



Shire of
Peppermint Grove

SPECIAL MEETING OF COUNCIL

AGENDA

**TO BE HELD ON
TUESDAY 10 DECEMBER 2019
AT
5.30 PM**



Shire of Peppermint Grove

Notice of Meeting

Dear Councillor

It is advised that the **SPECIAL MEETING OF COUNCIL** will be held in the Council Chamber of the **Shire of Peppermint Grove**, 1 Leake Street, Peppermint Grove, on Tuesday 10 December 2019, commencing at 5.30pm.

MEETING AGENDA ATTACHED

Yours faithfully,



Mr Don Burnett
CHIEF EXECUTIVE OFFICER

6 December 2019

DISCLAIMER

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.

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

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

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



Shire of Peppermint Grove

TABLE OF CONTENTS

ITEM	SUBJECT HEADING	PAGE
1.	DECLARATION OF OFFICIAL OPENING	5
2.	RECORDING OF ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE	5
2.1	Attendance	5
2.2	Apologies	6
2.3.1	Leaves of Absence	6
3	DELEGATIONS AND PETITIONS	6
3.1	Delegations	6
3.2	Petitions	6
4.	PUBLIC QUESTION TIME	6
4.1	Response to previous Questions taken on notice	7
4.2	Questions from members of the public	7
4.3	Deputations of the public	7
5.	DECLARATIONS OF INTEREST	7
5.1	Financial interest	7
5.2	Proximity Interest	7
5.3	Impartiality Interest	7
5.4	Interest that may cause a conflict	8
5.5	Statement Of Gifts And Hospitality	8
6.	ANNOUNCEMENTS AND DECLARATIONS BY ELECTED MEMBERS	8
6.1	Announcements by the Presiding Member (without discussion)	8



7. OFFICER REPORTS	9
7.1. 12 The Esplanade - Renovations to Single house – Reconsideration	9
8. NEW BUSINESS OF AN URGENT NATURE	23
9. MOTION TAKEN ON NOTICE	23
10. CONFIDENTIAL ITEMS OF BUSINESS	23
11. CLOSURE	23

Shire of
Peppermint Grove

SPECIAL MEETING OF COUNCIL

1. Declaration of Official Opening

At _____ pm, the Shire President declared the meeting open and requested the recording of attendance and apologies.

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

2. Recording of Attendance, Apologies and Leaves of Absence

2.1 Attendance

Shire President
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 P Macintosh
Cr G Peters
Cr P Dawkins

Chief Executive Officer
Manager Corporate & Community Services

Mr Don Burnett
Mike Costarella

Gallery _____ Members of the Public

_____ Members of the Press



2.2 Apologies

2.3 Leaves of Absence

2 Delegations and Petitions

3.1 Delegations

3.2 Petitions

4. Public Question Time

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

- The Agenda
- Question to Council Forms and
- Deputation Forms

Have been placed at the end of the Council Meeting table in front of the public gallery, for the public, as well as on the Shire Webpage.

In the event there are no public members present, the Presiding Member will dispense with Public Question Time.

Rules for Council Meeting Public Question Time

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

4.1 Response to previous Questions taken on notice

4.2 Questions from members of the public

4.3 Deputations of the public

5. Declarations of Interest

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

Councillors / staff are required to submit declarations of interest in writing on the prescribed form.

5.1 Financial interest

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

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

5.2 Proximity Interest

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

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

5.3 Impartiality Interest

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



5.4 Interest that may cause a conflict

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

5.5 Statement Of Gifts And Hospitality

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

6. Announcements and Declarations by Elected Members

6.1 Announcements by the Presiding Member (without discussion)

Written announcements by the Presiding Member or important forthcoming functions to be tabled at this point. The Presiding Member may, at their discretion, wish to make verbal announcements.

