



Shire of  
Peppermint Grove

# ORDINARY COUNCIL MEETING

# AGENDA

TO BE HELD ON  
TUESDAY **28<sup>TH</sup> NOVEMBER 2023**  
AT  
**5.30 PM**



# Shire of Peppermint Grove

## **NOTICE OF MEETING**

Dear Councillor

It is advised that the **Ordinary Council Meeting** will be held in the Council Chamber on the Shire of Peppermint Grove, 1 Leake Street, Peppermint Grove, on 28<sup>th</sup> November commencing at 5.30pm.

### **MEETING AGENDA ATTACHED**

Yours faithfully

A handwritten signature in black ink, appearing to read 'Don Burnett', is positioned above the printed name.

**Mr Don Burnett**  
**CHIEF EXECUTIVE OFFICER**

**23<sup>rd</sup> November 2023**



# Shire of Peppermint Grove

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Shire of  
Peppermint Grove

## ORDINARY COUNCIL MEETING AGENDA

### 1. DECLARATION OF OFFICIAL OPENING

At \_\_\_\_ pm, 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\_\_\_\_\_.

#### **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 |
| Deputy Shire President                 | Cr P Dawkins    |
| Elected Member                         | Cr P Macintosh  |
| Elected Member                         | Cr J Mahony     |
| Elected Member                         | Cr D Jackson    |
| Elected Member                         | Cr E Bond       |
| Elected Member                         | Cr C Hohnen     |
| 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**        ..... Members of the Public  
                     ..... 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**

**5.0 DECLARATIONS OF INTEREST**

**5.1 FINANCIAL INTEREST**

**5.2 PROXIMITY INTEREST**

**5.3 IMPARTIALITY INTEREST**

Item 8.1.1 Cr Mahony, the nature of the interest is friendship with the applicant of 1 Bungalow Court, Peppermint Grove.

**5.4 INTEREST THAT MAY CAUSE A CONFLICT**

**5.5 STATEMENT OF GIFTS AND HOSPITALITY**

**6.0 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)**

**7.0 CONFIRMATION OF MINUTES**

**OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 7.1**

**Moved:**

**Seconded:**

**That the minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 17<sup>th</sup> October 2023 be confirmed as a true and accurate record.**

**Moved:**

**Seconded:**

**That the minutes of the Special Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 24<sup>th</sup> October 2023 be confirmed as a true and accurate record.**

## 8.0 OFFICERS REPORTS

### 8.1 MANAGER DEVELOPMENT SERVICES

Impartiality Interest declared by Cr Mahony: the nature of the interest is friendship with the applicant of 1 Bungalow Court, Peppermint Grove.

#### 8.1.1 1 Bungalow Court, Peppermint Grove - Single House and Ancillary Works

#### ATTACHMENT DETAILS

| <b>Attachment No</b> | <b>Description</b>  |
|----------------------|---|
| <b>Attachment 1</b>  | Development Application Submissions and Selected Drawings |
| <b>Attachment 2</b>  | SJB Town Planning and Urban Design Submission             |
| <b>Attachment 3</b>  | Ason Group Traffic Engineering Review                     |
| <b>Attachment 4</b>  | Locality Plan   |

|                        |   |   |
|------------------------|---|---|
| Voting Requirement     | : | Simple Majority                                   |
| Location / Address     | : | 1 (Lot 4) Bungalow Court, Peppermint Grove        |
| Application Number     | : | DA2022/00036                                      |
| LPS No 4 Zoning        | : | Residential R10 R12.5 R15 R20                     |
| Land Use               | : | Single House                                      |
| Lot Area               | : | 890m <sup>2</sup>                                 |
| Disclosure of Interest | : | Nil.  |
| Previous Items         | : | Nil.  |
| Applicant              | : | Leon House Design Pty Ltd                         |
| Owner                  | : | Jocelyn Isabella Gillett and John Vincent Gillett |
| Assessing Officer      | : | Mr J Gajic  |
| Authorising Officer    | : | Mr J. Gajic                                       |

#### PURPOSE OF REPORT

To seek Council determination for a development application for a Single House and Ancillary Works that seeks variations to the Part 4 - General Development Requirements contained in the Shire's Local Planning Scheme no. 4 and relies on the design principles contained in the Residential Design Codes of Western Australia (R-Codes).

#### SUMMARY AND KEY ISSUES

- The subject land is zoned Residential (R10) a Single House is a 'P' use.
- The application was initially lodged on 2 December 2022 and was subsequently significantly modified on three occasions requiring reassessment.
- The current plan set was lodged on 26 October and was supported by a traffic engineering review lodged on 20 September.
- Western Australian Planning Commission (WAPC) approved uniform subdivision levels in lieu of survey levels have been deemed the natural ground level for the purpose of assessing building height and setbacks.



- The constructed, under construction and approved ground levels for adjoining properties have informed the assessment for boundary walls.
- SJB Town Planning and Urban Design (SJB) has provided justification why Council discretion should be exercised and how the design principles for site works, and vehicular access have been satisfied.
- The focus of this report pertains to the site context and how the development presents when viewed from the streetscape, and the amenity of the eastern neighbour.
- 42 Keane Street is on the market with development approval for a single house.
- The author of the objection indicated that they were satisfied with the recommended design response to address their visual privacy concerns.
- The proponent has consented to further modifications to the plans set as per the officer recommendation.

## **LOCATION**

1 (Lot 4) Bungalow Court, Peppermint Grove

## **BACKGROUND**

The subject land was part of the former Oswald site that was predominantly cleared of vegetation at the time of demolition of the substantially completed residence. The Oswald site was subsequently subdivided into seven (7) lots, two (2) of which are currently under construction. Three (3) of the western-most lots are in the same ownership including the subject land.

The western-most lots have similar attributes. They are of a relatively uniform size and shape and predominantly fall from the west to the east. Two (2) of these lots have street frontage to Bungalow Court, and two (2) have a street frontage to Keane Street. Bungalow Court effectively functions as a battleaxe leg to both the subject land and to 12 Bungalow Court.

