



# Council Meeting Notice Paper

**Monday 8 July 2019 at 7pm**

**Council Chamber, Malvern Town Hall,  
(enter off Glenferrie Road, Malvern)**

## Vision

Stonnington will be an inclusive, healthy, creative, sustainable and smart community.

Council's vision will be implemented through four key pillars:

- **Community:** An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.
- **Liveability:** The most desirable place to live, work and visit.
- **Environment:** A cleaner, safer and better environment for current and future generations to enjoy.
- **Economy:** A City that will grow its premier status as a vibrant, innovative and creative business community.

These pillars reflect the shared priorities of our community and Council, and are consistent with our history and vision for a liveable future. For each pillar, there is a framework for our strategies, actions and measures which outline the key services and projects to be delivered to our community.

The Strategic Resource Plan sets out how Council will provide the resources needed to implement strategies and actions within the Council Plan.

## Councillors

Cr Steven Stefanopoulos, Mayor  
Cr Glen Atwell  
Cr John Chandler  
Cr Sally Davis  
Cr Marcia Griffin  
Cr Judy Hindle  
Cr Jami Klisaris  
Cr Matthew Koce  
Cr Melina Sehr

## **NOTES**

Council business is conducted in accordance with Part 4 Division 3 of the Meeting Procedure section of Council's General Local Law 2018 (No 1). Some copies are available with the agenda or you can find a copy on Council's website [www.stonnington.vic.gov.au](http://www.stonnington.vic.gov.au) under local laws.

Councillors carry out the functions, powers, authorities and discretions vested with them under the **Local Government Act 1989**, and any other relevant legislation. Councillors impartially perform the Office of Councillor duties, in the best interests of the City of Stonnington residents to the best of their skills and judgement.

Councillors must formally declare their conflicts of interest in relation to any items listed on the agenda at the start of the meeting and immediately prior to the item being considered, in accordance with Sections 77 to 79 of the Act.

## **READING OF THE RECONCILIATION STATEMENT**

We acknowledge that we are meeting on the traditional land of the Boonwurrung and Wurundjeri people and offer our respects to the elders past and present. We recognise and respect the cultural heritage of this land.

## **READING OF THE AFFIRMATION STATEMENT**

We are reminded that as Councillors we are bound by our Oath of Office to undertake the duties of Councillor in the best interests of the people of the City of Stonnington and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in us under the Local Government Act and any other relevant Act

## **Welcome**

Welcome to a Stonnington City Council meeting. These meetings are an important way to ensure that your democratically elected Councillors work for you in a fair and transparent way.

## **About this meeting**

The first page of tonight's agenda shows the different parts to the meeting, some of these are administrative and are required by Stonnington's Local Law.

In the agenda you will also find a list of all the items to be discussed under 'General Business'. Each report is written by a council officer and outlines the purpose of the report, relevant information and a recommended decision for councillors.

Council will consider the report and either accept, reject or make amendments to the recommendation. Council decisions are adopted if they receive a majority vote from the Councillors present at this meeting.

## **Arrangements to ensure meetings are accessible to the public**

Council meetings are held at the Malvern Town Hall, corner High Street and Glenferrie Road (entry via Glenferrie Road by the door closest to the Malvern Police Station).

The Malvern Town Hall has an entrance ramp and elevators to ensure that the Council Chamber is accessible to the public. Fully accessible toilet and bathroom facilities are also available.

If you require translation, interpreting services or a hearing loop set up, please contact Council's civic support on 03 8290 1331 to make appropriate arrangements before the meeting.

To ensure that people in the chamber can follow the meetings' proceedings, proposed alternate resolutions, also known as 'yellows', are displayed on a screen and microphones are used during debate.

## **Live webcasting**

Council meetings are webcast live via Council's website, allowing those interested to view proceedings without attending Council meetings.

This gives people who may otherwise be unable to attend access to Council decisions and debate. A recording of the meeting is available on our website after the meeting (usually within 48 hours).

Only Councillors and Council officers seated around the Council table are visible on film. People in the public gallery will not be filmed, but if you speak, you will be recorded. Visit [stonnington.vic.gov.au](http://stonnington.vic.gov.au) for more information.

## **Members of the gallery**

If you choose to attend a council meeting as a member of the public gallery, you should note the role of the Chairperson and your responsibilities under the City of Stonnington General Local Law 2018(1).

### **Extracts from the Local Law:**

#### **81. Gallery to be Silent**

- (1) Visitors must not interject or take part in the debate.
- (2) The gallery must be silent at all times during any Council Meeting.
- (3) The ring tones of mobile telephones and other devices must be turned off by people in the gallery at all times.

#### **88. Recording or Filming Proceedings**

- (1) A person must not operate an audio tape, mobile telephone or other recording or transmitting equipment or film ('a device') at any Council Meeting without first obtaining the consent of the Chairperson.
- (2) Consent given under sub-clause (1) may be revoked by the Chairperson at any time during the course of a meeting.
- (3) If a device is operated, or suspected of being operated, in contravention of sub-clause (1), the Chairperson may:
  - (a) order the person operating, or suspected of operating, the device to produce the device to the Chairperson; and
  - (b) arrange for any matter that has been recorded on the device in contravention of sub-clause (1) to be deleted, erased or otherwise removed from the device.
- (4) Subject to sub-clause (5), the Chairperson shall return any device that has been produced to him or her pursuant to sub-clause (3) at the conclusion of the relevant Council Meeting.
- (5) If the Chairperson has been unable to arrange for the matter that has been recorded on the device in contravention of sub-clause (1) to be deleted, erased or otherwise removed from the device, the device shall be returned to the person as soon as practicable after the deletion, erasure or removal has been carried out.

#### **84. Removal from Chamber of a Councillor or Member of the Public**

The Chairperson, or Council in the case of a suspension under clause 82, may ask any Authorised Officer or member of Victoria Police to remove from the meeting (including the gallery):

- (1) any person who the Chairperson has ordered to be removed under clause 82(3); or
- (2) any Councillor who has been suspended under clause 82 and who has not immediately left the Council Meeting.

## **50. Questions to Council from Members of the Public**

- (1) Questions to Council from members of the public will be considered as part of the order of business of an Ordinary Meeting only when submitted in the format outlined below:
  - (a) Questions must be in writing and lodged at the office of the Chief Executive Officer by 12 noon on the day of the next scheduled Ordinary Meeting.
  - (b) A limit of five (5) questions per questioner applies.
  - (c) Questions must include the name and address of the questioner and the date of the question. Questions by facsimile or email are acceptable.
- (2) Within four (4) working days of receiving a complying question to Council from a member of the public, the Chief Executive Officer will dispatch a notice to the member of the public who submitted the question, advising that the question has been received.
- (3) At a meeting at which a question is to be considered:
  - (a) The Chairperson will acknowledge that a question or questions have been received from a (named) person and ask if that questioner is in the gallery.
  - (b) If the questioner is present in the gallery, a summary of the subject matter of the question(s) will be read out by the Chairperson and the questioner advised that a written reply to the question(s) will be issued within 14 days of that meeting date.
  - (c) If the questioner is not in the gallery, Council will respond to the question(s) in accordance with any standard correspondence to Council.
- (4) The Chairperson has the discretion to allow a question to be asked and/or answered at the meeting that is in variance with the procedure in this Local Law.
- (5) The Chairperson may refuse to acknowledge a question if, in the opinion of the Chairperson, the question is, or is potentially, defamatory, indecent, offensive, abusive, objectionable in language or substance, irrelevant, trivial, aimed at embarrassing a Councillor or a member of Council staff, outside Council's powers or functions, has been asked at a previous Council Meeting and a reply issued, or relates to matters that come under section 89(2) of the Act.
- (6) Any question relating to electoral matter during an Election Period will not be considered at any Council Meeting.
- (7) A copy of the questions and responses will be tabled and inserted into the minutes of the following Council Meeting.

## **47. Open Meetings**

- (1) Subject to sub-clause (2), Council Meetings must be open to members of the public pursuant to section 89(1) of the Act.
- (2) Council may resolve, under section 89(2) of the Act, that a meeting be closed to members of the public if Confidential Business is to be discussed.

Your cooperation is appreciated, we hope you enjoy the meeting.

**Mayor and Councillors, Stonnington City Council**

# Council Meeting Notice Paper Monday 8 July 2019 Order of Business and Index

a)	Reading of the Reconciliation Statement and Affirmation Statement	
b)	Introductions	
c)	Apologies	
d)	Adoption and confirmation of minutes of previous meeting(s) in accordance with Section 93 of the Act and Clause 49 of General Local Law 2018 (No 1)	
	<b>1. MINUTES OF THE COUNCIL MEETING HELD ON 24 JUNE 2019</b> .....	<b>9</b>
e)	Disclosure by Councillors of any conflicts of interest in accordance with Section 79 of the Act <sup>1</sup>	
f)	Questions to Council from Members of the Public (Clause 50 of General Local Law 2018 (No 1))	
g)	Correspondence – (only if related to council business)	
h)	Questions to Council Officers from Councillors	
i)	Tabling of Petitions and Joint Letters	
j)	Notices of Motion	
k)	Reports of Special and Other Committees; - Assembly of Councillors	
l)	Reports by Delegates	
m)	General Business including Other General Business	
	<b>1. PLANNING APPLICATION - 1165/18 - 135 &amp; 141 ALEXANDRA AVENUE, 61 KENSINGTON ROAD &amp; 52 ROCKLEY ROAD, SOUTH YARRA - PART DEMOLITION, CONSTRUCTION OF A MULTI-DWELLING DEVELOPMENT IN A GENERAL RESIDENTIAL ZONE, HERITAGE OVERLAY AND DESIGN AND DEVELOPMENT OVERLAY; REMOVAL OF TREES WITHIN A SIGNIFICANT LANDSCAPE OVERLAY; ALTERATION TO AN ACCESS TO A ROAD ZONE, CATEGORY 1; AND RELOCATION OF AN EASEMENT</b> .....	<b>11</b>
	<b>2. PLANNING APPLICATION - 1276/18 - 22 WINTER STREET, MALVERN - Two (2) LOT SUBDIVISION</b> .....	<b>55</b>
	<b>3. PLANNING AMENDMENT - 0441/12 - 60 NICHOLSON STREET, SOUTH YARRA - S72 AMENDMENT TO APPROVED PERMIT AND PLANS COMPRISING VARIOUS CHANGES TO THE ELEVATIONS</b> .....	<b>63</b>
	<b>4. PLANNING APPLICATION - 0086/19 - 31 WASHINGTON AVENUE, MALVERN EAST - PARTIAL DEMOLITION AND EXTENSION OF A DWELLING ON A LOT LESS THAN 500M2 IN A NEIGHBOURHOOD RESIDENTIAL ZONE AND NEIGHBOURHOOD CHARACTER OVERLAY</b> .....	<b>71</b>
	<b>5. PLANNING APPLICATION - 0962/18 - 320-322 HIGH STREET, WINDSOR - CONSTRUCTION OF A MULTI DWELLING DEVELOPMENT IN A RESIDENTIAL GROWTH ZONE AND SPECIAL BUILDING OVERLAY</b> .....	<b>85</b>
	<b>6. COMMUNITY GRANTS 2019-2020</b> .....	<b>117</b>
	<b>7. ARTS AND CULTURE GRANTS 2019/20 PANEL RECOMMENDATION</b> .....	<b>123</b>
	<b>8. PRAHRAN SQUARE LAUNCH AND ANNUAL ACTIVATION PLAN</b> .....	<b>127</b>

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<sup>1</sup> Note that s.79(1)(a) of the Act requires Councillors to disclose the nature of a conflict of interest immediately before the relevant consideration or discussion.

9.	<b>OSBORNE AVENUE, GLEN IRIS BETWEEN MALVERN ROAD AND MILTON PARADE - PARKING INVESTIGATION RESULTS .....</b>	<b>135</b>
10.	<b>GRATTAN STREET, PRAHRAN - ONE-WAY FLOW CONSULTATION.....</b>	<b>141</b>
11.	<b>STONNINGTON CYCLING REFERENCE GROUP - TERMS OF REFERENCE UPDATE .....</b>	<b>147</b>
12.	<b>STONNINGTON PUBLIC HEALTH AND WELLBEING PLAN - MID TERM PROGRESS UPDATE .....</b>	<b>151</b>
13.	<b>UPDATE ON THE PROPOSAL TO INSTALL A PUBLIC TOILET WITHIN HAWKSURN VILLAGE .....</b>	<b>153</b>
14.	<b>APPOINTMENT OF AUTHORISED OFFICERS PURSUANT TO THE PLANNING AND ENVIRONMENT ACT 1987 - STATUTORY PLANNING.....</b>	<b>157</b>
n)	Urgent Business	
o)	Confidential Business	
1.	<b>STRATEGIES FOR CREATING OPEN SPACE .....</b>	<b>159</b>



**RECOMMENDATION**

***That the Council confirms the Minutes of the Council Meeting of the Stonnington City Council held on 24 June 2019 and Minutes of the Confidential Meeting of the Stonnington City Council held on 24 June 2019 as an accurate record of the proceedings.***



m) *General Business*

- 1. PLANNING APPLICATION - 1165/18 - 135 & 141 ALEXANDRA AVENUE, 61 KENSINGTON ROAD & 52 ROCKLEY ROAD, SOUTH YARRA - PART DEMOLITION, CONSTRUCTION OF A MULTI-DWELLING DEVELOPMENT IN A GENERAL RESIDENTIAL ZONE, HERITAGE OVERLAY AND DESIGN AND DEVELOPMENT OVERLAY; REMOVAL OF TREES WITHIN A SIGNIFICANT LANDSCAPE OVERLAY; ALTERATION TO AN ACCESS TO A ROAD ZONE, CATEGORY 1; AND RELOCATION OF AN EASEMENT**

**Acting Manager Statutory Planning: Phillip Gul**  
**General Manager Planning & Amenity: Stuart Draffin**

**PURPOSE**

For Council to consider a planning application for part demolition, construction of a multi-dwelling development in a General Residential Zone, Heritage Overlay and Design and Development Overlay; removal of trees within a Significant Landscape Overlay; alteration to an access to a Road Zone, Category 1; and relocation of an easement at 135 & 141 Alexandra Avenue, 61 Kensington Road & 52 Rockley Road, South Yarra.

Executive Summary

Applicant:	Urbis
Ward:	North
Zone:	General Residential Zone – Schedule 5 (GRZ5)
Overlay:	Heritage Overlay (HO64 & HO146) Significant Landscape Overlay (SLO1) Design and Development Overlay (DDO3 & DDO6)
Neighbourhood Precinct:	Garden River
Date lodged:	16 November 2018
Statutory days: (as at council meeting date)	164
Trigger for referral to Council:	7 objections
Number of objections:	Seven (7)
Consultative Meeting:	Yes – held on 28 March 2019
Officer Recommendation:	Issue a Notice of Decision to Grant a Planning Permit

**BACKGROUND**

There is extensive planning history for the subject site which is relevant to the application now before Council.

