



Shire of
Peppermint Grove

ORDINARY COUNCIL MEETING

AGENDA

TO BE HELD ON
TUESDAY **28TH MARCH 2023**
AT
5.30 PM



Shire of Peppermint Grove

MEETING AGENDA ATTACHED

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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 (Presiding Member)
Deputy Shire President
Elected Member
Elected Member
Elected Member
Elected Member

Cr R Thomas
Cr C Hohnen
Cr P Macintosh
Cr D Horrex
Cr D Jackson
Cr P Dawkins

Chief Executive Officer
Manager Development Services

Mr Don Burnett
Mr J Gajic

Manager Corporate & Community Services
Manager Infrastructure Services

Mr M Costarella
Mr D Norgard

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

2.2 APOLOGIES

Elected Member

Cr K Farley

2.3 LEAVES OF ABSENCE

NIL

2.4 NEW REQUEST FOR A LEAVE OF ABSENCE

3. DELEGATIONS AND PETITIONS

3.1 DELEGATIONS

NIL

3.2 PETITIONS

NIL

3.3 PRESENTATIONS FROM THE PUBLIC

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

4.3 DEPUTATIONS OF THE PUBLIC

4.4 PRESENTATIONS FROM THE PUBLIC

5.0 DECLARATIONS OF INTEREST

Councillors / Staff are reminded of the requirements of section 5.65 of the Local Government Act 1995, to disclose any interest during the meeting when the matter is discussed, and also of the requirement to disclose an interest affecting impartiality under the Shire's Code of Conduct. Councillors / staff are required to submit declarations of interest in writing on the prescribed form.

5.1 FINANCIAL INTEREST

A declaration under this section 5.60 of the Act requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

Other members may allow participation of the declarant if the member further discloses the extent of the interest and the other members decide that the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

5.2 PROXIMITY INTEREST

A declaration under this section 5.60 of the Act requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

5.3 IMPARTIALITY INTEREST

Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member / employee is also encouraged to disclose the nature of the interest. The member / employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member / employee declares that their impartiality will not be affected then they may participate in the decision making process.

5.4 INTEREST THAT MAY CAUSE A CONFLICT

Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member / employee is also encouraged to disclose the nature of the interest. The member / employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member / employee declares that their impartiality will not be affected then they may participate in the decision making process.

5.5 STATEMENT OF GIFTS AND HOSPITALITY

Councillors and staff are required (Code of Conduct), to disclose gifts and acts of hospitality which a reasonable person might claim to be a conflict of interest. Gifts and acts of hospitality which exceed that amount of prescribed by regulation are to be recorded in the Councils Gift Register.

6.0 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

7.0 CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING 28th February 2023

OFFICER RECOMMENDATION – ITEM 7.1

That the Minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 28th February 2023 be confirmed as a true and accurate record.

8.0 OFFICERS REPORTS

8.1 MANAGER DEVELOPMENT SERVICES

8.1.1 12 The Esplanade – Works Ancillary to a Single House (Siteworks, Retaining Walls and Fencing)

URBAN PLANNING

ATTACHMENT DETAILS

Attachment No	Description
Attachment 1	Locality Map
Attachment 2	Development Application Submissions and Drawings
Attachment 3	Peritas Engineering Assessment

Voting Requirement	:	Simple Majority
Location / Property Index	:	12 The Esplanade, Peppermint Grove
Application Number	:	DA2022/00029
LPS No 4 Zoning	:	Residential R10
Land Use	:	Single House
Lot Area	:	1597m ²
Disclosure of any Interest	:	Nil.
Previous Items	:	Item 8.1.4, 23 August 2022 Item 7.1, 10 December 2019 Item 8.1.3, 23 July 2019
Applicant	:	Planning Solutions
Owner	:	Theresa Lynn Smith
Assessing Officer	:	Mr J Gajic
Authorising Officer	:	Mr J. Gajic

PURPOSE OF REPORT

To seek Council determination for a substantively similar development application for siteworks, retaining walls and fencing associated with a single house not supported by Council at the 23 August 2022 Ordinary Council Meeting (OCM).

SUMMARY AND KEY ISSUES

- The subject land is zoned Residential (R10) a Single House is a 'P' use.
- The subject land is located with the State Planning Policy 2.10 Swan-Canning River System area.
- The place is listed in the Municipal Heritage List (category 1).

- This report should be read in conjunction with item 8.1.4 contained in the 23 August 2022 OCM minutes, and the conditions and annotated plans associated with development approval DA2022/00015.
- At the 23 August 2022 OCM the Council resolved to annex the site works component of DA2022/00015 and approve dwelling additions and alterations to the former stables. The siteworks component including relocation of the vehicular crossover and works within to road reservation were not supported as proposed.
- Condition three (3) of DA2022/00015 stated; *Further planning approval must be obtained for ancillary works including, but not limited to; site works, retaining walls, driveway and vehicular crossover, and boundary fencing not otherwise contained within the area hatched by red ink on the endorsed site plan (PA02A).*
- On 28 October 2022 Planning Solutions sought an amendment to DA2020/00013 that itself was an amendment to DA2019/00016 issued for substantial additions and ancillary works including basement parking and a swimming pool.
- Planning Solutions were advised that the Shire’s intention was that a new development application be lodged for the site works component and requested an application fee based on the cost of development be submitted to process the application.
- The application seeks variations to the deemed-to-comply requirements contained in the Residential Design Codes of Western Australia (R-Codes) for site works, street walls and fences and sight lines. Variations are additionally sought to Local Planning Policy 12 – Front Fences, the Shire’s Fencing Local Law 2021, and to the Shire’s Tree Management Strategy 2022.
- Proposed modifications to traffic calming assets within The Esplanade will require a single lane closure for an unspecified period. These works can be managed on behalf of and at no cost to the Shire by Porter’s Consulting Engineers (Porters).
- Two (2) abutting neighbours received a courtesy notification, and one (1) neighbour was advertised to and lodged an objection.

LOCATION

12 The Esplanade, Peppermint Grove.

BACKGROUND

12 The Esplanade is category 1 Municipal Heritage Listed and one of the Shire’s oldest buildings (c.1910). An application to demolish the house and outbuildings was refused by the Shire on 31 August 2010 and the decision upheld by the State Administrative Tribunal [2011] WASAT 79.

There is a three (3) metre crossfall along the 25m frontage of the subject site and significant crossfall for adjoining properties. This section of The Esplanade is significantly elevated above Freshwater Bay. The adjacent Bush Forever reservation occupies a limestone cliff and contains vegetation classified as low forest and scrub.

Whilst not uniform, the built form in the immediate area is dominated by expansive elevated homes with solid masonry front walls and fences. Front fencing is generally non-compliant with current policy, but typically ‘steps down’ the slope enables maintenance of a visual connection to houses when viewed from the street. Front setbacks are predominantly compliant and feature ‘soft’ landscaping.

The Council has considered several applications in recent years pertaining to alterations and additions and restoration on the subject site. The siteworks recently proposed by Gerard McCann Architect and annexed from the approval of DA2022/00015 represented a significant departure from DA2019/00016 prepared by Griffiths Architects.

Planning Solutions were engaged to progress approval of the siteworks annexed from the approval of DA2022/00015. Planning Solutions have made trivial modifications to the plans previously prepared by Gerard McCann Architect. The same narrative that the baseline for assessment should be DA2020/00013.