7. OFFICER REPORTS

7.112 The Esplanade - Renovations to Single house – Reconsideration

URBAN PLANNING

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1 – Item refers	Location Plan
Attachment 2 – Item refers	Officer report from the Minutes of 23 July 2019
Attachment 3 – Item refers	Officer report from the Minutes of 27 August 2019
Attachment 4 – Item refers	Applicant's updated justification & Revised Plans
Attachment 5 – Item refers	Technical review of second crossover by Porter's.
Attachment 6 – Item refers	Additional information from Peritas on the second crossover
Attachment 7 – Item refers	Revised forecourt area

Voting Requirement	:	Simple Majority
Subject Index	:	DB027B
Location / Property Index	:	12 The Esplanade, Peppermint Grove
Application Index	:	DA2019/00016
LPS No 4 Zoning	:	Residential – R10
Land Use	:	Residential
Lot Area	:	1597m ²
Disclosure of any Interest	:	Nil.
Previous Items	:	Previously considered at August meeting where the application was refused
Applicant	:	Griffiths Architects
Owner	:	Theresa Lynn Smith
Assessing Officer	:	Joe Algeri – Director, Altus Planning (consultant)
Authorising 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 e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, town planning schemes & policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application / matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town*

planning applications, building licences, applications for other permits / licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

PURPOSE OF REPORT

Pursuant to Section 31(1) of the State Administrative Tribunal Act, Council has been invited to reconsider its decision based on the revised plans and the updated supporting information for 'Additions and Conservation Works' at 12 The Esplanade, Peppermint Grove.

SUMMARY AND KEY ISSUES

- An appeal (application for review) was lodged at State Administrative Tribunal ('SAT') in August 2019 and the matter was programmed to mediation.
- Mediation was held on-site and at the Shire offices on 30 October 2019 where the key considerations associated with the refusal were discussed.
- Following mediation, the Applicant elected to provide a revised proposal with the principal changes being the removal of the solid piers at the entry of the proposed northern driveway, alterations and reduction to the forecourt area, a stepping back at the top of the front wall, a reprofiling of the northern crossover and an extension of the raised speed plateau within The Esplanade road reserve.
- In support of these changes, the Applicant provided an updated planning justification that was augmented by a heritage investigation of The Esplanade verge and an engineering report and detailed drawings on the proposed northern crossover.
- The proposed work to the dwelling itself is unchanged in the revised plans and the setbacks of the extension to the main house are consistent with the original submission. These aspects are not in contention.
- The areas of contention where Council must exercise its discretion is the proposed garage which remains mostly within the street setback (minimum 9m in **LPS4**) and is therefore non-compliant with the Scheme. The second crossover is a matter not directly covered by the Scheme but at mediation it was apparent this is also of concern to Council.
- The latest redesign softens the impact of the front wall, both at the front boundary and over the proposed garage. Even though the frame or the fascia of the setback of the garage remains at the same setback of 2.42 metres, the upper section is now setback 0.45 metres and the garage door itself to 3 metres.
- The proposed secondary (northern) crossover has now been justified in technical terms by way of the adequacy of sightlines with respect to pedestrians, the ability of a vehicle to be able to exit the property in a forward gear, compliance of the gradient of the crossover with the relevant Australian Standard, and confirmation that underground services will not be unduly impacted. The Shire's own traffic consultant has peer reviewed this information.
- The above technical issues aside, an additional contention with the proposed northern crossover is in respect to the impact it will have on the streetscape by its presence and the resultant modifications required to the natural contours of the verge.
- This report analyses the revisions and the supporting justification in light of both the relevant planning framework and the issues raised by Council concerning the streetscape and visual impacts.

LOCATION

12 The Esplanade, Peppermint Grove. Refer to Location Plan at **Attachment 1**.

BACKGROUND

The latest revisions to the proposal follows on from extensive communications between the Applicant and the Shire that occurred prior to Council's original decision.

Prior to the lodgement of the original application, the Applicant had previously presented to the Council Concept meeting on two occasions (08/03/2019 and 09/04/2019) with sketch drawings of the proposed works and justification for the changes proposed. At that time, Councillors raised concern about the proposed works in the front setback area and the proposal for a second crossover. The Applicant amended the design to respond to some of this advice prior to the lodgement of a formal planning application on 13 June 2019.

A report was prepared by the Shire which assessed on design principles and recommended approval and this was presented to the Agenda Briefing on 9 July. Councillors provided feedback which confirmed that whilst much of the proposal was considered acceptable, several concerns remained about the development within the front setback area and the second crossover and driveway and impact on the streetscape.

Plans were further revised and submitted on 19 July 2019 and tabled by the Applicant at the Ordinary Council Meeting on 23 July. Council noted the revision of the plans and resolved to defer the application to allow sufficient time for officers to assess and report on the revised plans.

On 8 August 2019, the Applicant lodged an application for review at the SAT based on a deemed decision given that the statutory timeframe for determination had passed pursuant to clause 75(1)(b) in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (WA)* ('the Regulations').