In response to the notable fall the four (4) western-most lots were approved by the WAPC with a condition requiring the establishment of uniform levels based on spot heights at the corners of each proposed lot. Although that the subdivision was cleared by the WAPC, there was no evidence at the time that the uniform levels were formed. The WAPC uniform levels are considered to be 'approved levels' and, as such, represent the natural ground levels. These uniform levels have been applied when assessing a Deemed-to-Comply application for a single house straddling 40 Keane Street and 12 Bungalow Court, as well as the DA2023/00007 for an approved boundary wall at 12 Bungalow Court. The construction underway at 42 Keane Street and approved development at 44 Keane Street were assessed against the surveyed levels. Disparity in what should have constituted the natural ground level for 42 Keane Street has likely contributed to the approval of 2.01m of fill above the WAPC uniform levels in the southeastern corner of that lot and over height boundary walls.

42 Keane Street was also designed by Leon House Design Pty Ltd. It is understood that John Gillett and the owner of 42 Keane Street are collaborating with the architect to develop a synergy for the development of 40 Keane Street and 12 Bungalow Court.

The built form in the immediate area is dominated by modern architecturally designed single houses. The majority of lots with primary frontage to Bungalow Court are zoned Residential R25. R25 development is not subject to the Part 4 - General Development Requirements

contained in the Shire's Local Planning Scheme No. 4 including a 9-metre street setback or 0.5 plot ratio. As a result the built form does not reflect the garden suburb neighbourhood character of Peppermint Grove. The proponent has, in part, justified discretion being applied to the scheme prescribed street setback and plot ratio variations no longer sought based on immediately abutting built form.

The proposed single house is considered to predominantly satisfy the design principles, provisions and policy objectives of the state and local planning policy framework. This report focuses on the site context and how the development presents when viewed from the streetscape, and the amenity of the eastern neighbour.

## **CONSULTATION**

The proponent discussed the design concept with planning officers prior to lodgement. The initial design was assessed to have a plot ratio of approximately 1.1 for which it was made clear that officers were unable to support. Officers met with the proponent on several occasions throughout the course of design changes.

The proponent engaged a planning consultant to assist in the interpretation of requests for further information and to provide written justification as to how design principles had been satisfied and why Council discretion should be provided.

The proponent additionally presented the merits and vision for the application to the Council at Concept Forum.

In response to discussion pertaining to the plan set currently before Council the proponent stated their intention to remove two (2) western-facing privacy screens to floor areas not defined as habitable rooms. The removal of the privacy screen to the bedroom 1 toilet increases the street setback (measured from any part of a building) by approximately 240mm. The proponent has agreed for a 1.32m relocation of the swimming pool to align with the living room wall, reductions to the height of the northern boundary wall, and corrections to the west-facing eaves line as per the officer recommendation.

Courtesy notifications were delivered to five (5) properties soon after the application was received and subsequently advertised to four (4) affected neighbours for a period of 14 days in accordance with the Shires Local Planning Policy 6 – Neighbour Consultation. The advertisement period has now concluded. A written objection was received on behalf of the eastern neighbour that has been distributed to Councillors. The submitted party has been afforded an opportunity to attend or make representations at the Agenda Briefing Forum and the Ordinary Council Meeting.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

## **LOCAL PLANNING POLICY IMPLICATIONS**

The proposal 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. 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). Largely due to the need to assess and report upon multiple design iterations this application is now outside the statutory timeframe.

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

| <b>LOCAL PLANNING SCHEME NO. 4</b>   |   |
|--|---|
| <b>Scheme Provisions/<br/>Modification of R-Codes</b>  | <b>Assessment/Comment</b>   |
| <p><b>Building Height</b><br/>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><b>Compliant.</b> The deemed-to-comply requirement for a wall of a dwelling with a gable/skillion/concealed roof is 7m and overall height is 8m.<br/>The methodology for determining building height is varied by the local planning scheme and is based on a mean natural ground level (MNGL). The MNGL deduced from WAPC uniform levels is 13.7625m and the proposed building height 6.0155m. The proposed height is 1.722m below that stipulated under restrictive covenant O016805 affecting the subject land.</p>   |
| <p><b>Street Setbacks</b><br/>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><b>Non-compliant.</b> The subject site has a single street frontage to a cul-de-sac head. The methodology for measuring primary street setback is varied by the local planning scheme and is taken from any part of the building inclusive of minor projections to the street. The SJB submission has provided justification for varying the prescribed setback on the basis that Bungalow Court effectively functions as a battleaxe leg, that the proposed setbacks from the western or southern property boundary exceeds the R-Codes deemed-to-comply setback of 3m from a secondary street, and that the setback from the western property boundary generally aligns with that for 2 Bungalow Court (R25 zoned land).<br/>The proponent and landowner have agreed to a condition requiring deletion of the privacy screens to the master bedroom toilet and ensuite that increases the setback 300mm from the western property boundary. On this basis the setback from the western boundary is 4.548m and from the southern property boundary is 4.328m.<br/>It is the officer’s assessment that Bungalow Court effectively functions as a battle-axe leg and that the western property boundary is the logic street setback. It is agreed that the building alignment along the eastern side of Bungalow Court does contribute to the site context and should be afforded weight. When looking north along Bungalow Court the setback from the western boundary will present as a generously landscaping setting consistent with the Design and Streetscape local planning policy objective to <i>protect the quality and characteristics of its streetscapes</i>. The proposal does not compromise the ability for this view corridor to be further enhanced</p> |

