



Shire of
Peppermint Grove

ORDINARY COUNCIL MEETING

AGENDA

TO BE HELD ON
TUESDAY 15 OCTOBER 2019
AT
5.30 PM

Shire of
Peppermint Grove

NOTICE OF MEETING

Dear Councillor

It is advised that the **COUNCIL MEETING** will be held in the Council Chamber of the **Shire of Peppermint Grove**, 1 Leake Street, Peppermint Grove, on Tuesday **15 OCTOBER 2019**, commencing at 5.30 pm.

Yours faithfully



Don Burnett
CHIEF EXECUTIVE OFFICER

11 OCTOBER 2019

MEETING AGENDA ATTACHED

DISCLAIMER

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Any statement, comment or decision made at a Council or Forum meetings regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

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

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Shire of
Peppermint Grove

ORDINARY COUNCIL MEETING AGENDA

1 DECLARATION OF OFFICIAL OPENING

At _____ pm, the Shire President declared the meeting open and requested that the Affirmation of Civic Duty and Responsibility be read aloud by a Councillor and requested the recording of attendance and apologies.

Council recognises that it is permissible to record the Shire's Council and Forum Meetings in the written, sound, vision medium (or any combination of the mediums) when open to the public, however, people who intend to record meetings are requested to inform the Presiding Member of their intention to do so.

The Presiding Member will cause the Affirmation of Civic Duty and Responsibility to be read aloud by Councillor _____.

Affirmation of Civic Duty and Responsibility

I make this Affirmation in good faith on behalf of Councillors and Officers of the Shire of Peppermint Grove. We collectively declare that we will duly, faithfully, honestly, and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgment and ability. We will observe the Shire's Code of Conduct and meeting procedures to ensure 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
Elected Member

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



Chief Executive Officer
Manager Corporate and Community Services
Manager Development Services
Manager Infrastructure Services
Manager Library Services

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

Gallery _____ Members of the Public
 _____ Members of the Press

2.2 APOLOGIES

2.3 LEAVES OF ABSENCE

2.4 NEW REQUEST FOR A LEAVE OF ABSENCE

3 DELEGATIONS AND PETITIONS

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

- (a) *Public Question Time provides the public with an opportunity to put questions to the Council. Questions should only relate to the business of the Council and should not be a statement or personal opinion.*
- (b) *During the Council meeting, after Public Question Time no member of the public may interrupt the meeting's proceedings or enter into conversation.*
- (c) *Whenever possible, questions should be submitted in writing at least 48 hours prior to the start of the meeting.*
- (d) *All questions should be directed to the President and only questions relating to matters affecting Council may be answered at an Ordinary meeting, and at a Special meeting only questions that relate to the purpose of the meeting may be answered. Questions may be taken on notice and responded to after the meeting, at the discretion of the President.*
- (e) *The person presiding will control Public Question Time and ensure that each person wishing to ask a question should state his or her name and address before asking the question. If the question relates to an item on the agenda, the item number should also be stated. In general, persons seeking to ask a question will be given 2 minutes within which to address their question to the Council. The person presiding may shorten or lengthen this time in their discretion.*

4.1 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE FROM A PREVIOUS MEETING

NIL

4.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

4.3 DEPUTATIONS OF THE PUBLIC

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 24 SEPTEMBER 2019

OFFICER RECOMMENDATION – ITEM 7.1

Moved:

Seconded:

That the Minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 24 September 2019 be confirmed as a true and accurate record.

7.2 SPECIAL COUNCIL MEETING 1 OCTOBER 2019

OFFICER RECOMMENDATION – ITEM 7.2

Moved:

Seconded:

That the Minutes of the Special Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 1 October 2019 be confirmed as a true and accurate record.

8 OFFICER REPORTS

8.1 MANAGER DEVELOPMENT SERVICES

8.1.1 23A View Street –Built Extension to covered Alfresco Dining area

URBAN PLANNING

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1	Location Map
Attachment 2	DA Plans
Attachment 3	Building History

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	23A View Street, Peppermint Grove
Application Index	:	DA2019/00023
LPS No 4 Zoning	:	R-12.5
Land Use	:	Residential
Lot Area	:	909m ²
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Timesright Pty Ltd (T/A RK Brine Master Builder)
Owner	:	Jane Elizabeth Moffat
Assessing Officer	:	Mr. Josh Dallimore – Planning Officer
Authorising 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 received a planning application (22 July 2019) requesting a variation to the R-Codes to consider the proposed built extension to an Alfresco dining and entertainment area at the rear of 23A View Street, Peppermint Grove.