Nevertheless, at the Ordinary Council Meeting on 27 August 2019, the Council unanimously resolved to refuse the application for the following reason:

The development will encroach into the 9-metre setback prescribed by clause 26 of the Local Planning Scheme 4 and will thereby have an unacceptable visual impact upon the street in what is a particularly prominent section of The Esplanade.

The following advice was cited within the notice of determination:

Council advises that in refusing the application it has also considered Local Planning Policy 1 (LPP1), LPP2 and LPP3 in so far as determining whether the benefits of the renovation of the house to perpetuate its heritage value, warrants the development within the front setback which will obscure views towards the house from the street, and which will, in addition, adversely impact what is an important section of the Esplanade by imposing an addition and unnecessary second driveway crossover.

Throughout the course of the mediation following this decision and lodgement of the application for review at the SAT, it was apparent that the Council is also concerned with the impact of the proposed northern crossover on the streetscape.

CONSULTATION

No formal comment on the proposed development was received from those adjoining owners contacted during the original referral period. SAT invitations for reconsideration do not ordinarily contemplate the opportunity for further consultation and in addition, the revised plans do not give rise to additional impacts that would require further referral in any event.

STRATEGIC IMPLICATIONS

There are no Strategic Plan implications.

POLICY IMPLICATIONS

12 The Esplanade is included in the Shire Heritage List. The Municipal Heritage Inventory database records the property as a management category 1.

The proposal alters the built fabric the house and therefore, due regard needs to be given to Local Planning Policy **LPP3**, Heritage Places.

This provides that Council should be satisfied that:

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

In addition, it proposes development with a reduced street setback and in this respect **LPP2** addresses Carports, Garages and Minor Structures in the Street setback. Specifically, the policy states that:

“...Carports and garages should be sensitively located on lots so as to not hinder views to Heritage Listed properties. Council is able to refuse inappropriately sited carports and garages under Clause 67 (m) & (n) of the Deemed Provisions of the Planning and Development (Local Planning Scheme) Regulations 2017”.

STATUTORY IMPLICATIONS

Local Planning Scheme No.4 (LPS4)

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

RESIDENTIAL DESIGN CODES	
Acceptable Development/Performance Criteria	
Assessment/Comment	
1.	Front setback (dwelling) – 9m (Modified by Local Planning Scheme 4)
	The proposed addition to the house protrudes into the front setback area of the property by 1.5m so that the front setback is 7.5m. This creates 7.3m ² of floor area within the front setback area.
2.	Northern boundary setback – 1.8m for a 4m wall with major openings (Table 2b R-Codes).
	Existing building is setback 1.43m from the property boundary and does not meet the deemed-to-comply provisions of the R- Codes. The proposed plans intend to extend the building at the current setback distance in both directions creating one 10.6m wall and another 24m wall at the same setback distance as the original building.
3.	Garage access built up to lot boundary within 9m front setback area
	The LPS4 street setback is 9 metres. The garage is partly underground but nevertheless is almost entirely within the setback area. The current set of garages are located at the rear of the property accessed by a long driveway.

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 previous officer reports from July and August 2019 are attached to this report at **Attachments 2** and **3** respectively. Specifically, the report from the Ordinary Council Meeting of 23 July 2019 details the assessment of the proposal in respect to the house and internal modifications that are not in contention.

This report separately deals with the issues of the proposed garage and the second crossover. In addition to the relevant planning framework, I have considered the updated justification prepared by the Applicant's planner (which includes the revised plans) at **Attachment 4**.

Garage Setback

The amended plans maintain the primary street setback variation to the proposed garage (2.42m) from the previous plans even though the top of the garage wall has been setback a further 0.45 metres and the garage door is now 3 metres.

In accordance with both clause 26(2) of LPS4 and highlighted in LPP2:

“...the setback from the front street boundary to any building, including a carport or garage, shall be a minimum of 9 metres from the primary street...”

Subsequently, this proposed setback remains a significant variation to the Shire’s 9m requirement in respect to the proposed garage.

Given that clause 26(2) of LPS4 only modifies the R-Codes in regard to the deemed-to-comply provision, a design principles assessment is required. The relevant design principle for clause 5.2.1 (P1) and this application is as follows:

*“The setting of **carports** and **garages** to maintain clear sight lines along the **street** and not to detract from the streetscape or appearance of **dwellings** or obstruct views of dwellings from the street and vice versa.”*

The proposed garage is effectively a subterranean structure insofar as it is built within the existing retaining wall structure. As such, its location does not impact sightlines along the street. From a driver’s perspective, all vehicles will be able to exit the site in a forward gear and accordingly, sightlines are adequate in this regard.