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|  | <p>and landscaped when 12 Bungalow Court is developed. Although not determinate of the matter, the design outcome is an improvement on what would otherwise been a side boundary to the dominating former Oswald residence.</p> <p>The design principle is for buildings to be set back an appropriate distance to ensure that they contribute to and are consistent with an established streetscape, provide adequate privacy and open space, accommodate site planning requirements such as parking, landscaping and utilities, and allow safety clearances for easements. The design principles have been assessed as satisfied such that Council discretion on this design element is recommended.</p> |
|--|--|

| <b>RESIDENTIAL DESIGN CODES</b>   |  |
|---|--|
| <b>Design Principles</b>  | <b>Assessment/Comment</b>  |
| <p><b>Site Area</b><br/>5.1.1, Table 1 of the R-Codes.</p>  | <p><b>N/A</b> no new lots are proposed.<br/>The subject land occupies 889.97m<sup>2</sup> which is above the minimum but below the average lot size for Residential R10 zoned land.</p>  |
| <p><b>Street and Lot Boundary Setbacks</b><br/>5.1.2 &amp; 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.</p> <p><b>Northern Setback</b> – The deemed-to-comply setback for the alfresco/pool deck is 3.2m based on the 9.5m wall length and 6.1m maximum wall height (as per R-Codes measurement methodology). The setback and wall height has been assessed from the privacy screen rather than the wall given the screen is not a minor projection due to its 1.6m protrusion.<br/>A setback of 1.8m is sought based on the east elevation plan.<br/>The design principles take into consideration the impact of building bulk, solar access and ventilation, and overlooking of adjoining properties.<br/>The adjoining property at 42 Keane Street is the only party affected by this variation and has not objected. It is further noted that their rear yard is not a primary outdoor living area and is screened by a boundary wall exceeds that of a sufficient fence. The proponent has offered to reduce the protrusion of the screen to 750mm allowing the setback to be measured from the wall and satisfy the deemed-to-comply setback requirement. No design change is necessary.<br/>The design principles are considered to be met.</p> <p><b>Eastern (Rear) Setback</b> – The context of the subject land as it relates to Bungalow Court and the positioning of the main entry, it would be acceptable for either the eastern or the northern boundary to be deemed the rear boundary. It is acknowledged that there is a less compelling case for a street setback concession to be granted to the southern boundary that effectively functions as a driveway rather than a landscaped setting. The eastern boundary has been assessed as the rear boundary.<br/>Being a rear boundary the deemed-to-comply setback for both the living room forming part of the main house and the swimming pool is 6m. Should this setback be treated as a side boundary the deemed-to-comply setback would be 1.5m and 1.1m (respectively) and be compliant. The setback for the living room has been</p> |

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|---|---|
|   | <p>assessed from the privacy screen rather than the wall given the screen is not a minor projection due to its protrusion.</p> <p>A setback of 2.305m is sought for the living room and 1.985m for the swimming pool/alfresco.</p> <p>The design principles take into consideration the impact of building bulk, solar access and ventilation, and overlooking of adjoining properties.</p> <p>Only the adjoining property at 44 Keane Street is affected by this variation and has objected on the grounds of visual privacy and fill adjacent to the eastern boundary. The objection does not have regard to the impact of bulk and scale. Bulk and scale are arguably heightened by approved excavation adjacent to the common boundary. It is acknowledged that their approved primary outdoor living area is adjacent to the swimming pool.</p> <p>It is the officer's assessment that weight should be given to the ability to treat the eastern boundary as a side boundary, that the impact of building bulk is reduced by proposed perimeter landscaping, that the alfresco/swimming pool and the main house present as separate elevations, and that the living room privacy screen is less impactful than a solid wall and reduces the assessed setback by 1m. Consideration has been given to what would constitute a reasonable compromise. The living room wall setback is considered acceptable. Should the swimming pool be recessed a further 1.32m to align with that of the living room further screening for the alfresco would not be necessary, no internal walls would need to be moved, or the functionality of any room be compromised. The design principles are considered to be met subject to alignment of the swimming alfresco/pool wall with that of the living room.</p> |
| <p><b>Open Space</b><br/>5.1.4, Table 1 of the R-Codes.</p>                                       | <p><b>Compliant.</b> The deemed-to-comply requirement is 60%.<br/>67.62% of open space has been provided and is supported by a Landscaping Plan.</p>  |
| <p><b>Building Heights</b><br/>5.1.6, Table 3 Figure Series 7 of the R-Codes.</p>                 | <p><b>Compliant.</b> 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 is compliant with a covenant restricting the height of the development including minor projections such as antennas not exceeding 21.5m above the Australian Height Datum (sea level).<br/>The proposal does not rely on Council discretion.</p>  |
| <p><b>Setback of Garages and Carports</b><br/>5.2.1, Table 1 Figure 8a and 8b of the R-Codes.</p> | <p><b>Compliant.</b> 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/R-Code Modification table above and in the Scheme/Local Policy table below.</p> <p>Basement parking is proposed. The proposal does not rely on Council discretion.</p>   |
| <p><b>Street Surveillance</b><br/>5.2.3 of the R-Codes.</p>                                       | <p><b>Compliant.</b> The deemed-to-comply requirement is for the street elevations 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>The design has been modified such that the kitchen window now performs a surveillance function.</p>  |

