



Shire of  
Peppermint Grove

## **ORDINARY COUNCIL MEETING**

# **MINUTES**

**HELD ON**  
**TUESDAY 17 DECEMBER 2019**  
**AT**  
**5.30 PM**



# Shire of Peppermint Grove

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Shire of  
**Peppermint Grove**

## ORDINARY COUNCIL MEETING MINUTES

### 1 DECLARATION OF OFFICIAL OPENING

At 5.30pm, 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 Cr Horrex.

#### **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  
Elected Member

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

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

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

**Gallery**     8 Members of the Public  
                  2 Members of the Press

## **2.2 APOLOGIES**

Manager Library Services

Ms D Burn

## **2.3 LEAVES OF ABSENCE**

NIL

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

NIL

## **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

Were 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**

NIL

#### **4.3 DEPUTATIONS OF THE PUBLIC**

Mr Gavin Hestelow - 52 Branksome Gardens, City Beach – Item 8.1.2 10 Keane Street

Mr Hestelow addressed Council speaking on behalf of the owners Mr and Mrs Walsh

## **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**

#### Cr C Hohnen - Item 8.1.5 – 32 the Esplanade – New Single House

The nature of the Interest being that he is the beneficial co-owner of 32 The Esplanade

#### Cr G Peters – Item 8.1.2 – 10 Keane Street – New Single House

The nature of the Interest being that he has a minor contract with the owner for pool maintenance. Cr Peters requested a determination by Council under section 5.68 of the Local government Act 1995 that this be deemed trivial and that he be permitted to participate in the discussion and vote. Cr Peters advised he is part owner of a pool service company that services the property owners pool on an occasional basis.

### **5.2 PROXIMITY INTEREST**

NIL

### **5.3 IMPARTIALITY INTEREST**

NIL

### **5.4 INTEREST THAT MAY CAUSE A CONFLICT**

NIL

### **5.5 STATEMENT OF GIFTS AND HOSPITALITY**

NIL

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

NIL

**7 CONFIRMATION OF MINUTES****7.1 ORDINARY COUNCIL MEETING 26 NOVEMBER 2019****OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM 7.1****MOVED: Cr P Macintosh****SECONDED: Cr D Horrex**

**That the Minutes of the Ordinary Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 26 November 2019 be confirmed as a true and accurate record.**

**CARRIED 7/0****7.2 SPECIAL COUNCIL MEETING 10 DECEMBER 2019****OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM 7.2****MOVED: Cr K Farley****SECONDED: Cr D Horrex**

**That the Minutes of the Special Council Meeting, of the Shire of Peppermint Grove held in the Council Chambers on 10 December 2019 be confirmed as a true and accurate record.**

**CARRIED 7/0**



## 8 OFFICER REPORTS

### 8.1 MANAGER DEVELOPMENT SERVICES

#### 8.1.1 47 Johnston Street – Pergola - Adjustable (Vergola) Site Specification Variations

#### URBAN PLANNING

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
<b>Attachment 1</b>	Location Map
<b>Attachment 2</b>	Development Application Plans
<b>Attachment 3</b>	Landscape Plan

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 <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	John Schulyta
Owner	:	Daniel Debattista
Assessing Officer	:	Mr. Josh Dallimore – Planning Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager 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 Colourbond Aluminium Vergola (this is a pergola which can be closed to form a patio) at 47 Johnston Street, Peppermint Grove. The application requests Council to vary R Codes site requirements for boundary setback.

## **SUMMARY AND KEY ISSUES**

- The development application proposes the erection of the structure at the rear of the property adjacent to the northern and eastern boundaries (zero setback) over an existing paved area. The additional structure does not count towards the plot ratio.
- The proposed pergola directly abuts an approved outbuilding (pool house) on the neighbouring property to the east (zero setback).
- The northern boundary requires a 6m minimum setback (rear) as per Table 1 of the R-Codes.
- Council has previously exercised its discretion to approve development on a zero setback within the rear setback on this land for a garage (DA2019/00003). No comments were received in regard to this planning application.
- Council last considered this in October 2019. It held concerns about the loss of potential garden areas. The application was deferred and the applicant was asked to prepare a landscape plan showing all areas of approved landscape for the entire site.
- A plan has been prepared and submitted which shows the layout of the back garden.

## **LOCATION**

47 Johnston Street, Peppermint Grove

## **BACKGROUND**

A single house (two storey) was approved in 2017. The site has since been subject to incremental development applications.

The Shire received two separate development applications in this calendar year for smaller works (boat store and boundary brick wall).

A 2.1m brick wall abutting the lane along the western boundary was approved by Council.

Application (DA2019/00003) requested amendment to the original development application/approval. This proposed an additional garage (boatstore) to be built at the rear of the lot located on the rear lot boundary (zero setback) which is less than R Codes requirement. The variation was approved by Council because the zero setback occupied a portion of the boundary and the area to the east was open yard space. The garage structure is complete and the balance of the area has been paved (this does not require planning assessment or approval).

This application (DA2019/00024) requests a rear setback variation (zero) so as to align the Pergola with the boat store. If approved it will result in a zero setback for the lot from the entire northern boundary and for a section of the eastern boundary.

This application was first considered at the Ordinary Council Meeting in October 2019 and was deferred by Council following concerns about a loss of garden area.

The applicant was asked to provide more information in justification for the following aspects of the proposal:

- The request to vary the rear setback will result in a reduced setback along the entire north boundary;
- The progressive infill of the site by structures since 2017 by successive applications and any impacts on plot ratio, garden area and site coverage;
- A landscape plans showing the allocation of space for deep planting, shade trees and soft landscaped surfaces, and;

For Council to be satisfied that by exercising its discretion to approve variations to the R-Codes will achieve a superior design outcome.

### **CONSULTATION**

Adjoining landowners were notified of the proposed works on the 23<sup>rd</sup> of August 2019. No comments or objections have been received.

### **STRATEGIC IMPLICATIONS**

There are no Strategic Plan implications evident at this time.

### **POLICY IMPLICATIONS**

There are no significant policy implications evident at this time.

### **STATUTORY IMPLICATIONS**

#### **Local 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.

<b>RESIDENTIAL DESIGN CODES</b>		
<b>Acceptable Development/Performance Criteria</b>		<b>Assessment/Comment</b>
<b>1.</b>	Rear Boundary Setback – 6m	<p>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, most of the additional development does not abut the existing parapet.</p> <p>The combined result of this application with the garage already approved within the rear boundary setback area, approval of this application will create development with zero setback across most of the rear boundary and part of the eastern boundary.</p>
<b>2.</b>	Side Boundary Setback – Table 2a and 2b	<p>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 this proposes a zero setback for the portion the structure abuts the boundary.</p> <p>Along the eastern boundary this proposed development abuts an existing significant structure on the neighbouring property; one setback approximately half a metre from the shared boundary. Although compared to the existing neighbouring structure the impact of the proposed patio is considered negligible, the continued reduction of boundary setbacks results in a compounding impact on garden and green space allocation. .</p>

**FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

**SOCIAL IMPLICATIONS**

There are no social implications at this time.

**OFFICER COMMENT**

The 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 of building out to boundaries results in a loss of tree line and may also progressively increase urban heat radiation.

Incremental approvals of development may seem minor at the point of assessment but can accumulate to increase plot ratio, coverage of site with paving and structures and reduce available space for planting. This application will result in the entire northern boundary of the lot being hard space, reducing the option to create green perimeters with neighbouring properties. These properties have also built either to or close to the boundary.

Councils deferred the application and also requested a landscape plan be submitted to provide further information on green space throughout the development. The plan submitted indicates the green spaces are not impacted by the structure because the proposed pergola is to cover an area of existing hard space at the rear of the property. (refer to the landscape layout plan). The paved area proposed to be shaded by the pergola will not be available for deep planting, and the shading of this will result in less radiated heat.

The structure does not therefore affect the opportunity for planting across the site. The introduction of the permeable pergola will shade the rear of the property with minimal effect on airflow.

Without the pergola, the paved area at the rear of the property would be exposed to direct sunlight and the hard surface would radiate heat.

A calculation of the total site indicates there is up to 115 m<sup>2</sup> of the site which can be planted. It is possible for trees to be planted and these can in turn provide shade and urban cooling.

On balance therefore the application can be justified provided there is a planting of shade trees undertaken on the property.