In terms of the broader impact on the streetscape, my assessment of most dwellings in the locality is reflective of the setback requirements under LPS4; front setbacks are generally large with a sense of openness, free from garages and carports that are commonplace in many other suburbs.

My assessment of the previous plans was that the presence of the garage was too imposing notwithstanding that the topography of the land is such that the existing retaining wall is already a dominant feature within the streetscape.

Whilst I would have preferred the setback to be increased further so that it would be less distinguishable from the existing crossover and slopping driveway to the rear of the property, the revised plans are the best attempt yet to soften the bulk and appearance of the garage on the streetscape for the following reasons:

- The garage door itself is now at 3 metres as opposed to the previous 2.4 metres.
- Recessing the top of the garage so that a built planter provides a continuous wrap around along the entire length of the front retaining wall does provide better articulation and further visual relief.
- The current design also partly assists in meeting the objectives of LPP1 with the provision soft landscaping in the front setback areas of dwellings.
- There is a negligible impact on views of the dwelling from the street particularly as there is no footpath on the foreshore (eastern) side of The Esplanade. A pedestrian

on the existing footpath will principally observe the retaining wall (not the dwelling) and equally, a motorist travelling at normal speed will principally see the retaining wall.

For these reasons, it is my opinion that the setback of the proposed garage is now acceptable.

Second Crossover

In terms of the more technical aspects of the proposed second crossover, Porter Consulting has peer reviewed the Peritas report. The Porter review is provided at **Attachment 5**. The principle responses by Porter against the Applicant's own assessment has been summarised in the final column of the table below:

#	Issue	Proposed	Applicant Comment	Response
1a	Adequacy of sight lines with respect to pedestrians.	Provision of permeable iron railings and removal of solid piers from entry gate where the northern The Esplanade crossover meets the footpath.	Unhindered visibility/sightlines for vehicles using the driveway is provided. Compliance is achieved with: <ul style="list-style-type: none"> AS 2890.1-2004 Clause 5.2.5 of the Residential Design Codes (R-Codes) 	The Porter report agrees that sightlines are compliant with the R-Codes (1.5m x 1.5m truncation) but not with AS2890.1-2004 (2.5m x 2.0m truncation).
1b	Whether vehicles will be able to exit the property onto The Esplanade in forward gear.	The amended drawings contain swept path diagrams depicting the satisfactory turning movements of a vehicle within the forecourt, allowing the vehicle to egress in a forward gear.	The swept path diagrams demonstrate vehicles will be able to exit the property in forward gear.	The swept path diagrams based on a B85 (85 percentile car) assessment convey that vehicles will be able to exit the property in forward gear, however the B99 (99 percentile car) assessment shows that the inside wheels of vehicles are not fully able to be contained on the crossover pavement and will track slightly across the grass verge when entering and exiting.

				This was further addressed by the Applicant as per the comments in the following section.
1c	Relocation and extension of the speed plateau and traffic island adjacent to the property in The Esplanade.	<p>The engineering report and amended drawings depict the extension of the speed plateau north by 3.5m-4m to allow integration of the proposed northern crossover with The Esplanade. The engineering report confirms:</p> <ul style="list-style-type: none"> • This approach contributes to a safer crossover as traffic approaching the crossover would slow down due to the speed plateau. • This approach will not adversely effect the existing stormwater drainage gutterline within The Esplanade. 	The proposed extension of the speed plateau has been designed by a suitably qualified engineer and allows integration of the northern driveway with The Esplanade with minimal impact.	Noted. It is not expected for that extension to cause any traffic issues for vehicles travelling along The Esplanade.
1d	Compliance of the gradient of the crossover with the relevant Australian Standard.	<p>The engineering report contains design sketches and a detailed assessment of the proposed northern crossover, confirming:</p> <ul style="list-style-type: none"> • The engineering solution of the proposed northern crossover only require a maximum of up to 0.3m cut/fill, which retains the prevailing topographical character of the verge. • The proposed transitional grades of the footpath and 	The proposed crossover gradients are compliant with Australian Standard AS 2890 and the Shire's technical standards, where applicable.	Compliance with AS 2890 is noted but the profile and assessment presented appears to have been limited to checking clearance between the wheelbase. Vehicle approach and departure angle clearance is not shown as having been checked which may cause some vehicle rear overhang not to clear the existing pavement of The Esplanade.