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| <p><b>Street Walls and Fences</b><br/>5.2.4, Figure 12 of the R-Codes.</p>          | <p><b>Compliant.</b> 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><b>Sight Lines</b><br/>5.2.5, Figure 9a of the R-Codes.</p>                      | <p><b>Compliant.</b> 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.<br/>Due to the unique frontage with Bungalow Court only one point of intersection requires an unobstructed sightline. A secondary unobstructed sightline has been provided for a future intersection associated with 12 Bungalow Court.</p>  |
| <p><b>Outdoor Living Areas</b><br/>5.3.1, Table 1 and Figure 13 of the R-Codes.</p> | <p><b>Compliant.</b> An outdoor living area greater than 36m<sup>2</sup> 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.<br/>The alfresco/pool accessible from the primary living area and a turfed area accessible from the ground floor hallway.</p>   |
| <p><b>Landscaping</b><br/>5.3.2 of the R-Codes.</p>                                 | <p><b>Compliant.</b> 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.<br/>The Landscaping Plan identifies seventeen (17) trees species.</p>  |
| <p><b>Parking</b><br/>5.3.3 of the R-Codes.</p>                                     | <p><b>Compliant.</b> The development is not located within 800m of a train station and/or 250m of a high frequency bus route. The deemed-to-comply requirement is for each single house is for two bays.<br/>The basement parking area can accommodate a minimum of five (5) bays.</p>   |
| <p><b>Design of Car Parking Spaces</b><br/>5.3.4 of the R-Codes.</p>                | <p><b>Not Compliant.</b> The deemed-to-comply requirement is for car parking spaces and manoeuvring areas to be designed and provided in accordance with AS2890.1 Parking facilities - Off-street car parking (the Standard).<br/>The basement ramp exceeds the prescribed maximum 1:4 (25%) gradient.<br/>The proponent has provided a traffic engineering review from Ason Group that acknowledging the ramp gradient has been designed at 33.51%. The review found the <i>layout of the proposed on-site car parking supply is 100% consistent with the relevant Australian Standards and accepted traffic engineering guidelines and traffic engineering practice as per Section 2.6 of AS2890.1</i> and that <i>there are not anticipated to be any safety or operational concerns associated with the proposed basement car parking and access arrangements.</i><br/>It is the officer's assessment that the subject land is not a <i>particularly hilly residential</i> location. The Standard recognises that limiting driveway grades to 25% may not be practicable in hilly locations, and in such cases the services of a professionally qualified person may be required to make a judgement. Notwithstanding, it is accepted that cars will exit in forward gear onto a low volume road with no pedestrian path and any inconvenience from the steeper gradient will wholly impact the residents.</p> |

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|   | <p>Although Council discretion is recommended, the design principles requirement for parking bays to be conveniently accessed is questionable.</p>   |
| <p><b>Vehicular Access</b><br/>5.3.5 of the R-Codes.</p>    | <p><b>Compliant.</b> The deemed-to-comply requirement is for access to onsite car parking spaces to be provided from the primary street frontage where no secondary street or communal street or right-of-way, driveways not narrower than 3m or wider than 6m at the street boundary, and driveways in aggregate no greater than 9m, no closer than 0.5m 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 must also be 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>The basement parking area is suitably dimensioned to enable vehicles to exit in forward gear.</p>   |
| <p><b>Site Works</b><br/>5.3.7, Table 4 of the R-Codes.</p> | <p><b>Not Compliant.</b> 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 are 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 rounded-up height of the retaining wall.</p> <p>The WAPC uniform levels are considered ‘approved levels’ and, as such, the natural ground levels for assessment purposes.</p> <p>Significant site works are proposed to provide a level building envelope and outdoor living areas, to facilitate access to the basement, maximise outlooks from land to the west in the same ownership. Specifically, excavation to a maximum of 2m is proposed in the northwest corner of the site, 2.093m to the southwestern corner of the site, and to a maximum of 3.1m for the basement ramp. Excavation will be retained by boundary walls.</p> <p>A maximum 600mm of fill is proposed in the northeast corner of the site, and a maximum 550mm of fill on the eastern boundary. The current ground level at the eastern boundary is 350mm higher than the proposed ground level. The eastern boundary wall is proposed to retain between 500mm and 550mm of soil for an approximate length of 15.5m before the finished design levels further step down below both the WAPC uniform levels and the actual ground level.</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. The need to respect existing ground levels is more prevalent when development occurs in sensitive environments such as dunes or soil prone to landslip or fill is proposed that heighten the perception of bulk and scale or result in loss of visual privacy.</p> <p>When viewed from Bungalow Court excavation both within the street setback area and for the basement ramp is obscured by proposed fencing and landscaping, and the built form at 2 Bungalow</p> |

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|  | <p>Court (respectively). Provided soil is adequately retained excavation generally has little impact on neighbouring properties. The proposed retaining wall not being offset 1m from the eastern boundary was a ground of objection. The objection was supported by a cross-section showing the proposed boundary wall within the subject land to be 15.956m (1.206m higher than the 14.75m proposed). Along the eastern boundary fill above the WAPC uniform levels ranges between 450mm to 550mm for the outdoor living area and excavation for the drying court and basement ramp is approximately 870mm and 2.1m (respectfully). The extent of proposed fill is 50mm greater than otherwise deemed-to-comply and 350mm below the current ground level.</p> <p>On balance the finished levels are considered to respect the natural ground level at the lot boundary as viewed from the street and will not adversely affect neighbouring properties who themselves have take a similar approach to essentially level their blocks.</p> <p>The design principles are considered to be met.</p>   |
| <p><b>Stormwater Management</b><br/>5.3.9 of the R-Codes.</p>                        | <p><b>Compliant.</b> 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><b>Visual Privacy</b><br/>C5.4.1, Figure 10, 10a, 10b and 10c of the R-Codes.</p> | <p><b>Not Compliant.</b> The deemed-to-comply requirement is for major openings raised more than 500mm above the natural ground (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 alfresco/swimming pool is located 5.585m from the eastern lot boundary. Unenclosed swimming pools such as a lap pool or plunge pool occupied neither frequently or for extended periods are not deemed to be a habitable space and need not be assessed for the purposes of visual privacy. The proposed swimming pool has been assessed as a habitable space due to its dimensions.</p> <p>The design principles are for minimal direct overlooking of active living areas of adjacent dwellings and outdoor living areas. The area within the ‘cone of vision’ on the approved plans for 44 Keane Street is an outdoor living area. Submission of a landscaping plan was a condition of their development approval prior to the issuance of a building permit and is yet to be received. It is unclear what landscaping may be established along their western boundary. The affected neighbour has objected to the proposal on the grounds of visual privacy.</p> <p>It is recommended that the setback is increased 1.32m to 6.905m. Potential overlooking from the swimming pool was addressed by increasing its depth to 1.6m. When standing, the pool wall will function as a raised sill and sightlines be directed horizontally. The use of flotation devices would likely not meet the test for frequency or for extended periods.</p> <p>Subject to relocation (that was supported by the proponent) the design principles are considered to be met.</p> |