Planning Permit 913/12 issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 6 January 2014. The permit allowed for the removal of all buildings except for one dwelling at 52 Rockley Road, and the construction of a six level residential aged care facility containing 81 aged care rooms and 51 car parking spaces accessed via Alexandra Avenue. This approval did not authorise access from Kensington Road or Rockley Road (other than for the retained dwelling at No. 52 Rockley Road).

The land changed ownership after the issue of the permit and the new owner sought to amend the permit under Section 87A in 2018 to alter the development from an aged care facility to a residential apartment building comprising 69 new apartments. Council considered that the changes did not amount to an application to amend the existing permit, but rather transform the permit into something fundamentally different. On appeal, VCAT agreed with Council's position and refused to amend the permit on 16 July 2018 (VCAT Reference: P2380/2017 & P2850/2017).

The permit has been acted on by way of the clearing of the site (removal of all buildings except the front dwelling at No. 52 Rockley Road and removal of vegetation) and therefore the permit remains valid. VCAT has extended the permit for the residential aged care facility and works must be completed by 6 July 2021.

A new fresh planning permit is now being sought for a residential development comprising 44 new dwellings, to replace the proposed residential aged care facility. The details of this new application form the basis of this report.

It is important to note that a number of amendments to the Stonnington Planning Scheme have occurred since the previous permit was granted in 2014. The land had been rezoned from Residential 1 Zone to General Residential Zone (Schedule 5) with a mandatory height limit. Additionally, Amendment GC48 introduced new controls over the Yarra River corridor in Stonnington and other municipalities by applying an amended Design and Development Overlay – Schedule 3 (DDO3) and a new Significant Landscape Overlay – Schedule 1 (SLO1). The Neighbourhood Character Local Planning Policy at Clause 22.23 has also been introduced. These new controls are discussed throughout this report.

### The Proposal

The plans that form part of the basis of Council's consideration were prepared by *Carr Architects* and are known as Drawing No's: TP-002, TP-003, TP-100 Rev 1, TP-101 Rev 1, TP-102 Rev 1, TP-103 Rev 1, TP-104 Rev 1, TP-105 Rev 1, TP-106 Rev 1, TP-107 Rev 1, TP-108 Rev 1, TP-200 Rev 1, TP-201 Rev 1, TP-202 Rev 1, TP-203 Rev 1, TP-300 Rev 1, TP-301 Rev 1, TP-302 Rev 1, TP-303 Rev 1, TP-400, TP-401, Council date stamped 25 January 2019.

Key features of the proposal are:

- Removal of all buildings from the site excluding the front dwelling at 52 Rockley Road. These works have already been carried out under Planning Permit 913/12.
- Construction of a residential development comprising 13 new buildings and one existing building to Rockley Road, labelled as Buildings A to O.
- The existing building to be retained (known as Building L) will be the only building with a frontage to Rockley Road and is to have one car parking space provided via a new garage at the rear of the existing building (as approved by Planning Permit 913/12).
- There is one building (known as Building O) proposed to Kensington Road. The existing crossover will provide access to a garage for 4 car parking spaces (in a tandem arrangement) with two floor levels above, containing one apartment on each floor level (2 apartments in total).

- The main entrance to the residential development is via Alexandra Avenue with a concierge and waiting lounge centrally located along the site's frontage.
- Buildings A and B sit to the west of the Alexandra Road frontage and are three storeys in height. Buildings C and D to the east side of the Alexandra Road frontage also present as three storey buildings with a recessed upper level (4<sup>th</sup> storey).
- Sitting behind these buildings, as the land rises, is Building E and F which each contain 4 levels with the dwellings orientated with an outlook towards the north-west and Yarra River.
- Buildings G, H and J are located behind Buildings E and F and contain three levels of apartments, setback a minimum distance of 3 metres to the east boundary and 4.1 metres from the west boundary of the subject site.
- Building K is located behind No. 52 Rockley Road and three floor levels are proposed above the communal pool and garden terrace.
- Building M and N are located to the far south of the site and each contains three floor levels. Apartments within these buildings have been oriented towards the west, with ground floor terraces abutting the rear boundaries of No. 46 and 48 Rockley Road and balconies situated a minimum distance of 5 metres from the west boundary (within Building M).
- Extensive landscaping and meandering pedestrian paths are proposed to move up and between the buildings providing access to the individual building entries from Alexandra Avenue.
- The development comprises 44 new dwellings with the mix as follows:
  - 14 x two bedroom apartments
  - 29 x three bedroom apartments; and
  - 1 x four bedroom apartment.
- A multi-level basement is accessed via Alexandra Avenue which will feature 97 car parking spaces. The car parking is to be allocated as 92 spaces to the residents and 5 visitor spaces. The visitor spaces are located on Basement Level 3.
- The basement level 3 is to be accessed via a ramp from the ground floor while the southern basement levels 1 and 2 are accessed via a car lift at the ground floor level. Vehicles enter the site via Alexandra Avenue and enter one of two car lifts. The concourse area in front of the car lifts is designed to allow a vehicle to wait near the base of the access ramp, whilst continuing to allow vehicles to circulate to the Alexandra Avenue (north) car park where required.
- Vehicle access is to be restricted to left in/left out movements from Alexandra Avenue.
- The buildings will not have a height in excess of 10 metres above natural ground level at any point across the site.
- The site coverage equates to 49% with 28% permeability and 47% garden area.
- The basement coverage is to be 57% of the overall site area.
- The application seeks to relocate the easement within No. 61 Kensington Road.
- The buildings are to be finished in high quality, durable materials in a natural palette and will include cement render, sandblasted concrete, textured concrete, corrugated bronze metal screens, bronze coloured metal for window frames and balustrades and clear glazing.

### Site and Surrounds

The site is located on the southern side of Alexandra Avenue, opposite the Yarra River. The site has the following significant characteristics:

- The land is irregular in shape and comprises four lots with a combined area of approximately 7900 square metres.
- The subject site has a frontage to Alexandra Avenue of 39 metres, a frontage to Rockley Road of 10 metres and a frontage to Kensington Road of 15 metres.
- There is a significant fall in the land from the southern boundary towards Alexandra Avenue. The topography is complex, varying across the site, and displays a plateau in the rear two-thirds of the land where a dwelling previously existed.
- No. 61 Kensington Road is the largest of the lots extending from Alexandra Avenue, rising up to a ridge that extends near the Kensington Road entry. The land was previously occupied by a 1980's large dwelling ('St Cloud') that was constructed in the foreground of 'Bona Vista' heritage dwelling now located on a separate lot (No. 59 Kensington Road). The original dwelling on No. 61 Kensington Road has been demolished and earthworks have commenced resulting in the extensive removal of existing vegetation.
- The building at No. 135 Alexandra Avenue has been removed but previously contained a double storey brick residential building.
- No. 141 Alexandra Avenue has also been cleared and previously contained a three storey brick residential building.
- No. 52 Rockley Road once comprised three attached, double storey dwellings that form part of the Rockley Road heritage precinct. The front dwelling has been retained and the rear two dwellings have been removed.
- The land is surrounded by a number of large homes and other apartment buildings on Alexandra Avenue. Across Alexandra Avenue is the Yarra River environs and the Monash Freeway. The Yarra River Corridor generally, and the section of the Yarra River corridor between Grange Road and the CBD, is a special place, with outstanding landscape, recreational and environmental values.

The site interfaces with the adjoining properties as follows:

To the north of the site is Alexandra Avenue, a four lane arterial road in a Road Zone, Category 1 under the management of VicRoads. Beyond this is the Yarra River, which includes a shared pedestrian and bicycle path along the southern bank of the river.

Buildings to the west of the site, along Alexandra Avenue are residential in nature and range in height from two to five storeys, with a variety of building eras and styles. Directly abutting the site is No. 133 Alexandra Avenue, which contains a four storey apartment building comprising three apartments (approved by Planning Permit 978/99).

To the east of the site, there is a steep ridge rising up on the same side of Alexander Avenue, with a prominent dwelling located at the top of this escarpment. Five properties abut the east boundary of the subject site, all addressed to Kensington Road (known as No.'s 63, 65, 67, 71 and 73 respectively). These properties have habitable room windows, balconies and secluded areas of open space oriented towards the subject site.

To the south, both Kensington and Rockley Roads are residential, characterised by large single dwellings and a predominance of multi-level apartment buildings dating from different eras. The property directly to the south at No. 51-59 Kensington Road is an individually significant building known as "Bona Vista" that sits within its own Heritage Overlay (H064).

The site contains a large brick mansion dating from the 1880s and extensive established mansion gardens. A row of large trees extends along the northern boundary where it abuts the subject site.

To the south-west, the subject site abuts 46, 48, and 50 Rockley Road all of which are developed with large dwellings, each with east facing secluded private open spaces. Of these properties No. 48 and 50 are ungraded under the heritage citations, while No. 46 is a B-graded building under the Heritage Overlay. To the north-west of No. 52 Rockley Road the site abuts the brick units at No. 54 Rockley Road. A number of habitable room windows and balconies are oriented towards the subject site.

#### Previous Planning Application(s)

As detailed at the commencement of this report, the following planning permit affects the subject site and is relevant to the current application before Council:

- Planning Permit 0913/12 was issued at the direction of VCAT (Tribunal decision P178512013 dated 27 November 2013) on 6 January 2014. The permit allows for the *demolition of buildings in a Heritage Overlay, construction of buildings and works for an aged care facility in a Residential 1 Zone, Heritage Overlay and Design and Development Overlay (Schedule 3), alterations of access to a Road Zone Category 1, and variation and removal of an easement.*

The demolition works and vegetation removal have been carried out as approved by this permit. This permit is still valid and works must be completed by 6 July 2021.

#### The Title

The subject site is described as follows:

- 61 Kensington Road: Plan of Consolidation 350667A of Certificate of Title Volume 09997, Folio 870.
- 52 Rockley Road: Lots 1, 2, 3, 4, 5, 6 and all common property on Strata Plan 015999 of Certificate of Title Volume 09413, Folio 021.
- 135 Alexandra Avenue: Lots 1 and 2 on Plan of Subdivision 427001T of Certificate of Title Volume 10549, Folio 648.
- 141 Alexandra Avenue: Unit 1, 2, 3, 4 and all common property on Strata Plan 014955 of Certificate of Title Volume 09378, Folio 483.

There are no covenants on title.

A drainage easement affects the land at 52 Rockley Road, which runs through the centre of the site.

A drainage and sewerage easement exists on the west boundary and within the south-west corner of the land known as No. 61 Kensington Road. This easement is proposed to be relocated as part of this application.

## Planning Controls

The following controls/permit triggers are considerations for this application:

### *Zone*

Clause 32.08 – General Residential Zone, Schedule 5 (GRZ5)

Pursuant to Clause 32.08-1 a permit is not required to use the land for dwellings.

Pursuant to Clause 32.08-4 (Minimum garden area requirement), the subject site must provide a minimum garden area at ground level of 35% of the site area. The proposal provides 47% garden area.

Pursuant to Clause 32.08-6, a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Pursuant to Clause 32.08-10, a residential building must not exceed a building height of 9 metres or 10 metres on a sloping site. In this case the height of the building must not exceed 10 metres.

A lift overrun may exceed the abovementioned mandatory height requirements by no more than 1.2 metres.

### *Overlays*

Clause 43.02 – Design and Development Overlay (Schedule 3 and 6)

Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.

Buildings and works must be constructed in accordance with any requirements in a schedule to this overlay. A permit may be granted to construct a building or construct or carry out works which are not in accordance with any requirement in a schedule to this overlay, unless the schedule specifies otherwise.

Schedule 3 - Yarra (Birrarung) River Corridor Protection, in its current form was introduced into the Stonnington Planning Scheme on 24 February 2017.

The schedule includes the following requirements which cannot be varied by the grant of a planning permit:

The following requirements must be met. A permit cannot be granted to vary the following:

- Buildings and works must not cast any additional shadow across the Setback Reference Line specified in each Setback Map Reference to this schedule between 11:00am and 2:00pm on 22 June.
- A new building must:
  - Not exceed the maximum height specified in Table 1 of this schedule measured from natural ground level.
  - Be set back at least the minimum specified in Table 1 of this schedule from the Yarra River.



- The complete or partial replacement of an existing building within the minimum setback specified in Table 1 of this schedule from the Yarra River must not:
  - exceed the maximum building height specified in Table 1 of this schedule from natural ground level;
  - reduce the existing setback of the building from the Yarra River and public open space; and
  - increase the existing gross floor area of the existing building.

**Table 1**

DDO3 Map Ref.	Location	Mandatory Requirements			Discretionary Requirements	
		Minimum Setback Line <sup>1</sup> Distance	Maximum Height		Maximum Height	
			Maximum	Sloping <sup>2</sup>	Maximum	Sloping <sup>2</sup>
A	Grange Road to Gardiners Creek	30m	9m	10m	-	-
B	Riverfront Apartments Precincts	-	12m	-	-	-
C	River Ridgeline Precincts	-	9m	10m	-	-
D	Melbourne High Precinct	-	-	-	6m	7m

*Definitions to be read in conjunction with the above table and following setback reference maps:*

<sup>1</sup> *Mandatory Minimum Setback Line:* The minimum building setback from the Yarra River is the specified distance measured horizontally in metres from the *Setback Reference Line*<sup>3</sup>; or

<sup>2</sup> *Sloping site:* Where the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more.

<sup>3</sup> *Setback Reference Line:* The closest parallel property boundary adjoining the Yarra River defining the location of its banks and the commencement of the waterway identified on each Setback Reference Map to this schedule.

The lower parts of the subject site that abut Alexandra Avenue fall within DDO3-B, while parts of the land at 61 Kensington Road fall within DDO3-C. The maximum allowable height limits vary between 10 metres and 12 metres.

The other mandatory requirements, as relevant, are met.

Section 4.0 of the Schedule requires that all applications within 100 metres of the Yarra River must be referred to Melbourne Water.

Schedule 6 – City Link Exhaust Stack Environs

Schedule 6 specifies that a permit is not required to construct a building or construct or carry out works.

Clause 43.01 – Heritage Overlay (HO64 and HO146)

Pursuant to Clause 43.01-1 a permit is required to construct a building or construct or carry out works, including demolition. Demolition of the heritage building at No. 61 Kensington Road and partial demolition of No. 52 Rockley Road have been previously approved and works undertaken. The same extent of demolition is now proposed.

#### Clause 42.03 - Significant Landscape Overlay (Schedule 1)

Pursuant to Clause 42.03-2, a permit is required to construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.

