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**I hereby give notice that a Council Assessment Panel will be held on:**

**Date:** Thursday, 18 March 2021  
**Time:** 5.45 p.m.  
**Location:** Council Chamber  
Civic Centre  
10 Watson Terrace  
Mount Gambier

# **AGENDA**

## **Council Assessment Panel 18 March 2021**

A handwritten signature in black ink, appearing to read 'Tracy Tzioutziouklaris', with a horizontal line above it.

**Tracy Tzioutziouklaris  
Assessment Manager**

**12 March 2021**

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**1 ACKNOWLEDGEMENT OF COUNTRY**

**WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.**

**2 APOLOGY(IES)**

Nil

**3 CONFIRMATION OF MINUTES**

Council Assessment Panel - 18 February 2021

**RECOMMENDATION**

That the minutes of the Council Assessment Panel meeting held on 18 February 2021 be confirmed as an accurate record of the proceedings of the meeting.

**4 QUESTIONS WITHOUT NOTICE**

**5 INVITEES**

Nil



## 6 REPORTS

### 6.1 DELEGATIONS - PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016 – REPORT NO. AR21/12193

<b>Meeting:</b>	<b>Council Assessment Panel</b>
<b>Meeting Date:</b>	<b>18 March 2021</b>
<b>Report No:</b>	<b>AR21/12193</b>
<b>CM9 Reference:</b>	<b>AF20/387</b>
<b>Author:</b>	<b>Tracy Tzioutziouklaris, Manager Development Services</b>
<b>Authoriser:</b>	<b>Tim Coote, General Manager City Growth</b>
<b>Summary:</b>	<b>This report presents the instrument of delegation under the Planning, Development and Infrastructure Act 201 as they apply to the Council Assessment Panel as a relevant authority.</b>
<b>Community Plan Reference:</b>	<b>Goal 1: Our People</b> <b>Goal 2: Our Location</b> <b>Goal 3: Our Diverse Economy</b> <b>Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage</b>

#### REPORT RECOMMENDATION

1. That Council Assessment Panel Report No. AR21/12193 titled 'Delegations - Planning, Development and Infrastructure Act 2016' as presented on 18 March 2021 be noted.
2. Pursuant to Section 100 of the Planning, Development and Infrastructure Act 2016, the Council Assessment Panel delegates each function or power of the Council Assessment Panel as identified in Attachment 1 Council Assessment Panel Report No. AR21/7110 (marked as Instrument C) to the Chief Executive Officer and Assessment Manager subject to the following conditions and limitations:
  - a) The delegations may be sub delegated by the Chief Executive Officer or Assessment Manager;
  - b) Each delegation of a power or function granted under this instrument is independent of, and severable from, every other delegation granted under this instrument;
  - c) If two or more (sub)delegates are nominated in respect of a power or function, then each nominated person is granted a (sub)delegation and may exercise the power or function independently of any other (sub)delegate;
  - d) Delegates must exercise a delegate or power in accordance with applicable legislative and legal requirements; and due regard to relevant policies and guidelines adopted by the Council;
  - e) If a delegation of a power or function under this instrument is determined to be invalid or unlawful, the invalid or unlawful delegation will be deemed to be severed from this instrument and remaining delegation will continue to operate according to their terms;
  - f) These delegations will come into operation on Friday 19<sup>th</sup> March, 2021 and remain in force until varied or revoked by the Council Assessment Panel, or a Regional Assessment Panel has been established including the City of Mount Gambier.



- g) Previous delegations granted by the Council Assessment Panel are revoked with effect from Friday 19<sup>th</sup> March 2021.



## BACKGROUND

The Council Assessment Panel at its meeting held on Thursday 18<sup>th</sup> February, 2021 considered its delegations pursuant to the Planning, Development and Infrastructure Act, 2016. These delegations come into operation on 19<sup>th</sup> March, 2021 when the City of Mount Gambier goes live in the new development system.

## DISCUSSION

There have been some minor amendments to the Instrument of Delegation for the Council Assessment Panel. These amendments include the following additions to the delegations:

- Urgent Building Work. The power pursuant to Section 135(2)(d) of the PDI Act to issue any direction.
- Withdrawing/Lapsing Applications. The power pursuant to Regulation 38(2) of the General regulations to lapse an application for a development authorisation under Part 7 of the PDI Act if at least one year has passed since the date on which the application was lodged with the relevant authority.
- Construction Industry Training Fund. The power pursuant to Regulation 99(4) of the General regulations, if after assessing a proposed development against the building rules the delegate is yet to be satisfied that the appropriate levy has been paid under the Construction Industry Training Fund Act 1993 or is not payable, to notify the applicant that the delegate cannot issue a building consent until the delegate is satisfied that the levy has been paid or is not payable.
- Construction Industry Training Fund. The power pursuant to Regulation 99 (5) of the General regulations, if a notification is given under Regulation 99(4) of the General Regulations, if satisfactory evidence is not provided to the delegate within 20 business days after the date of the notification, to, if the delegate thinks fit, determine that the application has lapsed.