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| <p><b>Solar Access for Adjoining Sites</b><br/>5.4.2 of the R-Codes.</p>            | <p><b>Compliant.</b> The deemed-to-comply requirement is 25%. The proponent has assessed that 2 Bungalow Court will be overshadowed by 10.4% being 45m<sup>2</sup>.<br/>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><b>External Fixtures, Utilities and Facilities</b><br/>5.4.4 of the R-Codes.</p> | <p><b>N/A.</b> The proposal does not include details of solar collectors, aerials, antennas, satellite dishes or other external fixtures.<br/>The subsequent installation of external fixtures is generally permissible without further planning consent provided they comply with the deemed-to-comply provisions of the R-Codes.<br/>It is further acknowledged that external fixtures are required to not protrude by more than 1.722m above the maximum proposed height to remain compliant with the restrictive covenant O0916805 RC.</p> |

| <b><u>SCHEME/COUNCIL POLICY</u></b>                            |  |
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| <b>Policy Type</b>   | <b>Assessment/Comment</b>  |
| <p><b>Local Planning Policy 1 – Design and Streetscape</b></p> | <p><b>Not Compliant.</b> 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 policy aligns with the design principles contained in the R-Codes, deemed-to-comply requirements are varied for street setbacks, vehicular access, the design of car parking spaces, and landscaping.<br/>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, for 50% soft landscaping within the front setback area, establishes the predominant building materials, requires clearly legible front entrance and discourages the dominance of garage doors on street elevation (4.5m maximum width), 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. Front fencing is specifically addressed in Local Planning Policy 12 – Residential Fences.<br/>It is the officer’s assessment that the subdivision which established the subject land inadequately responded to Bungalow Court becoming the primary and only frontage for the subject land. Bungalow Court is not a typical cul-de-sac head due to its dimensions, nor does it meet the definition of an access leg. The benefits that an increased street setback would normally deliver is lost by the inability for much of any additional landscaping to be visible from the streetscape. The reduced setback will not obscure views from the street to adjoining dwellings (none of which are on the Shire’s Heritage List) or establish an undesirable precedent. What is clear is that the nomination of the western boundary as the street frontage and landscaping of this area maximises the perception of a generous landscaped setting when viewed from Bungalow Court. It is also clear that the proposal is a vast improvement on the outlook from Bungalow Court should the former Oswald residence been completed.<br/>Council discretion is recommended.</p> |

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| <p><b>Local Planning Policy 2 – Ecological Urban Design and Sustainability</b></p>                             | <p><b>Compliant.</b> 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>At least 20% of the total site should be available for viable and functioning ecological green space (deep soil planting). Variations should only be approved where a superior design outcome with no detrimental impact on the ecological quality of the green space on the site can be demonstrated.</p> <p>The open space has been calculated at 67.62% and the street setback area predominantly and generously landscaped. The landscaping plan nominates seventeen (17) tree species. Notwithstanding the southern boundary setback area is predominantly an access ramp to the basement, a landscaped strip has been proposed adjacent to this boundary.</p> |
| <p><b>Local Planning Policy 3 – Heritage Places</b></p>  | <p><b>N/A.</b> The place is not included on the Municipal Heritage List or on the State Register.</p>  |
| <p><b>Local Planning Policy 4 – Residential Building Heights</b></p>   | <p><b>Compliant.</b> The proposal is consistent with the policy intent to ensure that any variation to building height are respectful of, and complementary to, the existing scale of adjoining dwellings. No variation to the deemed-to-comply requirements for a Category B building is sought.</p>  |
| <p><b>Local Planning Policy 5 – Plot Ratio</b><br/>For R10 Coded areas the maximum plot ratio shall be 0.5</p> | <p><b>Compliant.</b> The proposal has a plot ratio of approximately 0.50. The requirement to reduce the calculatable floor area that contributes plot ratio has been the principal driver behind multiple design reiterations. The plot ratio has over this journey reduced from approximately 1.1 to now be deemed-to-comply.</p> <p>Notwithstanding compliance being achieved, it should be acknowledged that repurposing or infilling floor space and deleting unenclosed outdoor living area roofing were methodologies employed. It is not disputed that the proponent has the absolute right to maximise their floor space or that the policy intent to retain the predominant character of residential development for single dwellings in generous garden settings has been achieved.</p>  |
| <p><b>Local Planning Policy 6 – Neighbourhood Consultation on Development</b></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. Courtesy notifications were delivered to five (5) properties soon after the application was received and subsequently advertised to four (4) affected neighbours for a period of 14 days. The advertising period 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.</p>   |

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|  | An objection was received from 42 Keane Street and has been distributed to Councillors. Whilst this property is on the market it should not be assumed that the approved development will not proceed until it lapses or is superseded by another proposal.  |
| <b>Local Planning Policy 8 – Construction Management Plans</b>         | 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.<br>It should not be assumed that access from Keane Street will be available during the construction phase. The construction management plan will need to have specific regard to site access, erosion and dust control, and the parking of construction vehicles. The submission of a construction management plan will be addressed with a condition of development approval.  |
| <b>Local Planning Policy 9 – Development Bonds</b>                     | 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 development bond is recommended to be linking to the satisfactory completion of the development including establishment of landscaping within the street setback area and street fencing.<br>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.   |
| <b>Local Planning Policy 10 – Design Review Panels</b>                 | <b>N/A.</b> The proposal does not meet the criteria to be considered by a Design Review Panel.   |
| <b>Local Planning Policy 11 – Building on Side and Rear Boundaries</b> | <b>N/A.</b> No buildings or building additions are proposed on any boundary.   |
| <b>Local Planning Policy 12 – Residential Fences</b>                   | <b>Not Compliant.</b> 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.<br>The policy provisions state that solid sections of front fencing shall not exceed 900mm. Council may consider permitting a section solid to 1.8m for part of a front wall for the provision of utility meters. Furthermore, columns forming part of the structural support shall not exceed 2.1m.<br>Boundary fencing should not exceed 2.1m without the written consent of the neighbour and, for sloping sites, should not exceed 2.2m or an average height of 2.1m.<br>Fence elevations evidence a low open aspect street fence design that complements the residence and is in keeping with the neighbourhood character.<br>The height of the southern boundary wall has been informed by the existing ground level at 2 Bungalow Court and varies between 1.8m and 2.3m. Given development approval has occurred at 2 Bungalow Court the WAPC uniform levels should be set aside.<br>The height of the eastern boundary wall has been informed by both the proposed ground level and the existing level. The wall varies between 2.65m and 2.687m above the WAPC uniform levels, between 2.1m and 2.237m above the proposed finished levels, and |