Further Information following the Agenda Briefing Forum held 10 December 2019

Council may wish to add the following advice note:

- 2: Council requires the written confirmation from the Applicant that landscaping and other works within the front setback area of the property have been built in accordance with the Approved Plans (DA2017/0009 – dated 30-11-2017)

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

That Council approved the application for an Adjustable Pergola at 47 Johnston 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. Applicant is to prepare a works plan to ensure delivery of materials and parking of work vehicles does not cause offsite impacts.
5. To offset the loss of area no longer available for deep root planting, the applicant is required to plant and maintain two trees in the area of garden adjacent to the southern side of the pergola.

Advice:

Council advises that in considering this application the plans have been assessed against the Design Principles of the R-Codes and has provided discretion on the following area:

- Rear boundary setback

The design principles assessment concluded there would be no adverse impact on the street or abutting properties.

**COUNCIL DECISION/S – ITEM NO 8.1.1****MOVED: Cr Hohnen****SECONDED: Cr Farley**

**That Council approved the application for an Adjustable Pergola at 47 Johnston 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. Applicant is to prepare a works plan to ensure delivery of materials and parking of work vehicles does not cause offsite impacts.**
- 5. To offset the loss of area no longer available for deep root planting, the applicant is required to plant and maintain two trees in the area of garden adjacent to the southern side of the pergola.**

**Advice Note:**

- 1. Council advises that in considering this application the plans have been assessed against the Design Principles of the R-Codes and has provided discretion on the following area:**
  - Rear boundary setback****The design principles assessment concluded there would be no adverse impact on the street or abutting properties.**
- 2. Council requires the written confirmation from the Applicant that landscaping and other works within the front setback area of the property have been built in accordance with the Approved Plans (DA2017/0009 – dated 30–11–2017)**

**CARRIED 6/1**

## DECLARATION OF INTEREST – FINANCIAL – CR G PETERS

Cr Peters having declared a Financial Interest in Item 8.1.2 left the Chambers at 5.42pm.

### 8.1.2 10 Keane Street – New Single House

## URBAN PLANNING

### ATTACHMENT DETAILS

Attachment No	Details
Attachment 1	Location Map
Attachment 2	Amended Development Application Plans

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	10 Keane Street, Peppermint Grove
Application Index	:	DA2019/00025
LPS No 4 Zoning	:	Residential - R12.5
Land Use	:	Residential
Lot Area	:	720m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Building Corporation WA/PL Giorgi Architects and Builders
Owner	:	A & L Walsh
Responsible Officer	:	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 new two storey dwelling with under croft and pool at 10 Keane Street, Peppermint Grove.

## **SUMMARY AND KEY ISSUES**

- The application is a result of a recent subdivision of the original lot 10 Keane Street, Peppermint Grove, approved by the West Australian Planning Commission.
- The application was first assessed at the September Ordinary Council Meeting and was deferred to allow the applicant the opportunity to address a number of areas of concern.
- New plans were submitted to the Shire in November which aim to rectify the concerns raised by Council.

## **LOCATION**

10 Keane Street, Peppermint Grove

## **BACKGROUND**

In early 2019 the Shire received notice of an application to subdivide the lot at 10 Keane Street, Peppermint Grove. The Shire advised the WAPC it did not support the application because it was under width by a considerable margin. Primarily, the Shires concern was with the undersized street frontage proposed, and the effect a development on an undersized block could have on the neighbouring properties.

The proposed drawings survey plans demonstrated a 13.42m street frontage for the new lot, 3.58m narrower than the 17m required for lots zoned R12.5 in the R-Codes. Regardless of this and the Shires comments on the application, the subdivision was approved, with this development application being a direct result.

The application was considered at the Ordinary Council Meeting in September and deferred by Council, requesting a review and redesign by the applicant taking into consideration the following areas of concern:

- Plot ratio variation will not be supported.
- Street setback does not match the adjacent properties.
- Reduce driveway proposal to 3 metres.
- The façade colour and setback is to be redesigned to soften the current impact and create a more harmonious structure with the existing neighbours.
- Provide an architectural section show north to south section.

## **CONSULTATION**

As a part of the September assessment a letter was sent to adjoining landowners on 23 of August 2019 informing them that the Shire has received an application for Development Approval and invited them to make comment on aspects of the design that are not Deemed-to-Comply on the original application. The Consultation period was 14 days from the date of the letter and closed on 6<sup>th</sup> of September 2019.

In response to the advertisement of the proposed development the Shire received comments from two neighbours with the following concerns:

- Neighbour 1:
  - The plot ratio and overall bulk of the proposed building is above the provisions of Local Planning Scheme 4 and will reduce amenity due to the proximity to neighbours;
  - Has concerns regarding the noise generated by AC units, pool pumps and other equipment; and
  - Overlooking as a result of the height difference of the land between Keane Street and Columba Place
- Neighbour 2:
  - Overlooking as a result of the height difference between Keane Street and Columba Place. Particular concern is in regard to the back deck and pool area which could provide for direct line of sight.
  - Has concerns regarding the noise generated by AC units, pool pumps and other equipment; and
  - Concerns regarding the structural integrity of the retaining wall at the rear of the property and the effects of the proposed work on it.

Neighbours were not consulted on the amendment to the application because the modifications were made in response to the previous submissions to address concerns. The revision improves the overall design of the proposed new house in the areas identified.

## **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**

Local Planning Policy 1 – Urban Design and Streetscape

LPP 1 has two planning objectives to achieve a high-quality environment and maintain amenity in the Shire. The policy endeavours to ensure houses address the street in a positive and human manner.

Proposed plans for the development at Lot 201 Keane Street present a contemporary house design that is modern in appearance. The plans suggest a neutral colour pallet and the house development located behind the 9-metre front setback.

#### Local Planning Policy 3 – Heritage Places

The properties either side of the proposed development are both included on the Shires heritage list. It is a policy requirement that development adjacent to the heritage properties should be considerate of the heritage values of the area ( LPP 3). This should not be interpreted to imitate abutting buildings and so the proposed plans are for a building of modern appearance which is distinctly different from the properties adjacent. The colour pallet is neutral and the overall design is not intended to dominate or conflict with the heritage neighbours. The property to the east has a garage built within the front setback, and along the side boundary. The house to the west is located further than the 9 metre setback from the street.

This house meets the 9m minimum LPS 4 street setback and the space is proposed to be landscaped with a garden and driveway to an underground garage.

### **STATUTORY IMPLICATIONS**

<b>RESIDENTIAL DESIGN CODES</b>		
<b>Acceptable Development/Performance Criteria</b>		<b>Assessment/Comment</b>
<b>1.</b>	Cone of Vision – Overlooking western neighbour	The proposed plans display a cone of vision overlooking the western boundary from a bedroom on the second floor. Notice of the application has been sent to the effected landowner and no response has been received by the Shire. This is because the properties are owned by the same persons. Issues with overlooking need to be carefully managed within the Shire and approval should meet all necessary criteria. The overlooking demonstrated in the proposed plans is of the type that presents the least impact on the adjoining landowner. The cone of vision from the bedroom looks into the front setback area of the neighbouring property (all area visible within the cone of vision is already visible from the street) and does not immediately impact on privacy.

### **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**

Previously the Council deferred making a decision and indicated it held concerns about the design in the following areas:-

1. Street setback needed to be sympathetic to neighbouring heritage properties;
2. Plot Ratio is to be 0.5 or lower;
3. Privacy of the abutting houses and overlooking
4. Street impact overall on what is a heritage streetscape.

The house has been redesigned and submitted for assessment.

Assessment of the revised plans confirms the following:-

- Street setback at 11 metres was increased to be align with larger street setbacks of neighbouring properties
- Plot ratio reduced to 0.5 – reallocation of spaces and reduction of habitable areas means the proposal is now compliant
- A completed section drawing shows that there is unlikely to be overlooking of neighbouring rooms.
- Driveway and crossover remain at 3.5m (which is equivalent to other houses along the street)
- A North: South architectural section has been provided and this to shows there is no overlooking of the property to the south.
- The fence and gatehouse have been modified to be less dominant of the street.

Assessment supports the claim the redesign better addresses the street neighbouring properties and responds to neighbours' previous comments.