SUMMARY AND KEY ISSUES

- A large two storey house is located on a battle-axe lot of 908m².
- The existing development is 0.54 plot ratio (exceeds the LPS 4 maximum by 0.04).
- The proposed built extension will increase the plot ratio of the development to 0.58 (granting exclusions as per policy). LPS 4 provides that Council may consider applications to vary Scheme requirements at its discretion.

LOCATION

23A View Street, Peppermint Grove

BACKGROUND

The property is a battle-axe lot containing a two-storey single house with balcony deck, and terraced garden. There is a lap pool located along the rear. The property has been developed in stages over a period of time and currently exceeds the LPS 4 plot ratio.

The applicant originally came to the Shire with a certified Building Application for the extension of the rear alfresco area the addition of a small outdoor kitchen into the garden.

The applicant was requested to submit plot ratio calculations, these confirmed the current house exceeds the maximum allowable plot ratio (at 0.54 it is over the maximum of 0.5 in Local Planning Scheme 4). A Shire assessment of this proposed addition (36m² covered) indicates the plot ratio will increase a further 0.04.

The applicant was advised a Building License would not be issued unless all variations to LPS 4 and R Codes were approved by the Council subject to a Planning Application requesting to vary the 0.5 plot ratio applicable to this site and reduced setback from the rear (east) boundary.

CONSULTATION

The application was advertised to neighbouring landowners inviting their comments on excess plot ratio and reduced setback. A decision of the application was deferred at the August Ordinary Council Meeting to allow for neighbour consultation. A letter was sent on 3 September 2019 and no comments have been received by the Shire within the consultation period (3 September to 17 September 2019).

STRATEGIC IMPLICATIONS

Community Strategic Plan - Objectives

Natural Environment

- Protect and enhance Peppermint Groves' natural environment and biodiversity

Built Environment

- Increased capacity for the Shire to ensure that the built environment reflects the aspirations of the community and retains its unique history, heritage, and character

POLICY IMPLICATIONS

The Shire recently adopted draft guidelines to assist in determining the basis of variation to the plot ratio area for single houses. Given that the LPS 4 departs from the R Codes by nominating a plot ratio this policy clarifies how assessment would identify what is counted towards the plot ratio and the circumstances which would apply to that assessment.

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.

LOCAL PLANNING SCHEME NO. 4		
	Scheme Requirement/Clause	Assessment/Comment
1.	Plot Ratio to be less than 0.5	The current development exceeds 0.5. Proposal seeks to further exceed the maximum allowed in LPS 4
RESIDENTIAL DESIGN CODES		
	Acceptable Development/Performance Criteria	Assessment/Comment
1.	Standard R-12.5 boundary setbacks	Compliant for side setbacks. The Existing house has existing reduced rear setback in the southern portion of the development.
SCHEME/COUNCIL POLICY		
	Policy Provisions	Assessment/Comment
1.	Draft Plot Ratio Guideline – Defines what areas of floor space count and what do not count to the plot ratio calculation.	The addition of a kitchen encloses the existing alfresco area on three sides and therefore this entire area should have a 50m ² allowance towards plot ratio, with the rest to be included in the calculation.

It is therefore requires a Design Principles assessment subject to the R Codes.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The Residential zone - R 12.5 identifies the density of urban development permitted, both in terms of dwellings per hectare. *Compared to the R Codes*, LPS 4 introduces a Plot Ratio of 0.5 *for a single house* which defines and limits the envelope of each lot to be covered by buildings. *This is consistent with the 0.5 plot ratio in previous TPS 3.*

This standard is intended to prevent overdevelopment of sites and is an important measure to protect landscaped areas, trees and to ensure a suitable buffer space between properties – these values are identified as important to the community by the strategic community planning undertaken by the Shire.

The architect calculated the plot ratio for the current and proposed development for the proposal based on their floor plans and it will exceed LPS 4 maximum of 0.5 (the site with additions will go from 0.54 to at least 0.58). *The calculations have been checked and confirmed by Shire planning officers.*

The current buildings exceed the plot ratio in the LPS 4 (coverage 0.54) however much of this development pre-dates this scheme. The land is a battle-axe format with a very long driveway. There is a gross floor area of the house cited to be 602.5 m² and the total lot area is 908 m² (noting this includes both driveway access and vehicular forecourt).

