



Shire of  
**Peppermint Grove**

# **ORDINARY COUNCIL MEETING**

**DRAFT**

# **AGENDA**

*The draft agenda submitted to this Forum is subject to change and should not be read as the final Agenda to the next Ordinary Council Meeting. The final Agenda will be placed on the Shire's website on the Friday before the Scheduled meeting.*

**TO BE HELD ON**  
**TUESDAY 23 JULY 2019**  
**AT**  
**5.30 PM**



# Shire of Peppermint Grove

## **DRAFT MEETING AGENDA ATTACHED**

### **DISCLAIMER**

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*Any person or entity who has an application before the Shire must obtain, and should only rely on, written notice of the Shire's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Forum meetings.*

*Any advice provided by an employee of the Shire on the operation of a written law, or the performance of a function by the Shire, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the Shire. Any advice on a matter of law, or anything sought to be relied upon as a representation by the Shire should be sought in writing and should make clear the purpose of the request.*



# Shire of Peppermint Grove

## TABLE OF CONTENTS

ITEM	SUBJECT HEADING	PAGE
1	<b>DECLARATION OF OFFICIAL OPENING</b>	<b>5</b>
2	<b>RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE</b>	<b>5</b>
2.1	ATTENDANCE	5
2.2	APOLOGIES	6
2.3	LEAVES OF ABSENCE	6
2.4	NEW REQUEST FOR A LEAVE OF ABSENCE	6
3	<b>DELEGATIONS AND PETITIONS</b>	<b>6</b>
3.1	DELEGATIONS	6
3.2	PETITIONS	6
4	<b>PUBLIC QUESTION TIME</b>	<b>7</b>
4.1	RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE FROM A PREVIOUS MEETING	7
4.2	QUESTIONS FROM MEMBERS OF THE PUBLIC	7
4.3	DEPUTATIONS OF THE PUBLIC	7
5	<b>DECLARATIONS OF INTEREST</b>	<b>8</b>
5.1	<b>FINANCIAL INTEREST</b>	<b>8</b>
5.2	<b>PROXIMITY INTEREST</b>	<b>8</b>
5.3	<b>IMPARTIALITY INTEREST</b>	<b>8</b>
5.4	<b>INTEREST THAT MAY CAUSE A CONFLICT</b>	<b>8</b>
5.5	STATEMENT OF GIFTS AND HOSPITALITY	9
6	<b>ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)</b>	<b>9</b>
7	<b>CONFIRMATION OF MINUTES</b>	<b>9</b>
7.1	ORDINARY COUNCIL MEETING 25 JUNE 2019	9

<b>8</b>	<b>OFFICER REPORTS</b>	<b>10</b>
8.1	MANAGER DEVELOPMENT SERVICES	10
8.1.1.	42 View Street – Ancillary Dwelling/Store Room above Existing Garage	10
8.1.2	2 Bay View Terrace – Plan Amendment to DA2019/00001	16
8.1.3	12 The Esplanade – Single House - Additions and Conservation Works	20
8.1.4	PLC – Entry Signage Corner of View and McNeil Street	26
8.1.5	17 View Street – Installation of Elevator to Exterior of Single House.	31
8.1.6	47 Johnston Street – Modifications to Boundary Brick Wall/Fence (BA2019/00023)	35
8.2	MANAGER INFRASTRUCTURE SERVICES	39
8.3	MANAGER LIBRARY SERVICES & COMMUNITY DEVELOPMENT	39
8.4	MANAGER CORPORATE SERVICES	40
8.4.1	Financial Report – June 2019	40
8.4.2	Accounts Paid – June 2019	44
8.4.3	Matters for Information and Noting	47
8.5	CEO/ MANAGEMENT / GOVERNANCE / POLICY	49
8.6	COMMITTEE REPORTS	49
<b>9</b>	<b>NEW BUSINESS OF AN URGENT NATURE</b>	<b>49</b>
<b>10</b>	<b>MOTIONS ON NOTICE</b>	<b>49</b>
<b>11</b>	<b>CONFIDENTIAL ITEMS OF BUSINESS</b>	<b>49</b>
11.1	CEO Annual Performance Review	49
<b>12</b>	<b>CLOSURE</b>	<b>49</b>

Shire of  
**Peppermint Grove****DRAFT 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 the efficient, effective and orderly decision making within this forum.***

**2 RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE****2.1 ATTENDANCE**

Shire President  
Deputy Shire President  
Elected Member  
Elected Member  
Elected Member

Cr R Thomas  
Cr C Hohnen  
Cr D Horrex  
Cr G Peters  
Cr P Macintosh

Manager Library Services  
Manager Corporate and Community Services  
Manager Development Services  
Manager Infrastructure Services

Ms D Burn  
Mr M Costarella  
Mr R Montgomery  
Mr D Norgard

**Gallery**               Members of the Public  
                             Members of the Press

## **2.2 APOLOGIES**

Mr D Burnett, Chief Executive Officer

## **2.3 LEAVES OF ABSENCE**

Cr K Farley

## **2.4 NEW REQUEST FOR A LEAVE OF ABSENCE**

## **3 DELEGATIONS AND PETITIONS**

### **3.1 DELEGATIONS**

NIL

### **3.2 PETITIONS**

NIL

## **4 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.

- The Agenda
- Question to Council 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.

### **Rules for Council Meeting Public Question Time**

- 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.*
- During the Council meeting, after Public Question Time no member of the public may interrupt the meeting's proceedings or enter into conversation.*
- Whenever possible, questions should be submitted in writing at least 48 hours prior to the start of the meeting.*
- 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.*
- 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**

## **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**

*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.*

*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.*

### **5.3 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 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

## 7 CONFIRMATION OF MINUTES

### 7.1 ORDINARY COUNCIL MEETING 25 JUNE 2019

#### OFFICER RECOMMENDATION

Moved:

Seconded:

That the Minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 25 June 2019 be confirmed as a true and accurate record.

### 7.2 SPECIAL COUNCIL MEETING 2 JULY 2019

#### OFFICER RECOMMENDATION

Moved:

Seconded:

That the Minutes of the Special Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 2 July 2019 be confirmed as a true and accurate record.

## 8 OFFICER REPORTS

### 8.1 MANAGER DEVELOPMENT SERVICES

#### 8.1.1. 42 View Street – Ancillary Dwelling/Store Room above Existing Garage

#### URBAN PLANNING

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Development Application Plans

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	42 View Street
Application Index	:	DA2019/00014
LPS No 4 Zoning	:	Residential - R12.5
Land Use	:	Residential
Lot Area	:	1459m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Richard Simpson
Owner	:	Ginza Pty. Ltd
Responsible Officer	:	Mr. Ross Montgomery – 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**

Council is requested to consider the proposed Ancillary Dwelling/Storage Room above an existing garage at the rear of 42 View Street Peppermint Grove.