The proposed siteworks are fundamentally unchanged. The site plan has corrected a couple of spot heights for the finished ground levels in the vicinity of the forecourt and the proposed brushwood fencing has been extended along the southern property boundary to mitigate headlight spill into the adjoining property.

CONSULTATION

The former proponent Gerard McCann Architect discussed prior to lodgement the revised proposal for dwelling additions and alterations to vehicular and met planning officers on site to clarify the works and better understand the site conditions and potential impacts on neighbours. The merits and vision for DA2022/00015 was presented to the Council at Concept Forum.

Planning Solutions sought an alternative pathway to the requirement for a new application to be lodged as previously agreed at the August Ordinary Council Meeting.

Insistence that the application was an amendment and refusal to provide an estimated cost of development to inform the application fee resulted in the application being placed on hold for several weeks. To progress the matter a legal opinion was sought from McLeods Lawyers. The opinion affirmed the Shire's position that the proposal represented a significant departure from DA2020/00013 and did not constitute an amendment and that a fee must be received for a new application based on the estimated cost of development. Development Services estimated the cost of development to be \$100,000 and invoiced accordingly. Planning Solutions did not take the opportunity to provide an alternative estimated costs of development.

Planning Solutions have liaised with planning staff regarding the submission of additional information pertaining to the proposed works associated with revised vehicular access. The submission of engineering details was requested to fully understand the impacts on changes to driveway levels and the impact on the footpath and traffic calming infrastructure.

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 and a summary of the grounds provided to the proponent. A freedom of information request was subsequently lodged to access the objection.

Porters Consulting Engineers were engaged by the Shire to review the Peritas Engineering Assessment for the new (relocated) crossover and modifications to traffic calming assets within The Esplanade.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

LOCAL PLANNING POLICY IMPLICATIONS

The proposal does not comply 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 This application is within the statutory timeframe.

The proposal complies with relevant Scheme provisions, R-Codes and Planning Policies with the exception of those outlined in the table below.

LOCAL PLANNING SCHEME NO. 4	
Scheme Requirement/Clause	Assessment/Comment
Plot Ratio For R10, R12.5, R15 and R20 Coded areas the maximum plot ratio shall be 0.5	The proposal does not alter the approved plot ratio of approximately 0.39.
Street Boundary Setbacks For R10, R12.5 and R15 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.	N/A. The proposal does not impact on the front street boundary setback. The subject site has a single street frontage.

RESIDENTIAL DESIGN CODES	
Development/Performance Criteria	Assessment/Comment
Visual Privacy C5.4.1, Figure 10, 10a, 10b and 10c of the R-codes.	The deemed-to-comply requirement for visual privacy applies to <i>active habitable spaces</i> that includes terraces, that are raised more than 0.5m above the natural ground level. The proposal seeks to activate the front garden such that overlooking is a genuine consideration regardless of whether the space is directly accessible from the dwelling. The corresponding Design Principles seek to minimise direct overlooking from active habitable spaces to other active habitable spaces (that includes habitable rooms) and outdoor living areas. A dining room with north-facing major opening

	<p>and a terrace/balcony area directly accessible from the primary living space. Furthermore, the over-arching Objective is to design buildings and landscape to minimise adverse impact on the privacy of adjoining dwellings and private open space.</p> <p>The southern neighbour has objected to a loss of privacy due to overlooking.</p> <p>The Design Principles are not considered to be met.</p>
<p>Site Works Table 4 of the R-Codes.</p>	<p>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. Table 4 prescribes minimum setbacks that largely aligns with the height of the retaining wall. A 3m setback from the southern lot boundary on the 7.5m front setback line reducing in line with the wall height as is extends towards the rear of the subject lot is required.</p> <p>The proposal seeks to introduce a maximum fill to 23.45m (2.53m) retained by walls on the southern lot boundary and associated with terracing and a new pedestrian entry alcove in the southeast corner of the subject site. The retaining wall on the boundary extends to a maximum 800mm above the existing dividing wall.</p> <p>1000mm high 90% open blade fencing or 1800mm high solid brushwood fencing is proposed above the retaining wall on the southern boundary to a maximum height above the current ground level of 3.4m and 3.6m (respectively).</p> <p>The Design Principles requires development to take into consideration and respond to the natural features of the site and that requires minimal excavation/fill. Where excavation or fill is necessary, the finished levels are to respect the natural ground level at the lot boundary as viewed from the street. Retaining walls that result in the effective use of land are not to detrimentally affect adjoining properties.</p> <p>Notwithstanding the proponent has introduced terraces to step down the extent of fill in the southeast corner of the subject site and incorporate 1000 mm high visually permeable blade fencing, the site works do not respect the natural ground level. The southern neighbour has objected to the site works and subsequent height of dividing fencing. The planning assessment agrees that the neighbouring property will be adversely affected. The Design Principles are not considered to be met.</p> <p>The proposed changes to site levels as they affect the southern neighbour are best articulated on the proponent’s South Elevation East End and East Elevation – PA08D. The dividing fence arrangements are best articulated on the proponent’s Elevation South Boundary Retaining & Fence - PA09D).</p>

<p>Street Walls and Fences</p>	<p>The deemed-to-comply requirement for street walls and fences to be visually permeable above 1200mm and solid pillars to not exceed 1800mm is varied by Local Planning Policy 12 – Front Fences. Notwithstanding, the proposal relies on Council discretion such that due regard should be given to the Design Principles in the R-Codes.</p> <p>The Design Principles require front fencing to be low or restricted in height to permit surveillance and enhance streetscape. Consideration is afforded to the need to attenuate traffic impacts or provide privacy or noise attenuation to outdoor living areas on primary or district distributor or integrator arterial roads. The criteria to vary height are not applicable for The Esplanade, such that the Design Principles have not been met.</p>
<p>Vehicular Access</p>	<p>The deemed-to-comply requirement is for front fences within the primary street setback area to be truncated or no higher than 0.75m within 1.5m of where driveways intersect with a street.</p> <p>The proposal relies on the Design Principles that require unobstructed sight lines at vehicle access points to ensure safety and visibility along crossovers and footpaths.</p> <p>The proponent has demonstrated the ability for vehicles to egress the site in forward gear. Additionally, it has been submitted that should the central 3m section of the 4.5m wide crossover be used sufficient clearance is available.</p> <p>The Design Principles are not considered to be demonstrated. The swept path of travel for vehicles exiting the site have not been provided or, nor is it clear how vehicles can be reasonably constrained within the central 3m section of the crossover. It is noted that local planning policy encourages single width crossovers. An undesirable precedent may be established to construct wider driveways in lieu of truncations and low fencing should this justification be supported.</p>

<p align="center"><u>SCHEME/COUNCIL POLICY</u></p>	
<p>Policy Type</p>	<p>Assessment/Comment</p>
<p>Local Planning Policy 1 – Design and Streetscape</p>	<p>The site works and retaining walls between the street boundary and the street setback and adjacent to the southern lot boundary and front fencing are considered to not meet the broader planning objectives of the policy. The planning objectives include to protect the quality and characteristics of the streetscape. It is acknowledged that the local planning policy framework does not specifically reference site works, although does have regard to the relationship between the scale of buildings and their street presence in combination with their setbacks including landscaping and fencing. Front fencing is specifically addressed in Local Planning Policy 12 – Front Fences.</p> <p>The Design and Streetscape policy encourages single width crossovers to retain and protect green street verges and street trees. Although subject to further engineering assessment, a relocated 4.5m wide vehicular crossover is proposed. The additional width is required to respond to the</p>