The subject site is now affected by the Significant Landscape Overlay, Schedule 1 (SLO1) which relates to the Yarra (Birrarrung) River Corridor Environs. The SLO1 was introduced into the Stonnington Planning Scheme on 24 February 2017 and sets out landscape objectives to protect the Yarra River environs. Section 3.0 at Schedule 1 states:

*A permit is required to:*

- *Remove, destroy or lop vegetation.*
- *Construct a fence within 30 metres of the banks of the Yarra River or where it abuts public open space unless all of the following requirements are met:*
  - *the maximum height of the fence does not exceed 1.4 metres at any point above natural ground level; and*
  - *the fence is of timber post and rail, and timber or metal post and wire construction.*
- *Construct a building more than 6 metres in height above natural ground level at any point.*

It is noted that Planning Permit 913/12 allowed for a number of trees to be removed and this has occurred concurrent with extensive clearing of site. Therefore, permission for the tree removal is required as part of this current application.

The buildings greater than 6 metres in height also require a planning permit.

#### *Particular Provisions*

##### Clause 52.02 – Removal and variation of an easement

Pursuant to Clause 52.02, a permit is required to create, vary or remove an easement.

##### Clause 52.06 - Car Parking

Pursuant to Clause 52.06-2, before a new use commences the number of car parking spaces required under Clause 52.06-5 must be provided. A permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.

Pursuant to Clause 52.06-5 the following rates of car parking are required:

Number/Area	Rate	Required Spaces
14 x 2 bedroom dwellings	1 space per dwelling	14
30 x 3+ bedroom dwelling	2 spaces per dwelling	60
Visitor parking spaces	0*	0
Total spaces required		74

\*The rates that apply fall within Column B. These rates apply if any part of the land is identified as being within the Principal Public Transport Network Area as shown on the Principal Public Transport Network Area Maps (State Government of Victoria, August 2018). The subject site has been identified as being within 400 metres of a train station or a tram/smartbus corridor and therefore is within the Principal Public Transport Network Area.

The proposal includes 102 parking spaces provided on-site with 97 spaces allocated to residents and 5 spaces allocated to visitors. The number of parking spaces exceeds the requirements in the Planning Scheme by 28 spaces.

Clause 52.29 – Alteration of access to a Road Zone Category 1

Pursuant to Clause 52.29-2, a permit is required to create or alter access to a road in a Road Zone, Category 1. The proposal seeks to alter the access from Alexandra Avenue, a road under the management of VicRoads.

Clause 52.34 – Bicycle facilities

Pursuant to Clause 52.34-1, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

Usage	Number/Area	Rate	Required Spaces
Residential	44 x dwellings	1 space per 5 dwellings	9
Residential Visitor	44 x dwellings	1 space per 10 dwellings	4
Total spaces required			13

It is noted that the above rates apply to developments of four or more storeys. The development as a whole would constitute a development of four storeys (although it is reiterated that it will not be more than three storeys above ground at any point). The proposal provides only 6 bicycle spaces on Basement Level 3. A permit is required to reduce the number of bicycle spaces below the statutory requirement.

### Relevant Planning Policies

Clause 11 – Settlement  
Clause 11.01-1R – Settlement – Metropolitan Melbourne  
Clause 13 – Environmental Risks and Amenity  
Clause 13.07 – Amenity and Safety  
Clause 15 – Built Environment and Heritage  
Clause 15.03 – Heritage  
Clause 16 – Housing  
Clause 18 – Transport  
Clause 19 – Infrastructure  
Clause 21.03 – Vision  
Clause 21.05 – Housing  
Clause 21.06 – Built Environment and Heritage  
Clause 21.07 – Open Space and Environment  
Clause 21.08 – Infrastructure  
Clause 22.04 – Heritage Policy  
Clause 22.05 – Environmentally Sustainable Development  
Clause 22.18 – Stormwater Management (Water Sensitive Urban Design)

### Advertising

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* by sending notices to the owners and occupiers of adjoining land (and by placing 3 signs on the site). In addition, all previous parties to the residential aged care facility were notified, as was the City of Yarra. The public notification of the application has been completed satisfactorily.

The site is located in North Ward and objections from 15 different properties were initially received. The concerns can be summarized as follows:

- Height
- Loss of views
- Impacts on adjoining trees
- Overshadowing
- Vehicle access
- Visual intrusion on Yarra River
- Visual bulk
- Landscaping
- Overlooking
- Car parking and traffic

The Applicant has been in discussions with the objectors and at the time of writing this report 8 objections have been withdrawn unconditionally. While the applicant has provided a number of draft conditions (see below) for Council's consideration, the objections have not been withdrawn on the basis of these conditions. Due to the objections that have been withdrawn, there are now seven (7) objections to this application.

A Consultative Meeting was held on 28 March 2019. The meeting was attended by Councillors Koce and Griffin, representatives of the applicant, objectors and a Council planning officer. The meeting did not result in any changes to the plans. However, the Applicant has supplied a set of draft conditions that include a number of voluntary changes to the built form. The draft conditions as put forward by the applicant are as follows:

1. *Before the commencement of the development, three (3) copies of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans prepared by Carr Architects dated 18 January 2019, but further modified to show:*
  - a. *Screen all windows and balconies with an outlook to an adjoining residential property (not including those specifically mentioned in the following conditions), where they are within 9 metres, to limit views of existing residential private open space and habitable room windows. Screening must be a minimum of 1700mm high with no more than 25% transparency or otherwise to the satisfaction of the Responsible Authority.*
  - b. *Screen windows of the eastern elevation of Levels 1 and 2 of Building G to a height of 1800mm, with no more than 25% transparency below 600mm and no more than 20% transparency between 600mm and 1800mm or otherwise to the satisfaction of the Responsible Authority.*
  - c. *The height of Building E/F lowered by 500mm to RL30.30 (south) and to RL26.80 (north).*
  - d. *The southern façade of Building E/F moved 500mm to the south.*
  - e. *The northern face of the second floor (top) of Building E/F adjusted to accommodate improved sightlines from 67 Kensington Road as shown on the sketch plan by Carr Architects dated 28 March 2019 and numbered SK406.*
  - f. *The height of Building G/H be lowered by 500mm to RL32.35.*
  - g. *The second-floor setback of Building G/H to the eastern boundary increased by 500mm across its length.*
  - h. *Relocate window on Master Bedroom of Apartment N.L2 of Building N from the north to the south façade and reconfigure the internal layout to switch the ensuite and walk in wardrobe locations of the Master Bedroom.*
  - i. *Ensure that buildings are no more than 10 metres above natural ground level across the site.*
  - j. *Fences behind Buildings O and L to separate these buildings from the remainder of the development.*
2. *A tree management plan prepared by a suitably qualified arborist must be submitted and approved by the Responsible Authority. When approved, all works undertaken on site, must be done so in accordance with the approved tree management plan.*

3. *During the construction phase, plant Ficus Hilli trees (at the cost of the applicant) at a minimum planting height of 2.5m on the subject site in the following quantities and locations (to the satisfaction of the Responsible Authority):*
  - a. *Eight (8) Ficus Hilli trees adjacent to the southern portion of the common boundary with 71 Kensington Road;*
  - b. *Nine (9) Ficus Hilli trees adjacent to the common boundary with 65 Kensington Road; and*
  - c. *Eighteen (18) Ficus Hilli trees adjacent to the western and south western portion of the southern boundaries of 63 Kensington Road.*
4. *The landscaping between the proposed buildings and the common boundary with 63 Kensington Road and 65 Kensington Road will be maintained at a height of approximately 6.0m.*
5. *The landscaping between the proposed buildings and the common boundary with 67 Kensington Road and 71 Kensington Road will be maintained at a height of approximately RL26.800 (being the proposed roof level of the northern portion of Building E). Landscaping in these locations to be trimmed to that level and maintained on an annual basis, as a minimum.*
6. *During the construction phase, the existing boundary fencing adjoining Kensington Road properties is to be replaced, at the cost of the applicant, with new lapped and capped timber fence of approximately 2.2 metres, unless agreed otherwise with the owner of the adjoining property.*
7. *During the construction phase, retain, repair, or replace the section of boundary fence adjoining 46 Rockley Road, in a similar height and form, at the cost of the applicant.*
8. *During the construction phase, install fences behind Buildings O and M to separate these buildings from the remainder of the site, at the cost of the applicant.*
9. *Limit pedestrian access to Rockley Road from the development. Pedestrian access to Rockley Road will be provided only to Building L.*
10. *Limit pedestrian access to Kensington Road from the development. Pedestrian access to Kensington Road will be provided only to Building O.*
11. *A geotechnical report and structural engineering report prepared by a suitably qualified engineer must be submitted and approved by the Responsible Authority which details measures to be undertaken during construction to ensure stability and avoid damage to the land and buildings adjacent to the Site at 63, 65, 67, 71 and 73 Kensington Road.*
12. *No ground anchors, rock bolts, or other measures, whether temporary or permanent, are to be located in, on or under the ground level of 63, 65 or 67 Kensington Road.*
13. *Not allow construction vehicle/s to access the site via Kensington Road, other than contractors that must necessarily access the Site because they are undertaking construction in that area.*
14. *Not allow construction vehicle/s to access the site via Rockley Road, other than contractors that must necessarily access the Site because they are undertaking construction in that area.*

The above conditions, as deemed appropriate, will be included within the recommendation. Importantly, the conditions will not result in any increased detriment to neighbouring properties.

### Referrals

#### *VicRoads*

VicRoads has assessed the application and note the following:

The proposed access arrangement to the subject development is similar to a previously agreed layout for an aged care facility on the land and is acceptable to VicRoads in principle.

However, if Council regards the proposed development favourably, VicRoads would require that the following conditions be included in any Notice of Decision to issue a Planning Permit or Planning Permit:

1. *Before the development starts, a Functional Layout Plan (FLP) must be submitted to and approved by the Roads Corporation (VicRoads). When approved by VicRoads, the FLP may be endorsed by the Responsible Authority and will then form part of the permit. The FLP must be generally in accordance with DWG No: TP-101' by "Carr," dated 16 November 2018, drawn to scale with dimensions and show:*
  - a) *Deceleration lane and the extent of alteration to the retaining wall (to achieve the required sight distance).*
  - b) *Details of the proposed pick-up drop-off area and associated pedestrian access including any earth retaining structure.*
  - c) *Installation of appropriate signage and line marking.*
2. *Subsequent to the approval of the FLP and prior to the commencement of any roadworks within the arterial road reserve the applicant must submit the detailed engineering design plans to VicRoads for review and approval. The detailed design plans must be prepared generally in accordance with the approved FLP and functional stage Road Safety Audit.*
3. *Prior to the commencement of the use hereby approved, all works required by VicRoads must be completed in accordance with the approved detailed engineering design plans and FLP, to the satisfaction of VicRoads and the Responsible Authority and at no cost to VicRoads or the Responsible Authority.*
4. *Prior to commencement of any works, a geotechnical engineering report providing a stability assessment in accordance with the Australian Standard AS 4678, which demonstrates that the works to the retaining wall can be achieved without compromising the structural integrity and stability of the embankment, must be submitted to and approved by VicRoads and Responsible Authority. Once approved, the geotechnical report will form part of the permit.*
5. *Prior to the commencement of the use or occupation of the development, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.*

VicRoads also requests the following Planning Note be placed on permit:

1. *The preparation of functional layout plans, detailed engineering design and the construction and completion of all work must be undertaken in a manner consistent with current VicRoads' policy, procedures and standards and at no cost to VicRoads. In order to meet VicRoads' requirements for these tasks the applicant will be required to comply with the requirements documented as "Standard Requirements – Externally Funded Projects" and any other requirements considered necessary depending on the nature of the work.*
2. *Functional layout plans may need to be amended to accommodate any changes that may arise during the detailed design stage review; in response to the road safety audit; in relation to services and their relocation; vegetation; drainage; treatment of hazards within clear zones and other matters.*
3. *No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.*

#### *Melbourne Water*

Melbourne Water, pursuant to Section 56(1) of the Planning and Environment Act 1987, does not object to the proposal, subject to the following conditions:

#### Conditions

1. *Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must show:
  - a) *Finished floor levels of the dwellings must be set no lower than 5.85 metres to AHD.*
  - b) *The basement entry/ exit must incorporate a flood proof apex and associated bunding constructed no lower than 5.85 metres to AHD.*
  - c) *A vegetation buffer zone screening the development from the Yarra River.**
2. *Finished floor levels of the dwellings must be constructed no lower than 5.85 metres to Australian Height Datum (AHD).*
3. *The basement entry/ exit must incorporate a flood proof apex and associated bunding constructed no lower than 5.85 metres to AHD.*
4. *The layout of the site and size, height, design and location of buildings and works as shown on the submitted plans must not be altered without prior written consent from Melbourne Water.*
5. *Any new or modified stormwater connection to Melbourne Water's drainage system must obtain separate approval from Melbourne Water's Asset Services Team.*



6. *A detailed landscape plan must be submitted to Melbourne Water for approval. The plan must show:*
  - a. *a landscape buffer zone screening the development from the Yarra River to the satisfaction of Melbourne Water;*
  - b. *survey (including botanical names) of all existing vegetation to be retained and/or removed;*
  - c. *a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;*
  - d. *Only local native indigenous plants should be used and shown on the landscape plans.*
  
7. *Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.*

#### Melbourne Water Advice

The applicable flood level is 5.25 metres to Australian Height Datum (AHD).

#### Landscape Buffer Zone

Native vegetation screening must be provided between the proposed buildings and Alexandra Avenue that will grow to match or exceed the height of the dwellings. This must be provided to ensure that the views from the Yarra River and the experience of river users on the Main Yarra Trail are not adversely impacted by the new development. The submitted landscape architectural concept does not contain enough detail of vegetation species or expected plant heights. A detailed landscape plan showing that this requirement will be met is required to be submitted to Melbourne Water for approval.

#### *Council's Urban Designer*

*This proposal has been well discussed and progressively refined by the Applicant and their design team during the course of a number of pre-application meetings with Council officers. Over successive iterations of design modifications, the early urban design issues have been satisfactorily addressed.*

*In my opinion, this is a well-conceived development strategy for an extremely challenging site. The proposal constitutes a thoughtful design response to this steeply sloping site; to the adjoining properties; and to the Yarra River environs.*

#### *Parks Department*

- Landscape elements are shown outside the boundary – these need to be removed.
- Soil volumes are still not provided for in-situ landscape elements. Listing the depth is not a volume indication.
- Retained significant trees need to be clearly notated (species, ID No. from tree report/TMP).

