – Residential Building Heights	Compliant. No variation to the deemed-to-comply requirements for a Category B building is sought.
Local Planning Policy 5 – Plot Ratio For R10, R12.5, R15 and R20 Coded areas the maximum plot ratio shall be 0.5	Not compliant. The proposal has a plot ratio of approximately 0.515 representing a variation to floor area of approximately 7.5m ² . It is further noted that a dedicated garden shed/storeroom does not form part of the proposal. The proposal is not consistent with the policy intent to retain the predominant character of residential development for single dwellings in generous garden settings. The policy does not provide guidance on the circumstances in which plot ratio can be varied. The planning assessment has focused on whether the increase in plot ratio adversely affects the garden setting of the development and whether the design principles in the R-Codes pertaining to open space have been met. The total of possible exclusions under the calculation methodology is 44.35m ² comprising 25.65m ² for the double garage, and 18.7m ² for the porch and alfresco. This is well below the maximum possible 61.3m ² exclusion (excluding a basement). The current building layout could be otherwise reconfigured to achieve a fully compliant plot ratio and, in doing so, the alfresco could be made compliant and dedicated storage for garden equipment and the like be provided. Notwithstanding, compliance with open space would require the internal floor area to be reduced. For this reason, it is impractical for plot ratio to be addressed with a condition of approval.
Local Planning Policy 6 – Neighbourhood Consultation on Development	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.

	A 14-day advertising period to seven (7) affected neighbours has concluded. The consultation letters individually identified the respective variations sought that directly affected the neighbouring properties and advised that submissions will be kept on file and may be included in a planning report to Council.
Local Planning Policy 8 – Construction Management Plans	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.
Local Planning Policy 9 – Development Bonds	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 of work being undertaken. The Manager of Infrastructure Services has been notified of the proposed development and will document the condition assets in the road verge. A development bond will be required prior to the commencement of any works.
Local Planning Policy 12 – Front Fences	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.
Vehicular Crossover Policy and Technical Specification	The proposal requires works within the verge to establish the new crossover. The crossover will need to be constructed in accordance with Shire specifications.

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 Single House and Ancillary Works has been assessed to partially satisfy the planning policy framework. The proponent has been made aware that the development has been assessed to be fundamentally an overdevelopment of the site and unless the building footprint was reduced to better align with the preferred neighbourhood character that planning staff would recommend refusal.

The proponent's builder has reduced the number of design elements for which discretion is sought without addressing the building footprint. The proposal before Council has a lowered finished floor level and complies with the deemed-to-comply requirements for overlooking and siteworks. The street wall is now compliant including vehicle and pedestrian sightlines,

and the landscaping works within the front setback has increased the extent of pervious surfaces. It is further acknowledged that when viewed from the street the proposed development is predominantly compliant with the planning framework with the exception of the double garage door width and reduced front setback. These minor variations are more than offset by the existing street wall being replaced with a compliant design. Additionally, there were no objections received.

The proposal is inconsistent with the intent of Local Planning Policy 2 – Ecological Urban Design and Sustainability to conserve areas of each site for urban green space and ecological purposes. Specifically, the policy recognises the importance of boundary setbacks to break up the built form across properties and encourages such setbacks to be principally used for landscaping or private open space. The construction of the double garage on the boundary will have a detrimental impact on the green space of the site by further reducing open space and increasing plot ratio.

The case for variation to this policy is limited to where a variation can be demonstrated to deliver a better design outcome with no detrimental impact on the ecological quality or green space on the site. In light of variations being sought for plot ratio and open space the variation to the deemed-to-comply lot boundary setback will not deliver a better design outcome.

The proposal is inconsistent with the intent of Local Planning Policy 5 – Plot Ratio to retain the predominant character of residential development for single dwellings in generous garden settings and to control bulk and scale. Notwithstanding that a relative minor variation is sought (7.5m²) a compelling case has not been made to support any variation. The majority of lot boundary setbacks are the minimum deemed-to-comply requirement or, in the case of the double garage, rely on a variation. Additionally, the primary street setback relies on areas of compensation to offset areas of incursion.

Although not a deemed-to-comply requirement for single houses, the proposed development does not incorporate dedicated or sufficient storage for garden equipment or the like. The proposed layout does not provide an obvious location for an outbuilding that would further decrease the available open space. Garages are able to perform the purpose of storing both wheeled vehicles and materials; however, the R-Codes prescribe that when incorporated into a garage a minimum additional 4m² floor area be provided with a minimum dimension of one (1) metre. The garage dimensions are insufficient to provide unobstructed access to larger items such as gardening equipment.

Support for Council discretion to be applied for a larger than prescribed building footprint is compromised by both plot ratio and open space being exceeded, lot boundary setbacks generally being the absolute minimum or variations being sought, and the lack of dedicated storage likely to result in an application to further expand the construction footprint. Put simply, any exceedances to minimum design requirements pertaining to the scale of the development are inadequate to offset the reduced open space and plot ratio. The development has been assessed to potentially prejudice the high amenity value of the locality.