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|  | <p>between 1.75m and 1.887m above the existing ground level. Given development approval has been granted for development at 44 Keane Street based on surveyed levels the WAPC uniform levels should be set aside.</p> <p>The height of the northern boundary wall should be informed by both the proposed ground level and the approved ground level at 42 Keane Street. The WAPC uniform levels be set aside. 2.1m above the approved ground level at 42 Keane Street equates to 16.21m which is no less than 3.56m above the proposed levels on the subject land. It is recommended that a condition require the northern boundary wall to not exceed 16.21m that will require an 8.4m length of wall to be reduced by 230mm. Council discretion is recommended.</p> |
| <p><b>Vehicular Crossover Policy and Technical Specification</b></p> | <p>The proposal requires works to establish a new 3.8m wide crossover with a single splay. The crossover will need to be constructed in accordance with Shire specifications.</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 Single House and Ancillary Works have been assessed to substantively satisfy the pertinent design principles, provisions, and policy objectives of the state and local planning policy framework. On balance and, subject to minor revisions, the Council discretion being sought is acceptable.

The subject site has a unique frontage with Bungalow Court that effectively functions as a battleaxe leg. The prevailing streetscape is R25 coded residences with limited building setbacks and greater site coverage that typical for single houses in Peppermint Grove. Given the unusual site context approval will not establish an undesirable precedent.

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. The decision-maker in its assessment of a proposal that relies upon the design principles should not apply the corresponding deemed-to-comply provisions. Justification for the design principles for street setback, lot boundary setback (rear), design of car parking spaces (basement ramp gradient), site works, and visual privacy are addressed in the Residential Design Codes table.

Notwithstanding that there is a general presumption that Scheme requirements should not be varied, discretion can be applied to the development requirements contained in Part 4 and

to development standards in Schedule 1. Justification for discretion to the 9m street setback is provided in the Local Planning Scheme No. 4 table and Scheme/Council Policy table.

Local planning policies are not deemed to be a law or statute and must not be applied inflexibly. Justification for applying discretion to the 9m street setback (LPP1), for the limited landscaping along the southern property boundary (LPP2), and variation to boundary fencing (LPP12) is addressed in the Scheme/Council Policy table.

The objection on behalf of the eastern neighbour raised concerns pertaining to the height of the eastern boundary wall that performs a retaining function for a length of approximately 15.5m, and visual privacy. No greater than 50mm additional retention is sought above the WAPC uniform levels on this boundary to be deemed-to-comply. Whilst landscaping along the eastern boundary could be lowered 500mm – 550mm and be incorporated into a minimum 1m wide bed, it is the officer's assessment that the neighbour is not detrimentally affected and that the design principles for site works have been satisfied. The boundary wall itself is proposed between 2.65m and 2.687m above the WAPC uniform levels, between 2.1m and 2.237m above the proposed finished levels, and between 1.75m and 1.887m above the current ground level. Given approval has been granted for development at 44 Keane Street based on surveyed levels the WAPC uniform levels should be set aside. In respect to visual privacy the extent to which the 7.5m cone of vision for the alfresco area encroaches into the neighbouring property is limited to 595mm. It is likely that this area of encroachment will be landscaped and not be an active outdoor space.

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, that works within the verge will comply with Shire's technical specifications, that lot boundary setbacks and separation from sources of overlooking better respect the amenity of 44 Keane Street, and that the northern boundary wall better responds to the construction at 42 Keane Street.

Development Application DA2022/00036 is recommended for Approval subject to modifications for the reasons articulated above.

#### **OFFICER RECOMMENDATION ITEM 8.1.1**

**That Council approves DA2023/00036 for a Single House and Ancillary Works at 1 Bungalow Court, Peppermint Grove in accordance with the submitted plan set dated 25 October 2023 and application lodged on 2 December 2022 subject to the following conditions:**

- 1. 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.**

2. **Prior to this permit having force or effect amended plans generally in accordance with the submitted plan set dated 25 October 2023 shall be submitted to the satisfaction of the CEO and endorsed. The amended plans shall have further regard to the following:**
  - a) **The building setback for the swimming pool/alfresco measured from the eastern property boundary shall be no less than 3.305m.**
  - b) **The north fence elevation TOW height shall be no greater than 16.21m.**
  - c) **The west-facing privacy screen to the bedroom 1 toilet shall be deleted.**
  - d) **The west-facing eaves line being modified on the South Elevation and South Fence Elevation to align with the North Elevation and First Floor plan.**

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

3. **Prior to this permit having force or effect the proponent 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.**

4. **Unless identified in an approved CMP or the prior written consent of the CEO otherwise obtained, 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.**
5. **Unless varied by an approved 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.**
6. **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.**
7. **Prior to occupation the fixed privacy screens to major openings for the alfresco, kitchen/dining room, living room, bedroom 1, and the southern side of the entry patio on the endorsed plans must be installed. The prior written consent of the CEO must be obtained to alter or remove the nominated fixed privacy screens approved as part of this permit.**
8. **Prior to occupation the hard and soft landscaping within the street setback area shall be established in accordance with the Landscaping Plan and; thereafter, maintained to the satisfaction of the CEO.**