### *Transport and Parking*

- The number of parking spaces exceeds the requirements in the Planning Scheme, and is considered satisfactory.
- Traffic generation is a matter for VicRoads.
- Parking bays, headroom clearance, sight lines, columns, and access ways have been designed in accordance with the Planning Scheme which is considered satisfactory.
- Dimensions of the exit lane within the drop off area are to be shown on plans demonstrating that the width of this lane allows for vehicles to exit the site whilst vehicles are parked within this area.
- The design of the entry point/lane into the site does not appear to provide easy access to the drop off area due to the splitter island proposed between the two lanes. Vehicles may have difficulties negotiating this splitter island to get to the drop off area. This suggests that vehicles entering the site won't use this area and it would only be limited to residents leaving from the car park. The applicant is to confirm this arrangement including a revised design to ensure that vehicles entering the site can enter the drop off area.
- The plans do not state what the proposed ramp gradients would be along the proposed deceleration and exit lanes. The applicant is to highlight the grade changes along these lanes.
- The plans submitted do not detail the proposed floor gradients of the parking areas. The minimum gradient of the parking area shall be 1 in 200 (0.5%) for covered areas to allow for adequate drainage as per AS2890.1.
- The whole development shares the same basement car park so it is reasonable to ensure that bicycle facilities are provided for the whole development. The proposal generates a requirement of 13 bicycle parking spaces, split as 9 for residents and 4 for visitors. The proposal includes 6 secure resident bicycle spaces on Level 3.
- Based on the total number of dwellings proposed it is considered that additional bicycle parking facilities be provided. In addition, the spaces are proposed within the residential car park. This would not be readily accessible for visitors to the site.
- The plans do not provide any further details on the proposed new vehicle crossing. Dimensions and the proposed design of the vehicle crossing is to be provided on revised material.
- An on-site loading facility is no longer a requirement of the Planning Scheme, however a loading area has been proposed on level 3 which is supported.

### *Infrastructure Department*

The application to relocate the easement has been reviewed by Council's Infrastructure Department who has provided the following comments:

- It is apparent that the easement drain can be relocated clear of the development to the satisfaction of Council and a permit can be issued subject to planning conditions including that a final design plan be prepared to the satisfaction of Council's Infrastructure Unit prior to a building permit being issued for the development.

- With regard to the sketch and final plan to be submitted:
  - A reasonable clearance will need to be provided to the building and I suggest 1.0m would be satisfactory if that can be achieved within the courtyards etc. Please show offsets to all drains to allow drain to be set out.
  - Please provide finished surface details within the Eastern boundary where there are various changes to levels and terraces etc. Please provide a couple of cross sections at the most extreme sections.
  - Full pit schedule to be provided showing all pits details including sizes, inverts and finished pit cover levels and pit types. Please reference all pits to Council standard drawing STD-105 attached.
  - Drainage computations will be required for the relocated drain justifying pipe sizes.
  - All drains to be rubber ring jointed reinforced concrete pipes.
  - Show all encumbrances over and across the drain including fences and walls.
  - Note temporary drain to be provided at all times during construction of the development including size.
  - A bond and supervision fee will be applicable for the works. Please provide an Engineers estimate of the easement drainage works to allow this to be determined.
  - Please place a note stating that the easement drain must be constructed to the satisfaction and under the direct supervision of Council's Infrastructure Unit. Contact Council Supervisor Bruce Hamilton (phone 8290 3252) at least 24 hours prior to the commencement of works.
- Consent to build over the easement must be obtained from Council's Building Control Unit prior to a building permit being issued for any works over the easements. Consent will include the requirement that the owner enter into Council's standard Section 173 agreement for building over easements.
- The easement must be relocated prior to any building permit being issued for the works. This is necessary to allow the required Section 173 agreement to be entered into by the owner.
- Prior to the development commencing, formal approval must be obtained from Council's Infrastructure Unit for the relocation of the easement and stormwater easement drain. A plan prepared by a suitably qualified Engineer must be submitted and approved by Council. The drain must be constructed at the owner's cost in accordance with the approved plan under the supervision and to the satisfaction of Council.
- An easement drain must be fully functional at all times during all construction and building works.

## *Heritage*

*Despite the large scale of the proposed project, it raises few issues from a heritage perspective.*

*For example, redevelopment of the site to the north of Bona Vista raises no heritage issues. Bona Vista is an individually significant building at 51-9 Kensington Road. It is of architectural significance as an example of one of the earliest known examples of the Queen Ann Revival style in Victoria, and is protected under HO64. The land to the north of Bona Vista was excised from the large early estate some years ago and a substantial dwelling constructed on the site during the 1980s. Redevelopment of this site in the manner currently proposed will not have any substantial impact on the significance of Bona Vista or its present day curtilage.*

*Although the early walkway linking Rockley Road and Alexandra Parade is an important element in HO146, the proposed works are sufficiently distant from the walkway to ensure they will not adversely affect its character or significance.*

*To the limited extent to which the new development will be visible in some views from the northern section of Rockley Road (also in HO146), its impact will be modest.*

*Overall, the proposed development will have a limited impact on Bona Vista or the Rockley Road Heritage Precinct, HO146, and is therefore acceptable in its current form.*

## *Environmentally Sustainable Design (ESD)*

Council's ESD Officer has raised some concerns with daylight and ventilation to the new dwellings. These concerns are discussed in greater detail under 'Internal Amenity' within the Assessment section of this report.

There are a number of details that will be required via conditions as follows:

- Provide a complete Green Star *Design Review Submission* – as per the *Green Star Submission Guidelines* – which also meets Council's best practice standards. Ensure that the proposed development is able to comfortably achieve 45 points without reliance on Innovation points. In order to increase the likelihood of satisfactorily meeting Council's ESD standards in the next round, it would be prudent to include a 10% points buffer.
- Alternatively, provide a complete, valid, substantiated BESS Report that which meets Council's best practice standards. BESS was produced with Council input and tends to be more appropriate for residential developments than Green Star Design & As Built.
- As the proposed development includes a pool, the applicant should use the Green Star Potable Water Performance Pathway or equivalent water modelling.
- Where greater than 3 star (default) washing machines are claimed, evidence of the 4 star specification must be provided by the developer.
- Provide water balance calculation (noted in SMP as 'modelling') to substantiate the rainwater tank sizing.
- In the appropriate drawings, indicate location of fire test water tank, any associated equipment and maintenance access.
- For Council's energy requirements to be met, the following additional information must be provided in the SMP/depicted on plans as relevant:

- Green Star Greenhouse Gas Emissions calculator (or BESS equivalent) and relevant documentation to support energy related claims in the SMP. Ensure that Council's best practice standards are met.
- Natural clothes drying facilities, and depict and annotate in plans.
- On-site renewable energy generation.
- Annotate carbon monoxide (CO) sensing and control systems to car park ventilation in appropriate floor plans.
- Include commitments to energy efficient lighting (see above link), daylight and occupancy sensors for common areas and external lighting
- The SMP states that a high 6.96 star (or >10% improvement) average NatHERS rating may be achieved. However, the building fabric assumptions have not been provided. Submit preliminary NatHERS certificates at least 25% of the dwellings. These fabric assumptions must be indicated on plans.
- Floor plans must be overlaid on daylight modelling results.
- SMP states that electric vehicle infrastructure will be provided. These must be clearly shown and noted in plans.
- Provide a tap for irrigation and waste is shown on each balcony and communal terrace. Consider indigenous or productive gardens
- Low VOC paints is not accepted as an innovation.

Council's Water Sensitive Urban Design Policy (Clause 22.18) has also not been met. Other than providing an STORM report, the applicant has not provided any response to Council's other policy submission requirements, such as identifying measures to treat water quality from trafficable roof and terrace areas etc.

- In the development plans, include annotations of all roof and terrace areas draining to the rainwater tanks, as well as any paved area draining to other systems as relevant. Also show and note rainwater tank locations and capacity, including indicative locations for associated equipment (i.e. pump, filtration, possibly disinfection) and maintenance access. Rainwater tanks to be annotated to confirm connection to toilets (specify the quantity of associated occupants), and to irrigation as per the SMP.
- The STORM rating report relies on erroneous inputs, resulting in an invalid score of 100%. At least 667 m<sup>2</sup> of impervious area is unaccounted for. STORM tool assumes that 2852m<sup>2</sup> of the site is permeable, but the plans indicate that 2185 m<sup>2</sup> of permeable area. Amend the STORM rating report to include all roof and paved areas left untreated.
- It is noted that the SMP cites that one of the rainwater tanks is to be used for garden irrigation. While it is good to avoid potable water for irrigation, this cannot be counted in STORM as 'Garden irrigation is not as reliable a demand as toilet flushing, especially in winter and spring'. MUSIC would be a more appropriate tool for modelling for a more complex site such as this – for more information, see: <https://www.melbournewater.com.au/sites/default/files/2018-03/Music-tool-guidelines.pdf>
- If collection and reuse alone are insufficient to meet best practice standards, the development should consider rain gardens, vegetated swales and the like, ensuring to model any such treatment also.
- Submit a water balance calculation justifying the rainwater tank capacity, based on long-term average rainfall data, collection areas and expected end uses, which is in compliance with the AS6400 standard of 1 full- and 4 half-flushes per person per day (giving 16.5 L/person/day for 4 star WELS rated toilet). A new rainwater tank size should be selected based on the revised calculations, ensuring adequate reliability of supply is maintained. Alternately, increase the size of the rainwater tank to 90 kL, which would enable a longer period of water security.

- Council's Clause 22.18 requires that applicants provide the following information which has not been included in the SMP:
  - *Indicative site management plan* which details how the site will be managed through construction. Melbourne Water provides several example guidelines such as '*Keeping our stormwater clean: A builder's guide*'. This information is required to be included in the SMP.
  - *Indicative maintenance program* which sets out future operational and maintenance requirements for the rainwater tanks

#### Waste

No concerns have been raised with the Waste Management Plan dated 17 January 2019. Private waste collection is proposed for the apartments within development from Alexandra Avenue, while Council collection is proposed for the detached dwelling facing Rockley Road (No. 52) and the 2 apartments that front Kensington Road.

#### KEY ISSUES

##### Strategic Justification

The subject site has a current planning permit (PL913/12) that allows for the construction of a substantial residential aged care facility over one building that rises six levels up the slope of the land. This permit was issued in 2014 when the subject site was not subject to mandatory height controls. At the time the permit issued the subject site was found to be an acceptable location for a high quality development of this scale to provide an aged care facility that would benefit the wider community.

Since the issue of Planning Permit 913/12 the Stonnington Planning Scheme has changed and the site is now subject to mandatory height controls under the General Residential Zone and Schedule 3 of the Design and Development Overlay (DDO3). These restrictions limit any new residential building to 10 metres in height above natural ground. This has had a consequential impact on the design response for the new residential development. The revised DDO3 also reflects a change in emphasis on the value of the Yarra River corridor and the importance of achieving built form outcomes which protect and enhance the river's context. These themes are reinforced by the landscape character objectives detailed at Schedule 1 of the Significant Landscape Overlay (SLO1).

Council's Neighbourhood Character Local Planning Policy at Clause 22.23 places the subject site within the Garden River Precinct. The statement of preferred neighbourhood character is described as:

*The Garden River (GR) character precinct comprises buildings that contribute to the Yarra River and its landscaped setting, with innovative architectural styles set among Victorian, Edwardian and Interwar dwellings and well-planted, spacious gardens. New buildings of varying styles and scales are designed to complement and respect the river environs. Consistent front and side setbacks allow for substantial planting that contributes to the tree canopy, and softens the appearance of built form. Where adjoining or visible from the Yarra, buildings address both the street and the River. Low or permeable front fences provide views of building facades and front gardens. Areas within a Residential Growth or Mixed Use Zone or within a substantial change area will accommodate more development with a more compact setting but with space for canopy trees and other vegetation and high quality, responsive design.*

In the original decision for the aged care facility it was evident that the Tribunal gave careful consideration to the development's impact on the Yarra River environs. The Tribunal found:

[32] We agree with the evidence of Mr Biles and Mr Wyatt, which in turn reflects the written comments of Council's urban designer that the scale and rhythm of building proposed to face Alexandra Avenue can sit comfortably in the streetscape and the Yarra River environs. The building will be seen from sections of the Yarra River environs, but it will sit below the predominant canopy of plane trees along Alexandra Avenue and will sit at a similar height and setting to other buildings already visible along this section of the river.

...

[39] The DDO3 objectives seek to ensure that any new building protects the dominant view lines and Yarra River environs. We find there is no evidence that the building will be excessively dominant due to its form or height. The building is a complex set of layers that we accept enables it to be read as a series of forms up the slope, with intervening landscaping that occurs both in ground and in large planter boxes in the front of the building. This means the building will be read as 2 – 3 storey form up the slope, interspersed with landscaping. This includes retention of some large trees on site, such as a Eucalypt at the rear of 141 Alexandra Ave that will then sit forward of, and soften, the new form to the rear of 52 Rockley Road. The new planting may reach the height of the building both in planter boxes and around the perimeter of the site. Planting in planter boxes has been nominated as 9 metres height to maturity, but we accept Mr Wyatt's evidence that this is a conservative estimate. In any event, the importance of the trees in planters (for example in the front of the level 3 terrace) is to soften and break up the upper level form to the south, when viewed from the Yarra environs which is down slope to the north. A view up from the public environs of the Yarra River will perceive the view of the upper levels through the planting, with the planting gaining a perspective of dominance being well forward of the new upper level building form. When viewed up from the Yarra River corridor, we are comfortable that the building will sit in a landscape context that is similar to its neighbours of large buildings with some large canopy trees.

[41] The view of large forms, staggering up the slope is consistent with the existing built form when viewed from the Yarra River environs. The view will be somewhat more intensely urban, but we do not see it in anyway detracts from the river environs in this section of the Yarra River that is already distinctly urban. We find that what will be seen will be a building in context of various building forms sitting on the slope. It will not be distinctly higher or excessively protrude above other forms on the escarpment.

The development as now proposed has sought to retain some positive elements of the original design response such as the streetscape presentation to Alexandra Avenue and the setting back of the built form away from the river as the buildings rise up the land. The 3 storey form to Alexandra Avenue appears as four distinct buildings, effectively breaking up the building mass and providing a rhythm that is seen further to the west along the Yarra River corridor. The setbacks from the street are greater than the setbacks approved for the aged care facility and will continue to provide opportunities for landscaping and passive surveillance.

Behind Buildings A, B, C and D, the development is made up of several individual and co-joined buildings, which are considerably lower in height than the residential aged care development and well separated by landscaping. The landscape plan includes 128 new trees across the site consisting of a variety of native and exotic species.

The plans confirm that 27% of the overall site area contains deep soil and 47% of the site area constitutes “garden area” as defined by the Stonnington Planning Scheme. The extent of garden area reflects the extensive planting that is proposed around the new built form that will enhance the natural landscape on this large, prominent site.

At present that site has been cleared and is a jarring intrusion into the Yarra River corridor. The development of this large parcel of land with a high quality residential development that ensures sufficient space is provided between buildings to maintain views to the Yarra River and allows for the planting and growth of new vegetation, including large canopy trees, is a desired outcome sought by the DDO3, SLO1 and Neighbourhood Character objectives. A more detailed assessment of the proposed built form is provided below.

