



Shire of
Peppermint Grove

SPECIAL MEETING OF COUNCIL

MINUTES

**HELD ON
TUESDAY 4 OCTOBER 2016
AT
5.30 PM**



Shire of Peppermint Grove

Notice of Meeting

Dear Councillor

It is advised that the **SPECIAL MEETING OF COUNCIL** was held in the Council Chamber of the **Shire of Peppermint Grove**, 1 Leake Street, Peppermint Grove, on Tuesday 4 October 2016, commencing at 5.30 pm.

MEETING AGENDA ATTACHED

Yours faithfully

Mr Paul Rawlings
Acting/CHIEF EXECUTIVE OFFICER

4 October 2016

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Shire of Peppermint Grove

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Shire of Peppermint Grove

SPECIAL MEETING OF COUNCIL

1. DECLARATION OF OFFICIAL OPENING

At 5.33pm, the Shire President declared the meeting open 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.

2. RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE

2.1 ATTENDANCE

Shire President	Cr R Thomas
Deputy Shire President	Cr C Hohnen
Elected Member	Cr K Farley (arrived 6.09pm)
Elected Member	Cr S Fleay
Elected Member	Cr D Horrex
Elected Member	Cr G Peters

Manager Corporate Services	Mr P Rawlings Acting CEO
Manager Development Services	Mr M Whitbread
Executive Officer	Ms M Tabbakh (Minutes)

Visitors Nil

Gallery Nil Members of the Public

1 Members of the Press



2.2 APOLOGIES

Elected Member, Cr P Macintosh
Manager Library and Community Services, Ms D Burn
Manager Infrastructure Services, Mr D Norgard

2.3 LEAVES OF ABSENCE

Chief Executive Officer, Mr John Merrick

3. DELEGATIONS AND PETITIONS

3.1 DELEGATIONS

Nil

3.2 PETITIONS

Nil

4. PUBLIC QUESTION TIME

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

- The Agenda
- Question to Council Forms and
- 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 Special 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

Nil

4.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

Nil

4.3 DEPUTATIONS OF THE PUBLIC

Nil

5. 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

Nil

5.2 PROXIMITY INTEREST

Shire President, Rachel Thomas – 7.1.1 Adopted Local Planning Scheme No. 4 (March 2016): Department of Planning Response. (Cottesloe Shopping Centre Site).

Cr R Thomas' property adjoins the Cottesloe Shopping Centre (Cottesloe Central).

Cr G Peters – 7.1.1 Adopted Local Planning Scheme No. 4 (March 2016): Department of Planning Response. (Cottesloe Shopping Centre Site).

Cr G Peters lives adjacent to the Grove Shopping Centre (Cottesloe Central).

5.3 IMPARTIALITY INTEREST

Nil

5.4 INTEREST THAT MAY CAUSE A CONFLICT

Nil

5.5 STATEMENT OF GIFTS AND HOSPITALITY

Nil

6. ANNOUNCEMENTS AND DECLARATIONS BY ELECTED MEMBERS

6.1 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil

7. CHIEF EXECUTIVE OFFICER REPORTS

7.1 URBAN PLANNING

At 6.34pm Shire President Cr R Thomas and Cr G Peters left the Council Chambers.

The Deputy Shire President Cr C Hohnen presided in her absence.

DECLARATION OF INTEREST – PROXIMITY

Shire President, Rachel Thomas' property adjoins Cottesloe Shopping Centre Site.

Cr G Peters lives adjacent to the Cottesloe Shopping Centre Site.

7.1.1 Adopted Local Planning Scheme No.4 (March 2016): Department of Planning Response. (Cottesloe Central Shopping Centre Site).

URBAN PLANNING

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	Nil

Voting Requirement	:	Simple Majority
Subject Index	:	LPS 4
Location / Property Index	:	N/A
Application Index	:	N/A
TPS No 3 Zoning	:	N/A
Land Use	:	N/A
Lot Area	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	Michael Whitbread, Manager of Development Services

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, town planning schemes & policies.*

- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application / matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

PURPOSE OF REPORT

For Council to consider a response to the issues raised in the Department of Planning comments concerning the draft Scheme. The need for further change has been prompted by the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2016.