The following delegation has changed:

- Variation of Authorisation. The power pursuant to Regulation 65(1)(a) of the General regulations to, for the purposes of Section 128(2)(b) of the PDI Act, if a person requests the variation of a development authorisation previously given under the Act (including by seeking the variation of a development authorisation previously given under the Act (including by seeking the variation of a condition imposed with respect to the development authorisation) to form the opinion and be satisfied that the variation is minor in nature, and approve the variation.

The following delegation has been deleted:

- Waiver or Refund of Fee. The power pursuant to Regulation 7 of the Fees Regulations to, as the delegate considered appropriate to do so, waive the payment of the fee, or payment of part of the fee, or refund the whole of the fee.

## CONCLUSION

This report includes recommendations for granting of delegations of powers and functions of the Council Assessment Panel as provided for in Instrument C – Instrument of Delegations under the Planning, Development and Infrastructure Act 2016, Regulations, Planning and Design Code and Practice Directions of Powers of an Assessment Panel, and revocation of previous delegations granted by the Council Assessment Panel.

## ATTACHMENTS

1. Instrument of Delegation under the Planning, Development and Infrastructure Act 2016 (Instrument C)



**6.2 VARIATION TO DA 381/0142/2020 – REPORT NO. AR21/14035**

<b>Development No:</b>	<b>381/082/2021</b>
<b>Applicant:</b>	<b>SK Home Builders Pty Ltd</b>
<b>Property Address:</b>	<b>62 Wehl Street South, Mount Gambier</b>
<b>Property Owner:</b>	<b>Mr A and Mrs T Heemskerk</b>
<b>Report No:</b>	<b>AR21/14035</b>
<b>CM9 Reference:</b>	<b>AF20/387</b>
<b>Author:</b>	<b>Tracy Tzioutziouklaris, Manager Development Services</b>
<b>Authoriser:</b>	<b>Tim Coote, General Manager City Growth</b>
<b>Nature of Development:</b>	<b>Consent/Category 1</b>
<b>Description:</b>	<b>To vary DA 381/0142/2020 by amending the floor height of the dwelling</b>
<b>Zoning:</b>	<b>Residential Zone</b>
<b>Policy Area:</b>	<b>Mount Gambier (City) Historic (Conservation) Policy Area</b>
<b>Heritage:</b>	<b>NIL</b>

**REPORT RECOMMENDATION**

1. That Council Assessment Panel Report No. AR21/14035 titled 'Variation to DA 381/0142/2020' as presented on 18 March 2021 be noted.
2. Having had regard to the provisions of the Development Plan and all of the relevant documentation the development as proposed is not considered to be seriously at variance to the provisions of the Development Plan, is a minor variation and Development Plan Consent be granted subject to the following conditions and advice:
  - (a) The development shall be carried out in accordance with the Plans as approved by Council, and maintained in a good condition thereafter.
3. The applicant and owner be advised of the following reasons for Councils conditions of approval:
  - (a) The development is not seriously at variance with the provisions of the Council Development Plan.
  - (b) To promote orderly and proper development."



## BACKGROUND

The Council Assessment Panel (CAP) at its meeting held on 27<sup>th</sup> August, 2020 considered a Development Application seeking to demolish part of the existing shop and dwelling and to construct a detached dwelling in association with the existing shop and outbuilding at 62 Wehl Street South, Mount Gambier (DA381/0142/2020). At this meeting the CAP determined:

- ”1. *That Council Assessment Panel Report No. AR20/51644 titled ‘62 Wehl Street South, Mount Gambier’ as presented on 27 August 2020 be noted.*
2. *The Applicant be advised that following the onsite inspection and reviewing the streetscape elevation the panel move that the having regard to the Development Plan provisions and all supporting documentation, the proposed development is not considered to be at serious variance with the Council’s Development Plan. Development Plan Consent be granted subject to the following condition:*
  - (a) *The development shall be carried out in accordance with the Plan/s as approved by Council, and maintained in good condition thereafter.*
3. *The applicant and owner be advised of the following reasons for Council’s conditions of approval:*
  - (a) *The development is not seriously at variance with the provisions of the Council Development Plan.*
  - (b) *To promote orderly and proper development.”*

## PROPOSED DEVELOPMENT

After construction commenced on the proposed dwelling it was brought to the attention of Council that the dwelling was not being constructed in accordance with the approved plans. After a review of the approved plans it was identified that:

- the wall height of the existing salon building was incorrectly drawn on the Street Elevation, Southern Elevation and 3D perspective; and
- The slab for the dwelling is located more than 600mm above the bottom of the retaining wall.