### Built Form

#### *Impacts on the Yarra River corridor*

As noted above, an important consideration of the proposal is the requirements of Schedule 3 (Yarra (Birrarung) River Corridor Protection) to the Design and Development Overlay, which includes a mandatory height control of 10 and 12 metres (along the northern portion of the land only) across the site. The Zone also stipulates a maximum building height of 10 metres. DDO3 recommends a discretionary maximum site coverage of 40% of the overall site area. The development as proposed will have an overall site coverage of 49%. The requirements also specify that building materials should utilise non-reflective colours and finishes to blend with the existing natural landscape character of an area.

In addition, the decision guidelines to Schedule 1 (Yarra (Birrarung) River Corridor Environs) of Significant Landscape Overlay sets out the following considerations as relevant:

- *Whether buildings will protrude above the predominant tree canopy within a given area.*
- *The impact of any overshadowing by development:*
  - *on the banks and waterway of the Yarra River between 11:00am and 2:00pm on 22 June; and*
  - *across any public open space between 11:00am and 2:00pm on 22 September.*
- *Whether the scale, form, siting and design of new buildings, including materials, colours and finishes, are sensitively integrated with the natural landscape setting of the river corridor.*
- *Whether the spacing between buildings allows for the planting of appropriate vegetation and canopy trees to filter views of the development.*
- *Whether the existing and proposed vegetation fronting the Yarra River will filter the majority of views of the proposed development.*

Overall the proposed development is deemed to be well-conceived development strategy for an extremely challenging site. The proposal is significantly lower in height than the approved aged care facility which has an approved maximum height of 18.8 metres above natural ground. The buildings are to be finished in a natural palette of high quality, durable materials including cement render, sandblasted concrete and textured concrete. There are some bronze metal elements proposed which will complement the natural palette of materials. However, conditions will require that the reflectivity of these materials be confirmed as no more than 20%.

The proposal comprises 13 new buildings (some of which are attached) varying between 3 and 4 storeys with a maximum height of 10 metres above natural ground level. Due to the significant fall in the land the lower levels are in parts below natural ground.



There is one discrepancy that has been identified for Building F, where the parapet in one corner is slightly above the height limit by 0.25 metres. Given the minor nature of the encroachment, this could have been addressed via a condition of the permit. However, the applicant has proposed via the draft conditions, to voluntarily lower the building height of Building E and F by 0.5 metres and set the upper level of Building E back to retain the view lines for the adjoining property at No. 67 Kensington Road. These built form changes will ensure that no part of the parapet will exceed 10 metres above natural ground at any point.

Turning now to site coverage, the development will result in 49% site coverage with 27% permeability. While these figures comfortably comply with the ResCode Standards B8 (Site coverage objective) and B9 (Permeability objective) which recommend no more than 60% and 20% respectively; the DDO3 recommends a much lower site coverage of 40%. The approved aged care facility has a higher site coverage closer to 70% of the overall site area. Although the proposal will exceed the discretionary 40% site coverage as stipulated by the DDO3, the outcome will be an improvement on the approved aged care facility and will meet all other requirements of DDO3.

### *Landscaping*

The new buildings are well setback from the side boundaries and are accessed via a meandering garden path that commences at the Alexandra Avenue frontage and extends up the slope of the land to each of the building entries, which are set amongst a diverse and extensive landscape setting.

Since the introduction of the Significant Landscape Overlay (Schedule 1) on this site, greater emphasis has been placed on the importance of the landscape character of the Yarra River corridor. The development has sought to integrate a wide range of new plantings on the site, including 128 new native and exotic species. A number of new native trees have been shown within the front setback to Alexandra Avenue, which will reach mature heights of between 15 and 35 metres. At these heights, the native vegetation will grow to exceed the height of the dwellings providing adequate screening of the proposed buildings when viewed from the Yarra River. This is also a requirement of Melbourne Water. Council's Arborist has identified a number of trees which are shown outside of the title boundaries on Council's land. These trees must be removed from the plans as Council will determine the appropriate planting and extent at a later stage.

Generally the landscape response is acceptable subject to a number of conditions, including trees removed from Council land and all in-situ soil volumes to be confirmed. There are a number of significant trees both on and off the subject site that are to be retained. These include the Italian Cypress trees along the southern boundary abutting 51-59 Kensington Road, the significant trees on the southern boundary of 52 Rockley Road, the street tree on Alexandra Avenue and the tree to the southern boundary of No. 54 Rockley Road. All of these trees (and any others that have not yet been identified) require protection and this will be dealt with via a Tree Management Plan condition of the permit. The applicant must provide an updated survey of the existing trees, clearly detailing which trees are to be retained and which trees will be removed.

### *Environmentally Sustainable Design (ESD)*

Council's ESD Officer has made comments in respect to this application, and these comments are included above. If a planning permit were to be granted the outstanding items as requested by the ESD Officer can be adequately resolved by way of permit conditions to ensure Council's minimum best practice standards are met. Concerns regarding daylight and ventilation are addressed below, under "Internal Amenity".

## Heritage

The current Permit 913/12 allows for the removal of two of the three inter-war two storey semi-detached houses on the land at 52 Rockley Road and the dwelling at 61 Kensington Road, to facilitate the construction of a residential aged care facility. These buildings were demolished in 2017 in accordance with the permit, however the works associated with the aged care have not commenced.

This new application seeks to construct a contemporary residential development on the subject site in place of the larger scale aged care facility. The permissions now sought include the removal of the heritage buildings, retrospectively. As the removal of these buildings have been previously approved, the demolition is acceptable.

With regard to the new works, the plans have been reviewed by Council's Heritage Advisor who has confirmed that, "*despite the large scale of the proposed project, it raises few issues from a heritage perspective*". With regard to the impact on the heritage streetscape to Rockley Road, the new buildings are lower in height than the approved aged care facility by 3.85 metres. The visual impact of the new additions are deemed to be less intrusive than the current approval. Moreover, the new additions are well setback from Rockley Road at a distance of 18 metres behind the façade of the retained dwelling at No. 52 Rockley Road, comfortably meeting the policy requirements of Council's Heritage Policy (Clause 22. 04). The original double storey brick dwelling to Rockley Road will be retained as the prominent feature on the site when viewed from the street and will continue to reflect the character of the wider heritage precinct.

It is noted that there is a new garage proposed to the rear of No. 52 Rockley Road that was previously approved by Permit 913/12. The plans lack details of the garage including detailed elevations. This will be required via conditions. Additionally, a drafting error has been identified on the elevations for the existing building with a box shown extending at the rear of the building. This is to be corrected by way of conditions. The applicant has agreed via conditions to install a fence along the rear of Building L to separate it from the rest of the development.

## Amenity Impacts

The application has been assessed the relevant Standards of Clause 55.04 (Amenity Impacts) which primarily relates to side and rear setbacks, daylight to existing windows, overshadowing and overlooking adjoining private open space.

The relevant assessment mechanism for overshadowing of neighbouring areas of private open space is the Overshadowing Open Space Objective, including Standard A14. This Standard states the following:

*Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.*

*If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.*

The Objective states: *To ensure buildings do not significantly overshadow existing secluded private open space.*

The key assessment tool to determine unreasonable overlooking is the Overlooking Objective, including Standard A15. The standard provides a 9m 45 degree angle arc that determines unreasonable overlooking, and windows or balconies that are located in such a position must be screened to a height of 1.7m above finished floor level accordingly. The Standard does not apply to any overlooking issues from the proposed ground level as the existing and proposed fences will prevent any unreasonable overlooking issues.

Consideration of these standards are provided in greater detail below.

#### *Interface to 133 Alexandra Avenue*

The 3 storey form of Building A is setback from the west boundary, adjacent to No. 133 Alexandra Avenue a minimum distance of 4.68 metres at the ground floor level and 4.9 metres at Level 1 and 2. As the basement is setback a minimum of 3 metres from the west boundary there is ample provision for deep planting along the common boundary to provide a soft vegetation buffer between the two buildings. At its highest point the west elevation of Building A will reach a height of 9.9 metres above natural ground. Side and rear setbacks Standard B17 (Clause 55.04-6) recommends a setback of 5 metres for a wall of this height. At the far north there is a minor non-compliance with the recommended setback of 0.1 metres. Due to the slope in the natural ground level the majority of the west wall is lower in height than 9.9 metres and therefore the setback of 4.9 metres results in all but the far north section of wall complying with the Standard. The setbacks as proposed will also ensure that there is no unreasonable loss of daylight to existing habitable room windows within the apartments at No. 133 Alexandra Avenue, noting that the apartments have multiple aspects and are primarily oriented to the north.

In terms of overlooking, all habitable room windows facing west within Building A at Level 1 and 2 have been shown to be screened with a bronze metal screen to have no more than 25% transparency and to be 1.7 metres above finished floor level. This treatment is in accordance with Overlooking objective (Standard B22) and will not allow for unreasonable overlooking. It is noted that the majority of windows with an outlook to the west are bedroom windows as the apartment living, dining and kitchen areas are oriented to the north, towards the Yarra River.

There is a south facing terrace at Level 1 (within Apartment A.L1) which may need to be screened, however there is a lack of detail on the west elevation. The balustrade is not dimensioned and the type of screening to be used has not been identified. This will be addressed by way of a condition to ensure compliance with Standard B22 (Overlooking objective).

There will be no unreasonable overshadowing from the new development to the west. The extent of overshadowing is less than the approved aged care facility; although the new proposal will increase shadows by 1.5 square metres in area at 9am on the 22<sup>nd</sup> September (Equinox). No new shadows are cast to the adjoining private open space for the remainder of the day on the Equinox (specifically between 10am and 3pm).

It is noted that the approved aged care facility under the previous permit is proposed to be setback a minimum of 4.1 metres from the west boundary, with an overall height of 14.3 metres. Additionally, the basement is to be constructed abutting the west boundary under the aged care scheme, allowing for minimal, if any meaningful landscaping.

Overall, the revised proposal now under consideration will provide an improved outcome for the properties to the west at No. 133 Alexandra Avenue by increasing the separation distance between the two buildings, lowering the overall building height and providing a minimum of 3 metres of deep soil planting opportunities along the west boundary.

*Interface to properties on Rockley Road*

Building K sits to the rear of No. 52 Rockley Road and has an interface to both No. 54 Rockley Road (north) and No. 50 Rockley Road (south). The apartments within Building K are oriented towards the north with balconies setback a minimum of 5.37 metres from the north boundary. There are two balconies on each level above ground (noted on plans as Level 4 and 5). The north facing balconies within Building K known as Apt K. GF.01 on TP-105 Rev 1 and Apt K. L1.01 on TP-106 Rev 1 allow for views within 9 metres of the balconies and habitable room windows at 54 Rockley Road. These terraces must be screened to limit overlooking in accordance with Standard B22 and this will be addressed via conditions.

Opportunities for overlooking have been addressed to the south (into 50 Rockley Road) through the use of screening devices on the bedroom windows via a bronze metal screen to have no more than 25% transparency and to be 1.7 metres above finished floor level.

Building K is sufficiently setback from the north boundary, adjacent to No. 54 Rockley Road with the building stepping back between 5.37 and 10.6 metres. This is well in excess of the recommended side setbacks under Standard B17 which recommends a setback of 5 metres for a wall height of 9.9 metres. As this is the maximum building height, the setbacks easily comply.

The setbacks of Building K to the south vary between 3.5 and 5.5 metres. As the land rises towards the south, the wall heights on the southern side of Building K are lower than on the northern side. The southern wall of Building K reaches a height of 9.1 metres, while descending to a height of 6.5 metres to the south-east. Where the wall reaches a height of 9.1 metres the setback to the boundary with No. 50 Rockley Road is 3.5 metres. This fails to meet the recommended setback of Standard B17 (Side and rear setback objective) by 0.69 metres. Where Building K sits opposite the secluded private open space of No. 50 Rockley Road, the wall height reduces to 6.5 metres above natural ground and is setback 5.5 metres. In comparison to the approved aged care facility, the setbacks were previously 4.6 and 5.5 metres with an overall building height of 9.8 metres. Although the setback has been reduced slightly, the overall building height has been reduced by the equivalent of one floor level. Therefore, the impact on the private open space to the south is deemed to be reasonable as the visual bulk of the development will be reduced and there are greater opportunities for deep soil planting along the common boundary with No. 50 Rockley Road.

An important consideration of the original aged care facility development was the retention of the significant trees on No. 52 Rockley Road, particularly the tree on the boundary to the south of the proposed garage (Significant Brush Box). This tree continues to be shown and all trees to be retained on this parcel of land will be required to be identified and further protected by way of a Tree Management Plan forming a condition of the approval.

Building J sits to the rear of No. 50 Rockley Road. The setbacks of this building vary between 4.1 and 5.3 metres with wall heights of up to 9.3 metres. The recommended setback for a wall of 9.3 metres is 4.39 metres from the west boundary. The majority of Building J is setback 5.3 metres where it sits opposite the private open space. The section of non-compliance (4.1 metre setback) occurs at the far north-east corner of No. 50 Rockley Road and in this location will have no unreasonable impact. Above ground floor, the west facing windows have been screened to limit overlooking via the use of the bronze metal screens with no more than 25% and a height of 1.7 metres.

To the south-west of the subject site is the proposed Building M, which sits adjacent to No.'s 46 and 48 Rockley Road and has oriented the dwellings to the west. At the ground floor level, two terraces abut the west boundary with the building itself setback approximately 5 metres. At the upper floor levels the setbacks vary between 4.8 and 6.3 metres from the west boundary to the face of balconies.

The owner of No. 48 Rockley Road has expressed concerns with the location of the proposed drainage easement along their boundary and the impact on the five trees within their property which abut the subject site. The concerns with the drainage easement impacting on existing tree roots is considered to be reasonable. A condition will require that all retaining walls along the west boundary, adjacent to No.'s 46 and 48 Rockley Road, must be shown setback a minimum distance of 1.5 metres from the title boundary. This will also ensure that the deep soil planting around the perimeter of the development can be planted out with canopy trees.

At the upper levels of Building M the four west facing balconies have not been shown to be screened to limit overlooking. These will allow views into the adjacent private open space and will be required to be screened in accordance with Standard B22.

With regard to overshadowing of No.'s 46, 48 and 50 Rockley Road, there will be some additional shadows cast at 9am only. The extent of additional shadow varies between 16 and 70 square metres in area. By 10am there will be no additional shadows cast to the west, resulting in no shadowing impacts between 10am and 3pm on the 22<sup>nd</sup> September (Equinox).

It is important to note that the proposal provides significant breaks between the buildings when viewed from the properties to the west which reduces the visual presence of built form and provides opportunities for canopy trees to soften the buildings over time. Under the aged care proposal the west elevation presents as a large, unbroken building mass with many more balconies and windows oriented towards the Rockley Road properties. For the above reasons, the proposal presents a significant improvement to the adjoining properties to the west from the approved aged care development.