		crossover are compliant with the relevant requirements of the Shire's Vehicular Crossover Guidelines and Australian Standard AS2890.		This was further addressed by both Peritas and Porters, as per the comments in the section below.
1e	Impact on underground services	A detailed survey was carried out to determine the location and depth of services within The Esplanade verge. The engineering report and crossover designs confirm the crossover will only necessitate slight/minor modification to Telstra pits and irrigation.	The engineering inputs demonstrate with evidence from a detailed survey that there will be no significant or undue impact on underground services as a result of the crossover.	Noted.

In a planning assessment of the above, I note as follows:

1a Pedestrian sightlines - Here it is noted that R-Codes do not reference the Australian Standard in either the deemed to comply or design principles. In addition, Figure 9 of the R-Codes does not reference the need for a truncation on the side of a common neighbouring boundary. Nevertheless, notwithstanding the crossover meets the relevant deemed to comply provision at clause 5.25 (C5) of the R-Codes, in my opinion it also meets the relevant design principle in providing unobstructed sightlines through the use of fencing that is now permeable iron railings.

1b Entry and exist sweep paths – I am not confident that the more conservative B99 design vehicle sweep path should apply to what is effectively a secondary, auxiliary crossover. In response to the concern raised by Porters, the Applicant has provided further sweep paths demonstrating that the worst case scenario still complies for a B85 design vehicle. This additional information is provided at **Attachment 6**.

1c Modification of traffic calming – No issue.

1d Gradient of crossover – The additional information and revisions in Attachment 6 now reflect the true extent of the modifications required to the verge to accommodate the crossover at an appropriate grade.

Porters remain concerned that due to the gradient down to the kerb, the rear wheel of a vehicle will be lower in the stormwater drainage gutter channel than the raised plateau pavement and hence clearance will be reduced. However, this may ultimately be nothing more than an inconvenience for some users of the crossover and not a matter of general public safety. It is again reiterated that this is a secondary crossover with the occupiers of the residents more likely to use the proposed garage on a daily basis. Furthermore, the

matter could be addressed in the final as-constructed design should it remain as an issue of concern.

1e – Underground services – No issue.

Accordingly, it is my assessment that the proposal complies with Clause 67(s)(i) of the Deemed Provisions contained within Schedule 2 of the Regulations, which relates to “*the adequacy of the proposed means of access to and egress from the site*”.

Impact of Streetscape and heritage dwelling

With the more technical aspects of the second crossover addressed above, it then becomes a matter of assessing what impact the crossover will have on the streetscape and what impact, if any, parking in the forecourt area will have on the heritage dwelling.

I am satisfied the recontouring of the front verge to accommodate the required gradient for the proposed second crossover will not be unsightly as there is plenty of scope to provide a gentle tapering of levels on either side.

The Applicant has also provided evidence that the northern adjacent property (No. 10 The Esplanade) had a second crossover during the mid 20th century prior to the redevelopment of the existing dwelling which now has access via Pindari Place. While this crossover was subsequently abandoned following the demolition of the previous dwelling during the late 1980's, aerial photography from Landgate indicates that the verge existing between No. 10-14 The Esplanade has not always been a pristine continuous grass strip throughout its history. As noted, the former crossover at No.10 has since been restored to a grass verge.

In the absence of any other information or historical information that the verge in this section of The Esplanade has been continuous and free from crossovers throughout its history, I see no planning reason as to why it should not be allowed.

There is nothing express in the relevant planning framework to suggest that two crossovers are not permitted for single dwellings or at the very least, discouraged notwithstanding they are not a common feature for heritage dwellings or indeed, any other dwelling within the immediate locality or the Shire.

In respect to the forecourt parking area, the Shire's LPP2 supports the minimisation of uncovered street parking within front setback areas. More specifically, the policy states:

“...Council will support the provision of a single uncovered hard stand car parking bay within the street setback area subject to there being only a single width crossover to the site.”

The revised plans indicate that a single uncovered hard stand parking bay is proposed in the forecourt in front of the dwelling that will be accessed by the proposed second crossover. However, the proposed forecourt area wraps around to the proposed stairs for the existing front verandah that will form the main entry to the dwelling (which is currently via stairs to the side).