In the light of this modification the:-

1. Plot ratio is now reduced to 0.5
2. Overlooking as defined by the R-Codes into properties of neighbours accords with R Codes.
3. Other matters raised in the course of neighbour submission related to the location of hot water service and other facilities. These matters do not require a planning assessment.

On this basis there is no longer any design aspect which warrants Shire to exercise is discretion. The design has been modified in response to comments provided at the previous Council meeting consideration of the matter. It is recommended the Shire issue an approval to the house subject to standard conditions.

*Further Information following the Agenda Briefing Forum held on 10 December 2019*

*Clarification is required of the level of the rear lot sought along with RL levels for the proposed residence.*

*Council may wish to add the following condition:*

- 5. Council requires the materials and finish for the house shall be light neutral colours which compliment the colour scheme of the heritage listed house located immediately to the west of 10 Keane Street Peppermint Grove.*

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

That Council approves the application for a New Single House at 10 Keane 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 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:**

The Shire notes the design has been revised to respond to the concerns identified by the Council at the meeting in September 2019. The redesign does not require the Shire to exercise discretion, however in making the further assessment the Council encourages the applicant to ensure the landscaping and design of the street elevation and setback area be finished to achieve a harmonious streetscape which does not dominate or detract from adjacent heritage houses.

**COUNCIL DECISION/S – ITEM NO 8.1.2****MOVED: Cr K Farley****SECONDED: Cr D Horrex**

**That Council delegate to the CEO the power to receive modified plans for the New Single House at 10 Keane Street to achieve a building height compliant with Local Planning Scheme 4 and the R Codes, and if satisfied that these modifications achieve a similar design outcome and meet LPS4 requirements, to grant approval 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. Council requires the materials and finish for the house shall be light neutral colours which compliment the colour scheme of the heritage listed house located immediately to the west of 10 Keane Street Peppermint Grove.

**Advice Note:**

The Shire notes the design has been revised to respond to the concerns identified by the Council at the meeting in September 2019. The redesign does not require the Shire to exercise discretion, however in making the further assessment the Council encourages the applicant to ensure the landscaping and design of the street elevation and setback area be finished to achieve a harmonious streetscape which does not dominate or detract from adjacent heritage houses.

**CARRIED 6/0**

**Cr G Peters returned to the Chambers at 5.44pm.**

### 8.1.3 5 Venn Street – Workshop & Carport Roof – Application to Modify Approval

## URBAN PLANNING

### ATTACHMENT DETAILS

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

Voting Requirement	:	Simple Majority
Location / Property Index	:	5 Venn Street, Peppermint Grove
Application Index	:	DA2019/00031
LPS No 4 Zoning	:	R-12.5
Land Use	:	Residential
Lot Area	:	921m <sup>2</sup>
Disclosure of any Interest	:	Nil.
Previous Items	:	DA2019/00005 – June 2019
Applicant	:	Studio Atelier
Owner	:	Ngaire Beck
Assessing Officer	:	Mr. Josh Dallimore – Planning Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager 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 approved a single house for this property in June 2019. Council is now requested to consider the proposed amendment to that approval DA2019/00005, which is to add a workshop to the north of the carport at the rear of the property at 10 Keane Street, Peppermint Grove.

## **SUMMARY AND KEY ISSUES**

- Council approved an application for a new single house at this address in June of 2019.
- A garage was deleted from the design to achieve the LPS 4 design requirements in terms of plot ratio and length of boundary wall. The garage was in a similar location to the workshop now proposed.
- This application seeks to re-instate a building at the rear of the lot for a workshop and to modify the roof of the carport, raising it and redesigning the pitch to unite the overall carport/workshop structure.

## **LOCATION**

5 Venn Street, Peppermint Grove

## **BACKGROUND**

- Council approved an application for a new single house at this address in June of 2019 after several rounds of modification to achieve a satisfactory design result.
- A garage was deleted from the design to achieve the LPS 4 design requirements in terms of plot ratio. This was in a similar location to the workshop now proposed.
- That previous design proposed elements such as boundary walls, and taller roof heights and plot ratio in excess of 0.5 – matters which, because they are not deemed to comply (R Codes and LPS 4) require special Council consideration as pre-requisite to approval.
- The Council Design Review process resulted in revisions to reduce the bulk of the proposed development, contain site coverage and plot ratio and mitigate impacts of design departures from LPS 4 and R Codes on neighbours before it could be considered for approval.
- The changes were made to the design and Council issued an approval.
- The applicant re-opened discussion about re-introducing extra non-habitable floorspace and that resulted in this application.

## **CONSULTATION**

A letter was sent to adjoining landowners on 16 October 2019 informing them that the Shire has received an application for Development Approval and invited them to make comment on aspects of the design that are not Deemed-to-Comply. The Consultation period was 14 days from the date of the letter and closed on 30 October 2019.

The Shire received one comment on the proposed development that objected to increase of bulk on the lot being introduced by the workshop. They also raised objection to the means of access to the carport and workshop via a right of carriageway, however this is not part of the planning approval.

## **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 although the Shire has signaled that it wants to protect portions of residential sites so that there is adequate deep-root planting. This will allow for future trees within residential gardens to perpetuate the character of Peppermint Grove as a garden neighbourhood.

## **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>	R-Codes Part 5.4.3 – iv. Outbuildings that do not exceed a wall height of 2.4m.	The application is proposing a wall height of 3.2m for the outbuilding, 0.8m above the deemed-to-comply of the R-Codes. The proposed wall abuts an existing boundary wall at the property to the north. That boundary wall is 3.6m tall

## **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 height of the workshop is in excess of the LPS 4 maximum height for this type of building. There has been no justification for the excess of height, and there may be a potential to increase the shadow impact on the property to the south.

The proposal is incremental return to a previous design intention; however, it now observes LPS 4 requirements.

- 1.3m<sup>2</sup> of floor space has been removed from the workshop floor area and the structure is moved to be setback from the boundary by 2.03m – this brings the application into compliance for plot ratio and boundary setback.
- Wall height remains 3.2m however which exceeds the 2.4m outbuilding height and therefore requires Council to exercise discretion if it is to approve.

The revision to the roof will unite the roofline of both the carport and workshop and result in a more cohesive design outcome.

The results of the neighbour consultation was one objection. The grounds for objection related to the rear Right of Carriageway which is the result of an historical landowner agreement – one which predates this ownership.

Although the objection included reference to the roof height this was not explained or substantiated.

The request for Council to exercise its discretion invites a design principles assessment of the overall site development.

In the previous deliberation of the proposed redevelopment the Council communicated its concern about the reduction of garden and deep-root zone planting across the property. This proposal reduces the extent of outbuilding coverage to meet LPS 4 (plot ratio of 0.5), however this revised design replaces and builds over a portion of the site which was previously approved for garden area; a loss of an important element.

Should the Council consider the modified design it would be a reasonable requirement there be an offset of equivalent space elsewhere on site – and it may be possible to reduce the amount of hard-standing at the rear of the property where there is currently proposed to be a driveway and car-standing area.

The paving of this with permeable, trafficable grass may be some offset for the loss of the garden area.

Further Information following the Agenda Briefing Forum 10 December 2019

*In condition 5 of the Recommendation, Council may wish to replace the word 'requests' with 'required'.*

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

That Council approve the modification to Approval DA2019/00005 to allow the development of a workshop and to revise the roofline for the carport to match the workshop at 5 Venn 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. Council requests the submission of a revised site plan to indicate the area of hard-standing equivalent to (the floor area of the workshop) and situated to the rear of the property to be replaced by permeable paving/trafficable turf with an additional two shade trees to be planted at the rear of the property.

Advice Note:

In approving this application Council has assessed the proposed plans against the Shires Local Planning Scheme 4 and the Design Principles of the R-Codes, and has provided discretion on the following areas:

- Outbuilding Height

The design principles assessment concluded there would be no adverse impact on the street or abutting properties.

**COUNCIL DECISION/S – ITEM NO 8.1.3****MOVED: Cr C Hohnen****SECONDED: Cr D Horrex**

**That Council approve the modification to Approval DA2019/00005 to allow the development of a workshop and to revise the roofline for the carport to match the workshop at 5 Venn 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. Council requires the submission of a revised site plan to indicate the area of hard-standing equivalent to (the floor area of the workshop) and situated to the rear of the property to be replaced by permeable paving/trafficable turf with an additional two shade trees to be planted at the rear of the property.