	<p>tight turning radius necessary to access and egress the site. The new crossover will require the relocation of a juvenile street tree and considerable works within the road reservation that are separately addressed in this report. The proponent has justified compliance with this policy by focusing on the limestone front wall.</p> <p><i>The proposed development seeks to preserve the amenity of the Shire, and not only protect, but enhance one of its most prominent streetscapes (The Esplanade).</i></p> <p><i>The proposed limestone wall is entirely appropriate, with limestone being a commonly seen material in houses and front boundary fences in the locality.</i></p> <p>It is the planning assessment that the current solid front wall and siteworks to facilitate a now removed swimming pool adversely affects the streetscape and diminishes the relationship between the existing dwelling. An opportunity presents to bring the current front wall into conformity with local planning policy framework and improve the amenity of the streetscape. Whilst the proposed front wall and fencing is no doubt of high quality, in combination with the excessive fill, its height, bulk and scale does not enhance the relationship between the existing dwelling and the streetscape. The additional driveway width is not considered inappropriate in the context of the site and locality.</p>
Local Planning Policy 2 – Ecological Urban Design and Sustainability	<p>Compliant. The policy discourages excessive paving and sealing of the front setback area and promotes 20% of the total site is available for viable and functioning ecological green space (deep soil planting). The proposal meets this requirement.</p>
Local Planning Policy 3 – Heritage Places	<p>The proposed development does not alter the fabric of the heritage-listed building. Notwithstanding, when viewed from the abutting footpath the front fencing will be imposing and completely obscure a view of the house from some aspects. It is the planning assessment that the design and materiality of the front fencing is of a complementary design; however, the scale is unacceptable and will diminish the contribution of the heritage building to the streetscape.</p>
Local Planning Policy 4 – Residential Building Heights	N/A.
Local Planning Policy 5 – Plot Ratio	N/A. The proposal does not change the plot ratio in accordance with the methodology outlined in the Information Sheet – Residential Development or the
Local Planning Policy 6 – Neighbourhood Consultation on Development	<p>A 14-day advertising period to one affected neighbour has concluded. An objection was again received from the affected party and has been distributed to Councillors and a summary of the grounds of objection provided to the proponent. Two further abutting properties received courtesy notification letters.</p>
Local Planning Policy 8 – Construction Management Plans	Should Development Approval be granted a Construction Management Plan will be a conditional requirement and submitted and approved prior to determination of a Building Permit.

<p>Local Planning Policy 9 – Development Bonds</p>	<p>The Manager of Infrastructure Services has been notified of the proposed development and will document the condition of assets in the road verge. Should Development Approval be granted a Development Bond will be required prior to the commencement of works.</p>
<p>Local Planning Policy 10 – Design Review Panels</p>	<p>N/A. The proposal does not meet the criteria to be considered by a Design Review Panel.</p>
<p>Local Planning Policy 11 – Building on Side and Rear Boundaries</p>	<p>N/A. No buildings or building additions are proposed on any boundary.</p>
<p>Local Planning Policy 12 – Front Fences</p>	<p>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. The policy provisions state that solid sections of front fencing shall not exceed 900mm. Council may consider permitting a section solid to 1800mm for part of a front wall for the provision of utility meters. Furthermore, columns forming part of the structural support shall not exceed 2100mm. Notwithstanding that the policy refers to height above the mean natural ground level, it is not practical to apply this methodology for properties with significant crossfall. There is a precedence for front fence height to be measured from the natural ground level and for front fencing to step down in response to crossfall.</p> <p>The proposal seeks to establish solid sections of the front wall in the vicinity of a pedestrian alcove to a maximum height of 2700mm to a maximum height of 3700mm. The provision of a dedicated pedestrian entry point is supported in principle. It is additionally acknowledged that the current front wall is non-compliant with the policy and that the proposed design incorporates 90% visually open blade fencing and an open aspect gate.</p> <p>Nonetheless, when viewed from the footpath the front sections of the front fencing will be imposing and completely obscure a view of the house from some aspects. It is the planning assessment that the design and materiality of the front fencing is of a complementary design; however, the scale is unacceptable and not consistent with the policy objectives.</p>
<p>Vehicular Crossover Policy and Technical Specification</p>	<p>The proposal requires works within the verge to establish the new (relocated) crossover and modifications to traffic calming assets to facilitate safe access and egress. A juvenile tree in the verge will also need to be relocated.</p> <p>Modifications to traffic calming assets within The Esplanade are subject to further detailed design and approval by the Manager of Infrastructure Services. Porters have independently reviewed engineering plans prepared by Peritas on behalf of the proponent. It is the opinion of Porters that the crossover gradient can comply with AS2890.1 and</p>

	<p>that traffic management controls could be deployed such that only a single lane of traffic need be closed at any one time. An alternative median island design is preferred and will need to be confirmed in consultation with Porters.</p> <p>Although not specifically addressed within the R-Codes or the local planning policy framework, headlight spill from vehicles accessing the site is likely to cause nuisance until such time that landscaping reaches a state of maturity. It is acknowledged that the formerly proposed brushwood fence has been extended along the southern property boundary replacing the blade fencing. The degree to which the solid fencing will mitigate the spill has not been quantified.</p>
<p>Tree Management Strategy</p>	<p>The Tree Management Strategy (Strategy) provides guidance for the care, protection, and preservation of Shire trees and defines the circumstances in relation to the tree removal and development applications. Developers are encouraged to retain and protect existing trees on Shire land wherever possible to preserve the amenity of the streetscape. The Strategy does not permit tree removal if in the way of a non-essential crossover or verge paving option. The Strategy states that <i>Removal of street trees for the placement of new crossovers will only be considered where all other design options have been sought.</i></p> <p>The Manager of Infrastructure Services has not objected to the relocation of the juvenile verge tree (WA Weeping Peppermint) provided all costs are borne by the proponent.</p>

<u>STATE POLICY</u>	
Policy	Assessment/Comment
<p>State Planning Policy 2.10 Swan-Canning River System</p>	<p>State Planning Policy 2.10 identifies the key issues that should be taken into account in planning and decision-making in relation to the Swan and Canning rivers. The policy contains guiding principles for future land use and development.</p> <p>The promotion of sensitive design and built form to complement the river landscape encourages the selection and use of external finishes and materials based on materials and hues naturally occurring or predominantly used in the locality. Proposals for development in and enhance the quality and setting of the river. Proposals for development should be considered in the context of the river setting and the characteristics of the development site, particularly in regard to building height, bulk, scale, form, orientation and location.</p> <p>The external finishes and materials of the street wall are considered to satisfy the policy principles pertaining to design and development. The siteworks and resultant height and bulk of the street wall is not consistent in the context of its setting and the characteristics of the site.</p>

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications evident at this time.

SOCIAL IMPLICATIONS

There are no social implications evident at this time.