## **SUMMARY AND KEY ISSUES**

- The development is proposing to build a ancillary dwelling/store room above an existing garage at the rear of the 42 View Street, Peppermint grove.
- The current garage is set back 2 metres from the R.O.W and will remain unchanged, with the proposed development having the same footprint.
- Proposed new development exceeds maximum wall and roof height for an ancillary dwelling (see Local Planning Scheme **LPS 4** assessment check sheet).

## **LOCATION**

42 View Street, Peppermint Grove

## **BACKGROUND**

The applicant contacted the Shire earlier this year (2019) to enquire about building a granny flat/store room above an existing garage. Shire staff advised the applicant that although an ancillary dwelling is P (permitted) use in a Residential zone, that is *provided* the structure meets all development standards of LPS 4 and Residential Planning Codes.

Table 3 of the R Codes addresses building heights. LPS 4 indicates that Category A heights apply to ancillary dwelling, and in any case the ancillary dwelling shall not exceed 1 storey. The lodged plans show the proposed development being over a garage (so technically it is at second storey level) as well in this case the maximum height for the entire structure exceeds the 3m wall and 6m roof heights. Even if the loft on the top o the garage was considered acceptable to the Council, the applicant was advised the heights were not consistent wit the LPS 4 and R Codes and so a planning application would be required to request Council to exercise its discretion to vary the Scheme with regard to heights before the proposed development could be approved.

## **CONSULTATION**

Because the proposal has the potential to impact neighbouring properties a letter was sent to adjoining neighbours on the 4<sup>th</sup> of June 2019 to advise about the proposed works, invite them to view plans and make comment. This consultation period closed on the 18<sup>th</sup> of June 2019 and the Shire has received comments of objection from one adjoining neighbour who opposes the proposed development for the following reasons:

- The building is classed as Category A, and as such the proposed development is over height.
- Approving the proposed development will set a precedent for other owners in the area to construct the same type and scale of ancillary dwelling.

- That the proposal will not contribute to the established look and feel of the area in any way.
- There could be potential for the ancillary dwelling to be let out as an Airbnb (Bed and Breakfast – under LPS 4) Under 3 months not permitted
- The proposed structure could have other issues involving setback from the R.O.W, plot ratio, overshadowing, and privacy.

### **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident.

### **POLICY IMPLICATIONS**

Local Planning Policy 4 (Residential Building Heights LPP 4) addresses residential building heights within the Shire but does not apply to ancillary dwellings.

This probably because the Scheme states that ancillary dwellings are covered by Category 4 and shall be no more than single storey.

### **STATUTORY IMPLICATIONS**

#### **Local Planning Scheme No.4**

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

<b>LOCAL PLANNING SCHEME NO. 4</b>	
<b>Scheme Requirement/Clause</b>	<b>Assessment/Comment</b>
<b>1.</b> Section 26, Clause 1 of the Shire of Peppermint Groves' Local Planning Scheme 4 requires that, "The maximum height of an ancillary dwelling shall be determined in accordance with the R-Codes for Category 'A' area buildings and shall not exceed 1 storey."	<p>The proposed development is proposing a building height of 6.95m to the top of the wall with a concealed roof. If ancillary dwellings were to be considered a Category B building, then the development would be deemed-to-comply. However, the R-Codes stipulate a maximum wall height of 4m with a concealed roof. Therefore, the proposal is well in excess of the deemed-to-comply provision by 2.95m.</p> <p>Approving an ancillary dwelling with such a big variation to the R Codes and without justification, could set a precedent and undermine design controls for future developments around the Shire.</p>

<b>RESIDENTIAL DESIGN CODES</b>		
	<b>Requirements</b>	<b>Assessment/Comments</b>
1.	Table 1 of the R-Codes stipulates a 6m rear setback for lots zoned R12.5	The proposed development is contained wholly within the building footprint of the existing garage, setback 2m from the rear boundary. While this building is not proposing to change the setback, it will increase the bulk and height of the garage and therefore its potential to dominate and overshadow the rear setback area and laneway.
2.	Part 5.5.1 of the R-Codes requires the maximum plot ratio area of an ancillary dwelling to be 70m <sup>2</sup> .	The dimensions included in the proposed plans display a plot ratio area of 79m <sup>2</sup> . Therefore, the proposal is not deemed-to-comply and shall be assessed against the design principles.

### **FINANCIAL IMPLICATIONS**

There are no financial implications.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications.

### **SOCIAL IMPLICATIONS**

There are no social implications.

### **OFFICER COMMENT**

Response to neighbour comments that:-

- The building is classed as Category A, and as such the proposed development is over height.  
*This is correct, and the point is valid. Council would need to consider justification.*
- Approving the proposed development will set a precedent for other owners in the area to construct the same type and scale of ancillary dwelling.  
*The question of precedent is not relevant where the Shire is required to consider design principles and therefore it must be demonstrated in each case the proposed variation will result in a superior design outcome than a Deemed to Comply design. Any other variation would be subject to the same process before it could be judged acceptable and superior.*
- That the proposal will not contribute to the established look and feel of the area in any way.

*This a subjective statement and not a planning criterion – there are examples of other structures at the rear of properties which may or may not qualify on these grounds.*

- There could be potential for the ancillary dwelling to be let out as an Airbnb (Bed and Breakfast – under LPS 4)

*The LPS 4 requires Bed and Breakfast premises to be specifically assessed and approved. The application does not contemplate this use and is not part of this application. Use is not allowed unless specifically approved.*

- The proposed structure could have other issues involving setback from the R.O.W, plot ratio, overshadowing, and privacy.

*The building design impact issues raised would need to be addressed as part of a design principles assessment of the proposal.*

## Assessment

The development application for 42 View Street, Peppermint Grove, proposes an ancillary dwelling (described by the applicant as a Granny Flat/Storage Room) as an addition above the existing garage at the rear of the property, backing onto the R.O.W.

The Scheme states that an ancillary dwelling shall be no more than 1 storey in height and by inference this would therefore rule out the case for an ancillary dwelling being situated atop another structure because this would have a direct bearing on the height as well as being more than 1 storey.

Aside from this the design does not comply with heights for the walls, and if Council was of the mind to approve a variation to the height it must assess and be satisfied that the proposed variation in height delivers a superior design outcome to the deemed to comply, and this can only be assessed against the Design Principles articulated in the R Codes.

On the positive side of an assessment the proposed addition sits within the footprint of the existing garage (excluding external stairs) and does not add to the site coverage of development on the lot and setbacks to the rear and neighbours do not change. The design seeks to demonstrate it is also sympathetic to the privacy of neighbours by identifying all site lines and cones of vision from the first floor do not overlook neighbouring properties. Setback to the northern neighbour is 1.4m which is compliant with the R-Codes.

The proposal has a total wall height of 6.95m (the ancillary dwelling on top of the existing garage). Local Planning Scheme 4 classifies ancillary dwellings as a Category A Building in the R-Codes and provides a maximum wall height of 4m (with a concealed roof).

The proposed building is in excess of the maximum height by 2.95m and proposes a significant amount of new bulk within the setback area at the rear of the property.

Setback the R.O.W is only 2m which is not compliant under Table 1 of the R-Codes (6m rear setback), however the building was constructed in this manner several years' ago, but as a garage and not a habitable building.