It is impractical to condition the requirement for amended plans that are compliant with the local planning scheme prescribed plot ratio requirement or the deemed-to-comply requirement for open space contained in the R-Codes. There is no obvious single design response such as increasing a lot boundary setback. A combination of design responses

would be necessary to achieve a compliant and satisfactory design. It is further acknowledged that open space must be assessed against the design principles such that it is impractical to condition an arbitrary percentage of open space.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM 8.1.1

Moved: Cr Hohnen

Seconded:

Cr Mahony

That Council refuses DA2023/00014 for a Single House and Ancillary Works at 28 (Lot 38) Johnston Street, Peppermint Grove in accordance with the revised submitted plans (dated 5 July 2023) and application lodged on 13 April 2023 on the following grounds:

1. The proposal is inconsistent with the Additional Site and Development requirements (plot ratio 0.5) for Residential zoned land coded R12.5 contained at clause 32(1) of the Shire of Peppermint Grove Local Planning Scheme No. 4.
2. The proposal is inconsistent with the Planning Objectives of Local Planning Policy 5 – Plot Ratio.
3. The proposal is inconsistent with the Planning Objectives of Local Planning Policy 2 – Ecological Urban Design and Sustainability.
4. The Proposal is inconsistent with the Objectives of Part 5 Section 5.1 Context contained in the Residential Design Codes of Western Australia Volume 1 which requires consideration of the following:

To ensure that residential development meets community expectations regarding appearance, use and density.

To ensure that design and development is appropriately scaled, particularly in respect to bulk and height, and is sympathetic to the scale of the street and surrounding buildings, or in precincts undergoing transition, development achieves the desired future character identified in the local planning framework.

To ensure open space (private and communal) is provided on the site that:

- *Is landscaped to enhance streetscapes;*
- *Complements nearby buildings; and*
- *Provides privacy, direct sunlight and recreational opportunities.*

5. Approval would establish an undesirable precedent and is inconsistent with orderly planning.
6. The proposed development does not incorporate dedicated storage for garden equipment or the like such that further development of the site is a reasonable expectation.

ADVICE NOTE

Should the owner and/or applicant 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 24 (Lot 9) Johnston Street, Peppermint Grove – Two (2) Grouped Dwellings and Ancillary Works

ATTACHMENT DETAILS

Attachment No	Description
Attachment 1	Development Application Submission and Drawings (Redacted)
Attachment 2	Shire Submission to the WAPC for a 2-Lot Subdivision

Voting Requirement	:	Simple Majority
Location / Address	:	Lot 9 (24) Johnston Street, Peppermint Grove
Application Number	:	DA2023/00035
LPS No 4 Zoning	:	Residential R20
Land Use	:	Single House (Demolition Permit issued)
Lot Area	:	759m ²
Disclosure of Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Living Street P/L
Owner	:	Living Street P/L
Assessing Officers	:	P. Zadeian/ J. Gajic
Authorising Officer	:	J. Gajic

PURPOSE OF REPORT

To seek Council determination for a development application for two (2) grouped dwellings for which Western Australian Planning Commission (WAPC) subdivision approval and a Demolition Permit for the original single house has been granted. The grouped dwelling development relies on the design principles contained in the Residential Design Codes of Western Australia (R-Codes) for site area, lot boundary setbacks, external facilities (storerooms) and sightlines. Council discretion is also sought for the percentage of the front setback area available for deep soil planting.

SUMMARY AND KEY ISSUES

- The subject land is zoned Residential (R20) a Grouped Dwelling is a 'D' use that requires the local government to exercise its discretion.
- The Shire lodged an objection to the WAPC for the subdivision of the parent title on the grounds of the proposed subdivision failing to meet the design principles for average site area contained in the R-Codes and that the resultant built form was unlikely to meet community expectations. The WAPC set aside the Shire's objection and conditionally approved the subdivision.
- The officer assessment recognises that in light of the approved lot sizes that full compliance with the planning policy framework is an unreasonable expectation and that each dwelling unit will ultimately sit on their own 'green' title and be classified as single houses.
- The proponent has provided sufficient justification why Council discretion should be exercised and how the planning policy framework has been satisfied.

- Minor modifications to the submitted construction plans for unit 2 to ensure alignment with the proposed landscaping plan and to capture the full extent of the retaining wall on the southern boundary can be addressed as a condition of any subsequent approval.

LOCATION

24 Johnston Street, Peppermint Grove.

BACKGROUND

The subject site is an irregular shape with dual street frontage to Johnston and Solomon Streets. The site is generally level and is notable for the verge containing three (3) mature Peppermint trees.

Whilst not uniform, the built form in the immediate area is notable for modest single storey residences on the south side of Johnston Street and more expansive single and double storey residences on larger allotments on the north side of the street.

The WAPC approved subdivision will create lots of 374m² and 385m² well below the smallest R20 zoned lot within the Shire that is understood to be 468m². Whilst it remains the officer's assessment that the design principles contained in the R-Codes for site area and external fixtures (storerooms) have not been satisfied the WAPC have approved the subdivision. If reviewed by the State Administrative Tribunal responsible authority refusal on these grounds would almost certainly be set aside. The assessment has been undertaken on the premise that each dwelling unit occupies an individual title is effectively a single house.