The application seeks the Council approval to increase *ground* coverage (ratio of 0.58 using discounts as per draft policy) *by 16 m² and this is located within the R Code specified rear setback.* A design principles assessment of the reduced rear setback and plot ratio area requires that the variation could only be agreed if it were to deliver a superior design outcome than the deemed compliance design.

Peppermint Grove like many inner neighbourhoods has housing stock which predates the R Codes. The R Codes are a 'blanket design code' to address all residential design whether it is additions to established houses, or contemporary development of either greenfield or old residential areas.

Although the rear setback of the existing house at the south east corner is slightly less than the required setback of 6m, the house is skewed to this boundary and so an averaging of the rear setback, may mitigate this impingement.

The Shire introduced a plot ratio into LPS 4 because an excess of building coverage of a site results in over-development of the site, a loss of area available for deep planting and if not controlled would most likely compound across the neighbourhood.

The architect indicates there will be up to 67% of the site available for open space, however for this property much of that area is allocated to the long unplanted driveway and a large manoeuvring forecourt. These areas are not capable of being considered viable urban green space, because they do not contain deep planting for shade trees.

The LPS 4 objectives for the Residential zone include:-

- To facilitate and encourage high quality design, built form and streetscape throughout residential areas;
- To promote a residential environment consistent with the heritage of the locality and to enhance the sense of place and community identity, and
- To enhance those characteristics which contribute towards residential amenity, and to avoid those forms of development which have the potential to prejudice the preservation of the high amenity value of a safe and attractive residential environment.

Inspection of the site and surrounding development highlights the compounding impact by increment due to variation of Scheme and Codes design parameters. This results in a built form more reflective of higher density than R-12.5 (albeit at located to rear of the properties).

LPS 4 adopts the R-Codes site design standards but also introduced a plot ratio to achieve objectives to restrict overdevelopment of single residential sites. The previous Scheme used a 0.5 plot ratio and therefore pre-existing development would have been considered with regard to the 0.5 plot ratio. The Shire and the community value the landscape character of the neighbourhood and want it protected and plot ratio restricts the amount of the site covered by buildings, although it does not guarantee planting to landscape.

A scan of the surrounding area, indicates adjacent buildings are also close to boundaries and cover large portions of their site. This proposal therefore raises questions as to how addition of an alfresco covered area of 36 m² is delivering a superior design outcome or conversely how in isolation such an addition might impact the neighbourhood and the residential zone.

Building records kept by the Shire confirm various additions to the original building between 2008 and 2019, have progressively added to the plot ratio of the development.

- 2008 plans indicate the house built to the 0.5 plot ratio.
- In 2012 there was a large addition to the second storey.
- In 2014 the pool was relocated and alterations to the veranda were done. The floor area of the house was sited at over 400m² as a part of this application.

Following the August Ordinary Council Meeting the application for Development Approval was advertised to all adjoining landowners. *The comment period has closed and no response comments for or against the requested design variation have been received.*

The development is relatively concealed from adjoining land and would only be partially visible from the R.O.W to the east.

The options to Council are to:-

- *Refuse on the grounds that the development exceeds LPS 4 and R Codes site requirements for plot ratio to be no more than 0.5 and rear setback of 6 metres and does not deliver an acceptable design outcome; or*

- *Approve after considering that the additional 38m² although over plot ratio is unlikely to impact surrounding properties and subject to a condition to require additional planting of trees on the property may deliver a superior design outcome.*

While approval of this application would create *further* overdevelopment of the lot when assessed against the Shires Local Planning Scheme 4, the lack of comments received on the property suggests that the perceived impact on neighbours would be minor and may be offset by nearby gardens with stands of mature shade trees.

Further Information following Agenda Briefing Forum held on 8 October 2019

Councillors requested officers to review and clarify the report to address that :-

- 1. Previous local scheme TPS 3 contained a similar plot ratio of 0.5; and*
- 2. Confirmation as to previous applications and assessment of development on the property; and*
- 3. Consideration of an alternative recommendation to Approval and to indicate the town planning grounds for Refusal should this be their decision.*

The Report has been revised (italics) to clarify the above points.