The proposed building is also in excess of the maximum plot ratio floor area of 70m<sup>2</sup> stipulated by deemed-to-comply section of Part 5.5.1 of the R-Codes. However, the plot ratio of the site with the proposed development included is does not exceed 0.5 (0.45 final plot ratio).

The primary area of design compliance concern for the development is therefore that the proposed wall height exceeds deemed to comply heights of the R Codes. This point has been highlighted by the objecting neighbour.

The applicant has not provided a reason or justification for why the building could not be designed to comply, or why the additional height is a superior planning design outcome.

Council should only consider supporting a variation if it is satisfied the height is warranted, suitable and would provide a better design outcome than the R Code design standard.

The Scheme clearly indicates that an ancillary dwelling shall not exceed 1 storey. In addition the entire structure (garage and ancillary dwelling combined) exceeds the R Codes height and the proposal does not justify or explain *why* the over-height structure is warranted. This does not therefore suggest a superior design outcome and does not reference the R Code Design Principles to advance the merits of the requested variation.

On balance therefore and considering the objection received the application is recommended for refusal.

#### **OFFICER RECOMMENDATION/S – ITEM NO 8.1.1**

**That Council refuses the application DA2019/00014 to develop an ancillary dwelling on top of a garage at 42 View Street Peppermint Grove for the following reasons:-**

- 1. The proposed ancillary dwelling exceeds 1 storey and the structure's maximum height will exceed Residential Design Code wall height of 4 metres and is contrary to Category A of the R-Codes and LPS 4.**
- 2. Council considers the proposed design would not deliver a good or better design or planning outcome than a fully compliant structure and therefore approval of the requested height variation cannot be justified.**

#### **Advice to Applicant**

**The Council noted objections received to the proposed design and agrees there has been no demonstrated advantage or benefit to relaxation of the height limit and cannot be justified. In terms of Design Principles assessment, the proposed design does not deliver a superior outcome compared to the R Code specification for a maximum wall height of 4 m for this building.**



**8.1.2 2 Bay View Terrace – Plan Amendment to DA2019/00001**
**URBAN PLANNING**
**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Development Application Plans

Voting Requirement	:	Simple Majority
Subject Index	:	
Location / Property Index	:	2 Bay View Terrace, Peppermint Grove
Application Index	:	DA2019/00018
LPS No 4 Zoning	:	Residential – R12.5
Land Use	:	Single House and Ancillary Dwelling
Lot Area	:	6582m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	DA2019/00001
Applicant	:	Sharp and Van Rhyn Architects
Owner	:	Mr and Mrs Gillet
Responsible Officer	:	Mr Ross Montgomery – 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 e.g. 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**

Council is requested to consider the proposed revision to plans for existing planning Development Approval DA2019/00001 at 2 Bay View Terrace, Peppermint Grove.”[

## **SUMMARY AND KEY ISSUES**

- The application is proposing to make two minor changes to the plans which received development approval in February 2019.
- The changes are to the layout and do not affect R Code or LPS 4 compliance, however it is necessary to ensure that Approved Plans and subsequent Building permit plans match.
- The ancillary ‘pool’ house has been moved approximately 2m to the west, closer to the main house. Minimum boundary setbacks are not affected
- The driveway to the basement garage has been repositioned to be at 90 degrees to Keane Street rather than curving onto the lot.

## **LOCATION**

2 Bay View Terrace, Peppermint Grove

## **BACKGROUND**

Council Approval (DA2019/00001) is proposed to be amended by this application.

The development was approved at the Ordinary Council Meeting in February 2019, subject to a design-principles assessment and following pre-lodgement design consultation and referral to abutting properties.

This process resulted in design refinements which reduced the height of the building to 9.4m at ridge height. The driveway and the ancillary dwelling were not identified to be areas of concern during the design consultation and assessment process.

## **CONSULTATION**

The proposed changes are of a minor nature, are unrelated to the height or setbacks and do not affect the compliance of the development and unlikely to affect abutting properties. The relocation of a driveway crossover does not require planning approval. The application to amend to Approved Plan does not warrant further referral for consultation with neighbours.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident.

## **POLICY IMPLICATIONS**

There are no significant policy implications evident.

## **STATUTORY IMPLICATIONS**

The amendment proposed to the plans is necessary to ensure the Approved Plan will be consistent with the Building Permit Plans. It is a statutory requirement for consistency which requires the proposed amendment to DA2019/00001. All statutory requirements of the development in accordance to LPS 4 have been addressed as a part of the original application.

## **FINANCIAL IMPLICATIONS**

There are no financial implications evident.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications.

## **SOCIAL IMPLICATIONS**

There are no social implications.

## **OFFICER COMMENT**

The proposed amendments to the Approved Plan for DA2019/00001 at 2 Bay View Terrace, Peppermint Grove make minor revision to the design of the original development approval. The application proposes two areas of change.

### Pool House Relocation

- The ancillary dwelling is being moved approximately 2 metres to the west, closer to the main house. As a result, the setback to the southern boundary also increases marginally.
- The storage space under the pool house has also been reduced in size.
- Vehicle access to the pool house from Bungalow Court has been removed.

Each of these proposed changes are considered minor and do not increase the impact on neighbouring land owners. The reduction of the storage space under the pool house also reduces the building bulk contributed by that building to the development site.

### Main House Basement Access

- The driveway access to the basement garage has been repositioned further west which creates a shorter, but steeper 1:6 grade driveway between the boundary and the basement garage.
- The repositioned driveway requires minor landscaping modifications to better connect the house and garden.

The redesign of the driveway will better connect the house to the garden; removing the considerable drop between the eastern edge of the house and the garden areas towards

Bay View Terrace. A 1:6 grade for the driveway results which will result in the garage entrance below street level and therefore being visually concealed from Keane Street.

The changes will reduce the extent of hard paving and improve the physical and visual connection between the house and garden when viewed from the east.

The proposed redesign does not increase the building bulk, and slightly increases the setback of the pool house to the southern boundary.

The repositioned driveway access to the basement garage also reducing the eastern aspect of the development because it better connects the gardens to the house. The development will have more landscaped space on the site and reduced driveway hard-standing; changes which are considered beneficial in terms of the overall design.

The proposed design revisions are minor and beneficial to the overall appearance of the house and have no impact on abutting properties. The Plan changes are recommended for approval.