**Advice Note:**

In approving this application Council has assessed the proposed plans against the Shires Local Planning Scheme 4 and the Design Principles of the R-Codes, and has provided discretion on the following areas:

- Outbuilding Height

The design principles assessment concluded there would be no adverse impact on the street or abutting properties.

**CARRIED 7/0**

### 8.1.4 Additions to Single House (Heritage Listed) - 18A Keane Street Peppermint Grove

## URBAN PLANNING

### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
<b>Attachment 1 – Item refers</b>	Locality Plan
<b>Attachment 2</b>	Application Plans
<b>Attachment 3</b>	Design Report - Mengler

Voting Requirement	:	Simple Majority
Location / Property Index	:	18A Keane Street, Peppermint Grove
Application Index	:	DA2019/00034
LPS No 4 Zoning	:	R-12.5
Land Use	:	Residential
Lot Area	:	728m <sup>2</sup>
Heritage List	:	Yes
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Ms C Mengler
Owner	:	Heng K Chiam
Assessing Officer	:	Mr Josh Dallimore
Authorising Officer	:	Mr Ross Montgomery – Manager 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**

The Council is required to consider a development application to partly demolish and redevelop a single house at 18A Keane Street in Peppermint Grove (cnr Venn St).

The property is on the LPS 4 heritage list and requires a planning application. The submitted design requires the Council to consider the exercise of discretion to allow for a reduction in the boundary setback (Cl.26 LPS 4).

## **SUMMARY AND KEY ISSUES**

- The house is heritage listed and was built before LPS 4 or R Codes.
- The addition is consistent with the present heights and setbacks of the present house, and therefore presents as a congruous and united addition.
- Rear portion of house is to be demolished and redeveloped to provide contemporary living and utility areas. Venn Street aspect is to be unaltered,
- Additions are designed to be consistent with the remaining portion of the house and present towards Keane Street with fence to screen garden living area.
- A double carport is within the Keane Street setback with a zero setback from the boundary with 18 Keane Street (to the east). This element requires discretion to be approved.
- Application was advertised to neighbours for comment about the reduced setback. Several viewed plans. The Shire received no objections.

## **LOCATION**

18 A Keane Street Peppermint Grove – SE cnr Venn Street.

## **BACKGROUND**

18A Keane Street wraps around the corner and so it orients onto Venn Street. The house like many of the heritage listed properties was built well before the R-Codes applied to residential design.

The proposal will replace a skillion-roof rear section of the house with a single-storey building containing contemporary living, a bedroom and utility areas.

Rather than meet current LPS 4 standards the design is consistent in terms of roof-height and silhouette with the western portion of the house. It preserves the Venn Street aspect intact and presents a Keane Street aspect which is appropriate to a side street. It includes an entrance door facing towards Keane Street.



The colours and materials are consistent with the present heritage theme of the house.

The carport reduction of setback to zero from neighbour boundary requires Council to exercise its discretion. The abutting property to the east faces Keane Street but already has structures closer than the 9 metres street setback.

### **CONSULTATION**

The neighbouring properties were invited to view plans and make comment on the reduction of setback. No objections have been received.

### **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**

Local Planning Policy 1 – Urban Design and Streetscape

LPP 1 has two planning objectives to achieve a high-quality environment and maintain amenity in the Shire. The policy endeavours to ensure houses address the street in a positive and human manner.

The proposed additions to the existing house are single storey and non-obtrusive when viewed from the street. While proposed setbacks do not meet scheme and R-Code requirements, the lower height of the additions helps to reduce the impact of building bulk on the street.

## **STATUTORY IMPLICATIONS**

The statutory requirements in respect to this matter are:-.

### **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>LOCAL PLANNING SCHEME NO. 4</u></b>		
<b>Scheme Requirement/Clause</b>		<b>Assessment/Comment</b>
<b>1.</b>	Cl.26 (2) – Modification of R Codes setback from secondary street for garages and carports	Requirement is 4.5m from street. Proposal is well within this setback – however the benefits of the design will revive the house and provide opportunity for outdoor living and potentially increase street interaction.
<b>1.</b>		
<b><u>RESIDENTIAL DESIGN CODES</u></b>		
<b>Acceptable Development/Performance Criteria</b>		<b>Assessment/Comment</b>
<b>1.</b>	Setback from Secondary Street 4.5m	Complies with LPS 4, exceeds R Codes
<b>2.</b>	Setback from rear Boundary (6* – 1 minimum) : proposed = zero	Does not comply. Acceptable given abutting property also uses zero setback.
<b><u>SCHEME/COUNCIL POLICY</u></b>		
<b>Policy Provisions</b>		<b>Assessment/Comment</b>
<b>1.</b>	LPP1 - Streetscape	Design is generally consistent with achieving LPP 1 objectives.

## **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 application seeks Council discretion to approve renovations to a heritage listed house and to allow a carport to be constructed with a zero setback from the neighbouring property. The applicant has explained the design approach as a response to heritage and the Local Planning Scheme provisions. This report covers the basis of assessment well.

The renovations and additions are styled in a sympathetic and appropriate scale to complement the heritage values of the house, and to bring it up to date with contemporary living requirements for living and informal meals areas. The plans also propose space for utilities and a bedroom. The work will refresh and retain a heritage listed house in what is an important location with equivalent heritage houses located on surrounding properties.

It is assessed to be of low impact on the site and to complement the surrounding streetscape

The merits of the carport being constructed on the boundary are that it will be of sufficient width to contain two vehicles in tandem away from the street and due to the short driveway vehicles cannot stand in front of the house. This offers streetscape benefits and due to the considered design response by the architect this application is recommended for approval.

A mature Peppermint tree has been earmarked for removal to allow a driveway crossover from Keane Street.

This report does not approve the removal of the tree and any crossover associated with this application should be redesigned to not impact the tree and root zone.

**OFFICER RECOMMENDATION/COUNCIL DECISION/S – ITEM NO 8.1.4****MOVED: Cr K Farley****SECONDED: Cr C Hohnen**

**Approval for the renovation of a single house at 18A Keane 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. Fencing to the boundaries shall be no greater than 1.8 m in height as shown on the Approved Plans and to be consistent with LPP 1 Streetscape Policy**

**Advice:**

**In approving this application Council has assessed the proposed plans against the Shires Local Planning Scheme 4 and the Design Principles of the R-Codes, and has provided discretion on the following areas:**

- Lot boundary setback**

**The design principles assessment concluded there would be no adverse impact on the street or abutting properties.**

**CARRIED 7/0**

## DECLARATION OF INTEREST – FINANCIAL – CR C HOHNEN

Cr Hohnen having declared a Financial Interest in Item 8.1.5 left the Chambers at 5.46pm.

### 8.1.5 32 The Esplanade – New Single House

## URBAN PLANNING

### ATTACHMENT DETAILS

Attachment No	Details
Attachment 1	Location Map
Attachment 2	Development Application Plans
Attachment 3	DMG Report
Attachment 4	Heritage Report

Voting Requirement	:	Simple Majority
Location / Property Index	:	32 The Esplanade, Peppermint Grove
Application Index	:	DA2019/00033
LPS No 4 Zoning	:	Residential – R-12.5
Land Use	:	Residential
Lot Area	:	2729m <sup>2</sup> Proposed
Disclosure of any Interest	:	Nil.
Previous Items	:	Nil.
Applicant	:	Design Management Group Pty Ltd
Owner	:	C & M Hohnen
Assessing Officer	:	Mr. Josh Dallimore – Planning Officer
Authorising Officer	:	Mr. Ross Montgomery – Manager Development Services

### COUNCIL ROLE

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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**

Council is requested to assess the proposed new single house and ancillary dwelling at 32 The Esplanade, Peppermint Grove, which abuts a heritage listed property. The development is situated on one lot proposed and subject to the approval of the re-subdivision of Lots 114 and 115 by the WAPC.

## **SUMMARY AND KEY ISSUES**

- The development requires a planning application because it is on land which contains a heritage listed property, and the design proposed for the new house requires the Council to grant concession on two design elements; wall height and plot ratio.
- The architect and applicant have made several presentations to workshop the design to be sympathetic with the site, the abutting heritage house and neighbouring properties.
- Surrounding property owners were consulted on the application. Four objections and one letter of confirmation were received by the Shire during the consultation period.
- The application is subject to the approval of a subdivision creating two lots from the WAPC.
- The proposed new single house with ancillary dwelling will abut 'Weerianna' a heritage property which occupies a visually prominent site within the Shire.