The development is constrained by the modest lot sizes, irregular shape, and the Local Planning Scheme requirement for plot ratio to not exceed 0.5. Notwithstanding these constraints the design response has incorporated a number of innovations to predominantly satisfy the planning policy framework. The proponent has focused on site coverage and how the development presents to the street by way of visually permeable front fencing and an attractive landscaping and ensuing the deemed-to-comply requirement for street setbacks have been met.

CONSULTATION

The proponent discussed the proposal at the time of lodgement and met planning officers on site to clarify the works and better understand the site conditions and potential impacts on neighbours. A construction management plan has been prepared.

Advertising to affected neighbours for a period of 14 days was required in accordance with the Shires Local Planning Policy 6 – Neighbour Consultation. The advertisement period has now concluded. A written objection was received that has been distributed to Councillors. Should further submission be received prior to the Ordinary Council Meeting they will be tabled.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

LOCAL PLANNING POLICY IMPLICATIONS

The proposal predominantly complies with relevant Local Planning Policy.

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. This application is within the statutory timeframe.

Assessment of the relevant Scheme provisions, R-Codes and Planning Policies are detailed in the table below.

LOCAL PLANNING SCHEME NO. 4	
Scheme Provisions/Modification of R-Codes	Assessment/Comment
<p>Building Height The maximum height of dwellings coded R20 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>Compliant. The deemed-to-comply requirement for a wall of a dwelling with a gable/skillion/concealed roof is 7m and overall height is 8m. Single storey construction ensures the overall height is well within design parameters.</p>

RESIDENTIAL DESIGN CODES	
Design Principles	Assessment/Comment
<p>Site Area 5.1.1, Table 1 of the R-Codes.</p>	<p>Not Compliant. The deemed-to-comply average site area requirement for a grouped dwelling in areas coded R20 with an allowance for a corner truncation is 389.5m². The design principles allow for the WAPC in consultation with the local government to create a lot of a lesser minimum site area provided that the variation would be no more than 5% and facilitates the protection or an environmental or heritage feature, facilitates the retention of a significant element that contributes to the existing streetscape, facilitates development of lots with sufficient street frontage to more than one public street, overcomes a special or unusual limitation imposed by its size, shape or other feature, allows the development of housing of the same type and form as in the vicinity and which would otherwise not be able to be developed, and achieves specific objectives of the local planning framework. The Shire objected to the proposed subdivision on the basis that the proposed variation to the average lot size exceeded 5% and that the resultant housing would not be of the same type and form as in the vicinity.</p>

	Notwithstanding that design principles are considered to have not been met the WAPC has approved the subdivision. As such, that this element of the R-Codes has no practical application.
Street and Lot Boundary Setbacks 5.1.2 & 5.1.3, Tables 1, 2a and 2b of the R-Codes.	Not Compliant. The deemed-to-comply requirements for street setbacks are not varied by clause 26(2) of the local planning scheme for the R20 density code. The primary and secondary street setbacks are compliant noting that areas of incursion within the primary street setback area for both dwelling units have been compensated and that the secondary street setback for unit 1 is compliant. Both dwelling units are built up to the future common boundary. The length of the boundary wall exceeds 9m and a small section does not immediately abut a simultaneously constructed wall of equal or greater dimensions. The design principles are considered to be met as the construction cannot be said to adversely affect the amenity of the adjoining property as they are in the same ownership, nor restrict solar access or ventilation to unit 1.
Open Space 5.1.4, Table 1 of the R-Codes.	Compliant. The deemed-to-comply requirement is 50% of open space has been provided. Dwelling unit 1 has been assessed as 50.6% and dwelling unit 2 assessed as 50.8%.
Building Heights 5.1.6, Table 3 Figure Series 7 of the R-Codes.	Compliant. The deemed-to-comply requirements for building height are varied by clause 26(1) of the local planning scheme and addressed in the Scheme/R-Code Modification table above. The proposal does not rely on Council discretion.
Setback of Garages and Carports 5.2.1, Table 1 Figure 8a and 8b of the R-Codes.	Compliant. The deemed-to-comply requirement for a carport is to be setback in accordance with that for a street setback reduced by up to 50% provided its width does not exceed 60% of the frontage, and is compatible with the design of and does not obstruct the view of the house. The setback of both carports exceed the prescribed street setback and do not rely on the further concessions outlined above.
Street Surveillance 5.2.3 of the R-Codes.	Compliant. The deemed-to-comply requirement is for the street elevations 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.
Street Walls and Fences 5.2.4, Figure 12 of the R-Codes.	Compliant. The deemed-to-comply requirement for street walls and fences to be visually permeable above 1.2m and solid pillars to not exceed 1.8m has been met. The deemed-to-comply requirements are varied by Local Planning Policy 12 – Front Fences and addressed in the Scheme/Council Policy table below.
Sight Lines 5.2.5, Figure 9a of the R-Codes.	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. Landscaping is not assessed as an obstruction. One of the sight lines for dwelling unit 1 is compromised by blade fencing to a height of 1100mm. Whilst the fencing is visually permeable, the orientation of the slats is such that the sightline will be obscured. 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.