#### **OFFICER RECOMMENDATION/S – ITEM NO 8.1.2**

**That Council approves the proposed amendment to Approved Plans DA2019/00001 at 2 Bay View Terrace, Peppermint Grove, subject to the following conditions:**

- 1. All conditions outlined in the original approval (DA2019/00001) are to be complied with as per the Notice of Approval.**
- 2. The plans submitted as a part of this development application shall be substituted for the approved plans included in the original development application (DA2019/00001) in so far as the identified design revisions.**

#### **Advice Note:**

**Council advises the assessment and Approval to the design changes are considered to be incidental to the original Approved Plan, are compliant with the principles of LPS 4 and the R Codes and will result in a superior design outcome for the house and the neighbourhood.**

## 8.1.3 12 The Esplanade – Single House - Additions and Conservation Works

### URBAN PLANNING

#### ATTACHMENT DETAILS

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Development Application Plans
<b>Attachment 3</b>	R-Codes Assessment Checklist

Voting Requirement : Simple Majority  
 Subject Index : DB027B  
 Location / Property Index : 12 The Esplanade, Peppermint Grove  
 Application Index : DA2019/00016  
 LPS No 4 Zoning : Residential – R10  
 Land Use : Residential  
 Lot Area : 1597m<sup>2</sup>  
 Disclosure of any Interest : Nil.  
 Previous Items : Nil.  
 Applicant : Griffiths Architects  
 Owner : Theresa Lynn Smith  
 Responsible Officer : Mr. Ross Montgomery – 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 e.g. 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**

Council is requested to consider the proposed additions and conservation works to a single house at 12 The Esplanade, Peppermint Grove.

## **SUMMARY AND KEY ISSUES**

- The application proposes extending a wing of the house towards the street to be within the 9 m street setback as required in LPS 4.
- An existing boundary wall is also to be extended in both directions along the street and southern boundaries.
- The property is listed on the Shire Heritage List and is included in the Municipal Heritage List (management category 1). The building due to its age was never designed or built to comply with the current R-Codes.
- The proposed house extensions exceed the maximum height in Local Laws and do not meet the deemed-to-comply requirements for boundary setback within the R-Codes.
- A heritage architect's assessment (engaged by applicant) supports the additions because the extension is:
  - in character with the original house, and
  - does not detract from the streetscape presentation, and
  - will update the property to accommodate a contemporary lifestyle.
- The application warrants support however Council is to be satisfied the additions are compatible with conservation of the heritage values for their approval to be granted.

## **LOCATION**

12 The Esplanade, Peppermint Grove

## **BACKGROUND**

The applicant has previously presented on two occasions to Council (08/03/2019 and 09/04/2019) with sketch drawings of the proposed works and justification for the changes proposed. Councillors have provided feedback and so the proposal was amended to respond to this advice.

The south-east corner of the property and in particular the proposed driveway and the boundary brick wall caused some concern about the visual impact onto the street and the neighbouring house. The boundary wall and garage has now been setback back and the corner curved at the corner junction. The height has been reduced and an open-view iron rail fence will be used to create a 1m balustrade on top of the boundary wall/garage instead.

This design is intended to maintain sight lines to the heritage building and the street thereby continuing a visual connection and association between the house and the street.

## **CONSULTATION**

Adjoining property owners were advised on the 11<sup>th</sup> June 2019 and invited to view and comment on the plans. This consultation period closed on the 25<sup>th</sup> of June 2019 and no official comment on the proposed development was received.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident.

## **POLICY IMPLICATIONS**

12 The Esplanade is included in the Shires Heritage List and is a Category 1 property on the Municipal Heritage List. Therefore, due regard needs to be given to Local Planning Policy 3, Heritage Places.

In this regard Council should be satisfied that:

- *Significant heritage fabric is retained;*
- *Original front elevations and features are retained and/or restored;*
- *Intrusive finishes or elements that negatively impact on the heritage significance of the building are removed; and*
- *Work is either reversible in the future or does not compromise the heritage significance of the building.*

## **STATUTORY IMPLICATIONS**

### **Local Planning Scheme No.4**

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

<b><u>RESIDENTIAL DESIGN CODES</u></b>	
<b>Acceptable Development/Performance Criteria</b>	<b>Assessment/Comment</b>
1. Front setback – 9m (Modified by Local Planning Scheme 4)	The proposed addition protrudes into the front setback of the property by 1.5m so that the front setback is 7.5m. This creates 7.3m <sup>2</sup> of floor area within the front setback area.
2. Northern boundary setback – 1.8m for a 4m wall with major openings (Table 2b R-Codes).	Existing building is setback 1.43m from the property boundary and does not meet the deem-to-comply provisions of the R-Codes. The proposed plans intend to extend the building at the current setback distance in both directions creating one 10.6m wall and another 24m wall at the same setback distance as the original building.

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications.

### **SOCIAL IMPLICATIONS**

There are no social implications.

### **OFFICER COMMENT**

The Planning Application for 12 The Esplanade, Peppermint Grove, proposes additions and conservations works to the existing single house – a heritage listed property.

The application cites that the additions are required to improve the liveability of the property, update the house and provide better vehicular access to what is currently considered by the applicant to be a constrained site.

The additions are designed to be sympathetic to the heritage fabric and scale of the building. The additions proposed for the rear of the property comply with the design principles of the R-Codes and the Scheme and are assessed as acceptable.

There is a significant crossfall on this and adjoining properties as the Esplanade descends south from Pindari Place. Abutting properties are stepped and have direct views to the south-east towards Freshwater Bay.

The extension of the façade by 1.5 m towards the street reduces the 9m front setback to 7.5m from the street boundary. This variation of setback is assessed to have negligible impact on neighbours because the ground elevation of the property to the north is significantly higher providing sight lines to the east above and unimpeded by the addition.

The existing building is setback 1.43m from the northern boundary and does not comply with R-Codes, however, is assessed to be acceptable according to a design principles assessment.

The house is heritage listed and one of the Shire's oldest buildings, the stringent application of modern design criteria may therefore not be appropriate. The proposed variation to reduce the side boundary setback. is considered by 'design principles rather than as 'deemed-to-comply with the R-Codes. (Refer table 2b)

Taking account of the variation in levels between the properties the variation to the setback to the northern boundary and street is unlikely to impact the house to the north or the street presentation. The design is considered acceptable having regard principles of the R-Codes as applied in this case warrant a recommendation of approval.

It is also proposed to build a garage within the front setback but due of the crossfall of levels it will not obscure the outlook of the house to the east. A boundary wall is proposed with an opening which matches the existing crossover. The garage in this location uses the crossfall



of the block to contain the bulk the structure underground and preserve a line of sight between the house from the street.

A further issue with the house is the difficult street access due to adjacent traffic calming devices, a barrier island, street parking restriction and a lack of a rear laneway for alternative access. The proposed garage is within the street setback but below the new-ground surface of the front garden area. On top of this is provision for visitor parking and drop-off access directly in front of the house. A new second crossover is proposed from the Esplanade on to the property at the northern boundary.

The Shire considered other designs for crossovers which were discussed however the proposed design is on balance assessed to be the most suitable because it has a lower street impact on the turf verge. The proposed new crossover works however if approved will require modification to the traffic calming devices on The Esplanade to provide access to the property from both directions. The owners via the applicant advise they are prepared to meet all costs with review, redesign and modification should this additional crossover be approved.

### **Conclusion**

The proposal is assessed against the Design Principles of the R-Codes (6.1.3 and 6.1.4) and Local Planning Policy 3 – Heritage Places (LPP 3). In making the assessment it is recognised the house has restrictions to road access, as well as limits to more extensive modification without risking deleterious impact and demolition of important elements of the heritage listed house.