9. All works identified on the endorsed plans shall be wholly located within the lot boundaries of the subject site.
10. Temporary buildings for construction purposes must not be used for overnight accommodation at any time.
11. The site shall be securely fenced during the construction stage to prevent the entry of unauthorised persons.
12. The new vehicular crossover must be constructed and; thereafter, maintained in accordance with the Shire of Peppermint Grove Vehicular Crossovers General Requirements and Specifications.
13. Stormwater run-off from the approved development shall be retained on site.
14. 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:
  - Street setback;
  - Lot boundary setbacks;
  - Design of car parking spaces;
  - Site works;
  - Visual privacy; and
  - Boundary walls.
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 14, 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 including establishment of landscaping within the street setback area 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. **In respect to condition 7 the fixed privacy screens shall be constructed to a minimum height of 1.6m above the finished floor level, be at least 75% obscure, and made of durable materials.**
10. **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.**
11. **The prior written approval of CEO is required for the temporary closure of any footpath, road or laneway.**
12. **Attention is drawn to '[Guideline for managing impacts of dust \(www.wa.gov.au\)](http://www.wa.gov.au) (DEC, March 2011)' and, specifically, the provisions and contingency arrangements for a class 4 high risk site and the requirement for a complaints management system to be in place and a notice erected at the site providing contact details.**
13. **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.**



14. 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.
15. External fixtures must not exceed the 21.5m AHD height limitation specified by the restrictive covenant O916805 RC.
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](http://www.sat.justice.wa.gov.au) or by phoning 9219 3111 or 1300 306 017.

## **8.2 MANAGER INFRASTRUCTURE**

NIL

### 8.3 MANAGER CORPORATE AND COMMUNITY SERVICES

#### 8.3.1 List of Accounts Paid – October 2023

#### ATTACHMENT DETAILS

| <u>Attachment No</u> | <u>Description</u>  |
|----------------------|---|
| Attachment 1         | Accounts Paid – October 2023<br>Credit Cards – September 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 including GST (over \$20,000) in October 2023 included the following:

- ATO - BAS - \$23,385.14
- Civica – Spydus Library management system annual fee - \$25,637.04
- Drainflow Services – Gulley education works - \$23,581.25
- LGIS – annual insurance - \$132,702.15

#### BACKGROUND

The Attachment lists detail all payments made in October 2023. 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                           | EFT00545-548  | \$399,683.45        |
| Direct Debits                 | DD00457-463   | \$12,037.71         |
| BPAY                          | BPAY302-304   | \$89.60             |
| Credit Cards – September 2023 |               | \$18,555.32         |
| <b>TOTAL</b>                  |               | <b>\$430,366.08</b> |

## **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/S – ITEM NO. 8.3.1**

**That Council receive the list of payment of accounts by:**

- 1. Electronic funds transfers, direct debit & BPAY payments for the month of October 2023, totalling \$411,810.76;**
- 2. Credit Card payments for September 2023 totalling \$18,555.32**

8.3.2 Financial Statements for the period ending 30<sup>th</sup> September 2023

**CORPORATE**

| <u>Attachment No</u> | <u>Details</u>  |
|----------------------|---|
| Attachment           | <b>Financial Statements for the period ended 30<sup>th</sup> September 2023</b> |

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

**PURPOSE OF REPORT**

To receive the financial statements for the period ended 30 September 2023.

**SUMMARY AND KEY ISSUES**

Up to September there was 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 & Financial Management regulations (1996). Monthly financial statements are required to be presented to Council. Circulated are the monthly financial statements for the period ending 30 September 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.

Depreciation has not yet been processed as it is necessary to wait until the completion of the 2022/23 audit.

The estimated closing surplus as at 30 June 2023 may change pending the completion of the 2022/23 audit.

### Investment of Municipal and Reserve Funds - as at 30 September 2023.

The Shire has the following funds invested as 'on call' and fixed term deposits 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%           | \$8,600 per month |
| Corporate cheque account   | Municipal Funds | \$2,316,052.02  | Ongoing        | Ongoing       | N/A         | 4.15%           | \$7,000 per month |
| Professional Funds Account | Municipal Funds | \$1,496.05      | Ongoing        | Ongoing       | N/A         | 4.15%           | \$0 per month     |

## OFFICER RECOMMENDATION – ITEM NO 8.3.2

**That Council receives the financial report for the period ended 30<sup>th</sup> September 2023.**

8.3.3 Financial Statements for the period ending 31<sup>st</sup> October 2023

**CORPORATE**

| <u>Attachment No</u> | <u>Details</u>  |
|----------------------|---|
| Attachment           | Financial Statements for the period ended 31 <sup>st</sup> October 2023 |

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

**PURPOSE OF REPORT**

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

**SUMMARY AND KEY ISSUES**

Up to October 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 & 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 October 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.

Depreciation has not yet been processed as it is necessary to wait until the completion of the 2022/23 audit.

The estimated closing surplus as at 30 June 2023 may change pending the completion of the 2022/23 audit.

### Investment of Municipal and Reserve Funds - as at 31 October 2023.

The Shire has the following funds invested as 'on call' and fixed term deposits with the National Australia Bank:-

| Fund                     | Purpose         | Balance  | 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%           | \$8,600 per month |
| Corporate cheque account | Municipal Funds | \$2,280,521.41   | Ongoing        | Ongoing       | N/A         | 4.15%           | \$7,000 per month |
| Reserve Transfer Account | Municipal Funds | \$3.23 (sundry interest to be transferred to Muni account) | Ongoing        | Ongoing       | N/A         | 4.15%           | \$0 per month     |

## OFFICER RECOMMENDATION – ITEM NO 8.3.2

**That Council receives the financial report for the period ended 31<sup>st</sup> October 2023.**



**8.4.1 CEO MANAGEMENT/GOVERNANCE/POLICY**

**MANAGEMENT/GOVERNANCE/POLICY**

**8.4 Elected Members Training and Professional Development - Policy 1.7**

**ATTACHMENT DETAILS**

| <b><u>Attachment</u></b> | <b><u>Details</u></b>  |
|--------------------------|--|
| <b>Attachment 1</b>      | Amended Policy 1.7 Elected Members Training and Professional Development |

Voting Requirement : Absolute  
 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 to provide Council with amendments to the Shire's policy 1.7 'Members Attendance at Conferences, Seminars, and Training.' It is proposed policy 1.7 will now be named 'Elected Members Training and Professional Development.'