OFFICER COMMENT

The site works, retaining walls and fencing as proposed have been assessed to not satisfy the applicable design principles contained in the R-Codes, and the local planning policy framework.

A compelling case was not previously made to significantly raise the natural ground levels between the street boundary and the street and adjacent to the southern lot boundary, to vary the policy provisions for front boundary fencing, and for the relocation of the vehicular crossover. The new application is fundamentally unchanged, and the grounds for Council to favourably reconsider the proposal are not upheld.

An engineering assessment has been prepared on behalf of the proponent by Peritas to demonstrate the ability for works within the road reservation to comply with technical standards. The assessment has been independently verified by Porters. It is the view of Porters that the proposed design will need to be refined to align with broader traffic works programmed for that section of The Esplanade. A condition of any subsequent development approval will need to confirm project management and detailed design acceptance arrangements, and ensure all design, direct project management, and traffic management costs are wholly borne by the proponent/landowner. Relocating the existing crossover will cause some disruption to road users and pedestrians. Indirect project management costs will likely be incurred by the Shire.

The proposal fails to adequately respect the natural topography for the site, the relationship and interface with the adjoining southern property or the amenity of the locality through the provision of extensive fill, walls and fencing. Approval would otherwise result in undue and adverse impacts on the use enjoyment and amenity of the southern landowner and the streetscape amenity within the locality.

The proposed walling and interface with the street, detracts from the significance and perspective of the heritage building through its reduced visibility, particularly when experienced from the adjacent footpath street. It is acknowledged that motorists' view perspectives towards the building are less affected due to the physical separation distance from the road to the property boundary.

It remains the planning assessment that activation of the front garden and improved access to the main front entry of the house is not in itself sufficient grounds to support this component of the proposal in its current form and modify infrastructure within the road reservation.

The job of the decision-maker is to determine the application before it – not to second guess what could be achieved. Notwithstanding, given the significant revisions required to bring the suite of ancillary site works into conformity with the planning framework it is impractical to condition the submission of amended plans. It is additionally acknowledged that the proponent has not evidenced through the new application a desire for compromise that any such condition would necessitate.

The site works, retaining walls and fencing as proposed have been assessed to not satisfy the applicable design principles contained in the R-Codes, and the state and local planning policy framework and, for this reason, it is recommended that the proposal be refused.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.1

That Council refuse DA2022/00029 lodged on 28 October 2022 for Works Ancillary to a Single House (Siteworks, Retaining Walls and Fencing) on the following grounds:

- 1. The Proposal is inconsistent with the Objectives of Part 5 Section 5.2 Streetscape which requires consideration of the following:**
 - a. *To contribute towards the character of streetscapes including their views and vistas and provides security for occupants and passers-by, a landscape to ensure adequate shade, privacy and open space for occupants, and an attractive setting for the collection of buildings.***
- 2. The Proposal is inconsistent with the Objectives of Part 5 Section 5.3 Site Planning and Design which requires consideration of the following:**
 - a. *To ensure each development makes a contribution to a streetscape by respecting the natural topography for each site, adjoining properties and the amenity of the locality.***
- 3. The Proposal is inconsistent with the Design Principles of Element 5.3.7 – Site Works.**
- 4. The Proposal is inconsistent with the Design Principles of Element 5.2.4 – Street Walls and Fences .**
- 5. The proposal is inconsistent with the Design Principles of Element 5.4.1 – Visual Privacy .**
- 6. The Proposal is inconsistent with the Design Principles of Element 5.2.5 – Sight lines.**
- 7. The development is inconsistent with the aims and provisions of the Scheme pursuant to Clause 67(2)(a) which seeks to preserve the amenity of the Shire and the quality and characteristics of its streetscapes.**
- 8. The siteworks and resultant height and bulk of the street wall is inconsistent with the policy principles of State Planning Policy 2.10 Swan-Canning River System pertaining to design and development. Specifically, the siteworks and**

resultant height and bulk of the street wall is not consistent in the context of its setting and the characteristics of the site.

- 9. The submissions made previously and as part of this modified proposal raise relevant planning concerns with the proposal including headlight spill which is not specifically addressed by local planning policy.**

Advice Note.

- 1. 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.**

8.1.2 28 The Esplanade – Single House and Ancillary Works (Withdrawn)

- WITHDRAWN BY THE PROPONENT 10 MARCH 2023 -

8.1.3 Scheme Amendment No. 2 – Recoding Lot 24 and Lot 26 (No. 12) Johnston Street, Peppermint Grove from Residential ‘R15’ to Residential ‘R40’

ATTACHMENT DETAILS

Attachment No	Description
Attachment 1	Scheme Amendment Report - Rowe Group

Location / Address	:	Lot 24 & Lot 26 (No.12) Johnston Street, Peppermint Grove
Application Number	:	LPS4 Scheme Amendment No. 2
LPS No 4 Zoning	:	Residential R15
Land Use	:	Single House & Vacant
Lot Area	:	1503m ²
Disclosure of Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	The Rowe Group
Owners	:	The Shire of Peppermint Grove & S L Yu
Assessing Officer	:	Mr J Gajic
Authorising Officer	:	Mr J. Gajic

PURPOSE OF REPORT

To seek a Council resolution to initiate advertising of Local Planning Scheme 4 (LPS4) Scheme Amendment No. 2 enable the redevelopment land zoned Residential R15 in a manner that is appropriate given its location between Residential ‘R80’, ‘R40’ and R15 coded lots.

SUMMARY AND KEY ISSUES

- The subject land is zoned Residential (R15).
- State Planning Policy 5.4 Road and Rail Noise applies to the subject land as it is located within 250m of the Fremantle Train Line and Stirling Highway.
- The Shire has since 2016 been investigating the viability of diverting stormwater from abutting Shire land (Lot 24).
- Advice was recently sought from the Shire as to the planning merit of recoding immediately abutting privately owned land being Lot 26 (No.12) Johnston Street.
- A single scheme amendment to facilitate the recoding of both lots was considered consistent with orderly planning. Rowe Group now acts on behalf of both parties.
- It is proposed that the subject site be recoded to ‘R40’ to reflect the site context and residential density of the surrounding area including Mixed Use ‘R80’ to the west, and Residential ‘R40’ to the south in the Town of Mosman Park.
- Recoding is consistent with the ‘Urban’ zoning under the MRS and the state planning policy framework, notably Perth and Peel @3.5 Million, the Central Metropolitan Sub-Regional Planning Framework, and Liveable Neighbourhoods.
- Recoding the subject site is consistent with the objective of the Residential zone under LPS4 and the Local Planning Strategy 2016.

- Appropriate controls to guide the future development of the subject site are already available under the Local Planning Scheme, the Residential Design Codes (Volumes 1 and 2) and the associated planning framework.

LOCATION

Lot 24 & Lot 26 (No.12) Johnston Street, Peppermint Grove. The subject site is located directly opposite Cottesloe Primary School and is situated approximately 125m from commercial tenancies (including IGA) along Stirling Highway, 600m from Mosman Park Train Station and 700m from Cottesloe Train Station. .

BACKGROUND

The subject site has a total approximate land area of 1503m², with a frontage of approximately 30.2m to Johnston Street.

Lot 24 is owned by the Shire in freehold and is currently being utilised for drainage purposes and incidental storage. Aside from a Western Power transformer on the northeast corner, Lot 24 presents as vacant land.