## **LOCATION**

32 The Esplanade, Peppermint Grove

## **BACKGROUND**

Heritage house 'Weerianna' was recently sold and prior to the sale the purchaser indicated to the Shire intention to re-subdivide to place the heritage house on its own lot (previously straddled the boundary of Lots 114 & 115) and to create a vacant lot suitable for the development of a single house.

Prior to the submission of a formal development application, the new owner and their architect requested to meet with elected members of the Council to explore the design opportunities to build a new house on the proposed eastern lot, and to design it in such a way as to achieve a respectful harmony with Weerianna, and neighbouring properties.

The proposed development was discussed on two occasions with elected members of Council at a concept forum to explore the site design considerations, and to discuss the issues and values held by the Shire for the site and the heritage values of the place.

The first presentation to Council sought feedback on the concept of subdivision and development on the new eastern lot at 32 The Esplanade. No plans were presented to Council at this time, however, the importance of protecting the heritage value of the original house on the current lot was discussed and influenced the location of the dividing boundary to afford views from Leake Street back to the eastern frontage of the house.

The second presentation to Councillors at concept forum presented a draft of plans for the proposed new single house with an ancillary dwelling in the form of a basement flat. Councillors provided informal feedback at concept stage, in the understanding the architect would address their comments when finalising the development design.

The discussion highlighted the challenges of designing a modern house for the proposed site which would maintain an appropriate and respectful relationship to Weerianna, and also make its own aesthetic contribution to the streetscape of the Esplanade and Leake Street. The submitted design could not be assessed as a deemed to comply with the LPS 4 and R Codes, however Council has in the past considered variations where they achieve heritage or other positive planning policy objectives.

The submitted design addresses a series of the complex and specific site parameters and is seeking Council to approve a variation to the R Codes in respect to the wall height, and plot ratio.

The design is for a flat roof building with terraces facing east and a ramped driveway to the west which provides a view corridor between the new house and Weerianna.

## **CONSULTATION**

Following the receipt of the application and plans, surrounding property owners were notified of the proposal on 28 October 2019 and invited to view plans and make comment of the design variations being sought.

The Shire received five written letters of submission as summarised below:

- Submission 1 – Objects because increased bulk of the design being sought by the applicant will spoil the ambiance of the street and would devalue the submitter's property. The Council should refuse applications that seek discretion unless it is justified and does not impact neighbourhood.
- Submission 2 – Objects on two grounds; the proposed house is not consistent with the adjacent and surrounding heritage properties and would detract from their heritage value; and the increased wall height of the proposed development will detract from the vicinity of Leake Street, The Esplanade, Freshwater Bay, and the wider Peppermint Grove.
- Submission 3 – Objects to the wall height and plot ratio excess of LPS 4 requirements. Disappointed to see the block be subdivided but understand subdivision may occur. Would prefer a new house to be designed in a more sympathetic manner to the original house on the lot.

- Submission 4 – Objects to the increased wall height of the proposed house (exceeds 1.0 m) and the impact the variation of height will have on the amenity of the area. No objection to the plot ratio variation because it is minor. Comments about the visual prominence of the existing heritage house on the lot and the need to preserve heritage throughout the Shire. Suggests proposed house is shifted away from Weerianna and closer to The Esplanade boundary, to still be compliant with the Scheme but to increase available sight lines to the heritage house. Opines that moving the proposed house towards the Esplanade and down the slope would mitigate some of the issues relating to wall height.
- Submission 5 - No objection to the application in its current form and support for the areas of discretion being sought from Council. Confirms the application is consistent with the discussion submitter had with the architect and owner pre-lodgement of the formal application.

## **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**

### Local Planning Policy 1 – Urban Design and Streetscape

LPP 1 has two planning objectives to achieve a high-quality environment and maintain amenity in the Shire. The policy endeavours to ensure houses address the street in a positive and human manner.

The design is a contemporary flat roof pavilion style. Timber deck and terraces face the river and Leake Street. The choice of stone, concrete and timber materials are consistent with neighbouring houses. Application notes that although the house exceeds Local Planning Scheme 4 (R Codes) requirements for plot ratio the increased primary and secondary street setbacks of the building will not impact the public domain of the street.

### Local Planning Policy 3 – Heritage Places

Weerianna to the west is included on the Shires heritage list. It is a policy requirement that development adjacent to the heritage properties should be considerate of the heritage values of the area (LPP 3). New development should not imitate abutting heritage buildings but be respectful in their profile and location to the heritage listed building.

The proposed plans are for a building of modern appearance which is distinctly different from the properties adjacent. The neutral colour pallet and the design takes into consideration the adjacent heritage property and with increased setbacks from Leake Street endeavours to maintain sightlines between the street and the heritage house.



## **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.Ancillary dwelling</b>		A basement flat (ancillary dwelling) is located entirely under the house in the basement. It is under 70 m <sup>2</sup> and meets requirements.
<b>2.</b>	0.5 Plot Ratio	The Shires Local Planning Scheme 4 stipulates a maximum plot ratio of 0.5. The application proposes assessed plot ratio of 0.579, 129m <sup>2</sup> floor area excess of the deemed to comply. To reduce the impact of the increased floor space the house has been setback well in excess of scheme and R-Code requirements.
<b>RESIDENTIAL DESIGN CODES</b>		
<b>Acceptable Development/Performance Criteria</b>		<b>Assessment/Comment</b>
<b>1.</b>	External wall height – flat roof – 7m	The proposed house includes a flat roof design. For a Category B building the maximum external wall height is 7m. The proposed external wall height/building height is 8.09m, 1.09m above the maximum. The overall height of the house being a flat roof design is 910mm lower than permissible if it were to have a pitched roof. (Noting: the maximum building height outlined in the Shires LPS 4 of 9m). Were the building to be built to this height the R-Codes stipulate that it would require a pitched roof. The house has been setback from both streets in excess of scheme and R-Code requirements to reduce the street impact of the house.

### **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**

Re-subdivision of this land was inevitable given the WAPC recent record of supporting subdivision even when it has been ad-hoc, non-conforming to WAPC policy and not supported by the Shire. Subdivision in this case produced an adequate and regular shaped lot and each new vacant lot holds an expectation of new house development.

The Esplanade Peppermint Grove is a neighbourhood of grandly designed houses from different eras. It has been transformed from origins of a collection of bungalows set in leafy riverine grounds. The few remaining examples are now highly valued for their reminder of a suburban lifestyle which has past. Weerianna is highly valued for its heritage and aesthetic contribution to the locality.

In 2019 however The Esplanade and these houses form an eclectic community of architectural individuals, a few stridently different, but common in their goal of aesthetic status and so it is not necessarily appropriate in all circumstances to apply R-Codes generic standards applicable generally throughout WA, lest it result in mediocre design.

This application for development approval does not meet and exceeds Local Planning Scheme provisions in two design elements, and requests Council to approve a variation.

The plot ratio proposed in the submitted plans is assessed 0.579. This is 0.079 (129m<sup>2</sup>) in excess of the maximum floor space allowable under the Local Planning Scheme.

The form of the building has been made to sit low under a flat roof, 'wings' are joined by stairs, voids and corridors and these contribute to the plot ratio even though they are not rooms other than functional movement spaces. It is an element of the design which gives the building its attractive street appearance and modularity.

Restrictions on plot ratio were specifically included in the Shire Local Planning Scheme in response to the Council objective to maintain the open landscaped garden character which prevails in many of the streets throughout Peppermint Grove.

Approval of the plans submitted with this application would create development in excess of the Scheme provisions; the outcome at odds with the built environment objectives of the 'Community Strategic Plan'. Council has typically not supported developments in excess of plot ratio provisions unless there is a justification or that the design warrants approval for achieving a better design outcome than a compliant design would achieve.

It is considered the plot ratio could be reduced closer to 0.5 without impacting the functionality of the building and this advice has been provided to the architect.

Discretion is sought on the proposed wall height which exceeds the provisions of Table 3 of the R-Codes. This exceeds wall and building heights for Category B (for flat roof) buildings by 1.09m.

The total height of the proposed building is 8.09m, 910mm lower than the maximum allowable height of a residential building outline in LPS 4.