Refusal of the application would be justified due to the variation sought not demonstrating a superior design outcome for the site and surrounding area.

A review of policies of the Shire indicates:-

LPP1 – focus on streetscape does not readily apply to battle-axe properties;

LPP2 – structures in the street setback – likewise does not apply;

LPP3 – Heritage Places – the property is not a heritage place and is separated by a laneway from a category 1 heritage place – only a marginal relevance, and

LPP4 – Building Heights – does not apply, and

LPP6 – Consultation on Development – the application was referred for consultation and no submissions were received.

Review of previous applications indicated this is the first application to be considered subject to LPS4. Past applications were approved, however this application is a clear case of additional coverage of the site at the expense of possible garden area.

Alternative Recommendation would be:

Refusal for the reason that the excess of plot ratio for the site above 0.5 and that the request for variation did not demonstrate delivery of a superior design outcome for the site or immediate vicinity.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.1

That Council approve the development application for Alfresco Extension at 23A 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.**
- 5. Landscaping is to be applied to the forecourt to increase tree canopy cover and additional deep-rooted planting within the site.**

Advice

In approving this application Council has assessed the proposed plans against the Shires Local Planning Scheme 4 and has provided discretion on the following areas:

- Plot Ratio**
- Boundary Setback**

for the reason that Condition 5 once implemented and maintained will result in better landscaping provision across the site.

8.1.2 48 View Street, Renewal of Roof to Heritage Listed house
URBAN PLANNING
ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1	Location Map
Attachment 2	Development Application Plans
Attachment 3	Photos <ol style="list-style-type: none"> 1. Current Roof 2. Proposed Tiles

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	48 View Street, Peppermint Grove
Application Index	:	DA2019/00029
LPS No 4 Zoning	:	Residential - R-1 2.5
Land Use	:	Residential
Lot Area	:	1204m ²
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Abigail Peel
Owner	:	Abigail Peel
Assessing Officer	:	Mr. Josh Dallimore – Planning Officer
Authorising 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 re-roof of at 48 View Street, Peppermint Grove

SUMMARY AND KEY ISSUES

- The housing assets throughout the Shire provide the distinct and valued character of the neighbourhood. It is important to maintain the integrity of all houses.
- The application is being referred to Council as the property is included on the Shire Heritage List. Typically, a new roof to a house without heritage listing will be dealt with as a building permit rather than planning application.
- The proposed works are considered by Council to ensure the heritage character of the house is maintained upon completion of the works.

LOCATION

48 View Street, Peppermint Grove

BACKGROUND

In January of 2018 the Shire approved which included a two storey addition to the original heritage listed property. Those approved works are in their final stages of construction.

The existing roof is covered in clay tiles which have deteriorated with age. Unless repairs are made the building to restore the integrity of the roof the overall condition will decline.

CONSULTATION

Although the property is on the heritage list the application has not been assessed by a heritage architect. The impact of the works should be assessed.

STRATEGIC IMPLICATIONS

Community Strategic Plan - Objectives

Community Development

- Strengthen the cultural and historical significance of Peppermint Grove

Built Environment

- Increased capacity for the Shire to ensure that the built environment reflects the aspirations of the community and retains its unique history, heritage, and character

POLICY IMPLICATIONS

Local Planning Policy 3 – Heritage Places

LPP 3 requires that any works to a heritage listed property be referred to Council to ensure the heritage character of the building is maintained, and that any works to the property contribute to the streetscape in a positive way.

STATUTORY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

This application for proposed re-roof has been referred to Council as under Local Planning Policy 3, any works in regard to a property on the Shires Heritage List must be assessed by Council.

The application is proposing to re-tile the roof of the existing heritage section of the house at 48 View Street. Typically, re-roofing a house would be dealt with solely under a building permit, however planning assessment is required to ensure the heritage character of the house is maintained.

The proposed roofing material (see attachment 3a) is similar in style to the original roof being of terracotta tile design. The current roof tiles have been heavily weathered and are now mouldy and discoloured (see attachment 3b). Although a new roof will initially look different to the current weathered tiles it is important their profile and colour is in keeping with the heritage of the house. It is important to maintain the integrity of roofing to exclude water from damaging timber structures and internal plaster work.