Following the assessment by a design principles approach, it is accepted the approval to variations to the R-Codes in accordance with the revised and resubmitted design will limit adverse impact of the design on neighbouring properties, retain and update the heritage values for the house and create a more liveable and efficient use of space.

The proposed works accord with **guidelines** of LPP 3 to create a building which respects the design and features of the original heritage building so it may still be recognised and read as original. Approval to the proposed additions and conservation works is recommended subject to conditions.

### **OFFICER RECOMMENDATION/S – ITEM NO 8.1.3**

**Council approves the “Additions and Conservation Works” to the single house at 12 The Esplanade, Peppermint Grove, subject to the following conditions:**

- 1. Prior to the lodgement of a Building Permit application for the works, the applicant is to photographically record the heritage interior and to provide this record to the Shire of Peppermint Grove for information prior to the issue of the Permit.**
- 2. Prior to the commencement of works, the applicant shall submit for approval and thereafter implement to the satisfaction of the Shire of Peppermint Grove, a construction management plan detailing:**
  - a. How materials and equipment will be delivered and removed from the site;**



- b. How materials and equipment will be stored on the site;**
  - c. Parking arrangements for contractors;**
  - d. Construction Waste disposal strategy and location of waste disposal bins;**
  - e. Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;**
  - f. How risks of wind and/or water born erosion and sedimentation will be minimised during works;**
  - g. Other matters likely to impact on surrounding properties.**
- 3. The development plans, as dated marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the “Approved Plans” as part of this application and shall form part of the development approval issued.**
- 4. The development, the subject of this approval shall be substantially commenced within two years of the date of issue of the consent forms and be completed before the conclusion of the third year, whereby all works are to be completed and conditions met.**
- 5. All works are to be undertaken subsequent to the issue of a Building Permit and shall not be carried out, other than in accordance with this this Planning Approval and consistent with Building Permit certified/approved plans.**
- 6. Prior to issue of a Building Permit the applicant is enter into an Agreement wit the Shire to undertake to meet all costs associated with the review, redesign and modification of the Esplanade, including traffic control devices, kerbing, landscaping and should this additional crossover be approved.**

**Advice Note :-**

- 1. Council assessed the proposed works by considering the heritage value of the property, the potential of the works to conserve these values and to meet identified design principles as adequate to warrant approval in this instance.**
- 2. With regard to Condition 6 the applicant is to arrange for a transport engineering assessment and report of the additional driveway and crossover and impact mitigation with regard to vehicle speed, safety and access along The Esplanade and onto the site at 12 The Esplanade. This Report is to be assessed and accepted as satisfactory by the CEO of the Shire of Peppermint Grove and will form the basis for Condition 6 Agreement.**

**8.1.4 PLC – Entry Signage Corner of View and McNeil Street**
**URBAN PLANNING**
**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Signage Application Plans
<b>Attachment 3</b>	PLC Current Signage
<b>Attachment 4</b>	Local Planning Scheme 4 Extract – Private Clubs, Institutions, and places of Worship Zone Objectives

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	N/A
Application Index	:	DA2019/00017
LPS No 4 Zoning	:	Private Clubs, Institutions and Places of Worship
Land Use	:	Educational Establishment
Lot Area	:	N/A
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Presbyterian Ladies College
Owner	:	Presbyterian Ladies College
Responsible Officer	:	Mr Ross Montgomery – 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 e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
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## **PURPOSE OF REPORT**

Council is requested to consider the application for Signage at Presbyterian Ladies College, Peppermint Grove for illuminated entrance signs on both sides of View Street near the corner of McNeil Street.

## **SUMMARY AND KEY ISSUES**

- Application proposes two matching signs to be constructed on the southern side of the intersection of View Street and McNeil Streets in Peppermint Grove.
- The signs are proposed to be larger and illuminated and located close to the street.
- Council to be satisfied the signage proposal is justified and necessary in this location.

## **LOCATION**

Presbyterian Ladies College (PLC)  
Corner of View and McNeil Street, Peppermint Grove  
Refer to Attachment 1 – Location Map

## **BACKGROUND**

The intersection of View and McNeil Street is currently sign-posted by two coloured steel signs which announce the College to passing traffic.

This upgrade is proposed to create a more imposing formal entry statement to announce and promote the school campus as it spans View Street and faces towards McNeil Street.

## **CONSULTATION**

Residents along McNeil street were informed of the development application via mail on the 11<sup>th</sup> of June 2019 and invited to view the plans and make comment during the consultation period which closed on the 25<sup>th</sup> of June 2019. No comments were received on the proposed development during this period.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident.

## **POLICY IMPLICATIONS**

There are no significant policy implications evident.

## **STATUTORY IMPLICATIONS**

### **Local Planning Scheme No.4**

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

<b>LOCAL PLANNING SCHEME NO. 4</b>		
	<b>Scheme Requirement/Clause</b>	<b>Assessment/Comment</b>
<b>1.</b>	Schedule 2 – Clause 2 A sign which contains any of the following is not exempt: <ul style="list-style-type: none"> <li>Any illumination or radio</li> </ul>	The application proposes LED lighting behind the lettering to illuminate the lettering of the sign.  The brightness of the lights is not specified, therefore the impact on surrounding properties is unclear.  As a sign of this type is not exempt, Council will be required to provide discretion as to the suitability for the location as part of its assessment.
<b>2.</b>	Cl.32 - Minimum building setback to be 6 metres from street	The structure has a footing and is solid masonry and is proposed closer to the street than 6 metres (around 1 – 2 metres)

## **FINANCIAL IMPLICATIONS**

There are no financial implications for the Shire.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications.

## **SOCIAL IMPLICATIONS**

There are no social implications.

## **OFFICER COMMENT**

The proposed signs at PLC are subject to Schedule 2 of Local Planning Scheme 4 and therefore require assessment.

The site is zoned for Private Clubs, Institutions and Place of Worship in Scheme 4. The site is therefore zoned for uses which are consistent with the Zone Objectives and of a non-commercial nature and the Scheme does not contemplate requirement for advertising signage. Notwithstanding this point the signs proposed on the corner of the View and McNeil Street intersection replace modest but adequate smaller signs that complement other signage for the school throughout the campus.

The materials for the new sign are limestone, concrete, steel and Perspex. The design is described as sympathetic with the rest of the architecture on the campus, however the site is in front of two heritage listed brick buildings.

The scale of the proposed signs is considerably larger as both signs are much taller and wider and deeper than the current signs (proposed to be 1200mm x 4500mm); and provide more than double the existing area of signage facing this intersection.

The location of the signs is closer to both streets than the Scheme setback of 6 metres. In this location it would be difficult to achieve such a setback however there is merit in setting the signs further back from the street closer to existing structures (4 m setback is feasible).

The Shire does not have a policy which directly relates to this type of development however Council may have regard to the LPS 4 Table 2 – Zone Objectives (see attachment 4). Council should consider the size of the signs, their justification and need for the size and scale at this location and the potential impact and compatibility adjacent to a predominantly residential streetscape with several heritage listed properties.