This report deals specifically with the proposed change in designation and requirement for Cottesloe Central Shopping Centre from being a Development Area requiring a Structure Plan to an Activity Centre requiring an Activity Centre Plan.

SUMMARY AND KEY ISSUES

- The Department of Planning has proposed further amendments to draft Local Planning Scheme No.4.
- Some changes are administrative and are the result from the introduction of the Planning and Development Regulations 2015.
- Several proposed changes are contrary to previous advice received and would have a detrimental effect on the character of Peppermint Grove in the longer term.
- A response contesting these issues has been recommended.

LOCATION

N/A

BACKGROUND

The Shire submitted its draft Local Planning Scheme No.4 and Local Planning Strategy in September 2012 to the Department of Planning for approval to advertise. The overall tenor of the draft Scheme drafted on the basis of community workshops and survey held between 2007 and 2011, was to provide additional density along Stirling Highway to meet Directions 2031 housing targets

Approval to advertise was granted in October 2014 subject to a number of changes to the Scheme text to meet the Model Scheme Text of the Town Planning Regulation 1967.

Following three months of public consultation beginning in July 2015, further changes to the Scheme text resulted from public comments received as well as the need to respond to the Planning and Development (Local Planning Scheme) Regulations 2015. It was also necessary to rewrite substantial sections of the Local Planning Strategy in response to several changes to State Planning Policy, such as the Activity Centres Policy and Direction 2031. The final version adopted by Council in March 2016 and forwarded to the WAPC.

CONSULTATION

The proposed scheme and strategy were advertised extensively from July to October 2015. Copies of these documents have remained available on the Shire's website.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no policy implication associated with this aspect of the review of the draft Scheme.

STATUTORY IMPLICATIONS

There are no statutory implications associated with this particular aspect of the issues raised by the Department of Planning in regard to Cottesloe Shopping Centres designation under the draft Scheme.

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

Since the first submission to the Department of Planning their feedback has been helpful in so far as updating the draft Scheme to meet the Model Scheme Text and making amendments in order for the Local Planning Strategy to reflect current State Government Policy.

In regard to the change in the planning designation proposed for Cottesloe Central Shopping Centre a Structure Plan (as now defined) calls for future zoning and subdivision planning, which would not be applicable to this site. On the other hand an activity Centre Structure Plan requires that a site must comply with SPP Activity Centres policy as well as setting out a process for the acceptance of such a plan in a similar way to that of structure plan.

It is assessed that the designation in the zoning map of Cottesloe Central as an Activity Centre would not be detrimental to the future orderly and proper planning of the site and the on this basis the change proposed can be supported.

OFFICER RECOMMENDATION/S – ITEM No. 7.1.1

- 1. That Council advises the Department of Planning that it supports the proposed changes to bring it into line with the Planning and Development (Local Planning Scheme) Regulations 2015, in regard to the zoning of the Cottesloe Shopping Centre as an Activity Centre rather than a Development Zone.**

AMENDMENT

MOVED: Cr K Farley, SECONDED: Cr D Horrex

The words “Cottesloe Shopping Centre”, to be changed to, “Cottesloe Central”.

CARRIED: 6/0

SUBSTANTIVE MOTION:

MOVED: Cr K Farley, SECONDED: Cr D Horrex

That:

- 1. Council advises the Department of Planning that it supports the proposed changes to bring it into line with the Planning and Development (Local Planning Scheme) Regulations 2015, in regard to the zoning of the Cottesloe Central as an Activity Centre rather than a Development Zone.**

CARRIED: 6/0

At 6.40pm Shire President Cr R Thomas and Cr G Peters returned to the Council Chambers.