	<p>The alignment of the footpath in Solomon Street is such that it is offset from the property boundary. Further mitigating risk is the relatively short distance of travel from the parking spaces to the road that will result in low travel speeds.</p> <p>The design principles are 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 30m² 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 grouped dwellings is one tree for each dwelling unit occupying a minimum tree planting area of 2m x 2m that is free of impervious surfaces. The proposed significant tree within the street setback area for dwelling unit 2 relies upon the adjacent driveway being semi pervious to achieve the prescribed dimensions. It is further noted that the landscaping around this significant tree is not shown on the site or floor plans and will otherwise restrict the function of access gates. This anomaly can be readily corrected as a condition of any subsequent approval.</p> <p>Given the dwelling units will ultimately function as single houses the need for a communal bin storage area is superfluous.</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 development is located within 800m of a train station and/or 250m of a high frequency bus route. The deemed-to-comply requirement is for each grouped dwelling is for one bay. Two bays have been provided for each dwelling unit.</p>
<p>Design of Car Parking Spaces 5.3.4 of the R-Codes.</p>	<p>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).</p>
<p>Vehicular Access 5.3.5 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirement is for access to on-site car parking spaces to be provided where available from secondary street where no communal street exists (as the case of unit 1), and from the primary street frontage where no secondary street or communal street or right-of-way exists (as is the case for unit 2).</p> <p>Driveways to primary or secondary streets serving four dwellings or less not narrower than 3m at the street boundary, no driveway wider than 6m at the street boundary and driveways in aggregate no greater than 9m for any one property, no closer than 0.5m from a side lot boundary or street pole, no closer than 6m to a street corner, and located to avoid street trees.</p> <p>For this development there is no requirement for vehicles to exit the site in forward gear. It is also noted that the access gates for dwelling unit 2 swing inwards and do not encroach into the road reservation. It is unclear whether these access gates will be retained upon the site and floor plans being modified to align with the proposed landscaping plan.</p>
<p>Site Works 5.3.7, Table 4 of the R-Codes.</p>	<p>Compliant. The deemed-to-comply requirements is for site works and retaining walls between the street boundary and the street to be 0.5m or less, except where necessary to provide for pedestrian,</p>

	<p>universal and/or vehicular access, drainage works or natural light to a dwelling. Site works and retaining walls within 1m of a lot boundary to be 0.5m 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>The finished floor level of both dwelling units are 12.60m and finished design levels of the yards behind the front building line 12.545m. To facilitate these levels a retaining wall not exceeding 435mm is proposed to extend partially along the southern property boundary. The full extent of the retaining wall along the southern boundary for dwelling unit 2 needs to be captured. This anomaly can be readily corrected as a condition of any subsequent approval. Anecdotally, the retaining wall not captured on the current plan set will remain compliant.</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 shall 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.</p>
<p>Visual Privacy C5.4.1, Figure 10, 10a, 10b and 10c of the R-Codes.</p>	<p>Compliant. The finished floor area is not raised more than 500mm above the natural ground (measured at the adjacent lot boundary).</p>
<p>Solar Access for Adjoining Sites 5.4.2 of the R-Codes.</p>	<p>Compliant. Land located to the south of the subject site is predominantly a drainage reservation or the construction otherwise set well back from the boundary to not cast a significant shadow.</p>
<p>External Fixtures, Utilities and Facilities 5.4.4 of the R-Codes.</p>	<p>Not compliant. The proposal does not include details of solar collectors, aerials, antennas, satellite dishes or other external fixtures aside from clothes drying areas. Clothes-drying areas have been shown and are screened when viewed from the primary or secondary street.</p> <p>The subsequent installation of external fixtures are generally permissible without further planning consent provided they comply with the deemed-to-comply provisions of the R-Codes.</p> <p>Each grouped dwelling is to provide an enclosed, lockable storage area, constructed in a design and material matching the dwelling where visible from the street, accessible from outside the dwelling, with a minimum dimension of 1.5m and an internal area of at least 4m². Neither dwelling unit has a storeroom, and in the case of dwelling unit 1, there is insufficient space to provide a future garden shed. Whilst there is no such requirement for a single house plot ratio will likely be exceed in the event of a modest garden shed being erected.</p> <p>The design principles are not considered to be met.</p>

SCHEME/COUNCIL POLICY	
Policy Type	Assessment/Comment
Local Planning Policy 1 – Design and Streetscape	<p>In light of WAPC approving the subdivision of the parent title the proposal is consistent with the policy intent for replacement dwellings to be responsive to the existing context and contribute positively to the prevailing streetscape. Whilst the policy aligns with the design principles contained in the R-Codes, deemed-to-comply requirements applicable to this development are varied for vehicular access, the design of car parking spaces, and landscaping.</p> <p>Front fencing is specifically addressed in Local Planning Policy 12 – Front Fences.</p> <p>Primarily due to the desire to provide a second off-street parking space the percentage of the front setback area for dwelling unit 2 available for deep soil planting is less than 50%. Nonetheless the appearance from the street is not compromised due to the single width crossover, semi-permeable driveway treatment, open aspect fencing and attractive landscaping that works in concert with that for dwelling unit 1.</p> <p>The variations sought to the policy provisions do not compromise the policy intent being achieved and should be supported.</p>
Local Planning Policy 2 – Ecological Urban Design and Sustainability	<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 variations sought to the policy provisions pertaining to the percentage of the front setback area for dwelling unit 2 available for deep soil planting are addressed above and do not compromise the policy intent being achieved and should be supported.</p>
Local Planning Policy 3 – Heritage Places	N/A. The place is not included on the Municipal Heritage List or on the State Register.
Local Planning Policy 4 – Residential Building Heights	Compliant. The proposal seeks to establish single storey dwelling units.
Local Planning Policy 5 – Plot Ratio For R20 Coded areas the maximum plot ratio shall be 0.5	Compliant. Dwelling unit 1 has a plot ratio of approximately 0.494 and dwelling unit 2 has a plot ratio of approximately 0.492.
Local Planning Policy 6 – Neighbourhood Consultation on Development	<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>A 14-day advertising period to five (5) affected neighbours has concluded. The consultation letters individually identified the respective variations sought that directly affected the neighbouring properties and advised that submissions will be kept on file and may be included in a planning report to Council. An objection was received and has been distributed to Councillors.</p>
Local Planning Policy 8 – Construction Management Plans	The policy requires owners and their contractors to undertake the effective management of approved development. A construction