#### *Interface to properties on Kensington Road*

The applicant has been discussions with the objector parties to the east of the subject site within Kensington Road. Of the 6 properties that share a boundary with the subject site, four those properties have withdrawn their objections to the proposed development. Two objections remain. In addition, the applicant has voluntarily put forward a number of conditions that seek to reduce the built form from the plans as advertised. These changes are namely, but not limited to:

- A reduction in the height of Building E/F by 0.5 metres;
- The northern face of the second floor (top) of Building E/F setback to accommodate improved sightlines from 67 Kensington Road;
- A reduction in the height of Building G/H by 0.5 metres;
- An increased setback by 0.5 metres to the second-floor setback of Building G/H to the east boundary;
- A relocated window to the master bedroom at the second floor level of Building N;
- Screening to the windows of the eastern elevation of Levels 1 and 2 of Building G to a height of 1.8 metres, with no more than 25% transparency below 0.6 metres and no more than 20% transparency between 0.6 metres and 1.8 metres;
- The addition of 35 Ficus Hilli trees along the eastern boundary adjacent to No. 63, 65 and 71 Kensington Road.

Due to the slope in the land, Building D will have a height of 5.9 metres when viewed from the east. This is not opposite an existing dwelling, as No. 73 Kensington Road is raised considerably above Alexandra Avenue and above the subject site, sitting at the top of the escarpment.

Building E/F is setback a minimum distance of 3 metres from the east boundary with the upper level setbacks varying between 4.5 metres and 5.2 metres. The maximum building height (when reduced by 0.5 metres) will be 8.8 metres. Standard B17 recommends a setback of 3.89 metres for a building of 8.8 metres in height. The setbacks to the eastern boundary therefore comply.

Further to the south, Building G/H has been setback 3 metres from the boundary with No.'s 63 and 65 Kensington Road. This building has an overall height of 8.1 metres (as reduced by 0.5 metres by the applicant by way of conditions). A building of this height is recommended to have a setback of 3.19 metres from a side boundary. While there is a minor non-compliance, the applicant has agreed via conditions to increase the upper level setback of the second floor to a minimum of 3.5 metres which comfortably complies with Standard B17.

Screening of all east facing windows within 9 metres of the adjacent private open space will be required by way of conditions to ensure compliance with Standard B22 (Overlooking objective).

In terms of the overshadowing to the east, the impacts of any additional overshadowing will occur until 3pm on the 22<sup>nd</sup> September (Equinox). The proposal will ensure that 5 hours (between 9am and 2pm) of solar access is provided to more than 75% of the private open spaces to the properties to the east on the Equinox as required by Standard B21 (Overshadowing objective).

*Interface to 51-59 Kensington Road (to the south)*

Building N is setback from the southern boundary adjacent to No. 51-59 Kensington Road a distance of between 3.13 and 6.4 metres. The overall building height is proposed to be 8.1 metres, which requires a setback under Standard B17 of 3.19 metres. The southern elevation of Building N largely complies with the recommended setbacks and will provide adequate separation to the rear boundary, which is heavily vegetated with 31 large Italian Cypress trees with heights of between 9 and 12 metres above ground. Habitable room windows along the southern elevation of Building N are shown to be screened by via bronze metal screens to have no more than 25% transparency and to be 1.7 metres above finished floor level.

The south and east sides of Building M sit within 3.13 and 3.55 metres respectively, of the boundary with No. 51-59 Kensington Road. These setbacks increase to 4.7 metres. The height of Building M on these elevations reaches 9 metres above natural ground. Importantly, the land at No. 51-59 Kensington Road sits above the subject site by close to one floor level. While the recommended setbacks of B17 will not be fully achieved, the building will appear as a double storey structure when viewed from the south and is well setback from the main dwelling on the southern property. Due to the land size of No. 51-59 Kensington Road (approximately 4500 square metres), the impacts of any minor (if any) additional overshadowing will not result in any appreciable impact on the adjoining property.

*No. 61 Kensington Road*

The proposed dwelling to front No. 61 Kensington Road (Building O), will present as a three storey building to the street and will be fenced along its rear boundary to prevent any access through to the rest of the development.

Essentially, Building O will feature a dual occupancy on the Kensington Road frontage. The existing vehicle crossover will provide access to a garage with four car parking spaces, allocated as two to each apartment. The first floor level contains a 3 bedroom apartment setback from the northern boundary a distance of 1.6 - 2 metres; 2.7 metres from the southern boundary; and a distance of 11.6 metres from the street. Building O will have a maximum height of 8 metres to Kensington Road, a height of approximately 7.5 metres to the north and approximately 6.5 metres to the south. Based on these heights, the recommended setbacks of Standard B17 are met to the south. To the north, the building sits within 1.6 metres of the boundary. The cypress trees that currently exist along this boundary are proposed to be removed. To compensate for the loss of this established vegetation, the applicant has agreed to provide 18 Ficus Hilli trees adjacent to the western and south western portion of the southern boundaries of 63 Kensington Road. As No. 63 Kensington Road is located to the north of Building O, there will be no additional overshadowing or loss of daylight to that dwelling as a result of Building O. The new trees will soften the building mass when viewed from No. 63 Kensington Road and it is not considered that there will be any unreasonable amenity impacts.

The impacts to the south will not be unreasonable, given the setback of 2.7 metres to the southern boundary complies with Standard B17 (Side and rear setbacks). The plans show a paved area of private open space abutting the southern boundary. This will likely require the installation of a retaining wall on the southern boundary. As mentioned earlier in this report, there is a row of significant Italian Cypress trees along the common boundary that require protection. A condition of any permit that issues will require that the plans confirm the location of any retaining wall for Building O along the southern boundary confirming that there will be no impact on the roots of the significant row of trees.

#### Internal Amenity

The applicant has described the proposal as 44 "house sized apartments". As evidenced by the apartment mix the majority of the new residences will contain 3 bedrooms set out over an entire floor level of the individual buildings. The apartments vary in size between 116 and 303 square metres in area. Private open spaces include ground level terraces and upper level balconies which vary in area between 12.99 and 213 square metres. The private open spaces are well in excess of the areas (between 8 and 12 square metres) recommended by Standard B43. The apartments are generally oriented to the north with the primary living, dining and kitchen areas north facing. All bedrooms are provided a window for natural ventilation and daylight.

With respect to the Apartment Development Standards at Clause 55 of the Stonnington Planning Scheme, the following is noted:

The development includes a centrally located, north facing communal open space terrace with an area of 142 square metres. This terrace is directly to the north of the communal pool area which includes a spa and steam room. Standard B36 recommends 110 square metres of communal open space for a development of 44 dwellings, which has been provided in this instance.

Standard B37 recommends 15% of the overall site is to have deep soil areas for planting of canopy trees. As previously mentioned the proposal includes 27% deep soil areas and the landscape concept confirms the planting of a minimum 128 new trees. This complies.

Building entry and accessibility requirements have been provided on the individual dwelling layouts confirming that the dwellings have been designed to meet the needs of people with limited mobility and that the layout of buildings provide safe, efficient and functional movements for residents. Each of the building (excluding Building O and L) are accessible via a lift from the basement levels.

The proposed external and internal storages spaces have been detailed on the plans for each individual apartment type demonstrating compliance with Standard B44.

In terms of natural daylight and ventilation, it is acknowledged that a number of apartments, particularly on the lower level of the buildings are located partially below natural ground. Whilst this is generally not good practice, the development proposes very large dwellings with multiple aspects and large north facing glazing to primary living areas. Moreover, due to the slope in the land the lower levels are only partially below natural ground. All habitable rooms proposed have a window to an external wall. The majority of the rooms that are below natural ground level serve a bedroom which is likely to be occupied in the early morning and evening when daylight is not critical. The separation distances between the proposed apartment buildings and the side boundaries also results in there being large landscaped terraces along the sides of the new dwellings which provides a garden outlook despite being partially below ground. Breeze paths have been provided on the individual floor plan layouts which confirm satisfactory natural ventilation is achieved. A condition of the permit will require that all operable windows and doors be shown on the floorplans.

Overall, it is considered that the dwellings are provided a very high quality of on-site amenity despite the bedrooms in the lower level apartments being partially below natural ground.

### Car Parking and Traffic

#### *Parking Provision*

The proposal provides 28 car parking spaces in excess of the required number under Clause 52.06-5. The development allocates 97 spaces to the residents and 5 to visitors, noting that no visitor parking is required by the Stonnington Planning Scheme. As there are 44 dwellings, the car parking ratio equates to 2.2 spaces per dwelling. No allocation of the parking has been provided on plans and a car parking allocation schedule will be required by way of conditions. It is reasonable to expect that the larger dwellings may be allocated more car parking to suit the needs of future occupants. All two bedroom dwellings must be allocated a minimum of 1 car space.

#### *Traffic Generation*

VicRoads as the determining authority for Alexandra Avenue and has not raised any concerns with the traffic generation from the proposed development on the road network. VicRoads have advised that they do not object to the proposed access arrangements subject to a number of conditions.

#### *Design Standards*

Subject to the additional details to be shown on the plans as per the Transport and Parking referral comments above and requirements of VicRoads, there are no fundamental concerns with the layout of the basement car parking.

#### *Bicycle Parking*

The number of bicycle facilities proposed does not meet the statutory requirements. The plans will be required to be updated to show an increase in bicycle parking (13 spaces) as a condition of any permit that issues. Although Council's ESD Policy seeks one bicycle parking space per dwelling, given the size of the proposed apartments, there will be ample storage space within the dwellings themselves to store an individual bicycle.



### Relocation of Easement

The relocation of the easement has been reviewed in detail by Council's Infrastructure Unit who has confirmed that the easement can be relocated subject to a final design and drainage plan being prepared to the satisfaction of Council's Infrastructure Unit.

### Objections

In response to the grounds of objection not already discussed in the report, the following comments are made:

- Loss of views

The loss of views is not a relevant consideration of the Stonnington Planning Scheme. The applicant has supplied a list of draft conditions which include a number of changes, particularly to Building E/F which will reduce the upper level and lower the building height to protect the views of the adjoining land owner at 67 Kensington Road. These draft conditions have been included on the permit.

### Human Rights Consideration

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the *Charter of Human Rights and Responsibilities Act 2006*.

### **CONCLUSION**

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The proposed development is a high quality design response to a challenging site and will offer excellent on-site amenity for future occupants of the unique housing typology proposed.
- The site is in a well serviced location, close to public transport and other services, capable of accommodating a development of this scale.
- The proposal is considered to be a less intrusive design response to the residential character of the area than the approved residential aged care facility and will be lower in height to further enhance the tree canopy along the Yarra River.
- Subject to conditions, a satisfactory landscape response can be provided on the subject site that adequately responds to the landscape character objectives of the Significant Landscape Overlay and Design and Development Overlay, Schedule 3.
- Subject to conditions, the development will not cause unreasonable amenity impacts on the adjoining properties.

### **ATTACHMENTS**

- |    |  |       |
|----|--|-------|
| 1. | PA - 1165-18 - 135 & 141 Alexandra Avenue 61 Kensington Road & 52 Rockley Road South Yarra - Attachment 1 of 4 | Plans |
| 2. | PA - 1165-18 - 135 & 141 Alexandra Avenue 61 Kensington Road & 52 Rockley Road South Yarra - Attachment 2 of 4 | Plans |
| 3. | PA - 1165-18 - 135 & 141 Alexandra Avenue 61 Kensington Road & 52 Rockley Road South Yarra - Attachment 3 of 4 | Plans |

4. PA - 1165-18 - 135 & 141 Alexandra Avenue 61 Kensington Road & 52 Rockley Road South Yarra - Attachment 4 of 4

Plans

## RECOMMENDATION

***That a Notice of Decision to Grant a Planning Permit No: 1165/18 for the land located at 135 & 141 Alexandra Avenue, 61 Kensington Road & 52 Rockley Road South Yarra be issued under the Stonnington Planning Scheme for Part demolition, construction of a multi-dwelling development in a General Residential Zone, Heritage Overlay and Design and Development Overlay; removal of trees within a Significant Landscape Overlay; alteration to an access to a Road Zone, Category 1; and relocation of an easement subject to the following conditions:***

1. ***Before the commencement of the development, one copy of electronic plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans prepared by Carr Architects dated 18 January 2019 and Council date stamped 25 January 2019, but further modified to show:***
  - a) ***Screen all windows and balconies with an outlook to an adjoining residential property (other than those specifically mentioned in the following conditions), where they are within 9 metres, to limit views of existing residential private open space and habitable room windows. Screening must be a minimum of 1700mm above finished floor level with no more than 25% transparency in accordance with Standard B22 of Clause 55 or otherwise to the satisfaction of the Responsible Authority;***
  - b) ***Screen windows of the eastern elevation of Levels 1 and 2 of Building G to a height of 1800mm, with no more than 25% transparency below 600mm and no more than 20% transparency between 600mm and 1800mm or otherwise to the satisfaction of the Responsible Authority;***
  - c) ***The height of Building E/F lowered by 500mm to RL30.30 (south) and to RL26.80 (north);***
  - d) ***The southern façade of Building E/F moved 500mm to the south;***
  - e) ***The northern face of the second floor (top) of Building E/F adjusted to accommodate improved sightlines from 67 Kensington Road as shown on the sketch plan by Carr Architects dated 28 March 2019 and numbered SK406;***
  - f) ***The height of Building G/H be lowered by 500mm to RL32.35;***
  - g) ***The second-floor setback of Building G/H to the eastern boundary increased by 500mm across its length;***
  - h) ***Relocate window on Master Bedroom of Apartment N.L2 of Building N from the north to the south-east façade and reconfigure the internal layout to switch the ensuite and walk in wardrobe locations of the Master Bedroom;***
  - i) ***Ensure that buildings are no more than 10 metres above natural ground level across the site;***
  - j) ***Fences behind Buildings O and L to separate these buildings from the remainder of the development;***
  - k) ***Screening of the south facing terrace at Level 1 (within Apartment A.L1) to be shown in accordance with Standard B22 (Overlooking objective) and the screening material to be noted on elevations and materials and finishes schedule;***