While similar, the proposed tiles are not an exact match for the original tiles on the house. The original tiles appear to be of a flat design, while the proposed tiles (attachment 3a) have a slightly raised profile. Prior to the issue of a building permit the applicant will be required to obtain an assessment of the replacement tiles by a heritage architect to confirm they are satisfactory and in keeping with the architecture of the original design and will not detract from the heritage value of the house.

OFFICER RECOMMENDATION/S – ITEM NO 8.1.2

That Council approves the proposed re-roof at 48 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.**
- 5. Prior to the issuing a Building Permit the applicant is to refer the roofing tile selection to a heritage architect for assessment, with a report to be provided to the Shire. The Shire will only issue a building permit once CEO is satisfied that the roofing tiles selected are suitable for the conservation of heritage value of the house.**

Advice

With regard to Condition 5 the applicant is to select a heritage architect recognised by the Heritage Council of Western Australia.

8.1.3 47 Johnston Street – Pergola - Adjustable (Vergola) Site Specification Variations.

URBAN PLANNING

ATTACHMENT DETAILS

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

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	47 Johnston Street, Peppermint Grove
Application Index	:	DA2019/00024
LPS No 4 Zoning	:	Residential – R-12.5
Land Use	:	Residential
Lot Area	:	718m ²
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	John Schulyta
Owner	:	Daniel Debattista
Assessing Officer	:	Mr. Josh Dallimore – Planning Officer
Authorising Officer	:	Manager of Development Services – Mr. Ross Montgomery

COUNCIL ROLE

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When Council reviews decisions made by Officers.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>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.</i>

PURPOSE OF REPORT

Council is requested to consider the proposed adjustable Pergola (Colourbond Aluminium Sola Vergola) at 47 Johnston Street, Peppermint Grove. The application requests Council to vary R-Codes with regard to site requirements.

SUMMARY AND KEY ISSUES

- The development application proposes zero setback to the northern and eastern lot boundaries.
- The northern boundary requires a 6m minimum setback (rear) as per Table 1 of the R-Codes. Council has previously approved development within the rear setback on this land for a garage (DA2019/00003).
- The proposed pergola abuts an approved outbuilding (pool house) on the eastern boundary. The additional structure does not affect compliance for plot ratio.

LOCATION

47 Johnston Street, Peppermint Grove

BACKGROUND

The Shire previously received two development applications in this year for the property. They were for works incidental to the original development application for a single house.

Application (DA2019/00003) requested amendment to the original development application/approval and proposed for an additional boat enclosure to be built at the rear of the lot and located with a rear lot boundary setback of less than the R-Codes requirement. This variation was approved by Council and construction has since begun on the structure.

Another recent application was received and approved by Council for this property whereby a 2.1m brick wall was proposed to be built on the western boundary abutting the R.O.W.

This current application requests a similar rear setback variation to the garage approval so that the proposed pergola can be sited to align with the approved garage rather than cover the open garden area.

The cumulative result has diminished the setback for almost the entire length of the rear (northern) boundary.

The Scheme provides that Council may grant approval for a relaxation of the R-Codes, provided it is of the opinion it will not be a detrimental result for abutting properties.

CONSULTATION

Adjoining landowners were notified of the proposed works on the 23 of August 2019 and no comments were received during the consultation period (23 August to 6 September 2019).

STRATEGIC IMPLICATIONS

Community Strategic Plan - Objectives

Natural Environment

- Protect and enhance Peppermint Groves' natural environment and biodiversity

Built Environment

- Increased capacity for the Shire to ensure that the built environment reflects the aspirations of the community and retains its unique history, heritage, and character

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY IMPLICATIONS

Local Planning Scheme No.4

The proposal is assessed to be compliant with relevant Scheme provisions, Residential Design Codes and Scheme Policies with the exceptions outlined in the table below.

<u>RESIDENTIAL DESIGN CODES</u>		
Acceptable Development/Performance Criteria		Assessment/Comment
1.	Rear Boundary Setback – 6m	Table 1 of the R-Codes stipulates a rear lot boundary setback of 6m for lots zoned R-12.5. The development application proposes a zero-boundary setback across the rear of the lot. Although part of the proposed work abuts an existing parapet wall at the neighbouring property to the north and is consistent with the design principles of the R-Codes, however most of the additional development does not abut the existing parapet. The combined result of this application with the garage already approved within the rear boundary setback area, approval of this application would create development with deficient setback across the whole rear boundary.
2.	Side Boundary Setback – Table 2a and 2b	Tables 2a and 2b outline setbacks from side lot boundaries. As per the R-Codes the proposed development requires a 1 metre setback from the boundary, however, proposes a zero setback.