	management plan must be submitted for assessment and approval prior to the issuance of a demolition or building permit. A construction management plan was submitted as part of the development application and assessed as satisfactory and will form part of any subsequent development approval.
Local Planning Policy 9 – Development Bonds	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 of work being undertaken. The Manager of Infrastructure Services has been notified of the proposed development and will document the condition assets in the road verge. A development bond will be required prior to the commencement of works.
Local Planning Policy 10 – Design Review Panels	N/A. The proposal does not meet the criteria to be considered by a Design Review Panel.
Local Planning Policy 11 – Building on Side and Rear Boundaries	N/A. For areas zoned R20 or higher the deemed-to-comply requirements contained in the R-Codes for boundary walls apply.
Local Planning Policy 12 – Residential Fences	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. The proposed fencing is fully compliant with the policy provisions.
Vehicular Crossover Policy and Technical Specification	The proposal requires works within the verge to establish two (2) crossovers. The crossovers will need to be constructed in accordance with Shire specifications. The crossovers are adequately separated from verge trees and light poles. The Manager of Infrastructure Services was consulted at the time of preparing a response to the WAPC for the subdivision of the parent title and will inspect the development upon completion prior to the return of the development bond.

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 grouped dwellings 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. On balance the proposed development adequately satisfies the planning policy framework such that conditional approval is recommended.

The R-Codes provide a comprehensive basis for the control of residential development throughout Western Australia. 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.

Local planning policies are not deemed to be a law or statute and must not be applied inflexibly. On balance, Council discretion is recommended for the relatively minor variation to the percentage of deep soil planting are in the street frontage for dwelling unit 2.

The single objection received at the time of drafting this report has merit. Notwithstanding, the WAPC has approved the subdivision of the parent title such that matters of residential density must be set aside. It is the officer's assessment that the proposed development will not cause unreasonable detriment to any neighbour and, as far as practical given the site constraints, satisfies the planning policy framework.

The recommended conditions of development approval and endorsement of the submitted construction management plan will ensure that the construction phase can be managed to not adversely impact on the amenity of the area, that works within the verge will comply with Shire's technical specifications, that landscaping within the primary and secondary street frontages will be compliant and completed prior to occupancy, and that the approved design cannot be modified without prior written consent.

The Council is recommended to accept that the WAPC subdivision approval of the parent title has created lots of a size not envisaged by the Residential R20 coding and approve Development Application DA2023/00035 for the reasons articulated above.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM 8.1.2

Moved: Cr Hohnen

Seconded:

Cr Jackson

That Council approves the development of two (2) grouped dwellings and ancillary works at 24 (lot 9) Johnston Street, Peppermint Grove in accordance with the submitted plans and application lodged on 19 December 2023 subject to the following conditions:

- 1. 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.**
- 2. Prior to this permit having force or effect amended plans generally in accordance with the submitted construction plans dated 13 December 2023 and the landscaping plan prepared by Country Yards by Design shall be submitted to the satisfaction of the CEO and endorsed. The amended plans must align and have further regard to the following:**
 - a) Fully capture the extent and height of the retaining wall and dividing fencing along the southern boundary of dwelling unit 2.**
 - b) Conform the construction of the driveway for dwelling unit 2 to be 'trafficable grass paving' and have further regard to the proposed significant tree and**

associated landscaping shown on the landscaping plan and the operation of the access gates.

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

- 3. All works identified on the endorsed plans shall be wholly located within the lot boundaries of the subject site.**
- 4. The ongoing use of the site and approved development works shall not cause erosion or degradation to the subject or surrounding land. Should the CEO deem it necessary to undertake mitigation works; plans, specifications and work schedules may be required to be submitted and the works undertaken by the proponent at no cost and to the satisfaction of the CEO.**
- 5. 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.**
- 6. Unless varied by an approved Construction Management Plan (CMP), all temporary buildings for construction purposes, building materials, skip bins, machinery, or vehicles remaining overnight must be located, stored or parked wholly within the development site and removed upon the completion of building works. Any variation to the above storage and parking arrangements must be identified in an approved CMP or, the prior written consent of the CEO otherwise obtained.**
- 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 establishment of landscaping within the primary and secondary street setback areas.**
- 8. The four (4) Peppermint trees within the adjacent verge must be tagged and suitably isolated to protect the root zones during the construction period and subsequently maintained in a healthy state for the duration of the build.**

In the event that the peppermint trees are critically damaged or destroyed during the construction period they must be replaced with a tree of a size and type to the satisfaction of the CEO. Thereafter any replacement tree must be retained and maintained for a minimum twelve (12) month period in accordance with this condition.