There is nothing to prevent multiple vehicles from parking in this new forecourt area. Whilst there is now evidence that one vehicle can exit in a forward gear so that it complies

with C.5.4 at Clause 5.3.5 of the R-Codes, if multiple vehicles park in this area, then they will need to reverse onto The Esplanade as there will be no reversing area. In addition, multiple vehicles in the forecourt area may spoil views to the heritage dwelling. However, as noted, use of the second crossover and the forecourt parking area is likely to be more intermittent in use rather than the main parking areas within the proposed garage. On this basis, it is considered that the proposal will not hinder views to the heritage dwelling. This principle arises from LPP 2 but specifically, the reference is made to carports and garages and not uncovered parking areas:

“Carports and garages should be sensitively located on lots so as to not hinder views to Heritage Listed Properties.”

As a means of addressing the concern of multiple vehicles parking in the forecourt area, it is my view that there are two (2) options available to Council:

- i) The forecourt area be provided with signage specifying a limitation of parking to one (1) vehicle only; or
- ii) The parking area in the forecourt being reduced as per **Attachment 7** so that a single vehicle can park at the top of the driveway (in front of the Dining room), with the remaining area to be landscaped in a manner that would prevent the parking of additional vehicles. To achieve a 2.5m x 5m parking bay, this may require a minor modification to the proposed forecourt area or placing the parking bay on a slight angle given then location of the steps in front of the Dining room.

Of the above, I favour Option ii) as it provides surety that only one (1) vehicle will be parked in front of the heritage dwelling and will not detract from the streetscape or character of the dwelling. Whilst it will result in the vehicle having to reverse onto The Esplanade, it will be limited to one (1) vehicle and furthermore, the vehicle will be reversing a relatively short distance and more or less in a straight line.

The difficulty I have with Option i) is that it is likely to be difficult to enforce and therefore may do little in regard to safety and visual amenity.

Finally, I note that that the proposed soft landscaping in the front setback area is now compliant with the Shire’s policies as stated in LPP1. This is also important given that LPP3 states that:

“Residents have consistently expressed via a number of community surveys carried out by the Shire, that heritage places, including their generous garden settings, should be preserved”.

Having regard to all the above, I am of the opinion that the proposed development as per the changes put forward in the revised plans and including the reduced forecourt area, does not have an adverse impact on the streetscape or the heritage character of the dwelling. Accordingly, I would then agree that the proposal is acceptable giving due regard to the compatibility and amenity considerations of Clause 67(m) and 67(n) of the Deemed Provisions of the Regulations.

Final Analysis

In regard to the planning assessment, there are two components of the proposed development in contention – the proposed garage and the proposed second crossover. The impact of both is potentially on the streetscape, particularly as the dwelling on the subject land is heritage listed.

The first issue involves the proposed subterranean garage. The garage is set back less than the 9m primary street setback, as required by clause 26(2) of LPS4 and emphasised within LPP2. The garage structure will essentially be built within the existing retaining wall and will utilise the existing crossover.

With the most recent revisions proposed, including softer landscaping on the wall's top perimeter and the garage door being further recessed to 3 metres, it is considered that the development is consistent the objectives of LPP3 in respect to the proposal being less dominant within the streetscape.

In respect to the second crossover and the forecourt area, notwithstanding that parking and adequate manoeuvrability has been shown for one vehicle only, the reality is that there is nothing to prevent numerous vehicles from parking in the forecourt area.

This is potentially problematic in two respects. Aside from spoiling views to the heritage dwelling, the ability for any vehicle to safely reverse on site and exit in a forward gear is also diminished once there is more than one vehicle in this location. Nevertheless, the occasions when this may occur are likely to be limited, particularly as one would assume that the residents of the dwelling are more than likely to make use of the fully enclosed garage on a more regular basis. To provide surety that multiple vehicles will not park in the forecourt area, it is recommended that if Council is to grant approval to the application, the parking area in the forecourt is to be reduced to only allow for a single vehicle and a footpath to the entry of the stairs, with the remainder to be adequately landscaped to prevent the marking of additional vehicles (as per Attachment 7).

As for the second crossover itself, the Porter review of the Peritas traffic report has indicated that, notwithstanding some minor concerns, the crossover itself is otherwise both functional and is now compliant with appropriate movement sweep paths.

It is considered that there is no case to be made that the proposal is not unacceptable from the streetscape point of view. Although the verge on the streetscape has an attractive pre-existing expanse of green lawn, it cannot be said that this has always been the case or, that there are some other valued heritage considerations in this regard. As mentioned, No. 10 The Esplanade had a crossover nearby for at least 5 decades until the mid-1980s.