As a result of the non-compliant building height a design principles approach is required. Under section 5.1.6 of the R-Codes, a non-compliant building should create no adverse impact on the amenity of adjoining properties or the streetscape, and meet the following three design principles:

	Design Principle	Comments
1.	Adequate access to direct sun into buildings and appurtenant open spaces	<p>The proposed development is situated on a corner block and has no abutting neighbours to the north and east of the property, and as such does not reduce amenity for anyone in these directions.</p> <p>There is some overshadowing to the neighbour to the North, however they have been made aware of this and indicated they are supportive of proposed plans.</p> <p>The proposed new lot to be created through subdivision is downhill from the property to the west and the height of the new house is separated from the boundary by the driveway and is therefore unlikely to overshadow the house.</p> <p><b>Result:</b> Meets Design Principle</p>
2.	Adequate daylight to major openings and habitable rooms	Comments from Design Principle 1 also applicable.
3.	Access to views of significance	<p>The existing house Weerianna, its aspect to the street and the river is undoubtedly significant for the site and the neighbourhood.</p> <p>The creation of an intervening lot will make it inevitable that any house, even one entirely compliant with the R codes and LPS 4 would obstruct views between the river and Weerianna,</p> <p>The new lot and the proposed house is new occupant of that prominent prospect of the Swan River and has views of great significance. It is therefore important the new design is not only respectful to neighbouring buildings, but also makes its own aesthetic contribution to the location.</p>

		<p>The design of the new house, its measured proportions and choice of materials and location on the lot and design of the house may create a new prospect, to replace the previous view of the heritage house. A view corridor between the two houses will permit a continued visual link between Weerianna and Leake Street.</p> <p>The importance of views have been taken into consideration during the design and the building has been setback from streets in excess of scheme and R-Code requirements to help maintain view corridors where possible.</p> <p><b>Result:</b> Meets Design Principle</p>
--	--	--

The Shire engaged a heritage architect to assess the proposal and its impact on the heritage value of Weerianna. Although the report is comprehensive and thoughtful it is not surprising the report identifies a significant impact, and this is primarily related to impaired prospect and views. The subdivision which creates the lot, as well as the development of the new lot would impact views to and from the east.

#### Conclusion

##### Wall/roof Height

On its own, the additional wall height proposed in the application is possibly acceptable because it is associated with a flat roof and the overall roof height is lower than a compliant pitched roof would be. The flat roof maintains some limited views between the river and the heritage house and on that basis is considered suitable for approval.

Objections from neighbours to this are generally not supported because any new house developed on that lot and which had a pitched roof to the maximum ridge height of 9 m (and assuming it ran north-south) would have a greater impact than the flat roof at the height proposed. Two of the submissions received did not object to the height.

##### Plot Ratio

It is noted that although the R Codes do not stipulate a plot ratio for single houses, LPS 4 was approved by the WAPC with a maximum for plot ratio of 0.5 and this is because of local community concerns that despite larger than average lot sizes in single residential zones, the Shire faced excessive development footprints for single houses. This development trend leads to a loss of urban green space, a loss of trees and gardens on private land and ultimately the loss of neighbourhood character of Peppermint Grove.

The excess of floor area for the new lot has resulted in a plot ratio which is 0.05 above the Scheme requirement. For the size of that lot, the floor area would need to be reduced significantly ( < 129 m<sup>2</sup>) to achieve a plot ratio of 0.5 to comply with LPS 4.

Although Council has previously allowed for excess of plot ratio (up to 0.52) in cases especially with regard to heritage buildings, the excess of plot ratio of the scale proposed cannot be supported, especially given the concerns raised by neighbours about impacts from over development of the site.

This is a very large house and the floor area assessed for the purposes of plot ratio is 944 m<sup>2</sup> (noting this does not include under-ground and non-habitable areas but does include corridors, lifts stairs and circulation spaces).

In previous discussion the architect has asked that there be concession for plot ratio and height granted based upon the:

- Wider than necessary setback between Weerianna and new lot; and
- Larger than required setbacks from Leake Street and The Esplanade; and
- Maintaining open views around the proposed house and a view corridor above the carpark driveway ramp.

Although each of these design elements hold value in terms of respecting the site, the heritage house and views of the house from the street; it remains that the floor area of the proposed house is 94 m<sup>2</sup> in excess of what the Scheme allows. This area is a significant excess of floor space for a single house and objections about the scale of the building for the site by neighbours may be justified.

On balance therefore the design whilst it offers merits in its form and finishes and materiality cannot be recommended for approval because it exceeds the LPS 4 plot ratio and this excess is well beyond what the Shire may have previously considered as a reasonable margin granting a credit for sensitive heritage and streetscape design.

The excess of floor area by 129 m<sup>2</sup> could not be demonstrated meet design principles because it could not demonstrate the excess provides a better design outcome on this site or for the locality than a compliant design, whereas the request for allowance of the over height building is able to be considered a better design outcome because of the flat roof design and its regard for surrounding views.

The objections received from neighbours about the plot ratio are justified in this respect and should be upheld. Unless the design can be reduced in floor area the combination of excess floor area and wall height is likely to create a building of disproportionate bulk and scale to the site and adjacent heritage buildings.

The proposed subdivision referenced in this application has conceded some land to the original house to help maintain view corridors to the heritage property from the street. As such, the new house is on a proposed lot 46m<sup>2</sup> smaller than the potential maximum lot size.

The calculation of the plot ratio has assumed Council may grant a concession towards excess plot ratio for the new house in the consideration that the land was conceded to help protect a heritage building and provide views between it and the street.

The applicant has been advised of this assessment and has indicated they intend to review and redesign to reduce the plot ratio.

The floor area target for the purposes of a reduced plot ratio would need to be lower, and the recommendation is that 0.52 should be as much concession as could be granted and taking account of the sit, its impacts and the design.

It is therefore recommended that Council consider delegation to the Chief Executive Officer to receive and assess revised plans and if satisfied:-

- there has been a reduction in floor area assessed for plot ratio, and
  - the redesign does not compromise the architectural merits of the design, then
- there can be approval granted to the application with the revised plans to form the Approved Plans.

*Further Information following the Agenda Briefing Forum held 10 December 2019*

*That Council may wish to add the following advice note to the Recommendation:*

- 4. Council is concerned that there is a suitable and sympathetic interface between the heritage listed house Weerianna and Leake Street, especially given the renewed importance of this street aspect of the house, as its principal street frontage. To this outcome Council notes for future reference the existing boundary wall will require replacement/modification to meet the requirements for front fence design policy.*

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

That Council delegate to the CEO the power to receive modified plans for the new single house at 32 The Esplanade to achieve a 0.52 or lower plot ratio, and if satisfied that these modifications achieve a superior design outcome and meet LPS 4 requirements, to grant approval 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 plans approved as part of this application and shall form part of the development approval issued.
2. All subsequent building permits issued as required to implement this Planning Approval shall reflect and agree with Planning Approval Conditions, Approved Plans and other planning requirements instructed by the Shire of Peppermint Grove for this approval.
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 submission of an application for a Building Permit, the management plan detailing how risks of wind and/or water born erosion and sediment will be minimised during the works to the satisfaction of the Shire of Peppermint Grove.
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:
  - 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 thoroughfares during construction;
- f. How risks of wind and/or water born erosion, dust and sedimentation will be minimised during works;
- g. Other matters likely to impact on surrounding properties.

Advice Notes:

1. Applicant is to be advised that Council, in granting approval for development, has assessed the proposal subject to the Design Principles of the Residential Design Codes in regard to plot ratio, floor area, and height of external walls.
2. The subdivision of the land to create the site identified within this application shall be finalised by the lodgement of a diagram of survey with Land Titles Office (Landgate) prior to the issue of a building permit by the Shire.
3. In resolving to approve this application and plans the Shire advises it has exercised its discretion subject to Clause 34 of the Local Planning Scheme 4. It has considered the submissions received, technical and legal advice as well as the overall design merits of the proposal and is satisfied the development will on balance be to the benefit of the locality.