The existing development on Lot 26 presents as a two-storey dwelling of contemporary design and was constructed sometime between December 2008 and February 2010 to replace the original dwelling.

CONSULTATION

Preliminary advice was initially sought from the Shire by the landowners and their planning consultants the Rowe Group in relation to progressing a Scheme Amendment to recode Lot 26 (No.12) Johnston Street. Shire staff were of the view that recoding Lot 26 (No.12) Johnston Street had planning merit and it would be logical for Rowe Group to progress a Scheme Amendment to concurrently recode both Lot 24 and Lot 26 to an 'R40' residential density.

Investigations continue to be progressed in relation to the current use of Lot 24 for drainage purposes. A number of reports on the diversion of stormwater have been previously prepared for the Shire by Consulting Engineers, with the most likely scenario to divert the stormwater into underground storage units.

The Shire has held separate discussions with the Department of Planning, Lands and Heritage (DPLH) to progress a Report of Review and in respect to the recoding of the subject land. The Report of Review will inform any recommendations for a new Local Planning Strategy and will foreshadow an Omnibus Scheme Amendment. The recoding of similarly positioned land to more logically step down from Mixed Use 'R80', as well as from District Centre and Residential 'R80' is seriously entertained and necessary to achieve infill development targets under Perth and Peel @ 3.5 million. The DPLH was supportive of the recoding initiative in light of the site context and alignment with the state planning policy framework.

STRATEGIC IMPLICATIONS

Recoding of land will inform the strategic planning initiatives contained in the forthcoming Report of Review. The Report of Review will provide recommendations on the review of the Shire's Local Planning Strategy and LPS4.

LOCAL PLANNING POLICY IMPLICATIONS

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

STATUTORY IMPLICATIONS

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

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

This Scheme Amendment has planning merit and is consistent with the foreshadowed step down in density from Mixed Use 'R80', as well as from District Centre and Residential 'R80' to achieve state prescribed infill density targets in the least obtrusive and logical manner.

The Scheme Amendment is considered to be a 'standard' amendment for which referral to the EPA is required under section 81 of the Planning and Development Act 2005. The EPA must provide its advice to the Shire whether an environmental review is required prior to the commencement of advertising for a period of at least 42 days.

A standard amendment is the default amendment process for scheme amendments. WAPC consideration of the amendment prior to the local government advertising the proposal is not required. The WAPC has 60 days to consider a standard amendment and provide a recommendation to the Minister.

The Shire will need to consider any subsequent submissions prior to resolving to support the Scheme Amendment. In the unlikely event that the EPA requires an environmental review, it too will need to consider the submissions.

As stated in the Scheme Amendment Report prepared by The Rowe Group, this Scheme Amendment is appropriate and justified for the following reasons:

- The site is within 125m of a range of existing commercial uses along Stirling Highway in a Mixed Use zone which is intended to facilitate mixed-use developments with a residential density code of R80.
- Given the ‘R80’ coding of land on Johnston Street, a coding of ‘R40’ would be a logical ‘step down’ to the ‘R15’ zoning.
- The site is situated 600m from Mosman Park Train Station and 700m from Cottesloe Train Station.
- The subject site is located directly adjacent to Cottesloe Primary School across Johnston Street which contributes to the range of facilities and services located in close proximity to the site.
- The proposed residential density of ‘R40’ on the subject site is compatible with the R40 density coded land to the south within the Town of Mosman Park.
- The proposal is supported by the relevant planning framework, including SPP 3 – Urban Growth and Settlement Policy, Liveable neighbourhoods and the Shire of Peppermint Grove Local Planning Strategy.
- The proposal will help facilitate infill development targets under Perth and Peel @ 3.5 million.
- The proposal is consistent with the Shire’s foreshadowed recommendations that will be contained in the Report of Review for a new Local Planning Strategy.

For the reasons outlined above it is recommended that the standard Scheme Amendment be adopted for advertising and referred to the EPA.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.3

That Council adopts the proposed standard Scheme Amendment No. 2 to recode Lot 24 and Lot 26 (No. 12) Johnston Street, Peppermint Grove from Residential ‘R15’ to Residential ‘R40’ and, to refer the proposed amendment to the EPA, and to initiate advertising subject to satisfying any EPA requirement.

8.2 MANAGER INFRASTRUCTURE

INFRASTRUCTURE

NIL

8.3 MANAGER CORPORATE AND COMMUNITY SERVICES

CORPORATE

8.3.1 List of Accounts Paid- February 2023

ATTACHMENT DETAILS

Attachment No	Description
Attachment	Accounts Paid – February 2023

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

PURPOSE OF REPORT

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

SUMMARY AND KEY ISSUES

Significant payments in February 2023 included the following:

- ATO Pay as you go Tax
- Superannuation
- WMRC

BACKGROUND

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

FEBRUARY PAYMENT TYPE	NUMBER SERIES	AMOUNT
EFT	506-508	\$192,634.47
Direct Debits	392-403	\$ 14,308.34
B PAY	296	\$ 1,782.00
Credit Cards – January 2023		\$ 7,022.27
TOTAL		\$215,747.08

CONSULTATION

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

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

Accounts are paid during the month in accordance with Delegation 2 “Payments from the Municipal Fund and the Trust 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 2022/23 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, cheque and direct debit payments for the month of February 2023, totalling \$ 208,724.81.**
- 2. Credit Card payments for January 2023 totalling \$ 7,022.27.**

8.3.2 Financial Management Statements for the period ended the 28th February 2023

CORPORATE

<u>Attachment No</u>	<u>Details</u>
Attachment	Financial Statements for the period ended 28/02/2023

Voting Requirement	:	Simple Majority
Subject Index	:	Financial Statements- 2022/23
Disclosure of Interest	:	Nil
Responsible Officer	:	Michael Costarella

PURPOSE OF REPORT

To receive the financial statements for the period ended 28TH February 2023.

SUMMARY AND KEY ISSUES

During the period of ended the 28th February 2023, with the levying of the rates and refuse charge, there is a large surplus shown in the Consolidated Income Statements.

BACKGROUND

The Monthly Financial Statements are prepared in accordance with the requirements of the Local Government Act & Financial Management regulations and are presented to Council for information.

Overall, there is a 1.19% (less) variance between the operating year to date budget and year to date actuals. This is mainly attributed to total rates income included as well as less than expected employee costs and materials and contractors.

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 shows a large surplus that is attributed to the levying of the Rates and Refuse Charges. This surplus is drawn down through the financial year.

The major differences between the year-to-date budget and actual expenditure are shown below and which are less than the anticipated year to date budget. This is attributed to projected monthly cash flow not reflecting actual expenditure. There is no impact on the budget anticipated.

- Contributions & Donations-\$114,000

The amount is less than the expected year to date budget as there are CAPEX projects for the Grove Library that were anticipated to be completed.

- Fees & Charges-\$50,000

The amount is less than the expected year to date budget and relates to development applications and building fees.

- Employee Costs- \$50,000

The amount is less than the expected year to date budget as the employee costs budget was distributed evenly over 12 months. This will correct itself at the end of the financial year.

- Contract & Materials- \$231,000

The amounts are less than the expected year to date budget for the following accounts: -

○ Materials & Contracts	\$125,000
○ Consultancies	\$ 84,000
○ Building Maintenance	\$ 22,000

Investment of Municipal and Reserve Funds- as at 28th February 2023.