There is already an illuminated promotional sign at the Wellness Centre on McNeil St which faces towards the Stirling Highway to promote the School.

There has been no justification provided for illumination of the sign at such a scale in this location, however. The letters are to be backlit with LED lighting, however the application provides no specification of the intensity of the light emitted or the duration of the lighting. Given the residential character a subdued rather than prominent light emission may be more sympathetic to neighbouring properties.

If the Council intends to grant approval to the replacement of the current signs the increase in size and prominence may warrant a larger setback from the street to provide clearer sightlines to the intersection (6m is the prevailing LPS 4 setback for residential development on McNeil Street and this proposal sits within 1-2m of the street boundary).

Approval should also be conditioned to address the level of light emission and effects within the context of the neighbourhood.

Compared to other schools in the vicinity PLC has significantly more prominent signage in terms of the permanence, finish and quantity.

The Shire in issuing its approval to this proposal may consider including a request that the School to embark on a review, rationalisation and reduction of promotional signage across the campus to achieve a sympathetic response to the residential character of the place.

The application is on balance assessed to warrant approval subject to conditions.

**OFFICER RECOMMENDATION/S – ITEM NO 8.1.4**

**Council approves the application for two replacement signs at Presbyterian Ladies College adjacent to the View and McNeil Street intersection on the south-east and south-west corner subject to the following Conditions:-**

- 1. Prior to the issue of a Building Permit the revision of location and submission of revised plans showing the relocation of the signs to achieve a setback of at least 4 metres from McNeil and View Streets and the intersection;**
- 2. Prior to the issue of a Building Permit the Applicant is to submit for approval to the satisfaction of the CEO a report which reviews and proposes a rationalisation of signage on surrounding streets.**
- 3. Prior to the issue of a Building Permit the Applicant is to submit details of the proposed light emission, and the duration of the lighting for the Approval of the CEO upon advice of the Manager - Development Services.**

**8.1.5 17 View Street – Installation of Elevator to Exterior of Single House.**
**URBAN PLANNING**
**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 1</b>	Location Plan
<b>Attachment 2</b>	Development Application Plans

Voting Requirement	:	Simple Majority
Subject Index	:	n/a
Location / Property Index	:	17 View Street, Peppermint Grove
Application Index	:	DA2019/00020
LPS No 4 Zoning	:	Residential – R12.5
Land Use	:	Residential
Lot Area	:	2108m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Mark Sheffield
Owner	:	Jacan Investments Pty Ltd and Geraldine Bunning
Responsible Officer	:	Mr. Ross Montgomery – 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**

Council is requested to consider the proposed private elevator (lift) to be installed at 17 View Street, Peppermint Grove.

## **SUMMARY AND KEY ISSUES**

- The house is not on the heritage list.
- Lift to be built as an external structure on the side of the house to assist owners with universal access requirements.
- Proposed lift addresses the View Street boundary but is unlikely to be visible.
- Dense tree canopy along the street verge and well landscaped garden will screen the bulk of the new structure from the street.

## **LOCATION**

17 View Street, Peppermint Grove

## **BACKGROUND**

An application for a Building Permit was originally lodged in April 2019 proposing the construction of a private lift on the property. An assessment of the application was completed which determined that a Development Application was necessary to ensure impact of the development was properly considered by Council prior to the issue of a Building Permit.

## **CONSULTATION**

The proposed lift shaft does not detract from the presentation of the house towards the street or neighbouring properties. The work is ancillary to the house structure and so it is unlikely to be visible from the street and meets setback and height requirements of the R Codes. Consultation is not necessary for this application.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications.

## **POLICY IMPLICATIONS**

There are no significant policy implications.

## **STATUTORY IMPLICATIONS**

There are no specific statutory requirements.

## **FINANCIAL IMPLICATIONS**

There are no financial implications for the Shire.



## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications.

## **SOCIAL IMPLICATIONS**

The retrofit of the elevator/lift will benefit the resident to enable them to continue to live in their home as part of the Peppermint Grove community.

## **OFFICER COMMENT**

The proposed installation of the private lift at 17 View Street, Peppermint Grove, is minor works necessary to increase functionality and usability of the house for the residents.

The proposed lift shaft will introduce an extra 3.15m<sup>2</sup> of building footprint to the western side of the property and at 6.3m in height it will align with the roof gutter height of the house. The work is setback 9.3m from its closest boundary (View Street) and is well hidden from the street by a densely planted verge and well landscaped garden. The addition is clad to match the construction materials of the house and so will not be prominent from the street.

The single house on the site is not heritage listed so the proposed works do not warrant a heritage assessment for impact. The plans show a design that it is consistent with the current building to create an addition that blends with the current house and materials. This aspect combined with the screening of the lift by landscaping will diminish the impact of the proposed works when viewed from the street.

Due to the minor nature of the proposed works and a design that integrates with the existing property approval this application is recommended for approval with standard conditions.

## **OFFICER RECOMMENDATION/S – ITEM NO 8.1.5**

**That Council approve the application for an elevator at 17 View Street, Peppermint Grove subject to the following conditions:**

- 1. The development plans, as dated marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the “Approved Plans” as part of this application and shall form part of the development approval issued.**
- 2. All works are to be subsequent to the issue of a Building Permit and shall not be carried out, other than in accordance with this this Planning Approval and consistent with Building Permit certified/approved plans.**
- 3. The development, the subject of this approval shall be substantially commenced within two years of the date of issue of the consent forms and be completed before the conclusion of the third year, whereby all works are to be completed and conditions met.**
- 4. Prior to the commencement of works, the applicant shall submit for approval and thereafter implement to the satisfaction of the Shire of Peppermint Grove, a construction management plan detailing:**

- **How materials and equipment will be delivered and removed from the site;**
- **How materials and equipment will be stored on the site;**
- **Parking arrangements for contractors;**
- **Construction Waste disposal strategy and location of waste disposal bins;**
- **Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;**
- **Other matters likely to impact on surrounding properties.**

**Advice:**

**The Shire advises that the application for Building Permit is received and will be assessed against the approved plans prior to the issue of a Permit.**

DRAFT

**8.1.6 47 Johnston Street – Modifications to Boundary Brick Wall/Fence (BA2019/00023)**
**URBAN PLANNING**
**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Development Application Plans

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	47 Johnston Street, Peppermint Grove
Application Index	:	DA2019/00019
LPS No 4 Zoning	:	Residential – R12.5
Land Use	:	Residential
Lot Area	:	
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Daniel Debattista
Owner	:	Daniel Debattista
Responsible Officer	:	Mr. Ross Montgomery – 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**

Council is requested to consider the application for proposed modification to the western boundary wall along the R.O.W at 47 Johnston Street, Peppermint Grove, a matter which requires assessment and consideration of flexibility in the application of Council Local Law - Fencing.

## **SUMMARY AND KEY ISSUES**

- The proposed modification to the brick wall is 300mm bringing the total height to 2.1m
- The fence abuts the R.O.W to the west.