- 9. The site shall be securely fenced during the construction stage to prevent the entry of unauthorised persons.**
- 10. The additional and modified vehicular crossover must be constructed and; thereafter, maintained in accordance with the Shire of Peppermint Grove Vehicular Crossovers General Requirements and Specifications.**

11. The control of stormwater must be documented on your building application and run-off from the approved development retained on site to the satisfaction of the CEO.
12. This approval shall remain current for development to substantially 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:
 - Site area;
 - Lot boundary setbacks;
 - External fixtures (storerooms); and
 - Sightlines.
2. This is a Development Approval only and does not remove the responsibility of the proponent/owner to comply with all relevant building, health, engineering or Local Laws requirements of the Shire, any obligations under the Environment Protection Act 1986, or the requirements of external agencies.
3. In respect to condition twelve (12), 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. The 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. 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.
10. The prior written approval of CEO is required for the temporary closure of any footpath, road or laneway.
11. 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.
12. 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.
13. During the construction stage adjoining lots are not to be entered without the prior written consent of the affected owner(s).
14. 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

8.1.3	54 (Lot 50) Johnston Street, Peppermint Grove – Single House and Ancillary Works (Withdrawn by Applicant)
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This Development Application has been withdrawn by the Applicant.

8.3 MANAGER CORPORATE AND COMMUNITY SERVICES

8.3.1 List of Accounts Paid – December 2023

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Description</u>
Attachments	8.3.1 (a) Accounts Paid – December 2023 8.3.1 (b) Credit Cards – November 2023

Voting Requirement : Simple Majority
 Subject Index : Financial Management
 Disclosure of Interest : Nil
 Responsible Officer : J. Clapham, Manager Corporate and Community Services
 Authorising Officer : D Burnett, Chief Executive Officer

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 including GST (over \$20,000) in December included the following:

- Lynford Ford – Works Utility - \$43,459.21
- Department of Fire and Emergency Services (DFES) – Emergency Services Levy (ESL) Quarter 2 - \$127,865.28
- Superchoice – staff superannuation for November - \$52,519.31
- Australian Taxation Office (ATO) – Business Activity Statement (BAS) for November 2023 - \$99,131.71

BACKGROUND

The Attachment lists detail all payments made in December 2023 (and November 2023 for credit cards). The following summarises credit card payments, electronic fund transfers, direct debits and BPAY included in the list presented for information.

PAYMENT TYPE	NUMBER SERIES	AMOUNT
EFT	EFT00553-57	\$521,202.07
Direct Debits	DD00474,75,76,77,78,80	\$4,280.73
BPAY		\$0
Credit Cards – November 2023		\$12,115.82
TOTAL		\$537,598.62

CONSULTATION

Information prepared by Finance and Payroll Officer.

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 Hohnen

Seconded: Cr Jackson

That Council receive the list of payment of accounts by electronic funds transfers, direct debit, BPAY and credit cards for the month of December 2023, totalling \$537,598.62

CARRIED

7/0

8.3.2 List of Accounts Paid – January 2024

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Description</u>
Attachments	8.3.2 (a) Accounts Paid – January 2024 8.3.2 (b) Credit Cards – December 2023

Voting Requirement	: Simple Majority
Subject Index	: Financial Management
Disclosure of Interest	: Nil
Responsible Officer	: J. Clapham, Manager Corporate and Community Services
Authorising Officer	: D Burnett, Chief Executive Officer

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 including GST (over \$20,000) in January included the following:

- Western Metropolitan Regional Council (WMRC) – service delivery charge for January to June 2024 - \$32,538.70
- Western Australian Treasury Corporation (WATC) – loan payment - \$41,700.34
- Office of the Auditor General (OAG) – audit fee (incl R2R audit and LRCI audit) - \$30,250.00
- FujiFilm – digitisation of Development Services applications - \$34,972.98

BACKGROUND

The Attachment lists detail all payments made in January 2024 (and December 2023 for credit cards). The following summarises credit card payments, electronic fund transfers, direct debits and BPAY included in the list presented for information.

PAYMENT TYPE	NUMBER SERIES	AMOUNT
EFT	EFT00558-61	\$314,507.57
Direct Debits	DD00479 (DD00480 Dec 23)	\$1,705.15
BPAY		\$761.45
Credit Cards – December 2023		\$7,778.71
TOTAL		\$324,752.88

CONSULTATION

Information prepared by Finance and Payroll Officer.

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. 8.3.2

Moved: Cr Hohnen

Seconded: Cr Dawkins

That Council receive the list of payment of accounts by electronic funds transfers, direct debit, BPAY and credit cards for the month of January 2024, totalling \$324,752.88.