- l) All paving within the ground level terraces must be identified on the floor plans and landscape plans, ensuring a minimum setback of 1.5 metres from any title boundary to ensure adequate provision of deep soil planting opportunities along the perimeter of the site;***
- m) All retaining walls adjacent to No's 46 and 48 Rockley Road, must be shown setback a minimum distance of 1.5 metres from the west title boundary;***
- n) The four west facing balconies with Building M must be shown to be screened to limit overlooking in accordance with Standard B22 (Overlooking objective) of Clause 55;***
- o) Plans to confirm any external alteration to the existing building at No. 52 Rockley Road on the elevations for Building L, including the dimensions of the proposed garage, to the satisfaction of the Responsible Authority;***
- p) The north facing balconies within Building K known as Apt K. GF.01 on TP-105 Rev 1 and Apt K. L1.01 on TP-106 Rev 1 to be screened to limit views within 9 metres of the balconies and habitable room windows at 54 Rockley Road in accordance with Standard B22 of Clause 55;***
- q) Elevations to remove the drafting error at the rear of 52 Rockley Road;***
- r) All building and wall height dimensions taken from natural ground level are to confirm the RL at natural ground level ensuring that the levels match the survey plan;***
- s) A car parking allocation schedule detailing the number of car parking spaces to individual dwellings. All two bedroom dwellings must be allocated a minimum of 1 car space;***
- t) Bicycle facilities increased to a minimum of 13 spaces with visitor spaces identified and easily accessible to the satisfaction of the Responsible Authority;***
- u) All operable windows to be indicated for all apartments;***
- v) Electric vehicle infrastructure to be shown on plans;***
- w) Annotate carbon monoxide (CO) sensing and control systems to car park ventilation on appropriate floor plans;***
- x) Indicate the location of fire test water tank, any associated equipment and maintenance access;***
- y) The bin store to be annotated to confirm co-location of recycling;***
- z) Provide a tap for irrigation and waste is shown on each balcony and communal terrace;***
- aa) Annotations of all roof and terrace areas draining to the rainwater tanks, as well as any paved area draining to other systems as relevant. Also show and note rainwater tank locations and capacity, including indicative locations for associated equipment (i.e. pump, filtration, possibly disinfection) and maintenance access. Rainwater tanks to be annotated to confirm connection to toilets (specify the quantity of associated occupants), and to irrigation as per the SMP;***
- bb) A schedule of construction materials, external finishes and colours that confirms the reflectivity of glass and other finishes used on the building will not exceed 20%;***
- cc) All retained significant trees must be clearly notated on floor plans; Dimensions of the exit lane within the drop off area demonstrating that the width of this lane allows for vehicles to exit the site whilst vehicles are parked within this area;***
- dd) The design of the entry point/lane into the site to be confirmed so that vehicles entering the site can enter the drop off area;***
- ee) Ramp gradients for the proposed deceleration and exit lanes;***

- ff) The minimum gradient of the parking area confirmed via plan notations as 1 in 200 (0.5%) for covered areas to allow for adequate drainage as per AS2890.1;*
- gg) Dimensions of the proposed vehicle crossing to be confirmed;*
- hh) Confirm the location of any retaining wall for Building O along the southern boundary demonstrating that there will be no impact on the roots of the significant row of Italian Cypress trees;*
- ii) Complete elevations of Building J;*
- jj) Any changes as required by Conditions 4 (Waste Management Plan), 5 (SMP), 8 (Landscape Plan), 11 (Tree Management Plan) and Melbourne Water and VicRoads conditions;*

*all to the satisfaction of the Responsible Authority.*

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.*
- 3. Except with the written consent of the Responsible Authority, Carr Architects must be retained to complete and provide architectural oversight prior to and during construction of the project as shown in the endorsed plans and endorsed schedule of materials, including but not limited to Design Development, Contract Documentation and Construction-phase quality assurance services.*
- 4. Concurrent with the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be in accordance with the advertised Waste Management Plan prepared by Ratio Consultants Pty Ltd dated 17 January 2019 but modified to reflect any changes to plans as required by Condition 1.*

*When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.*

- 5. Concurrent with the endorsement of plans, an amended Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. The SMP must be generally in accordance with the SMP prepared by Intrax Consulting Engineers Pty Ltd dated 5 February 2019 but modified as follows:*
  - a) Provide a complete Green Star Design Review Submission – as per the Green Star Submission Guidelines – which also meets Council’s best practice standards. Ensure that the proposed development is able to comfortably achieve 45 points without reliance on Innovation points. In order to increase the likelihood of satisfactorily meeting Council’s ESD standards in the next round, it would be prudent to include a 10% points buffer.*
  - b) Alternatively, provide a complete, valid, substantiated BESS Report that which meets Council’s best practice standards. BESS was produced with Council input and tends to be more appropriate for residential developments than Green Star Design & As Built.*
  - c) As the proposed development includes a pool, the applicant should use the Green Star Potable Water Performance Pathway or equivalent water modelling.*

- d) *Where greater than 3 star (default) washing machines are claimed, evidence of the 4 star specification must be provided by the developer.*
- e) *Provide water balance calculation (noted in SMP as 'modelling') to substantiate the rainwater tank sizing.*
- f) *For Council's energy requirements to be met, the following additional information must be provided in the SMP/depicted on plans as relevant:*
  - a. *Green Star Greenhouse Gas Emissions calculator (or BESS equivalent) and relevant documentation to support energy related claims in the SMP. Ensure that Council's best practice standards are met.*
  - b. *Natural clothes drying facilities, and depict and annotate in plans.*
  - c. *On-site renewable energy generation.*
  - d. *Annotate carbon monoxide (CO) sensing and control systems to car park ventilation in appropriate floor plans.*
  - e. *Include commitments to energy efficient lighting, daylight and occupancy sensors for common areas and external lighting*
- g) *Submit preliminary NatHERS certificates at least 25% of the dwellings. These fabric assumptions must be indicated on plans.*
- h) *Floor plans must be overlaid on daylight modelling results.*
- i) *Low VOC paints is not accepted as an innovation.*
- j) *Amend the STORM rating report to include all roof and paved areas left untreated.*
- k) *Include an indicative site management plan which details how the site will be managed through construction. Melbourne Water provides several example guidelines such as 'Keeping our stormwater clean: A builder's guide'. This information is required to be included in the SMP.*
- l) *Provide an indicative maintenance program which sets out future operational and maintenance requirements for the rainwater tanks.*

*When approved, the SMP will be endorsed as part of the permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority.*

- 6. *Prior to the occupation of the development approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.*
- 7. *The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.*
- 8. *Concurrent with the endorsement of plans, a landscape plan to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must be in accordance with the landscape concept plans dated January 2019, prepared by T.C.L and Council date stamped 25 January 2019 but modified to show:*
  - a) *A survey (including botanical names) of all existing vegetation to be retained and/or removed.*
  - b) *Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.*

- c) ***Details of all surface finishes of pathways, terraces, and driveways.***
  - d) ***All paving treatments to be shown for ground level terraces, ensuring a minimum setback of 1.5 metres from any title boundary to allow for adequate provision of deep soil planting opportunities along the perimeter of the site.***
  - e) ***A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant, as well as the location on site. The abbreviations on plans must match the plant schedule.***
  - f) ***Landscaping and planting within all open areas of the site***
  - g) ***The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.***
  - h) ***Eight (8) Ficus Hilli trees adjacent to the southern portion of the common boundary with 71 Kensington Road.***
  - i) ***Nine (9) Ficus Hilli trees adjacent to the common boundary with 65 Kensington Road.***
  - j) ***Eighteen (18) Ficus Hilli trees adjacent to the western and south western portion of the southern boundaries of 63 Kensington Road.***
  - k) ***All landscape elements which are shown outside the boundary to be removed.***
  - l) ***No less than 128 new trees are to be shown on the subject site.***
  - m) ***Soil volumes to be provided for all in-situ landscape elements.***
  - n) ***Retained significant trees need to be clearly notated (species, ID No. from tree report/TMP).***
9. ***Before the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***
10. ***All existing vegetation shown on the endorsed plans to be retained must be suitably and clearly identified before any development (including excavation) starts on the site and that vegetation must not be removed, destroyed or lopped without the written consent of the Responsible Authority.***
11. ***Concurrent with the endorsement of development plans a tree management plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the tree management plan will form part of this permit and all works must be done in accordance with the tree management plan (AS 4970).***

***The tree management plan must detail measures to protect and ensure the viability of the 31 Italian Cypress (*Cupressus sempervirens*) trees located along the boundary of 51-59 Kensington Road, the significant trees along the southern boundary of No. 52 Rockley Road, the significant London Plane (*Platanus x acerifolia*) street tree along Alexandra Avenue and all other trees on the neighbouring properties within 3 metres of the common boundary with the subject site, all to the satisfaction of the Responsible Authority.***

**Among other things, the tree management plan must include the following information:**

- a) Pre-construction (including demolition) – details to include a tree protection zone, height barrier around the tree protection zone, amount and type of mulch to be placed above the tree protection zone and method of cutting any roots or branches which extend beyond the tree protection zone. A plan must be submitted detailing any tree protection fencing, where the fencing is clearly identified and dimensioned.**
- b) During-construction – details to include watering regime during construction and method of protection of exposed roots.**
- c) Post-construction – details to include watering regime and time of final inspection when barrier can be removed and protection works and regime can cease.**

**Pre-construction works and any root cutting must be inspected and approved by the Responsible Authority's Parks Unit. Removal of protection works and cessation of the Tree Management Plan must be authorised by the Responsible Authority's Parks Unit.**

- 12. Before the development (including excavation and demolition) starts, a tree protection fence must be erected around the significant trees to be retained. Fencing is to be compliant with Section 4 of AS 4970. Signage identifying the need for approval from Council's Parks Unit for any root cutting (prior to it occurring) must also be displayed on the fence.**
- 13. Concurrent with the endorsement of plans or prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), whichever occurs sooner, a letter of engagement must be provided to the Responsible Authority from the project arborist selected to oversee all relevant tree protection works. The project arborist must be an appropriately experienced and qualified professional (minimum Cert IV or equivalent in experience).**
- 14. The project arborist must maintain a log book detailing all site visits. The log book must be made available to the Responsible Authority within 24 hours of any request.**
- 15. Prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), the project arborist must advise the Responsible Authority in writing that the Tree Protection Fences have been installed to their satisfaction.**
- 16. Prior to a building permit being issued for the development, a final design plan of the relocated easement and drain must be prepared to the satisfaction of Council's Infrastructure Unit and must be submitted for approval. The final plan must address the following:**
  - a) A reasonable clearance will need to be provided to the building and it is suggested that 1.0m would be satisfactory if that can be achieved within the courtyards. Please show offsets to all drains to allow drain to be set out.**

- b) *Provide finished surface details within the Eastern boundary where there are various changes to levels and terraces. Please provide a couple of cross sections at the most extreme sections.*
  - c) *Full pit schedule to be provided showing all pits details including sizes, inverts and finished pit cover levels and pit types. Please reference all pits to Council standard drawing STD-105.*
  - d) *Drainage computations will be required for the relocated drain justifying pipe sizes.*
  - e) *All drains to be rubber ring jointed reinforced concrete pipes.*
  - f) *Show all encumbrances over and across the drain including fences and walls.*
  - g) *Note temporary drain to be provided at all times during construction of the development including size.*
  - h) *A bond and supervision fee will be applicable for the works. Please provide an Engineers estimate of the easement drainage works to allow this to be determined.*
  - i) *Please place a note stating that the easement drain must be constructed to the satisfaction and under the direct supervision of Council's Infrastructure Unit. Contact Council Supervisor Bruce Hamilton (phone 8290 3252) at least 24 hours prior to the commencement of works.*
17. *Consent to build over the easement must be obtained from Council's Building Control Unit prior to a building permit being issued for any works over the easements. Consent will include the requirement that the owner enter into Council's standard Section 173 agreement for building over easements.*
18. *The easement must be relocated prior to any building permit being issued for the works. This is necessary to allow the required Section 173 agreement to be entered into by the owner.*
19. *Prior to the development commencing, formal approval must be obtained from Council's Infrastructure Unit for the relocation of the easement and stormwater easement drain. A plan prepared by a suitably qualified Engineer must be submitted and approved by Council. The drain must be constructed at the owner's cost in accordance with the approved plan under the supervision and to the satisfaction of Council.*
20. *An easement drain must be fully functional at all times during all construction and building works.*
21. *The existing footpath and property line levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp).*
22. *All redundant vehicular crossing must be removed and the footpath, and kerb reinstated at the owner's cost to the satisfaction of Council.*
23. *Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done at the cost of the applicant and subject to the relevant authority's consent.*
24. *All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.*



25. ***All loading and unloading of goods must be undertaken in accordance with Council's Local Laws.***
26. ***All plant and equipment (including air-conditioning units) must be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and must be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority. Ventilation systems must be designed and installed in accordance with the relevant Australian Standards.***
27. ***The emission of noise or any other emission to the environment derived from activities on the site must conform to standards contained in the appropriate State Environment Protection Policy or Policies.***
28. ***Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.***
29. ***During the construction phase, the permit holder is to plant Ficus Hilli trees (at the cost of the applicant) at a minimum planting height of 2.5m on the subject site in the following quantities and locations to the satisfaction of the Responsible Authority:***
  - a) ***Eight (8) Ficus Hilli trees adjacent to the southern portion of the common boundary with 71 Kensington Road;***
  - b) ***Nine (9) Ficus Hilli trees adjacent to the common boundary with 65 Kensington Road; and***
  - c) ***Eighteen (18) Ficus Hilli trees adjacent to the western and south western portion of the southern boundaries of 63 Kensington Road.***
30. ***The landscaping between the proposed buildings and the common boundary with 63 Kensington Road and 65 Kensington Road will be maintained at a height of 6.0m.***
31. ***The landscaping between the proposed buildings and the common boundary with 67 Kensington Road and 71 Kensington Road will be maintained at a height of RL26.800 (being the proposed roof level of the northern portion of Building E). Landscaping in these locations to be trimmed to that level and maintained on an annual basis, as a minimum.***
32. ***During the construction phase, the existing boundary fencing adjoining Kensington Road properties is to be replaced, at the cost of the permit holder, with new lapped and capped timber fence of approximately 2.2 metres, unless agreed otherwise with the owner of the adjoining property.***
33. ***During the construction phase, retain, repair, or replace the section of boundary fence adjoining 46 Rockley Road, in a similar height and form, at the cost of the applicant.***
34. ***During the construction phase, install fences behind Buildings O and L to separate these buildings from the remainder of the site, at the cost of the applicant.***

35. ***A geotechnical report and structural engineering report prepared by a suitably qualified engineer must be submitted and approved by the Responsible Authority which details measures to be undertaken during construction to ensure stability and avoid damage to the land and buildings adjacent to the Site at 63, 65, 67, 71 and 73 Kensington Road.***
36. ***No ground anchors, rock bolts, or other measures, whether temporary or permanent, are to be located in, on or under the ground level of 63, 65 or 67 Kensington Road.***
37. ***No construction vehicle/s are to access the site via Kensington Road, other than contractors that must necessarily access the Site because they are undertaking construction in that area and for the construction of Building O.***
38. ***No construction vehicle/s are to access the site via Rockley Road, other than contractors that must necessarily access the Site because they are undertaking construction in that area.***

***Melbourne Water Conditions start***

39. ***Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must show:***
  - a) ***Finished floor levels of the dwellings must be set no lower than 5.85 metres to AHD.***
  - b) ***The basement entry/ exit must incorporate a flood proof apex and associated bunding constructed no lower than 5.85 metres to AHD.***
  - c) ***A vegetation buffer zone screening the development from the Yarra River.***
40. ***Finished floor levels of the dwellings must be constructed no lower than 5.85 metres to Australian Height Datum (AHD).***
41. ***The basement entry/ exit must incorporate a flood proof apex and associated bunding constructed no lower than 5.85 metres to AHD.***
42. ***The layout of the site and size, height, design and location of buildings and works as shown on the submitted plans must not be altered without prior written consent from Melbourne Water.***
43. ***Any new or modified stormwater connection to Melbourne Water's drainage system must obtain separate approval from Melbourne Water's Asset Services Team.***
44. ***A detailed landscape plan must be submitted to Melbourne Water for approval. The plan must show:***
  - a) ***a landscape buffer zone screening the development from the Yarra River to the satisfaction of Melbourne Water;***
  - b) ***survey (including botanical names) of all existing vegetation to be retained and/or removed;***