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

Fund and TD Number	Amount Invested	Start Date	Maturity Date	Term (Days)	Interest Rate %	Expected Interest
Reserves	\$1,700,204	30/1/2023	30/5/2023	120	4.10%	\$ 22,925.00
Reserves Interest Receivable						\$ 22,925.00
Municipal PFA Acc	\$1,323,373	ON CALL			3.35%	\$3,768.41
Municipal Interest Received						\$3,768.41

OFFICER RECOMMENDATION/S – ITEM NO. 8.3.2

That Council receives the financial report for the period 1 July 2022 to 28th February 2023.

8.4 CEO MANAGEMENT/GOVERNANCE/POLICY

8.4.1 Peppermint Grove Reconciliation Action Plan

MANAGEMENT/GOVERNANCE/POLICY

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1	RAP Framework
Attachment 2	RAP Reflect template
Attachment 3	RWG Terms of reference

Voting Requirement	:	Simple
Subject Index	:	Reconciliation Action Plan
Disclosure of Interest	:	Nil
Author	:	CEO
Responsible Officer	:	CEO

PURPOSE OF REPORT

This report considers the commencement of the Shire's Reconciliation Action Plan (RAP).

SUMMARY AND KEY ISSUES

- Local Governments are encouraged to develop a RAP.
- RAP have four stages, with the first stage being Reflect.
- A Community Reference group (CRG) will be established to develop the Reflect RAP.

LOCATION

N/A

BACKGROUND

The Shire is part of Wadjuk Noongar country and the developing of a RAP is part of having meaningful engagement and part of the reconciliation journey with the traditional custodians of the land.

The attached RAP Framework (sourced from www.Reconciliation.org.au) outlines the pathway to develop a RAP.

What is a RAP

A RAP is a strategic document that supports an organisation's business plan. It includes practical actions that will drive an organisation's contribution to reconciliation both internally and in the communities in which it operates. There are four types of RAP that an organisation can develop: Reflect, Innovate, Stretch and Elevate.

Reflect – Scoping reconciliation

A Reflect RAP clearly sets out the steps you should take to prepare your organisation for reconciliation initiatives in successive RAPs. Committing to a Reflect RAP allows your organisation to spend time scoping and developing relationships with Aboriginal and Torres Strait Islander stakeholders, deciding on your vision for reconciliation and exploring your sphere of influence, before committing to specific actions or initiatives. This process will help to produce future RAPs that are meaningful, mutually beneficial and sustainable.

Innovate – Implementing reconciliation

An Innovate RAP outlines actions that work towards achieving your organisation’s unique vision for reconciliation. Commitments within this RAP allow your organisation to be aspirational and innovative in order to help your organisation to gain a deeper understanding of its sphere of influence, and establish the best approach to advance reconciliation. An Innovate RAP focuses on developing and strengthening relationships with Aboriginal and Torres Strait Islander peoples, engaging staff and stakeholders in reconciliation, developing and piloting innovative strategies to empower Aboriginal and Torres Strait Islander peoples.

Stretch – Embedding reconciliation

A Stretch RAP is best suited to organisations that have developed strategies, and established a strong approach towards advancing reconciliation internally and within the organisation’s sphere of influence. This type of RAP is focused on implementing longer-term strategies, and working towards defined measurable targets and goals. The Stretch RAP requires organisations to embed reconciliation initiatives into business strategies to become ‘business as usual’. Elevate – Leadership in reconciliation An Elevate RAP is for organisations that have a proven track record of embedding effective RAP initiatives in their organisation through their Stretch RAPs and are ready to take on a leadership position to advance national reconciliation.

Elevate – Leadership in reconciliation

An Elevate RAP is for organisations that have a strong strategic relationship with Reconciliation Australia and actively champion initiatives to empower Aboriginal and Torres Strait Islander peoples and create societal change. Elevate RAP organisations also require greater transparency and accountability through independent assessment of their activities.

Each type of RAP is designed to suit an organisation at different stages of their reconciliation journey.

The RAP framework enables organisations to contribute to reconciliation by:

- *building and encouraging relationships between Aboriginal and Torres Strait Islander peoples, communities, organisations, and the broader Australian community.*
- *fostering and embedding respect for the world’s longest surviving cultures and communities*
- *develop opportunities within your organisation or services to improve socio-economic outcomes for Aboriginal and Torres Strait Islander peoples and communities.*

What is a RAP Working Group

The RAP Working Group (RWG) is considered the governing body of the RAP. The RWG is ultimately responsible for the development, implementation and reporting phases of a RAP. It is therefore important to establish an effective RWG in order to develop a RAP.

CONSULTATION

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

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

The review of the Policy Manual ensures that the Shire's policies and practices remain current and relevant.

STATUTORY IMPLICATIONS

There are no specific statutory requirements in respect to this matter.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

The development of a reflect RAP will align with the Shire's Community Strategic Plan for outcomes.

Strategic Priority Social Goal – *“A community enjoying high levels of wellbeing and safety”* – Objective – *“Promote community connection and activation”*.

Strategic Priority Governance Goal – *“Aligned and accountable Council and Community Leadership”* Objective – *“Engage, Communicate and consult with our community and stakeholders”*.

OFFICER COMMENT

The RWG will need to be established, and will comprise elected members, the CEO or his nominee and community members, appointed via the invitation to join the RWG through local

advertising. The Terms of Reference for the RWG are attached. Assistance may also be sought from consultants experienced in developing local government RAPs. It is possible that the RWG may still be required to be in place after the upcoming October elections, elected member representation needs to take this into consideration.

OFFICER RECOMMENDATION/S – ITEM NO 8.4.1

That Council;

- 1 Acknowledges the commencement of the development of the Shire’s Reflect Reconciliation Action Plan.**
- 2 Approves the establishment of a Reconciliation Working Group as per the attached Terms of Reference.**
- 3 Calls for nominations for community members positions.**
- 4 Authorises the Shire President and CEO to appoint from the community member nominations, the members of the reconciliation Working Group.**
- 5 Appoints Cr_____ and Cr_____ to the Reconciliation Working Group.**

8.4.2 Matters for Information and Noting

ATTACHMENT DETAILS

<u>Attachment</u>	<u>Description</u>
Attachment refers to	
Attachment 1	Building/Planning Statistics
Attachment 2	Infringements Issued
Attachment 3	Library Statistics
Attachment 4	Recycling Statistics
Attachment 5	Minutes from the Library Management Group Meeting held 7 th March 2023
Attachment 6	Minutes from the Annual Electors Meeting held 28 th February 2023.

Voting Requirement	:	Simple Majority
Subject Index	:	Matters for Information March 2023
Disclosure of Interest	:	Nil
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 issues
- Demolition permits issues
- 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 on 28th March 2023:

1. Planning Approvals
2. Infringements
3. Library Statistics
4. Recycling

5. Minutes from the Library Management Group Meeting held on 7 March 2023
6. Minutes from the Annual Electors Meeting held on 28th February 2023.

CONSULTATION

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

STAFF COMMENT

Container Deposit Scheme

Council receives a contribution towards the Container Deposit Scheme each month for containers that are collected from the Shire's recycling bins. The scheme provides a 50-50 net benefit share to Council which commenced in October 2020.