CARRIED 7/0

8.3.3 Financial Statements for the period ending 31 December 2023

<u>Attachment No</u>	<u>Details</u>
Attachment	8.3.3 (a) Financial Statements for the period ended 31 December 2023

Voting Requirement	Simple Majority
Subject Index	: Financial Statements 2023/24
Disclosure of Interest	: Nil
Responsible Officer	: J.Clapham, Manager of Corporate and Community Services
Authorised by	: D. Burnett, Chief Executive Officer

PURPOSE OF REPORT

To receive the financial statements for the period ended 31 December 2023.

SUMMARY AND KEY ISSUES

Up to December there has been limited expenditure, while the full rates revenue has been recognised. This has resulted in a large surplus that will be drawn down over the course of the year. Please see attached Monthly Financial Report for an explanation of any material variances.

BACKGROUND

The Monthly Financial Statements are prepared in accordance with the requirements of the Local Government Act 1995 and Financial Management Regulations (1996). Monthly financial statements are required to be presented to Council. Circulated are the monthly financial statements for the period ending 31 December 2023.

STRATEGIC IMPLICATIONS

Objectives within the Governance section of the Strategic Community Plan.

POLICY IMPLICATIONS

Shire of Peppermint Grove Financial Management Policies and Investment Policy.

STATUTORY IMPLICATIONS

Local Government (Financial Management) Regulations 1996.

FINANCIAL IMPLICATIONS

There are no detrimental financial implications evident at this time.

OFFICER COMMENT

The Monthly Financial Statements show a large surplus that can be attributed to the levying of the Rates and Refuse charges in July 2023.

Details of material variances are shown in Note 3 of the attached Monthly Financial Report.

The audit for 2022/23 has been completed and the closing surplus for June 2023 has been finalised.

Investment of Municipal and Reserve Funds - as at 31 December 2023

The Shire has the following funds invested as with the National Australia Bank:-

Fund	Purpose	Amount Invested	Start Date	Maturity Date	Term (Days)	Interest Rate %	Expected Interest
Term Deposit	Reserve Funds	\$1,988,560.40	15 August 2023	28 June 2024	313	5.20%	\$100,000
Corporate Cheque Account	Municipal Funds	\$2,296,422.57	Ongoing	Ongoing	N/A	4.15%	\$62,000
Reserve Transfer Account	Municipal Funds	\$3.23 (sundry interest to be transferred to Muni account and account closed)	Ongoing	Ongoing	N/A	4.15%	\$0

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 8.3.3

Moved: Cr Hohnen

Seconded: Cr Dawkins

That Council receives the monthly financial report for the period ended 31 December 2023.

CARRIED

7/0

8.3.4 Financial Statements for the period ending 31 January 2024

<u>Attachment No</u>	<u>Details</u>
Attachment	8.3.4 (a) Financial Statements for the period ended 31 January 2024

Voting Requirement	: Simple Majority
Subject Index	: Financial Statements 2023/24
Disclosure of Interest	: Nil
Responsible Officer	: J. Clapham, Manager of Corporate and Community Services
Authorised by	: D. Burnett, Chief Executive Officer

PURPOSE OF REPORT

To receive the financial statements for the period ended 31 January 2024

SUMMARY AND KEY ISSUES

The year to date surplus at 31 January 2024 is \$2,487,445, which is \$797,946 more than the year to date budgeted surplus. The main reasons for this are: the timing of invoices to the Towns of Mosman Park and Cottesloe for The Grove Library contributions - \$318,059, the payment of the self-supporting loan for the Tennis Club not going ahead - \$200,000 and the opening surplus being \$176,857 more than budgeted for.

BACKGROUND

The Monthly Financial Statements are prepared in accordance with the requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996. Monthly financial statements are required to be presented to Council. Circulated are the monthly financial statements for the period ending 31 January 2024.

STRATEGIC IMPLICATIONS

Objectives within the Governance section of the Strategic Community Plan.

POLICY IMPLICATIONS

Shire of Peppermint Grove Financial Management Policies and Investment Policy.

STATUTORY IMPLICATIONS

Local Government (Financial Management) Regulations 1996.

FINANCIAL IMPLICATIONS

There are no detrimental financial implications evident at this time.

OFFICER COMMENT

The Monthly Financial Statements show a large surplus that can be attributed to the levying of the Rates and Refuse charges in July 2023.

Details of material variances are shown in Note 3 of the attached Monthly Financial Report.

The audit for 2022/23 has been completed and the closing surplus for June 2023 has been finalised.

Investment of Municipal and Reserve Funds - as at 31 January 2024

The Shire has the following funds invested as with the National Australia Bank:-

Fund	Purpose	Amount Invested	Start Date	Maturity Date	Term (Days)	Interest Rate %	Expected Interest
Term Deposit	Reserve Funds	\$1,988,560.40	15 August 2023	28 June 2024	313	5.20%	\$100,000
Corporate cheque account	Municipal Funds	\$2,238,615.30	Ongoing	Ongoing	N/A	4.15%	\$62,000
Reserve Transfer Account	Municipal Funds	\$3.23 (sundry interest transferred to Muni account and account closed on 8/2/24)	Ongoing	Ongoing	N/A	4.15%	\$0

OFFICER RECOMMENDATION/COUNCIL DECISION– ITEM NO 8.3.4

Moved: Cr Hohnen

Seconded:

Macintosh

That Council receives the monthly financial report for the period ended 31 January 2024.