		Along the western boundary this development would abut an existing significant structure on the neighbouring property; one setback approximately half a metre from the shared boundary. Compared to the existing neighbouring structure the impact of the proposed patio is considered negligible.
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Due to the requested variation a design principles assessment is required.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The purpose of boundary setbacks in the R codes is to ensure there is sufficient space surrounding buildings to allow for air circulation, and to encourage the planting of landscaped borders and margins.

The cumulative impact resulting from building out to boundaries often results in a loss of tree line, which may also progressively increase urban heat radiation.

Over successive applications the Shire may be requested to relax scheme site requirements. The challenge of incremental relaxation of site performance criteria such as setbacks is that each successive relaxation (when considered in the preceding context) may in isolation be considered to be of a minor nature, nevertheless, may result in a larger impact in total.

This application involves a variation to the R Codes and therefore requires a design principles approach. This approach examines the variation requested considering the overall impact and merit of the proposal.

This assessment takes into consideration the construction of the garage within the setback area, the potential to overshadow or shade abutting properties and any loss of deep planting.

The Shire approve the boat store with a zero setback because it was on another boundary, would only cast shadow onto the applicants property, and did not occupy the entire northern boundary with a boundary wall.

The proposed pergola as an additional open structure now proposes development across the entire rear boundary which leaves no space for boundary planting. It does however keep a useable garden space of regular dimension between the house and the pergola.

The Shire is characterised by its large open landscaped gardens with plenty of green space. Construction of this development within the setback area could be contrary to the Shires Local Planning Strategy which aims to maintain the existing characteristics of the residential environment. The Shire through LPS 4 applies planning controls such as plot ratio and lot boundary setbacks to conserve the character of large leafy gardens surrounding houses.

There have been no objections to the proposed development, however the importance of maintaining an open setback area provides an opportunity to plant trees along the boundary, this is only an opportunity however and Council would not be involved to approve a paved area to the entire property boundary, should that be the owner's intention. In this case the proposed pergola covers and shades paving and this limits potential for heat to be radiated from paved surfaces.

The created entertaining area is about 40m² and will contain a pizza oven and other facilities. Due to the amount of hard space being introduced in this area deep planting will not be available within the rear setback regardless of whether this application is approved.

It is acceptable provided there is sufficient deep planting retained in the rear garden. The location of a barbeque or pizza oven underneath a pergola and immediately abutting other structures and a boundary will require a fire safety assessment.

Given that the location will rationalise a central garden space, available for landscape and deep planting approval should be granted subject to conditions.

Further Information following Agenda Briefing Forum held on 8 October 2019

*Councillors requested that officers provide further information to include a calculation of the plot ratio for the entire site with all approved structures taken into account, and the plot ratio including the additional pergola (*assuming that once the louvres are closed it is a solid roof albeit enclosed on two sides only).*

*Plot Ratio – 0.49; if pergola was to be included 0.51**

Green area (soft landscaping) of site: is 16.6% or 120 m²

OFFICER RECOMMENDATION/S – ITEM NO 8.1.3

That Council approves the proposal for an adjustable pergola to be developed in accordance with the submitted plans (1.OF1.) at 47 Johnston Street, Peppermint Grove, and 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. Prior to the issue of a Permit the applicant is to obtain a fire-safety assessment to be undertaken to establish if and where any barbeque, oven or other potentially flammable activities should be located, and for this report to be included in the Building Permit application.
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. 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

In approving this application Council has assessed the proposed plans against the Design Principles of the R-Codes and has provided discretion on the following areas:

- Development of structures within the rear lot boundary set back.



8.2 MANAGER INFRASTRUCTURE SERVICES

NIL

8.3 MANAGER LIBRARY SERVICES

NIL

8.4 MANAGER CORPORATE AND COMMUNITY SERVICES

8.4.1 Review of Audit Committee Name and Adoption of Charter

CORPORATE

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	Audit, Risk and Governance Committee Charter

Voting Requirement	:	Simple Majority
Subject Index	:	FM019C
Disclosure of any Interest	:	Nil
Previous Items	:	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

The purpose of this report is to adopt a new name and a revised Charter for the Shire of Peppermint Grove's Audit, Risk & Governance Committee.