The Applicant has now provided Council with amended plans and has applied to vary Development Application 381/0142/2020 by amending the floor height of the dwelling being constructed.

Plans have now been provided which illustrate:

- The natural ground level prior construction
- The ground level after construction
- The amended height of the existing salon on the southern elevation and street elevation; and
- Amended 3D Perspective illustrating the view of the subject property from the street.

As part of the documentation provided as part of this Development Application, the design company has provided an explanation for the errors contained with the documentation provided to Council and referred to the CAP for consideration.

## DEVELOPMENT PLAN PROVISIONS

The development plan provisions as contained with the Mount Gambier (City) Development Plan as consolidated 21 April 2016 which relate to this application include:

### Residential Zone

Objectives 1, 2 and 3

Desired Character Statement

Principle of Development Control 1, 3,





Form and Character 8, 10

## **Mount Gambier (City)**

### **Historic Conservation Area**

Objectives 1, 2, 3, 4, 5

Desired Character Statement

Principles of Development Control 1, 4, 5, 6, 8, 10, 12, 13, 16, 18

### **PLANNING ASSESSMENT**

This application is referred to the Council Assessment Panel for consideration of the variation in the height of the slab for the dwelling being constructed only.

At the eastern end of the dwelling, the floor level is to be constructed 320mm higher than the top of the retaining wall, with the western end of the dwelling constructed slightly higher than natural ground level. This is due to the natural slope of the subject allotment downwards towards the street.

Apart from the elevations illustrating the height of the salon walls, all other details in relation to the dwelling remain the same as previously approved by the Council Assessment Panel.

Whilst the southern elevation clearly illustrates a height difference of the proposed dwelling in context with the existing salon, the 3D perspective identifies the difference in height will be minimal when viewing the development from the street. The amended plans illustrate that the visual difference between the development as originally considered by the CAP is minimal and is not considered to make a difference when viewing the property from the street.

The change in floor height of the dwelling is considered minimal and will not impact on the adjoining properties to the south and north than what would be anticipated as the result of the construction of a single storey dwelling on this property. The Development Plan identifies that dwellings are an envisaged form of land use within the Residential Zone and can be built with a wall height of 6.0 metres and a total height of 8.0 metres. The dwelling as proposed has a wall height of 2.7 metres and a total height of approximately 5.5 metres to the top of the Apex. Allowing for a floor height 320mm above ground level at the western end of the dwelling the total wall height will be approximately 3.2 metres, however the total height of the dwelling will still be around 5.5 metres to the top of the apex when allowing for the natural slope of the land and the location of the apex of the roof towards the centre of the dwelling.

The biggest concern of the CAP was the impact of the bulk, size and scale of the dwelling on the existing building/salon located towards the front of the subject property. As shown on the 3D perspective, the impact of the dwelling on the salon is minimal that what was originally approved by the CAP. The design as approved still draws focus towards the salon located at the front of the property and not towards the dwelling being constructed at the rear of the salon.

Whilst acknowledging the concerns of the CAP in respect to the impact of the proposed development on the existing building located at the front of the subject site, the existing building is not heritage listed apart from being located within the Historic (Conservation) Policy Area. No buildings located within this portion of the street, is listed as a heritage building. The streetscape within the immediate locality of the proposed building is not of high heritage value and contains a mixture of building types and appearances to the streetscape.

There is also the ability to be able to plant landscaping on either side of the existing salon which would further assist to screen the dwelling being constructed at the rear of the salon.

### **CONCLUSION**

The amended plans illustrating the dwelling being constructed with a floor height 320mm higher than what was originally approved is considered to be a minor variation and will not further detract from the appearance of the property when viewed from the street than the application originally approved by the Council Assessment Panel.



Having had regard to the provisions of the Development Plan and the documentation submitted as part of the Development Application, the development is not considered to be significantly at variance to the provisions of the Development Plan, is a minor variation and warrants the support of the CAP and the granting of Development Plan Consent.

**INVITES**

Nil

**ATTACHMENTS**

1. Lodgement - DA 381/082/2021 - 62 Wehl Street South, Mount Gambier
2. Working Copy - DA 381/082/2021 - 62 Wehl Street South, Mount Gambier



**7 URGENT MOTIONS WITHOUT NOTICE**

**8 MEETING CLOSE**