It should be noted that *Stewart and Town of Cottesloe* [2019] WASAT 100 and *Moore and Town of Cottesloe* [2016] WASAT 118 have both been recent applications determined by the Tribunal whereby new crossovers not supported by Town were then taken to review at the SAT. Whilst both applications were ultimately refused by the SAT, by way of comparison, the impact on the street verges were more significant compared to the current application, particularly in *Stewart* whereby 90m³ of material would need to be excavated from the verge.

Whilst the Shire may be uncomfortable about the idea of a second crossover, the relevant planning framework does not suggest that multiple crossovers should be minimised or prohibited altogether for single dwellings even if there is the potential for a case to be made that the impacts on a particular streetscape are unacceptable. Based on the revised plans and supporting information, I am no longer of the view that the impact is unacceptable in this case.

In assessing the application as whole, consideration should also be given to the fact that the Applicant has undertaken significant restorative works on the heritage dwelling and furthermore, there have been no objections raised to the proposal from any adjoining property owner. These aspects should also be factored into the overall assessment of the application.

For all the above reasons, it is my view that the **application should be conditionally approved**.

OFFICER RECOMMENDATION/S – ITEM NO 7.1

Council approves the “Additions and Conservation Works” at 12 The Esplanade, Peppermint Grove, in accordance with revised Plans lodged on 19 July 2019 and tabled in Council on 23 July 2019 and subject to the following conditions:

- 1. Prior to the lodgement of a Building Permit application for the works, the applicant is to obtain an assessment of the interior modifications by a heritage interiors architect and to provide this assessment to the Shire of Peppermint Grove for information and further advice regarding issue of the Permit.**
- 2. Prior to the commencement of works, the applicant shall submit for approval and thereafter implement to the satisfaction of the Shire of Peppermint Grove, a construction management plan detailing:**
 - a. How materials and equipment will be delivered and removed from the site;**
 - b. How materials and equipment will be stored on the site;**
 - c. Parking arrangements for contractors;**
 - d. Construction Waste disposal strategy and location of waste disposal bins;**
 - e. Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;**
 - f. How risks of wind and/or water born erosion and sedimentation will be minimised during works;**
 - g. Other matters likely to impact on surrounding properties.**
- 3. The development plans, as dated marked and stamped “Approved”, together with any requirements and annotations detailed thereon by the Shire of Peppermint Grove, are the “Approved Plans” as part of this application and shall form part of the development approval issued.**



- 4. The development, the subject of this approval shall be substantially commenced within two years of the date of issue of the consent forms and be completed before the conclusion of the third year, whereby all works are to be completed and conditions met.**
- 5. All works are to be subsequent to the issue of a Building Permit and shall not be carried out, other than in accordance with this this Planning Approval and consistent with Building Permit certified/approved plans.**
- 6. Prior to the issue of a Building Permit, the applicant is to prepare a landscaping plan to the satisfaction of the Shire, and implemented thereafter, which includes a minimum 50% of the primary street setback to maintain soft landscaping post development in accordance with LPP 1 and the forecourt area being modified to only allow for the parking of one (1) vehicle as per Attachment 7.**
- 7. Prior to the issue of a Building Permit, the applicant is to enter into an Agreement with the Shire (signed by the CEO) to undertake to meet all costs associated with the review, redesign and modification of The Esplanade, including traffic control devices, kerbing and landscaping works within the verge, should this additional crossover be approved.**
- 8. The proposed second crossover as per the Peritas drawings 310 (rev F) and SK1 (rev A), at the cost of the applicant shall be constructed and finished as specified to meet the Shire requirements for traffic and pedestrian safety to the satisfaction of the CEO.**

Advice Notes:-

- 1. With regard to Conditions which require approval to the satisfaction of the Shire this shall be to a standard as determined by the Chief Executive Officer of the Shire of Peppermint Grove.**
- 2. Condition 7 will require the applicant to meet the cost of an independent traffic consultant's report as well as any costs required to modify road surfaces and traffic devices. It will also include the payment of a bond to ensure the works undertaken are to the satisfaction of the Shire.**



8. NEW BUSINESS OF AN URGENT NATURE

9. MOTION TAKEN ON NOTICE

10. CONFIDENTIAL ITEMS OF BUSINESS

11. CLOSURE

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