The following are the contributions received since October 2020:-

• October – December 2020	\$ 1,971.00
• January – March 2021	\$ 2,802.74
• April – June 2021	\$ 732.95
• July- September 2021	\$ 1,554.31
• October- December 2021	\$ 927.28
• January- March 2022	\$ 1,783.33
• April – June 2022	<u>\$ 581.66</u>
• TOTAL	\$10,353.27

The Coffee Grove

The Library Management Group (LMG) have accepted the proposal from the Coffee Grove proprietors for an adjustment of their rent to 30 June 2023.

OFFICER RECOMMENDATION/S – ITEM NO 8.4.2

That Council:

1. receives the information in this report; and
2. endorses a reduction in the annual rent for the Coffee Grove to \$5,800 for the period 1st February to 30th June 2023.

9. COMMITTEE REPORTS

AUDIT GOVERNANCE AND RISK MANAGEMENT COMMITTEE

9.1 2022 Compliance Audit Report

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1 – Item refers	Compliance Audit Report for 2022

Voting Requirement	Simple Majority
Subject Index	Financial Management Audit
Disclosure of any Interest	Nil
Responsible Officer	Michael Costarella, Manager Corporate & Community Services

PURPOSE OF REPORT

The purpose of this report is to present to Council the 2022 Compliance Audit Return (CAR) for adoption and endorsement.

SUMMARY AND KEY ISSUES

There were 95 questions within the Compliance Audit Return and there were no questions of non-compliance that were identified.

BACKGROUND

Completion of the Compliance Audit Return is a Statutory requirement and requires endorsement by the Audit Committee and adoption by Council.

Following the CAR being presented to Council, a certified copy of the return along with the relevant section of the minutes and any additional information be submitted to the Director General of the Department of Local Government no later than the 31 March 2023.

CONSULTATION

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

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

Local Government (Audit) Regulations 1996- Clause 14

14. Compliance audits by local governments

- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) *The local government’s audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) *After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*
 - (a) *presented to the council at a meeting of the council; and*
 - (b) *adopted by the council; and*
 - (c) *recorded in the minutes of the meeting at which it is adopted.*

15. Certified copy of compliance audit return and other documents to be given to Departmental CEO

- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —*
 - (a) *a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*
 - (b) *any additional information explaining or qualifying the compliance audit, is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.*
- (2) *In this regulation —*

certified *in relation to a compliance audit return means signed by —*

 - (a) *the mayor or president; and*
 - (b) *the CEO.*

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 2022 CAR consisted of 95 Questions within the following compliance areas:-

- Commercial Enterprises by Local Governments – 5 Questions
- Delegation of Power / Duty- 13 Questions

• Disclosure of Interest-	22 Questions
• Disposal of Property-	2 Questions
• Elections-	3 Questions
• Finance-	7 Questions
• Integrated Planning and Reporting-	3 Questions
• Local Government Employees-	5 Questions
• Official Conduct-	4 Questions
• Optional Questions-	9 Questions
• Tenders for Providing Goods and Services-	22 Questions

OFFICER RECOMMENDATION/COMMITTEE RECOMMENDATION – ITEM No 9.1

That Council adopts the 2022 Compliance Audit Return as attached to the Audit Governance and Risk Management Committee Agenda of 14 March 2023.

CONFIDENTIAL REPORT

9.2 Debtors Write Off- Uncollectable Outstanding Amounts

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 9.1

That Council close this part of the meeting to the public in accordance with Section 5.23 (b) of the Local Government Act.

10. NEW BUSINESS INTRODUCED BY DECISION OF COUNCIL

10.1 Adoption of Amended Local Planning Policy LPP5 – Plot Ratio

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Description</u>
Attachment 1	Local Planning Policy 5 – Plot Ratio for adoption
Attachment 2	Local Planning Policy 5 – Plot Ratio for adoption with tracked changes

Voting Requirement	:	Simple Majority
Disclosure of any Interest	:	Nil.
Previous Items	:	Item 8.1.2 28 February 2023 Item 9, 24 November 2020 Item 8.1.3, 22 September 2020
Assessing Officer	:	Mr J Gajic
Authorising Officer	:	Mr J. Gajic

PURPOSE OF REPORT

To seek Council support to the amendment of Local Planning Policy 5 – Plot Ratio (LPP5).

SUMMARY AND KEY ISSUES

- An amended LPP5 was advertised for public comment for a period of twenty-one (21) days closing on 24 March.
- The ‘plot ratio’ calculation methodology contained in LPP5 varies that for ‘plot ratio area’ contained in the Residential Design Codes of Western Australia (R-Codes).
- Legal advice has been obtained confirming the legitimacy of LPP5 and, specifically, the ability to vary the R-Codes calculation methodology.
- Information Sheet – Residential Development (Information Sheet) was prepared last year and published on the Shire’s website to capture the nuances of the local planning policy framework and to articulate how planning officers are interpreting these nuances.
- Alignment between the Information Sheet and LPP5 is proposed to be improved and the calculation methodology better articulated through the revisions contained in the amended LPP5.
- A minor revision to the advertised amended LPP5 is proposed in response to submissions received.

BACKGROUND

Plot ratio means the ratio of the floor area of a building to an area of land within the boundaries of the lot or lots on which the building is located.

Plot ratio has been a feature of the Shire’s planning schemes since at least Local Planning Scheme no. 2 that was gazetted in 1976 and has contributed to the amenity of the area and helped defined streetscape character by controlling the bulk and scale of residential development.

Clause 32(1) of Local Planning Scheme no. 4 (LPS4) introduces the additional site development requirement for R10, R12.5, R15 and R20 Coded areas to have a maximum plot ratio of 0.5 unless otherwise determined by the local government.

The current LPP5 was adopted in 2020 and provides a context as to the intent of the application of plot ratio and the methodology to assess the bulk and scale of development. The methodology for calculating plot ratio varies from the methodology for calculating plot ratio area contained in the R-Codes. Furthermore, the R-Codes Volume 1 does not apply plot ratio area to residential development other than to ancillary accommodation and aged or dependent persons dwellings.

CONSULTATION

Council was briefed on the practical application of LPP5 and the legal advice obtained confirming to its legitimacy following the November 2022 Agenda Briefing Session. Recommended revisions to LPP5 were flagged at this time.

The Information Sheet was developed last September with input from Councillors in October 2022. The Information Sheet has been available to the public since November.

The amended LPP5 was required under Schedule 2, Part 2, Division 3, Clause 4(2) of the Deemed Provisions to be advertised for a period not less than twenty-one days. The amended LPP5 was uploaded to the Shire’s website on 3 March and published in two editions of The Post newspaper (4 March and 11 March).

STRATEGIC IMPLICATIONS

There are no strategic implications evident at this time.

LOCAL PLANNING POLICY IMPLICATIONS

The proposed revisions to LPP5 do not directly or adversely impact on other local planning policies.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications evident at this time.

SOCIAL IMPLICATIONS

There are no social implications evident at this time.