7.1.2 Adopted Local Planning Scheme No.4 (March 2016): Department of Planning Response.

URBAN PLANNING

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1	Nil

Voting Requirement	:	Simple Majority
Subject Index	:	LPS 4
Location / Property Index	:	N/A
Application Index	:	N/A
TPS No 3 Zoning	:	N/A
Land Use	:	N/A
Lot Area	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	Michael Whitbread, Manager of Development Services

COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
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PURPOSE OF REPORT

For Council to consider a response to the issues raised in the Department of Planning comments concerning the draft Scheme. The need for further change has been prompted by the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2016.

SUMMARY AND KEY ISSUES

- The Department of Planning has proposed further amendments to draft Local Planning Scheme No.4.
- Some changes are administrative and are the result from the introduction of the Planning and Development Regulations 2015.
- Several proposed changes are contrary to previous advice received and would have a detrimental effect on the character of Peppermint Grove in the longer term.
- A response contesting these issues has been recommended.

LOCATION

N/A

BACKGROUND

The Shire submitted its draft Local Planning Scheme No.4 and Local Planning Strategy in September 2012 to the Department of Planning for approval to advertise. The overall tenor of the draft Scheme drafted on the basis of community workshops and survey held between 2007 and 2011, was to provide additional density along Stirling Highway to meet Direction 2031 housing targets

Approval to advertise was granted in October 2014 subject to a number of changes to the Scheme text to meet the Model Scheme Text of the Town Planning Regulation 1967.

Following three months of public consultation beginning further changes to the Scheme text resulted from public comments received as well as the need to respond to the Planning and Development (Local Planning Scheme) Regulations 2015. It was also necessary to rewrite substantial sections of the Local Planning Strategy in response to several changes to State Planning Policy, such as the Activity Centres Policy and Direction 2031. The final version was adopted by Council in March 2016 and forwarded to the WAPC.

CONSULTATION

The proposed scheme and strategy were advertised extensively from July to October 2015. Copies of these documents have remained available on the Shire's website.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

One of the unintended consequences of the 2015 Planning and Development (Local Planning Scheme) Regulations 2015, appears to be that discrete development standards in Local Planning Schemes applicable to residential development in order to maintain the character and amenity of a locality may have been extinguished.

In response the Department of Planning has proposed that such unique Scheme provisions now be included into a Local Planning Policy (LPP). This would avoid the need to correct Planning and Development (Local Planning Scheme) Regulations 2016. The proposed amendments to the R-Codes, as outlined in the report to Council on the 27 September 2016 (item 9.1.2 refers), would now contain a new clause allowing LPP to deal with these streetscape matters.

However, whereas planning policy is currently done at a local government level the proposed R-Code amendment, if successful, would require WAPC to grant approval for any policy made under the amended clause.

STATUTORY IMPLICATIONS

Although the Planning and Development (Local Planning Schemes) Regulations 2015, were introduced in 2015, the exact implications for both existing and draft Local Planning Schemes are still to be fully appreciated. The emphasis on the imposing standardised R-Codes provision in Local Planning Schemes without due regard of the local context will almost certainly necessitate further changes in the coming months.

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

Since the first submission to the Department of Planning the feedback has been helpful in so far as updating the draft Scheme to meet the Model Scheme Text and making amendments in order for the Local Planning Strategy to reflect current State Government Policy.

The table below summaries the changes proposed by the department with a planning comment provided in response.

