



<b>Presented to</b>	Ordinary Meeting of the Council 14 December 2021
<b>Related to Item</b>	13.1 – Petition, Fence 44 Ardross Street, Applecross
<b>Submitted by</b>	Manager Statutory Planning
<b>Attachments</b>	Nil.

In response to the proposed amendment prepared by Cr Mair, Elected Members are advised as follows:

Whilst the majority of petitions are the subject of a report to Council, those associated with development applications are not, and are instead generally considered as part of the standard assessment process, along with any other submissions that are received.

In the case of 44 Ardross Street, Applecross, the petition in question refers to a development proposal that was recently the subject of an appeal to the State Administrative Tribunal (SAT). In this case, the applicant, representing the property owners, sought to appeal the previous decision of the City to refuse to grant consent for a front fence/wall that was constructed without the benefit of planning approval, which was in breach of the approval that was granted for the development of the dwelling, and contrary to the provisions of the R Codes and the City's Local Planning Policy LPP 3.1 Residential Development (LPP).

In dealing with the SAT appeal, a mediated outcome was agreed which resulted in a requirement from the SAT that the City reconsider its previous decision to refuse consent for the fence as constructed, subject to there being some further modifications to the fence in order that it be more aligned to the development requirements as expressed by the R Codes and LPP. The amended DA was approved by the City 26 November 2021, and a subsequent Directions Hearing of the SAT resulted in the SAT appeal being withdrawn by the applicant with the agreement of the house owner.

The withdrawal of the SAT appeal, and the approval of the amended DA mean that there is no matter before the City at present, in which case there is no discretion that can be applied by the City or the Council given there is no outstanding DA. It is noted that the concerns expressed in the petition were also expressed during the SAT appeal process. The mediated outcome reached represents an agreed position by both the City and the applicant, as facilitated by a trained SAT mediator. The resultant withdrawal by the applicant, of the SAT appeal, demonstrates that the mediated outcome and resultant amended planning approval were accepted.

On that basis it is considered that the officer recommendation to acknowledge the petition should be endorsed by the Council as recommended.

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