**SUMMARY AND KEY ISSUES**

The draft policy refers to compliance requirements outlined in the *Local Government Act 1995 (the Act)* and will now provide further information on the following sections of *the Act*:

- Section 5.126 Training for Council Members.
- Section 5.127 Report on Training.
- Section 5.128 Policy for continuing professional development.

**BACKGROUND**

The amendments to this policy now reference the training requirements to be undertaken by newly elected members of Council, which are the modules outlined in 'Council Essentials'. These modules are:

- (1) Understanding Local Government
- (2) Conflict of Interest
- (3) Meeting Procedure
- (4) Serving on a Council
- (5) Understanding Financial Reports and Budgets

These modules are to be completed within 12 months beginning on the day on which the council member is elected.

The amendments to Section 1.7 of the policy also outline that Elected Members can undertake continuing professional development training.

## **CONSULTATION**

No consultation has taken place in developing this policy, however a review of other Local Government policies on Elected Members training was undertaken.

## **STRATEGIC IMPLICATIONS**

There are no strategic implications identified in this report.

## **POLICY IMPLICATIONS**

The amendments to section 1.7 of the Shire's Policy Manual reference policy compliance requirements which are outlined in the Local Government Act 1995, Section 5.126; Section 5.127 and Section 5.128.

## **STATUTORY IMPLICATIONS**

The legislative clauses supporting the amendments to the Shire of Peppermint Grove's policy on training for Elected Members are outlined in Division 10 Training and Development of the Local Government Act 1995.

### Section 5.126 Training for council members

S5.126 (1) of the Local Government Act states that each council member must complete training in accordance with regulations.

Regulation 35, Training for Council Members (Act s5.126(1)) is reflected below and states: Regulations may –

- a) prescribe a course of training; and
- b) prescribe the period within which training must be completed; and
- c) prescribe circumstances in which a council member is exempt from the requirement in subsection (1); and
- d) provide that contravention of subsection (1) is an offence and prescribe a fine not exceeding \$5,000 for the offence.

Amendments to Section 1.7 of the Shire's Policy have been updated to disclose the training modules that newly Elected Members are to undertake as outlined in the regulations. The amended policy also states that these training modules are to be completed within 12 months of Elected Members appointment to Council.

### Section 5.127 Report on Training

- (1) A local government must prepare a report for each financial year on the training completed by council members in the financial year.

- (2) The CEO must publish the report on the local government’s official website within 1 month after the end of the financial year to which the report relates.

Amendments to Section 1.7 of the Shire’s Policy disclose the Shire’s commitment to complying with section 5.127 of the Local Government Act by publishing Elected Members details on the Shire ‘s website.

#### Section 5.128 Policy for Continuing Professional Development (CPD)

- (1) A local government must prepare and adopt a CPD policy in relation to the continuing professional development of council members. \* Absolute Majority required.
- (2) A local government may amend the CPD policy.
- (3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (4) The CEO must publish an up-to-date version of the policy on the local government’s official website.
- (5) A local government –
  - (a) must review the policy after each ordinary election; and
  - (b) may review the policy at any other time.

Amendments to Section 1.7 of the Shire’s Policy support Elected Members to undertake professional development training.

#### **FINANCIAL IMPLICATIONS**

The Shire’s annual budget for elected member’s training will be accessed for new and continuous professional development training identified for elected members. The cost of training will not exceed the allocated provision in the Shire’s Training and Conference Budget for a given financial year.

#### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

#### **SOCIAL IMPLICATIONS**

There are no social implications at this time.

#### **OFFICER COMMENT**

The amendments to policy 1.7 ‘Elected Members Training and Professional Development’, expand on the statutory requirements of the *Local Government Act 1995*, Section 5.126, Section 5.127 and Section 5.128 and reference both training for new Elected Members and professional development training for existing Elected Members.

**OFFICER RECOMMENDATION– ITEM NO. 8.4.1**

**That Council adopt the amended policy 1.7 ‘Elected Members Training and Professional Development.’**

**MANAGEMENT/GOVERNANCE/POLICY**

**8.4.2 Matters for Information and Noting**

**ATTACHMENT DETAILS**

| <b>Attachment</b>   | <b>Description</b>                  |
|---------------------|-------------------------------------|
| <b>Attachment 1</b> | <b>Building/Planning Statistics</b> |
| <b>Attachment 2</b> | <b>Infringements Issued</b>         |
| <b>Attachment 3</b> | <b>Library Statistics</b>           |
| <b>Attachment 4</b> | <b>Recycling Statistics</b>         |

Voting Requirement : Simple Majority  
 Subject Index : Matters for Information October 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**

That Council notes the updates outlined in the attached 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 – ITEM NO 8.4.2**

**That Council receives the information in this report.**

**9. COMMITTEE REPORTS**

Nil

**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**

**12.1 Citizenship Awards 2024 (Confidential)**

**COMMUNITY DEVELOPMENT**

This matter can be considered with members of the public excluded from the chamber under Clause 5.23 (2) (b) of the Local Government Act 1995 as the Officer report discusses:

(b) The personal affairs of any person

**OFFICER RECOMMENDATION/S ITEM NO 12.1**

That this report is considered behind closed doors in accordance with Clause 5.23 (2) (b) of the Local Government Act 1996.

**13. CLOSURE OF MEETING**

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