CARRIED

7/0

8.3.5 Budget Review for the Financial Year Ended 30 June 2024

<u>Attachment No</u>	<u>Details</u>
Attachment	8.3.5 (a) 2023/24 Budget Review

Voting Requirement :	Absolute Majority
Subject Index :	2023/24 Financial Management
Responsible Officer:	J.Clapham, Manager of Corporate and Community Services
Approved by:	D. Burnett, Chief Executive Officer
Disclosure of interest:	D. Burnett and J. Clapham have a financial interest in the new capital item – electric vehicle charging stations

PURPOSE OF REPORT

To consider and adopt a revised budget for the 2023/24 Financial year.

SUMMARY AND KEY ISSUES

- The 2023/24 annual budget review builds upon the adopted budget in the current financial year.
- The review has been undertaken and following a number of amendments the closing surplus has increased from to \$13,418 to \$18,357.
- Johnston Street sump project not going ahead this year.

LOCATION

N/A

BACKGROUND

Staff have revised the income and expenditure of the 2023/24 adopted budget to provide for amendments that will reflect the amounts required by the 30 June 2024.

Details of the changes are included on pages 6 and 7 of the 2023/24 Budget Review Report.

CONSULTATION

Consultation with senior officers has been 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

Regulation 33A of the Local Government (Financial Management) Regulations 1996 requires:

1. Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.
2. Consideration and review is to be given to a local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year.

FINANCIAL IMPLICATIONS

The proposed variations to the 2023/24 budget are included in the attached Budget Review Report.

The original 2023/24 budget forecast a surplus at 30 June 2024 of \$13,418. The proposed net variations totalling \$4,939 have increased the closing surplus to \$18,357.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The following is a summary of the various proposed changes (\$10,000 and over):

- Revenue from operating activities increases by \$35,000. Main changes are;
 - \$55,000 - increase in investment interest to Municipal Account and Reserve Accounts
 - \$30,000 - decrease in building license and development application revenues
 - \$10,000 - insurance payout for damage guard rails on The Esplanade
- Expenditure from operating activities increases by \$517,500. This is mainly due to an increase in depreciation on road infrastructure of \$430,000 due to under budgeting in June 2023. This change does not affect the cashflow. Other adjustments,
 - \$60,000 – salaries adjustment to facilitate inhouse delivery of strategic planning projects
 - \$30,000 – correction to IT budget
 - \$20,000 – purchase new agenda software
 - \$50,000 – increase in planning legal fees
 - \$10,000 – risk management expenses not required
 - \$35,000 – finalise planning and building digitisation project

- \$10,000 – increase in road sweeping contract costs.
 - \$28,000 – decrease bushfire mitigation works not required
 - \$10,000 – reduction in election expenses as no election
 - \$20,000 – decrease in footpath maintenance expenses
 - \$40,000 – decrease in planning consultants fees, as done inhouse
 - \$10,000 – decrease in depot maintenance costs
 - \$17,000 – decrease in Heritage Grant Scheme allocation
- Two significant projects aren't proceeding this financial year; however they may be included in the 2024/25 budget. These projects, being the Johnston Street sump (\$1,587,000) and the parking along Bayview Terrace/Keane Street (\$300,000), relied on loan funds and transfers from reserves. The budget has been amended to reflect that these projects aren't proceeding this financial year.
 - The self-supporting loan of \$200,000 for the Peppermint Grove Tennis Club has been deleted and may be included in the 2024/25 budget, depending on the requirements of the Club.

New expenditure identified but not in the original budget;

- \$15,000 – hydraulic sweeper attachment for the loader
- \$25,000 – electric vehicle charging stations for staff area, offset against a grant of \$11,000. Utilises surplus electricity from solar panels
- \$15,000 - removal of anti-graffiti film for Shire Administration Office windows. Remainder of The Grove Library building subject to 2024/25 budget.
- \$10,000 – upgrade of chairs and desks for staff following an ergonomic assessment

The surplus at the beginning of the financial year is also more than originally budgeted for by \$176,857 and has been factored into the projections.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM No. 8.3.5

Moved: Cr Hohnen

Seconded: Cr Dawkins

That Council adopts the revised 2023/24 financial year budget.

CARRIED 7/0

8.4 CEO MANAGEMENT/GOVERNANCE/POLICY

MANAGEMENT/GOVERNANCE/POLICY

8.4.1 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 December 2023
Disclosure of Interest	:	Nil
Responsible Officer	:	J. Court, Projects and Policy Officer
Authorising Officer	:	D. 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

That Council notes the updates outlined in the attachment reports across a number of areas of the Shire's operations.

CONSULTATION

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

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM 8.4.1

Moved: Cr Macintosh

Seconded: Cr Dawkins

That Council receives the information in this report.

CARRIED

7/0

9. COMMITTEE REPORTS

10. NEW BUSINESS INTRODUCED BY DECISION OF COUNCIL

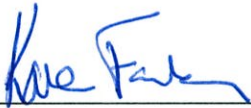
11. MOTIONS ON NOTICE

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

12. CONFIDENTIAL ITEMS OF BUSINESS

13. CLOSURE OF MEETING

At 6.30pm, there being no further business the meeting closed.

Confirmed by  this day of 26th March, 2024

PRESIDING MEMBER