**COUNCIL DECISION/S – ITEM NO 8.1.5****MOVED: Cr P Macintosh****SECONDED: Cr D Horrex**

**That Council delegate to the CEO the power to receive modified plans for the new single house at 32 The Esplanade to achieve a 0.52 or lower plot ratio, and if satisfied that these modifications achieve a superior design outcome and meet LPS 4 requirements, to grant approval 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 plans approved as part of this application and shall form part of the development approval issued.**
- 2. All subsequent building permits issued as required to implement this Planning Approval shall reflect and agree with Planning Approval Conditions, Approved Plans and other planning requirements instructed by the Shire of Peppermint Grove for this approval.**
- 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 submission of an application for a Building Permit, the management plan detailing how risks of wind and/or water born erosion and sediment will be minimised during the works to the satisfaction of the Shire of Peppermint Grove.**
- 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:**
  - 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 thoroughfares during construction;**
  - f. How risks of wind and/or water born erosion, dust and sedimentation will be minimised during works;**
  - g. Other matters likely to impact on surrounding properties.**



**Advice Notes:**

1. Applicant is to be advised that Council, in granting approval for development, has assessed the proposal subject to the Design Principles of the Residential Design Codes in regard to plot ratio, floor area, and height of external walls.
2. The subdivision of the land to create the site identified within this application shall be finalised by the lodgement of a diagram of survey with Land Titles Office (Landgate) prior to the issue of a building permit by the Shire.
3. In resolving to approve this application and plans the Shire advises it has exercised its discretion subject to Clause 34 of the Local Planning Scheme 4. It has considered the submissions received, technical and legal advice as well as the overall design merits of the proposal and is satisfied the development will on balance be to the benefit of the locality.
4. Council is concerned that there is a suitable and sympathetic interface between the heritage listed house Weerianna and Leake Street, especially given the renewed importance of this street aspect of the house, as its principal street frontage. To this outcome Council notes for future reference the existing boundary wall will require replacement/modification to meet the requirements for front fence design policy.

**CARRIED 6/0**

**Cr Hohnen returned to the Chambers at 5.52pm**

**8.2 MANAGER INFRASTRUCTURE SERVICES**

NIL

**8.3 MANAGER LIBRARY SERVICES**

NIL

## 8.4 MANAGER CORPORATE AND COMMUNITY SERVICES

### 8.4.1 Financial Report – 30 November 2019

#### CORPORATE

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment	Financial Report – 30 November 2019

Voting Requirement	:	Simple Majority
Subject Index	:	FM026A
Responsible Officer	:	Michael Costarella, Manager Corporate and Community Services

#### COUNCIL ROLE

- |                                     |                       |  |
|-------------------------------------|-----------------------|--|
| <input type="checkbox"/>            | <b>Advocacy</b>       | <i>When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.</i>  |
| <input checked="" type="checkbox"/> | <b>Executive</b>      | <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"/>            | <b>Legislative</b>    | <i>Includes adopting local laws, town planning schemes &amp; policies.</i>   |
| <input type="checkbox"/>            | <b>Review</b>         | <i>When Council reviews decisions made by Officers.</i>  |
| <input type="checkbox"/>            | <b>Quasi-Judicial</b> | <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

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

## **SUMMARY AND KEY ISSUES**

Operating revenue is \$206,000 less than the year to date budget as the Shire is awaiting a Main Roads Grant for Leake Street.

Operating expenditure is some \$44,000 less than the year to date budget and mainly due to October invoices being processed in October/ November;

Capital expenditure- This relates to the Printer, Leake Street resealing and purchase of a new Truck.

## **LOCATION**

N/A

## **BACKGROUND**

Nil

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

Objectives within the Governance section of the Strategic Community Plan

## **POLICY IMPLICATIONS**

Shire of Peppermint Grove Financial Management Policies

## **STATUTORY IMPLICATIONS**

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

## **FINANCIAL IMPLICATIONS**

The financial report for November 2019 shows the current net assets of \$2.25million which includes the rates debtors of \$1million.

## **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**

Additional Fees and charges received to 30 November of \$21,000 relate to additional fees for development licence fees.

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

Grants and subsidies were \$180,000 less than the year to date budget and this was mainly due to less than expected grant funding for Leake Street that has been claimed but not yet received.

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

The YTD Actuals were \$22,000 more than the expected and this was mainly due to accruals to be reversed following the completion of the audit for 2018/19

### **(5) Materials and Contracts**

Materials and contract expenses are some \$64,000 less than expected, due largely to timing variances with respect to invoices for November 2019.

## **OFFICER RECOMMENDATION/COUNCIL DECISIONS – ITEM NO. 8.4.1**

**MOVED: Cr K Farley**

**SECONDED: Cr G Peters**

**That Council receive the monthly financial report for the period 1 July 2019 to 30 November 2019.**

**CARRIED 7/0**

## 8.4.2 Accounts Paid – November 2019

### CORPORATE

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
<b>Attachment</b>	<b>Accounts Paid November 2019</b>

Voting Requirement : Simple Majority  
 Subject Index : FM045A  
 Disclosure of any Interest : 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 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 November 2019 included the following:

- Presidential and Councillors Allowances;
- Annual Fees for Managed IT Services;
- Heritage Architect Consultancy and Reports
- Verge Tree Maintenance Project
- New Library Website
- 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	312-317	260,966.59
EFT	TRUST	15	3,150.00
DIRECT DEBITS	MUNICIPAL	110-113	4,601.60
BPAY	MUNICIPAL	92-94	1,298.25
<b>TOTAL</b>			<b>\$...270,016.44</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 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**

Payments made during the month of November are reflected in the Monthly Financial statements and mainly for materials and contracts.

**OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO. 8.4.2**

**MOVED: Cr G Peters**

**SECONDED: Cr D Horrex**

**That Council receive the list of payment of accounts by cheques, electronic funds transfers, direct debit payments and credit card payments for November 2019, totalling \$270,016.44.**

**CARRIED 7/0**

## 8.5 CEO/ MANAGEMENT / GOVERNANCE / POLICY

### 8.5.1 LGIS Surplus Distribution

#### **ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
Voting Requirement	: Simple majority
Subject Index	:
Disclosure of any Interest	: Nil
Responsible Officer	: CEO

#### **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**

This report considers the advice from the Local Government Insurance Scheme (LGIS) regarding the 2019 surplus.



## **SUMMARY AND KEY ISSUES**

- The Shire is a member of LGIS, which WA Local Government Associations (WALGA) insurance arm.
- LGIS have advise that there is a scheme surplus and a distribution of the surplus will take place.
- LGIS have requested that the Shire indicate how the surplus will be taken.

## **LOCATION**

N/A

## **BACKGROUND**

Council is a member of LGIS, which facilitates insurance cover for the Shire. The Shire's main insurance policies cover public liability, professional indemnity, building and equipment. The 18/19 scheme had a surplus, which being distributed to member local government on a pro rata basis, dependent on the size of the local government insurance portfolio. The Shire's surplus is \$9,304.

The attached letter from WALGA

## **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 Policy implications evident at this time.

## **STATUTORY IMPLICATIONS**

There are no statutory implications evident at this time.

## **FINANCIAL IMPLICATIONS**

The surplus distribution will be included in the Shire's mid-year budget review

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.



### **SOCIAL IMPLICATIONS**

There are no social implications at this time.

### **OFFICER COMMENT**

WALGA has given the Shire the option of taking the surplus payment as an immediate refund via EFT, opt to retain the surplus to be applied to next year's premium or for LGIS to hold the funds in trust for future risk mitigation.

It is recommended that the Shire take the funds.

### **OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM 8.5.1**

**MOVED: Cr C Hohnen**

**SECONDED: Cr P Macintosh**

**THAT Council advise WALGA that it wishes the surplus distribution to the Shire of \$9,304 to be paid to the Shire via EFT.**

**CARRIED 7/0**

## 8.5.2 Matters for Information and Noting

### ATTACHMENT DETAILS

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

Voting Requirement : Simple Majority  
 Subject Index : Multiple  
 Disclosure of any Interest : 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.*
- ☒ **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 December 2019:

1. Building Permits Issued
2. Planning Approvals Issued
3. Infringements Issued
4. Seal Register – Goods and Services Contract for cleaning tender between the Shire and Iconic Property Services.