OFFICER COMMENT

The application of plot ratio to single dwellings is unique to the Shire of Peppermint Grove's local planning policy framework. As such, it is a requirement that is often overlooked or incorrectly calculated by proponents when preparing development applications. The Information Sheet – Residential Development was drafted last September and subsequently presented to the Council. The Information Sheet is a working document that was initially made available to the public last November and uploaded to the Shire's website in January. The Information Sheet has improved the ability for proponents to identify the nuances of the Shire's local planning policy framework in a single document and how planning officers interpret scheme and policy provisions.

The current LPP5 is less generous in its application of deductions (areas that do not contribute to the calculation of plot ratio). The amended LPP5 does not seek to overhaul the methodology for calculating plot ratio, but rather clarify how and when the methodology is practically applied. Anomalies and grammatical errors have also been corrected, and defined terms contained in the R-Codes introduced where practical.

A dwelling a 750m² lot remains entitled to a maximum floor space (excluding basements) of 460m². This floor space figure is derived by calculating 0.5 of the lot area (375m²) plus the maximum permissible excluded floor spaces being 0.1 of the lot area (75m²) plus 10m² for a storeroom.

A dwelling on a 1000m² lot remains entitled to a maximum floor space (excluding basements) of 610m². This floor space figure is derived by calculating 0.5 of the lot area (500m²) plus the maximum permissible excluded floor spaces being 0.1 of the lot area (100m²) plus 10m² for a storeroom.

What is proposed is the introduction of additional floor spaces that do not contribute to the calculation of plot ratio. These additional floor spaces include:

- Carports which can be included in the 50m² or 5% of the lot area (whichever is the lesser) currently afforded to garages.
- Porches, patios and gate houses which can be included in the 50m² or 5% of the lot area (whichever is the lesser) currently afforded to verandahs, balconies and courtyard alfresco areas. It is noted that the undefined term alfresco is proposed to be replaced by the R-Codes defined term patio.
- Cellars now treated the same as a basement for the purposes of exemption.
- Basements or cellars need not have a building above to be eligible for exemption.
- Lift shafts now only calculated at the ground level.
- Pergolas and retaining walls not forming part of a building excluded.

The need to update LPP5 was identified as a part of a broader review of local planning policy review. The next focus of this broader review is LPP8 – Construction Management Plans, and LPP12 - Front Fences.

The application of local planning scheme requirements and local planning policy provisions are subject to Council discretion. Notwithstanding, scheme requirements sit higher in the planning policy framework hierarchy. As such, that they hold more weight in the event of

relying on the design principles in the R-Codes or a review at the State Administrative Tribunal. This is an important consideration given both proforma objections assert that height and bulk can be otherwise adequately controlled through the R-Codes and alternative local planning policies.

Summary of Objections

A summary of the two proforma objection letters and the officer's response (in italics) follows:

Proforma letter 1 was signed by 23 parties:

- The proposed policy dramatically changes what can be excluded from plot ratio.

There is no proposed reduction in the maximum permissible exclusion of floor area, or areas that can be excluded. Additional floor spaces are proposed to be excluded from the calculation of plot ratio.

- Restricts construction and lowers property values.

The policy intent remains to control the scale and bulk of development and facilitate a range of housing. The revised policy is not anticipated to affect property values.

- Restricts no more than two cars to be parked off-street.

It is unclear on what basis this assertion is made. The R-Codes prescribes a minimum rather than a maximum number of off-street parking spaces as is not varied by local planning scheme or local planning policy provisions. The extent of floor area that can be excluded for garages is unchanged, carports are now specifically referenced as being able to be excluded. Uncovered parking spaces do not contribute to plot ratio.

- Policy should relax restrictions on two storey homes where height and open space is compliant.

Local planning policies are not to be applied inflexibly and are not a law or statute. Current practice has regard to height and open space compliance when considering whether Council discretion should be applied.

Proforma letter 2 was signed by 16 parties (including 5 who add additionally signed proforma letter 1):

- Limitations placed on garage exclusions will not enhance our street scapes.

The ability to exclude a capped garage floor area from the plot ratio calculation is unchanged.

- Site characteristics should be taken into account for basements.

The requirement for a basement to be 'entirely underground' as defined in the local planning scheme is unchanged. The additional qualifier for a basement floor to be below the mean natural ground level is proposed to be removed. This could enable a

basement on a significantly sloping site that does not meet this additional qualifier to now be excluded from the plot ratio calculation.

- Includes previously excluded verandahs and balconies that by default must have privacy screens that take away lifestyle quality.

The ability to exclude a capped verandah or balcony floor area from the plot ratio calculation is unchanged. The need to address visual privacy and protect the lifestyle quality of both proponents and affected parties whether through physical separation or screening is a requirement of State Planning Policy 7.3 (R-Codes) and is not varied by the current or draft local planning policy.

- Restricts the ability to house teenagers or ageing family members and devalues properties.

The draft planning policy prescribes additional floor spaces that can be excluded from the calculation of plot ratio. It is unclear on what grounds adoption of the draft local planning policy would devalue a property.

- An open forum should be held to better inform ratepayers of the proposed changes.

Consultation has been undertaken in accordance with statutory obligations and in accordance with the direction of elected matters.

Summary of Support

A summary of the two letters in support and the officer's response (in italics) follows:

- The recently announced revision to the definition of plot ratio should be supported.
- Shire must recognise the strategic importance of plot ratio from a community perspective. No single measure better defines the basis for assigning community amenity between properties.
- Over development increases the developer's share of amenity, and the value is taken from the loss in amenity of every-one else in the community.

The plot ratio definition in the Scheme is not proposed to be changed. The calculation methodology is proposed to be clarified to remove ambiguity.

- Supported in principle on the grounds that it assists in the regulation and maintenance of a landscaped setting which contributes to the amenity of the municipality.
- Consideration should be given to the removal of the need for a basement or cellar to have a building above given such spaces do not contribute to scale or bulk.

The Scheme definition of a basement is already varied by LPP5 in that the policy does not differentiate between habitable or non-habitable spaces. It is reasonable that basements being an entirely underground space need not have a building above. The recommended change is supported. The revision has been tracked and will not change the policy intent and is considered minor so as to not require readvertising.

In response to submissions received the amended LPP5 for adoption has been further modified and the changes tracked. The current requirement for an otherwise compliant basement to have a building above to be excluded from the calculation of plot ratio does not have a nexus with the policy intent to control the bulk and scale of development. This current requirement should be omitted.

Evidence of the stated longevity of plot ratio as a feature of the Shire's schemes was sought. A copy of Local Planning Scheme no. 1 gazetted in 1961 was unable to be sourced at this time. The initial introduction of plot ratio can be track to the introduction of Local Planning Scheme no. 1 gazetted in 1976. The historical reference in LPP5 carried over to the advertised amended LPP5 has been adjusted accordingly.

It is not a statutory requirement to readvertise minor amendments. Modifications to the advertised amended LPP5 have been tracked – see attachment 2.

Council can proceed with the advertised amended LPP5 with or without further modifications or can resolve to not proceed with the policy. The current LPP5 may also be revoked and not updated subject to publishing of a notice in a locally circulated newspaper. It is impractical to revoke LPP5 without first amending the local planning scheme to remove all references to plot ratio.

Should the Council resolve to proceed with the amended policy a further public notice will be published confirming adoption.

OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 8.1.5

That Council adopts Local Planning Policy 5 – Plot Ratio (as amended) and publishes a notice in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.

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___pm, there being no further business the meeting closed.