LPS 4 Provision	Dept. of Planning Comment	SPG Planning Comment
Model Scheme Text format	Revamped to reflect the LPS Regulations 2016	No objection. Regulation section is in a schedule that can be updated as necessary without affecting the entire document.
Zoning Table within the Scheme	Shire can choose the location	Preferably within the Scheme and not as a Schedule in the scheme provisions.
Local Centre Zone	Mixed-Use is the preferred term now.	The definition of Mixed Use is somewhat clearer in regard to residential development than Local Centre. Can be supported.
Mapping Anomalies	A) Re-zoning of ROW and ST Hilda's Principal's house needs further explanation. B) Public ROW to be shown as Local Roads on Scheme Map	Minor details but the intention of the current zoning should be maintained by whatever method is acceptable to both the Shire and the WAPC. .
ROW shown as zoned land	ROW should be zoned Mixed Use/Commercial R80 to match with the adjoining commercial land	No Objection.
Scheme Objective and Definitions	Amend to reflect Model provisions.	No objection, very similar wording and includes by reference the objectives in the Local Planning Strategy
Additional Uses PLC site.	PLC 'Office Use' to be broadened as per PLC Submission for Educational Establishment	OBJECT These former dwellings are still zoned residential and forms a buffer between the school and nearby housing. The Educational Establishment 'additional use' proposed is rezoning by stealth.
Use Class Table	Recommends adopting definitions of liquor store <i>large</i> and <i>small</i> .	No objection; precludes the development of large format liquor outlets in Local Centres.
Star of the Sea; Proposed zoning to Residential R80	Proposes to retain current zoning educational zoning on the basis that the current land-uses will 'outlive' the new scheme.	OBJECT It is important to ensure incremental creep, in the form of non-residential land uses, does not permeate the site. .

Irvine Street to Keane Street	Non-Conforming Use (Pool shop and Liquor Store) should be rezoning to Mixed Business	<i>OBJECT</i> ; this would require re-advertising and therefore slow down the final adoption of the Scheme. Suggest this be dealt with by a separate amendment.
Ancillary Accommodation (120m ² and single storey)	Suggests that the increased floor area and height restrictions be included in a policy. If in the scheme a DA is not required.	No objection. A policy outlining Council's position under the Design principals would ensure that a DA is required and assessed under preferred planning criteria for floor areas larger than 70m ²
LPS 4 Provision	Dept. of Planning Comment	SPG Planning Comment
Oswal Site	Proposes to retain the current R10 and portion R25 zoning.	<i>OBJECT</i> The small area of the site at the northern end of Bungalow Court is zoned R25. This would lead to awkward lot boundaries if Lot 2 was subdivided and additional traffic in Bungalow Court.
Plot Ratio	This is not available in any other low density areas in WA	<i>OBJECT</i> ; This unique provision has shaped the Shire's built form for over 50 years.

The Planning and Development (Local Planning Scheme) Regulations 2016 has raised a plethora of questions in regard to the types of provisions that can be incorporated into the draft Scheme due to the Deemed provision being imposed. This situation of course poses exactly the same questions as to the validity of the current Scheme.

Councillors and staff are able to attend this meeting and make a presentation to the WAPC on the issues raised.

Given that several other LGA's are also in the process of seeking Ministerial Approval of Local Planning Schemes, it is important that the Shire is able to put its case forward in this forum especially as there appears to be some scope at this stage for interpretation.

OFFICER RECOMMENDATION/S – ITEM No. 7.1.2

That Council advises the Department of Planning that it does not support some aspects of the proposed amendments to draft Local Planning Scheme No. 4, to bring it in line with the Model Scheme provisions of the Planning and Development (Local Planning Scheme) Regulations 2015, for the reasons outlined below.

- a) Plot ratio has been a development standard applied in the Shire since the 1960's and has successfully prevented over development of sites by limiting bulk and scale of new dwellings. This has significantly contributed to the retention of Peppermint Groves garden suburb character. The removal of plot ratio will over time, erode the character of the Shire.
- b) The Star of the Sea site has been earmarked for residential development. The owners of the site, the Catholic Church has not objected to the proposed zoning. It is important to ensure incremental creep in the form of non-residential land uses permeate the site. The Director General has in writing supported the planned residential zoning in the face of the unfortunate decision by the DAP.
- c) The PLC land zoned residential and this zoning is in place to ensure a buffer exists between the school and adjoining private housing. The additional use proposed by PLC's Planning Consultant of 'Educational Establishment' is in effect rezoning by stealth and would allow uses that exceed the previously agreed non-teaching administrative function to free up land within PLC for educational purposes.
- d) Mapping Anomalies. The rationale behind the two separate zones on the one lot at St Hilda's is the result of the building of a Principals house on a portion of land that is in Peppermint Grove. The background was that there was to be no intrusion of non-residential land uses into the adjoining residential land. The Shire will support an alternative means providing that the intent of the original zoning can be maintained.
- e) Oswal Site: This is the former site of the Oswal Mansion. The R25 zoning is over a small portion of the land and its inevitable re subdivision would result in illogical lot boundaries.