### **CONSULTATION**

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

### **OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO. 8.5.2**

**MOVED: Cr G Peters**

**SECONDED: Cr K Farley**

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

**CARRIED 7/0**

## 8.6 COMMITTEE REPORTS

From the Audit Risk and Governance Meeting held on 10 December 2019

### 8.6.1 AUDITED 2018/19 ANNUAL FINANCIAL STATEMENTS

#### MANAGEMENT/GOVERNANCE/POLICY

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
<b>Attachment 1 – Item refers</b>	Audited 2018/19 Annual Financial Statements
<b>Attachment 2 – Item refers</b>	Audit Report
<b>Attachment 3 – item refers</b>	Final Management Letter (Confidential)

Voting Requirement : Simple Majority  
 Subject Index : FM019C  
 Disclosure of any Interest : Nil  
 Responsible Officer : Michael Costarella, Manager Corporate & 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 receive the Audited Annual Financial Statements for the year ended 30 June 2019.

## **SUMMARY AND KEY ISSUES**

The 2018/19 Audited Annual Financial Statements have been completed and the Committee is requested to adopt the document.

## **BACKGROUND**

The financial statements for the year ended the 30 June 2019, were presented to the Auditor for audit purposes and following a number of amendments were presented to the Office of Auditor General (OAG) for final endorsement.

The OAG has also provided comment on the financial report and these are also included as an attachment.

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

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

## **POLICY IMPLICATIONS**

Nil

## **STATUTORY IMPLICATIONS.**

*Section 6.4 of the Local Government Act states:*

### *6.4 Financial report*

*(1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.*

*(2) The financial report is to —*

*(a) be prepared and presented in the manner and form prescribed; and*

*(b) contain the prescribed information.*

*(3) By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor —*

*(a) the accounts of the local government, balanced up to the last day of the preceding financial year;*

*and*

*(b) the annual financial report of the local government for the preceding financial year.*

### **FINANCIAL IMPLICATIONS**

Nil

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

### **SOCIAL IMPLICATIONS**

There are no social implications at this time.

### **OFFICER COMMENT**

The audit for the 2018/19 financial year has been completed and provides an overview of the financial activities of the 2018/19 year.

The auditor has requested that the 2018/19 audit completion report and draft audit report be endorsed by the Audit Risk and Governance Committee prior to the auditor providing the final version of the audit report.

### **2018/19 Closing Surplus**

The estimated closing budget surplus at 30 June 2019 was anticipated to be \$81,992. Following the conclusion of the financial year and the completion of the Annual Audit, the actual closing surplus for the 2018/19 financial year is \$265,325

The closing surplus of \$265,000 includes

Grants Paid in Advance	(\$ 50,000)
Additional fees and charges	(\$ 34,000)
Savings in Salaries & Wages	(\$ 45,000)
Additional legal Expenses	\$ 70,000
Additional Material & Contracts	\$ 50,000
Riverland Wall (complete 19/20)	(\$103,000)
- Vehicle Changeover	(\$ 3,000)
- Footpath Program	(\$ 150,000)
CLOSING SURPLUS AS AT 30/6/2019	\$ 265,000

The Auditor has requested that a liability, as at 30 June 2019 for the then unknown costs that may have been awarded to Dain Pty Ltd in relation to the Supreme Court actions to be shown in the financial statements. Officers have not changed the 30 June financial position to reflect a provision of around \$140,000 as this would have a significant impact on the shire's closing balance and some of the corresponding ratios. The fact that the Shire had a reserve fund with a matching amount ready to offset any court award costs is not acknowledged or identified in the audit report. The draft audit report is therefore qualified noting this matter.

The Management report from the auditor will be discussed at the meeting. The draft management report has been circulated to elected members and may be changed by the time the committee meeting is held.

**OFFICER RECOMMENDATION/S – ITEM NO 8.6.1**

That Council:

1. receives the audited 2018/19 Annual Financial Statements and draft Audit Report and Completion Report, as attached to the Audit, Risk and Governance Committee Agenda of 10 December 2019.
2. Sets the date for the annual electors meeting to be Tuesday 11 February 2020 commencing at 5.00pm in the Council Chambers.

**COMMITTEE RECOMMENDATION/COUNCIL DECISION – ITEM NO 8.6.1**

**MOVED: Cr C Hohnen**

**SECONDED: Cr P Dawkins**

**That Council:**

1. **receives the audited 2018/19 Annual Financial Statements and draft Audit Report and Completion Report, as attached to the Audit, Risk and Governance Committee Agenda of 10 December 2019.**
2. **Sets the date for the annual electors meeting to be Tuesday 11 February 2020 commencing at 5.00pm in the Council Chambers.**
3. **Amends its 2018/19 Annual Financial Statements to include a reasonable provision for the reimbursement of legal costs as required by the accounting standards.**
4. **Notes that provision will be fully funded by Council's Reserve funds.**

**CARRIED 7/0**



**8.6.2 2019- 2022 STRATEGIC INTERNAL AUDIT PLAN****ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment</b>	Internal Audit Proposal- Avant Edge Consulting

Voting Requirement : Simple Majority  
Subject Index : FM019C  
Responsible Officer : Michael Costarella, Manager Corporate & 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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**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 Committee on the future internal audit plan for the ensuing 3 years.

**SUMMARY AND KEY ISSUES**

The Financial Management Regulations require that the CEO undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.

## **BACKGROUND**

In consultation with Avant Edge ( Santo Casilli), an internal audit program for the ensuing 3 years has been developed which provides for the following areas:-

<b>DESCRIPTION</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>
General Ledger Reconciliations and Application Controls			•
Gift register and Councillor payments	•		
Revenue Collection, Cash Handling and Cash Verification	•		
Council Rates and Charges	•		
Asset Management including Infrastructure Assets		•	
Accounts Payable		•	
Procurement and Tendering			•
Human Resource Management and Payroll ( inc OHS)		•	
Info technology, Gen controls, security and Environment		•	
Leasehold and Property Management			•
Cash Investments	•		
Bonds and trust Funds	•		
Credit Card Management and Acquittal			•

## **CONSULTATION**

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

## **STRATEGIC IMPLICATIONS**

The Strategic Community Plan refers to the Shire of Peppermint Grove Sustainable Resource Management and has particular reference to ensuring that the Shire's resources are managed effectively

## **POLICY IMPLICATIONS**

Shire of peppermint Grove Financial Management Policies

## **STATUTORY IMPLICATIONS.**

### **CEO's duties as to financial management**

- (2) *The CEO is to —*
- (a) *ensure that the resources of the local government are effectively and efficiently managed; and*
  - (b) *assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and*
  - (c) *undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 3 financial years) and report to the local government the results of those reviews.*

## **FINANCIAL IMPLICATIONS**

There is an allocation for the Internal Audit program in the 2019/20 Adopted Budget.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

## **SOCIAL IMPLICATIONS**

There are no social implications at this time.

## **OFFICER COMMENT**

The internal audit program has been developed on the areas relating to financial management and governance functions.

The auditor has estimated that the program will be undertaken on the following number of hours:-

- Year 1 -2019/20      50 Hours
- Year 2 -2020/21      50 hours
- Year 3 – 2021/22      50 Hours

Reports on the functions within the internal audit program will be provided each year and presented to the Audit, Risk and Governance Committee.

**COMMITTEE RECOMMENDATION/COUNCIL DECISION – ITEM NO 8.6.2****MOVED: Cr C Hohnen****SECONDED: Cr G Peters**

**That Council endorses the 2019-2022 Strategic Internal audit Plan to be undertaken by Avant Edge Consulting.**

**CARRIED 7/0****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 this matter be considered with members of the public excluded from the Chamber under Clause 5.23 (2) (b) of the Local Government Act 1995 as the Officer report discusses:***

***(b) the personal affairs of any person***

**OFFICER RECOMMENDATION/COUNCIL DECISION – ITEM NO 11.1****MOVED: Cr K Farley****SECONDED: Cr C Hohnen**

**That this report is considered behind closed doors in accordance with Clause 5.23 (2) (b) of the Local Government Act 1995.**

**CARRIED 7/0**



**Members of the public all left the Chambers at 5.57pm.**

### **11.1 Australia Day Awards 2020**

**\*CONFIDENTIAL ITEM\***

### **COUNCIL DECISION – ITEM NO 11.1**

**MOVED: Cr K Farley**

**SECONDED: Cr C Hohnen**

**That Council move out from behind closed doors.**

**CARRIED 7/0**

**Members of the public returned to the Chambers at 5.58pm.**

## **12 CLOSURE**

**At 5.59pm, there being no further business the meeting closed.**