## **LOCATION**

47 Johnston Street, Peppermint Grove

## **BACKGROUND**

Prior to the lodgement of the Development Application the applicant came in to discuss the options available for building a 2.1m brick wall along their boundary with a Right of Way.

They were advised that according to Local Laws a boundary wall up to 1.8m in height does not require Council approval however it requires a building permit. A structure in excess of 1.8m height requires a development application.

A building permit is necessary for all walls due to the structural requirements for engineered and specified footings and structural steel reinforcement. This is particularly relevant where the structure abuts a public thoroughfare.

The applicant expressed intention to begin construction on the wall as soon as possible, without waiting for a development approval due to the need to secure the boundary and therefore lodged an application for a building permit to construct a 1.8m wall. The application was received, and a building permit was issued by the Shire (BA2019/00023).

This Planning Application is to complete the wall to 2.1m in height.

This application also looks to modify the existing building permit to build a fence that is 2.1m tall, an addition of 300mm on top of the existing approval.

## **CONSULTATION**

The proposed fence is not on a shared boundary and as such no specific consultation has been undertaken.

## **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident.

## **POLICY IMPLICATIONS**

There are no significant policy implications evident.

## **STATUTORY IMPLICATIONS**

Shire of Peppermint Grove, Local Laws Relating to Fencing (including walls)

The proposed plans show a wall built to 2.1m in height. The Local Laws Relating to Fencing allow the Council to either approve or refuse to approve parts of a fence more than 1.8 metres and this is facilitated via a Planning Application.

Clause 8 of the Local Laws Relating to Fencing states that “A person shall not erect or amend, alter, extend or enlarge an existing fence within the district whereby the finished height of the fence exceeds 1.8 metres without also submitting written reasons therefore and the local government may in its discretion approve or refuse to approve the plans and specifications insofar as they relate to that part of the fence in excess of 1.8 metres.”

## **FINANCIAL IMPLICATIONS**

There are no financial implications evident.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications.

## **SOCIAL IMPLICATIONS**

There are no social implications.

## **OFFICER COMMENT**

The proposed modifications to the western boundary wall structure abutting the R.O.W will add 300 mm in height to wall already issued with a Building Permit.

The wall will attain a maximum height of 2.1m along the laneway with the additional height being approved. This creates a wall at the maximum height allowable subject to the granting of Council discretion (provided Council considers that height is justified).

Justification provided for the additional height is to afford a greater degree of visual privacy from passing members of the public using the Right of Way.

Although a 1.8m fence along the R.O.W is the standard requirement, a structure at this height may not adequately screen the back yard from the laneway and the oversight by large vehicles such as trucks and service vehicles. The approval of an additional 300 mm is considered reasonable provided the additional height to the wall can be certified to be structurally sound (footings and reinforcing adequate to prevent injury should the wall be struck by a vehicle or otherwise topple) by an engineer or equivalent qualified person.

The Application is therefore recommended for approval subject to conditions.

**OFFICER RECOMMENDATION/S – ITEM NO 8.1.6**

Council approves the application for modifications to raise the height of a brick wall by no more than 300 mm (BA2019/00023) at 47 Johnston Street, Peppermint Grove, and the Approval shall be subject to the following conditions:

1. The development plans, as dated marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the “Approved Plans” as part of this application and shall form part of the development approval issued.
2. All works are to be subsequent to certification by an Engineer or equivalent qualified person to be sound, before the issue of a Building Permit and works shall not be carried out, other than in accordance with this this Planning Approval and consistent with Building Permit certified/approved plans.
3. The development, the subject of this approval shall be substantially commenced within two years of the date of issue of the consent forms and be completed before the conclusion of the third year, whereby all works are to be completed and conditions met.
4. Prior to the commencement of works, the applicant shall submit for approval and thereafter implement to the satisfaction of the Shire of Peppermint Grove, a construction management plan detailing:
  - How materials and equipment will be delivered and removed from the site;
  - How materials and equipment will be stored on the site;
  - Parking arrangements for contractors;
  - Construction Waste disposal strategy and location of waste disposal bins;
  - Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
  - Other matters likely to impact on surrounding properties.

**Advice Note:**

Applicant is advised to submit a variation to the Building Permit to match the terms of the Planning Approval and Approved Plans.

**8.2 MANAGER INFRASTRUCTURE SERVICES**

NIL

**8.3 MANAGER LIBRARY SERVICES**

NIL

DRAFT

## 8.4 MANAGER CORPORATE AND COMMUNITY SERVICES

### 8.4.1 Financial Report (Interim) – June 2019

#### CORPORATE

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	Financial Report – June 2019

Voting Requirement	:	Simple Majority
Subject Index	:	FM026A
Location / Property Index	:	N/A
Application Index	:	N/A
LPS No 4 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 Costarella, Manager Corporate and Community 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**

To report on financial activity for the period 1 July 2018 to 30 June 2019.

## **SUMMARY AND KEY ISSUES**

- The INTERIM financial report for the year ended 30 June 2019 indicates a YTD surplus (net current assets) of \$628,499 – see Officer Comment note 6 for additional information;
- Operating revenue is some \$86,915 more than the budget;
- Operating expenditure (to date but subject to outstanding invoices not yet received) is some \$162,176 less than the budget;
- Capital expenditure totalling \$316,463 has been incurred with final footpath renewal invoices yet to be received.

## **LOCATION**

N/A

## **BACKGROUND**

Nil

## **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**

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

## **FINANCIAL IMPLICATIONS**

The financial report forecasts a closing (30 June 2019) surplus of \$238,017. This figure, which appears in the yellow column in the attached financial report, was slightly amended to \$240,785 in the 2019/20 budget adopted by Council on 2<sup>nd</sup> July 2019.

## **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 following comments relate to year-to-date (YTD) budget versus actuals variances or forecasts that vary from the full year estimate that are greater than \$10,000.

### **(1) Fees and Charges**

Fees and charges ended the year \$34,517 above budget due largely to additional fees for development licence fees and, to a lesser extent, building licence fees.

### **(2) Grants and Subsidies**

Grants and subsidies ended the year \$50,120 above budget due to the unexpected receipt of \$30,559 in 2019/20 general purpose grants (from the WA Local Government Grants Commission) in advance plus a \$20,707 towards "extended works" required by the Public Transport Authority associated with the new bus shelters.

It should be noted that, due to changes in accounting standards, the above \$20,707 grant plus the \$103,300 grant for the river headland project will be recognised as revenue once both projects have been completed in 2019/20. As a result, \$124,007 of grant revenue has been removed from the 2018/19 surplus (becoming a contract liability at 30 June 2019) and has been re-budgeted as revenue in the 2019/20 budget.

These changes are reflected in the forecast grant revenue column highlighted in yellow.

### **(3) Employee Costs**

Employee costs are some \$24,864 under budget at this time. This is partly due to savings in salaries for a Staff member who was not replaced.

### **(4) Materials and Contracts**

Materials and contract expenses are some \$173,764 less than expected, due largely to timing variances with respect to invoices for June 2019.