Cr K Farley arrived at 6.09pm

AMENDMENT

MOVED: Cr R Thomas, SECONDED: Cr C Hohnen

- a) Plot ratio - include the following sentence at the end of the paragraph to read- "without providing any additional dwelling."
- b) The Star of the Sea site - remove the word "uses" in the second last sentence, replace with - "does not", to read - "it is important to ensure incremental creep in the form of non-residential land does not permeate the site."
- c) The PLC land - add a full stop after the word "function". delete- "to free up land with PLC for educational purposes."

- d) **Mapping Anomalies** Leave as is
- e) **Oswal Site** – “This is the site of the former Oswal mansion. The R25 zoning over a small portion of a single lot an error on the Scheme map. Reinstatement of these R25 Lots would prejudice the orderly sub division of Lot 2.”
- Include the following:
- f) **Ancillary Dwelling** - There is no objections to the removal of the floor area of the Special Application, of the Residential Design Code, subject to single story height limit remaining in this section of the Scheme (Category A of the Residential Design Code).

CARRIED 6/0

SUBSTANTIVE MOTION:

Moved: Cr R Thomas, Seconded: Cr C Hohnen

That:

Council advises the Department of Planning that it does not support some aspects of the proposed amendments to draft Local Planning Scheme No. 4, to bring it in line with the Model Scheme provisions of the Planning and Development (Local Planning Scheme) Regulations 2015, for the reasons outlined below.

- a) **Plot ratio** has been a development standard applied in the Shire since the 1960's and has successfully prevented over development of sites by limiting bulk and scale of new dwellings. This has significantly contributed to the retention of Peppermint Grove's garden suburb character. The removal of plot ratio will erode the character of the Shire, without providing any additional dwellings.
- b) **The Star of the Sea site** has been earmarked for residential development. The owners of the site, the Catholic Church has not objected to the proposed zoning. It is important to ensure incremental creep in the form of non-residential land does not permeate the site. The Director General has in writing supported the planned residential zoning in the face of the unfortunate decision by the DAP.
- c) **The PLC land** zoned residential and this zoning is in place to ensure a buffer exists between the school and adjoining private housing. The additional use proposed by PLC's Planning Consultant of 'Educational Establishment' is in effect rezoning by stealth and would allow uses that exceed the previously agreed non-teaching administrative function.
- d) **Mapping Anomalies.** The rationale behind the two separate zones on the one lot at St Hilda's is the result of the building of a Principals house on a portion of land that is in Peppermint Grove. The background was that there

was to be no intrusion of non-residential land uses into the adjoining residential land. The Shire will support an alternative means providing that the intent of the original zoning can be maintained.

- e) **Oswal Site:** This is the site of the former Oswal mansion. The R25 zoning is over a small portion of a single lot and is an error on the Scheme map. Reinstatement of these R25 lots would prejudice the orderly subdivision of Lot 2.

- f) **Ancillary Dwelling** There is no objection to the removal of the floor area in the “Special Application of the Residential Design Codes”, subject to single a story height limit remaining in this section of the Scheme (Category A of the “Residential Design Codes’, for height).



7.2 INFRASTRUCTURE

Nil

7.3 COMMUNITY DEVELOPMENT

Nil

7.4 CORPORATE

Nil

8. NEW BUSINESS OF AN URGENT NATURE

Nil

9. MOTION TAKEN ON NOTICE

Nil

10. CONFIDENTIAL ITEMS OF BUSINESS

Nil

11. CLOSURE

At 6.42 pm, there being no further business the meeting closed.