SUMMARY AND KEY ISSUES

A Charter for the Audit, Risk and Governance Committee is presented for Council's consideration.

LOCATION

N/A

BACKGROUND

The Shire of Peppermint Grove is required under the Local Government Act 1995 to establish and maintain an audit committee. The audit committee is to provide an independent oversight of the financial systems of a local government on behalf of Council. Historically the Shire's audit committee has met once a year to meet with the auditor to discuss the annual audit report.

It is important that the role of the committee is developed to meet on a more regular basis, and to expand its function to include governance, compliance and risk. The Charter for the Audit Committee is provided as a terms of reference for the roles and responsibilities of the committee.

CONSULTATION

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

STRATEGIC IMPLICATIONS

The 2014- 2018 Strategic Community Plan refers to the Governance Strategies for the Shire of Peppermint Grove

POLICY IMPLICATIONS

Currently there are no Policy implications.

STATUTORY IMPLICATIONS.

The Shire of Peppermint Grove is required to establish an audit committee in accordance with part 7 of the Local Government Act. (LGA Part 7 & LG (Audit) Regulations 1996).

FINANCIAL IMPLICATIONS

There are no financial implications at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The Charter of the Audit, Risk and Governance Committee has been revised and is presented to Council for its consideration and adoption

Further Information following Agenda Briefing Forum held on 8 October 2019

A slight amendment has been made to clause 7.1 Committee Meetings (of the Charter) (Att 8.4.2) Deletion of wording “unless a special meeting of the Committee is called for a specified purpose” so it now reads:

“Meetings shall be held not less than every six months”

OFFICER RECOMMENDATION/S – ITEM 8.4.1

That Council:

- a) Amends the name of the Audit Committee to the Audit, Risk and Governance Committee;**
- b) Adopts the Charter for the Audit Risk and Governance Committee**

8.4.2 Accounts Paid – September 2019

CORPORATE

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	Accounts Paid – September 2019

Voting Requirement : Simple Majority
 Subject Index : FM045A
 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

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 September 2019 included the following:

- Payment for the Quarterly FESA Collections 2019/20
- 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	300 – 304	\$371,788.66
EFT	TRUST	13	\$100.00
CHEQUES	MUNICIPAL	427	\$196.90
BPAY	MUNICIPAL	74 - 78	\$1,964.88
DIRECT DEBITS	MUNICIPAL	95 - 100	\$15,921.85
TOTAL			\$389,972.29

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 2019/20 annual budget.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER COMMENT

The attached are the list of payments from the municipal and trust fund for the period from 1 to 30 September 2019.

OFFICER RECOMMENDATION/S – ITEM 8.4.2

That Council receive the list of payment of accounts by cheques, electronic funds transfers, direct debit payments and credit card payments for September 2019, totalling \$ 389,972.29.

8.5 CEO/ MANAGEMENT / GOVERNANCE / POLICY

8.5.1 Matters for Information and Noting

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachments	1. Building Permits Issued September 2019 2. Planning Approvals Issued September 2019 3. Infringements Issued September 2019 4. Library Statistics September 2019 5. Activity Centre Cottesloe MoU 6. Waterwise Accreditation Documentation

Voting Requirement : Simple Majority
 Subject Index : Multiple
 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.*
- ☒ **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

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 October 2019:

1. Building Permits Issued September 2019
2. Planning Approvals Issued September 2019
3. Infringements Issued September 2019
4. Library Statistics September 2019
5. Activity Centre Cottesloe (JILAP) MoU
6. Waterwise Accreditation Documentation 2019

CONSULTATION

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

OFFICER COMMENT

1. Attached is copy of the MoU with the Town of Cottesloe formalising the operational arrangements for the Joint Integrated Local Area Plan.
2. Attached is also copy of the MoU with Water Corporation, Department of Water and the Shire of Peppermint Grove formalising the Waterwise Initiatives currently in place

OFFICER RECOMMENDATION – ITEM NO. 8.5.1**That Council:**

1. **Receives the information in this report;**
2. **Notes the MoU for the Joint Integrated Local Area Plan (JILAP) between the Town of Cottesloe and Shire of Peppermint Grove; and**
3. **Notes the MoU and Action Plan for Waterwise Accreditation with Water Corporation, Department of Water and Shire of Peppermint Grove;**

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**

NIL

12 CLOSURE

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



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.*