### **(5) Plant CAPEX and Proceeds from Disposal of Assets**

Replacement of the Skoda Octavia vehicle has been deferred until 2019/20.

### **(6) Net Current Assets Year-to-Date**

Net current assets as at 30 June 2019 exceed the revised budgeted figure by some \$628,421 at this stage. This is determined as follows:

Category	Impact on YTD Position	Notes
<b>Revenue</b>		
Rates	\$6,564	Interim rating raised
Fees & Charges	\$34,517	Development application fees
Grants & Subsidies	\$50,120	Grants-Riverwall
Contributions & Reimbursements	(\$9,177)	IHC/Library contribs. to be raised
Interest on Investments	\$2,556	Additional interest – municipal invests.
Other Revenue	\$2,335	Additional interest on outstanding rates
Proceeds of sale of assets	(\$29,545)	Skoda not replaced in 2019.
<b>Expenditure</b>		
Employee Costs	\$24,864	Savings in library salaries
Materials & Contracts	\$173,764	Mainly timing-related variances
Utilities	\$6,649	Timing of expenses
Interest Expenses	\$2,552	Loan guarantee fee yet to be invoiced
Insurances	(\$53)	Premiums slightly higher
Other Expenses	\$7,820	Timing of donations
Plant & Equipment Purchases	\$33,648	Skoda not replaced in 2019.
Furniture & Equip. Purchases	\$30,792	Awaiting invoices for IT equipment
Road Infrastructure	(\$9,413)	Extra costs on The Esplanade project
Other Infrastructure	\$206,600	River Headland deferred to 2019/20
Footpath Infrastructure	\$152,332	Awaiting final invoices for June work
Drainage Infrastructure	\$4,677	Savings in cost of sump fence
T'fers to Cash Reserves	\$78,040	Reduced Legal Reserve transfer
T'fer from Cash Reserves	(\$141,220)	Riverwall, leave & IT cash not required
<b>Value of YTD variances at 30.6.19</b>	<b>\$628,421</b>	<b>Year-end forecast surplus is \$238,017</b>

**OFFICER RECOMMENDATION/S – ITEM No. 8.4.1**

**That Council receive the INTERIM financial report for the period 1 July 2018 to 30 June 2019.**

**8.4.2 Accounts Paid – June 2019**
**CORPORATE**
**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment</b>	<b>Accounts Paid – June 2019</b>

Voting Requirement	:	Simple Majority
Subject Index	:	FM045A
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	:	N/A
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	Michael Costarella, Manager Corporate and Community 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.*
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- 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**

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

## **SUMMARY AND KEY ISSUES**

Significant payments in June 2019 included the following:

- GST & PAYG remittance to ATO;
- Payments for waste disposal to WMRC;
- Staff & Shire superannuation contributions.

## **LOCATION**

N/A

## **BACKGROUND**

Attachment 1 lists details of all payments made since the last report. The following summarises the cheques, credit card payments, electronic fund transfers and direct debits included in the list presented for information.

PAYMENT TYPE	FUND	NUMBER SERIES	AMOUNT
EFT	MUNICIPAL	290 – 291	\$133,043.66
EFT	TRUST		\$0.00
CHEQUES	MUNICIPAL	422 - 424	\$16,625.00
CHEQUES	TRUST		\$0.00
BPAY	MUNICIPAL	47 - 55	\$3,912.81
DIRECT DEBITS	MUNICIPAL	74 - 77	\$4,423.67
<b>TOTAL</b>			<b>\$158,005.14</b>

## **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 2018/19 annual budget.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

**SOCIAL IMPLICATIONS**

There are no social implications at this time.

**OFFICER COMMENT**

Nil

**OFFICER RECOMMENDATION/S – ITEM NO. 8.4.2**

**That Council receive the list of payment of accounts by cheques, electronic funds transfers and direct debit payments for June 2019, totalling \$158,005.14.**

**8.4.3 Matters for Information and Noting**
**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachments</b>	<b>1. Building Permits Issued June 2019</b> <b>2. Planning Approvals Issued June 2019</b> <b>3. Infringements Issued June 2019</b> <b>4. Library Statistics June 2019</b>

Voting Requirement	:	Simple Majority
Subject Index	:	Multiple
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	:	N/A
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Officer	:	Don Burnett, Chief Executive Officer

**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**

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 for 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 also 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 issued
- Advisory notes from WALGA, DLG&C or other stakeholders
- WESROC Mayor/President forum notes
- WALGA Zone minutes
- WALGA State Council minutes
- Seal register advising of when the Shire seal has been applied
- Shine statistics
- Infringements for parking/dogs etc
- Waste and recycling data
- Library statistics

## **SUMMARY AND KEY ISSUES**

The following reports are presented to Council at the Ordinary Council Meeting of February 2019:

1. Building Permits Issued June 2019
2. Planning Approvals Issued June 2019
3. Infringements Issued June 2019
3. Library Statistics June 2019

## **CONSULTATION**

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

## **OFFICER RECOMMENDATION – ITEM NO. 8.4.3**

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

## 8.5 CEO/ MANAGEMENT / GOVERNANCE / POLICY

NIL

## 8.6 COMMITTEE REPORTS

NIL

## 9 NEW BUSINESS OF AN URGENT NATURE

## 10 MOTIONS ON NOTICE

*(Automatically sent back to Administration for consideration at the next Council Meeting)*

## 11 CONFIDENTIAL ITEMS OF BUSINESS

**That the meeting be closed to the public for the purpose of discussing Item 11.1 as it is required that this matter be dealt with behind closed doors under section 5.23:**

***(2) If a meeting is being held by a council or by a committee referred to in subsection***

***(1)(b) the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following –***

***(e) a matter affecting an employee***

At ..... staff and members of the public left the council chambers.

### 11.1 CEO Annual Performance Review

**That the meeting be reopened to the public and the presiding member will read the resolution aloud to the gallery.**

## 12 CLOSURE

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

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## **DECLARATION OF FINANCIAL / PROXIMITY / IMPARTIAL INTEREST THAT MAY CAUSE A CONFLICT**

**TO:** Chief Executive Officer  
SHIRE OF PEPPERMINT GROVE

**NAME:** \_\_\_\_\_

**POSITION:** \_\_\_\_\_

**MEETING DATE:** \_\_\_\_\_

**ITEM NO & SUBJECT:** \_\_\_\_\_  
\_\_\_\_\_

**NATURE OF  
INTEREST:**

Financial / Proximity / Impartiality  
Interest that may cause a Conflict\*

\* Please Circle  
*applicable*

**EXTENT OF  
INTEREST:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Section 5.65(1) of the Local Government Act 1995 states that:**

## **FINANCIAL & PROXIMITY INTERESTS**

*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.*

## **DISCLOSURE OF 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.*

*“A member who has an interest in any matter to be discussed at a Council or Agenda Briefing Forum meeting that will be attended by that member must disclose the nature of the interest”:*

- (a) In a written notice given to the CEO before the meeting; or*
- (b) At the meeting immediately before the matter is discussed.*