- c) *a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;*
- d) *Only local native indigenous plants should be used and shown on the landscape plans.*

45. *Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.*

*Melbourne Water Conditions end*

*VicRoads Conditions start*

46. *Before the development starts, a Functional Layout Plan (FLP) must be submitted to and approved by the Roads Corporation (VicRoads). When approved by VicRoads, the FLP may be endorsed by the Responsible Authority and will then form part of the permit. The FLP must be generally in accordance with DWG No: TP-101' by "Carr," dated 16 November 2018, drawn to scale with dimensions and show:*
- a) *Deceleration lane and the extent of alteration to the retaining wall (to achieve the required sight distance).*
  - b) *Details of the proposed pick-up drop-off area and associated pedestrian access including any earth retaining structure.*
  - c) *Installation of appropriate signage and line marking.*
47. *Subsequent to the approval of the FLP and prior to the commencement of any roadworks within the arterial road reserve the applicant must submit the detailed engineering design plans to VicRoads for review and approval. The detailed design plans must be prepared generally in accordance with the approved FLP and functional stage Road Safety Audit.*
48. *Prior to the commencement of the use hereby approved, all works required by VicRoads must be completed in accordance with the approved detailed engineering design plans and FLP, to the satisfaction of VicRoads and the Responsible Authority and at no cost to VicRoads or the Responsible Authority.*
49. *Prior to commencement of any works, a geotechnical engineering report providing a stability assessment in accordance with the Australian Standard AS 4678, which demonstrates that the works to the retaining wall can be achieved without compromising the structural integrity and stability of the embankment, must be submitted to and approved by VicRoads and Responsible Authority. Once approved, the geotechnical report will form part of the permit.*
50. *Prior to the commencement of the use or occupation of the development, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.*

**VicRoads Conditions end**

**51. This permit will expire if one of the following circumstances applies:**

- a) The development is not started within two years of the date of this permit; and**
- b) The development is not completed within four years of the date of this permit.**

**In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.**

**MELBOURNE WATER NOTES:**

**A. The applicable flood level is 5.25 metres to Australian Height Datum (AHD).**

**Landscape Buffer Zone**

**B. Native vegetation screening must be provided between the proposed buildings and Alexandra Avenue that will grow to match or exceed the height of the dwellings. This must be provided to ensure that the views from the Yarra River and the experience of river users on the Main Yarra Trail are not adversely impacted by the new development. The submitted landscape architectural concept does not contain enough detail of vegetation species or expected plant heights. A detailed landscape plan showing that this requirement will be met is required to be submitted to Melbourne Water for approval.**

**VICROADS NOTES:**

- C. The preparation of functional layout plans, detailed engineering design and the construction and completion of all work must be undertaken in a manner consistent with current VicRoads' policy, procedures and standards and at no cost to VicRoads. In order to meet VicRoads' requirements for these tasks the applicant will be required to comply with the requirements documented as "Standard Requirements – Externally Funded Projects" and any other requirements considered necessary depending on the nature of the work.**
- D. Functional layout plans may need to be amended to accommodate any changes that may arise during the detailed design stage review; in response to the road safety audit; in relation to services and their relocation; vegetation; drainage; treatment of hazards within clear zones and other matters.**
- E. No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.**

**COUNCIL NOTES:**

**F. This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.**

- G. This property is located in a Heritage Overlay and planning permission may be required to demolish or otherwise externally alter any existing structures. External alterations include paint removal and any other form of decoration and works, but does not include re-painting an already painted surface.**
- H. Nothing in this permit hereby issued shall be construed to allow the removal of, damage to or pruning of a significant tree (including the roots) without the further written approval of Council.**

**“Significant Tree” means a tree or palm:**

- a) with a trunk circumference of 140 cm or greater measured at 1.4 m above its base;**
- b) with a total circumference of all its trunks of 140 cm or greater measured at 1.4 m above its base;**
- c) with a trunk circumference of 180 cm or greater measured at its base; or**
- d) with a total circumference of all its trunks of 180 cm or greater measured at its base.**

**Please contact the Council Arborists on 8290 1333 to ascertain if permission is required for tree removal or pruning or for further information and protection of trees during construction works.**

**Significant Landscape Overlay**

- I. Please note that your property is affected by a Significant Landscape Overlay where a planning permit is required to remove, destroy or lop any vegetation. This does not apply to:**
- Remove, destroy or lop non-native vegetation which has all of the following:**
    - a trunk circumference of less than 0.35 metre at 1 metre above ground level;**
    - a height of less than 6 metres; and**
    - a branch spread of less than 4 metres.**
  - Prune vegetation to maintain or improve its health, appearance or for safety reasons.**

**Please contact the Planning Department on 8290 3329 if you require further information on the above controls or on how to apply for a Planning Permit.**

- J. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.**
- K. The owners and occupiers of the dwelling/s hereby approved are not eligible to receive “Resident Parking Permits”.**

- L. At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:**
- i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and**
  - ii. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.**
- M. Council has adopted a zero tolerance approach in respect to the failure to implement the vegetation related requirements of Planning Permits and endorsed documentation. Any failure to fully adhere to these requirements will be cause for prosecution. This is the first and only warning which will be issued.**

## 2. PLANNING APPLICATION - 1276/18 - 22 WINTER STREET, MALVERN - TWO (2) LOT SUBDIVISION.

**Acting Manager Statutory Planning: Phillip Gul**  
**General Manager Planning & Amenity: Stuart Draffin**

### PURPOSE

For Council to consider a planning application for a Two (2) Lot Subdivision creating Vacant Lots at 22 Winter Street, Malvern.

### Executive Summary

Applicant:	Nilsson, Noel, and Holmes Land Surveyors Pty Ltd
Ward:	South
Zone:	Neighbourhood Residential Zone – CL32.09 – Schedule 2
Overlay:	N/A
Neighbourhood Precinct:	Garden Suburban 1
Date lodged:	17 December 2018
Statutory days: (as at council meeting date)	202
Trigger for referral to Council:	7 or more objections and Councillor Call-Up
Number of objections:	22 (from 17 different properties)
Consultative Meeting:	15 May 2019
Officer Recommendation:	Notice of Decision to Grant a Planning Permit

### BACKGROUND

#### The Proposal

The plans that form part of the basis of Council's consideration were prepared by Nilsson, Noel, and Holmes Land Surveyors Pty Ltd and are known as Version 5 and Council received date 13 June 2019.

Key features of the proposal is:

- Subdividing the land to create 2 vacant parcels.

The proposed lot sizes are as follows:

Lot	Area
1	769m <sup>2</sup> (vacant)
2	788m <sup>2</sup> (vacant)

Both lots will have the opportunity for direct vehicular access from Winter Street.

The site has frontage of 35.36 metres to Winter Street and a depth of 44.37 metres resulting in a site area of 1,557m<sup>2</sup>.

### Site and Surrounds

The existing site is located on the southern side of Winter Street, Malvern; just east of its intersection with Glenferrie Road and contains the following characteristics:

- Total site area is 1,557m<sup>2</sup>.
- Located in a predominantly residential area.
- Regular shaped parcel.
- One centrally located existing crossover.
- Site is relatively flat.
- Site is vacant and no vegetation exists.
- Close to a Tram Service in Glenferrie Road and Train Service at Malvern Station.

### Previous Planning Application(s)

A search of Council records indicates the following relevant planning applications.

- Planning Permit 420/12 issued on 8 October 2012 allowing a two (2) lot subdivision creating a vacant lot – PS 711693 A. The subdivision was not acted on and lapsed on 23 October 2017.
- Planning Application 1161/17 proposing construction of a multi dwelling development in a Neighbourhood Residential Zone was refused by Council on 28 March 2018. The proposal was appealed to VCAT and Council's Refusal was upheld on 10 September 2018.

### The Title

The site is described on Certificate of Title 10160 Folio 263 known as PC 353126 V.

The land is free from encumbrances.

### Planning Controls

The following controls/permit triggers are considerations for this application:

#### *Zone*

Clause 32.09 – Neighbourhood Residential Zone  
Pursuant to Clause 32.09-3 a permit is required for subdivision.

#### *Overlay(s)*

No Overlays affect the subject land.

### Relevant Planning Policies

Clause 15.01 – 3S – Subdivision Design  
Clause 19.03 – Development Infrastructure  
Clause 21.05 – Housing  
Clause 22.23 – Neighbourhood Character



### Clause 56 – Residential Subdivision

Any application which proposes the creation of a vacant lot must meet the relevant sections of Clause 56. Council must be satisfied that the vacant lot created can be developed with at least a single dwelling.

#### **Clause 56.03-5 Neighbourhood Character Objective (Standard C6)**

It is considered that the proposed subdivision respects the existing neighbourhood character. The proposed lot sizes appear to be generally in accordance with what exists within the street and surrounding area.

#### **Clause 56.04-2 Lot Area and Building envelope Objective (Standard C8)**

Discussed below.

#### **Clause 56.04-3 Solar Orientation of Lots Objective (Standard C9)**

It is considered that adequate solar orientation and solar access for any future development is provided for.

#### **Clause 56.04-5 Common Area Objective (Standard C11)**

This objective is not applicable as no Common Property is proposed.

#### **Clause 56.06-8 Lot Access Objective (Standard C21)**

Given the current site has a frontage of more than 35 metres, vehicle access for the two (2) new lots is considered acceptable.

#### **Clause 56.07 Integrated Water Management to Clause 56.09-2 Electricity, Telecommunications, & Gas Objectives (Standards C22 to C28)**

The provision of all relevant services including drainage, sewerage, telecommunications, gas, and electricity can be provided to the site. The proposal has been referred to the relevant service authorities and all of their requirements will be satisfied prior to the issue of the Statement of Compliance.

**Comments:** Pursuant to Clause 65.02 of the General Provisions section of the Planning Scheme the Responsible Authority must before deciding upon an application to subdivide land consider, as appropriate:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of Common Property.
- The functions of any Owners Corporation.

- The availability and provision of utility services including water, sewerage, drainage, electricity and gas.

### Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land. The public notification of the application has been completed satisfactorily.

22 objections (from 17 different properties) have been received and they can be summarised as follows:

- Inappropriate Future Development
- Loss of Amenity
- Negative Impact on Neighbourhood Character
- Regard to be given to the previous Development Application
- Streetscape and Street Character issues
- Imposing a Restriction or Building Envelope on future development of the lots
- Heritage Impacts
- Setting a precedent

A Consultative Meeting was held on Wednesday 15 May 2019. The meeting was attended by Councillors Stefanopoulos and Sehr, representatives of the applicant, objectors, and Council planning officers. The only change resulting from the meeting was the applicant offering to put a single dwelling restriction on the resulting titles so that not more than one (1) dwelling can be constructed on either lot post subdivision. An additional notation will appear on the Plan of Subdivision restricting the future development of the lots and will take the form of a Restrictive Covenant.

Concerns raised at the meeting over future development include and are not limited to the following:

- Number of Dwellings
- Future Development
- Mass
- Setbacks
- Height
- Neighbourhood Character

None of the above are relevant considerations for a subdivision application. These matters will be dealt with when any future Building Application is lodged.

The meeting ended with the offer of a single dwelling restriction to be conditioned as part of any Planning Permit to give the objectors confidence of what might happen next on the subject site. It is noted that some of the objectors wanted further restrictions on what might be built with regards to building height, setbacks – etc. The applicant's offer did not include such detail.

On 13 June 2019 the applicant amended the Plan of Subdivision to include a single dwelling restriction on each lot in accordance with their offer at the Consultative Meeting. The restriction will ensure that future development of each lot is restricted to just a single dwelling. All other amenity matters, design, etc - will be considered through the Building Permit process. No additional conditions are required on the Planning Permit to facilitate adding the Restriction.

The restriction appears on the face sheet (sheet 1) of the Plan of Subdivision and reads as follows:

*'The registered proprietor or proprietors of Lots 1 & 2 on this plan shall not construct or allow to be constructed on their lot any building other than one private dwelling house together with the usual outbuildings'.*

The restriction will become valid at the time of registration with Land Victoria and affects both lots proposed in PS 828587 W.

It is noted that since the Consultative Meeting the subject land has decreased in size by approximately 10m<sup>2</sup> due to a successful Adverse Possession claim by the immediate neighbour to the east of proposed Lot 2. The proposed size of Lot 1 is not affected by this claim.

### Referrals

**Infrastructure Unit** - No conditions or requirements.

**United Energy** - No objection subject to arrangements for electrical supply being finalised.

**Yarra Valley Water** - No objection subject to the following requirements:

- **WATER:** The owner of the subject land must enter into an agreement with **Yarra Valley Water** for the provision of water services.
- **SEWERAGE:** The owner of the land must enter into an agreement with **Yarra Valley Water** for the provision of sewerage services.
- An Application for Conditions must be lodged with **Yarra Valley Water** and all relevant conditions have been met.

**Melbourne Water** - No objection or requirements.

**Multinet Gas** - No objection or requirements.

### **KEY ISSUES**

The key issues with the proposal include whether the subdivision respects the existing neighbourhood character and whether the relevant parts of Clause 56 (Residential Subdivision) have been satisfied. These key issues, as well as issues raised by objectors and Council officers are discussed below.

#### **The possible future development of the land**

These matters are not relevant to a land subdivision and will be considered when development is proposed. At subdivision stage Council only need to be satisfied that each lot can be developed with at least a single dwelling.

#### **Creation of a vacant lot**

Both lots will have frontage to Winter Street. Lot 1 has a proposed size of 769m<sup>2</sup> and Lot 2 has a proposed size of 788m<sup>2</sup>. The subdivisional layout of the area consists of predominantly single residential dwellings. There appears to be a consistent subdivision pattern to the area. Council must be satisfied that the vacant lots are developable.

Based on the lot sizes and applicable planning provisions no Planning Permit will be required for future development of Lots 1 & 2, unless a multi-unit development is proposed.

### **Clause 56.04-2 lot area objective**

Pursuant to Standard C8, Council must be satisfied that any vacant lot created of greater than 500m<sup>2</sup> can be developed. The objectives seek to ensure that lots have an area and dimensions that enable the appropriate siting and construction of a dwelling, with suitable solar access, private open space, vehicle access, parking, water management, easements, and the retention of significant vegetation and site features.

Lots greater than 500 square metres should be able to contain a rectangle measuring 10 metres by 15 metres. Both lots easily satisfy this requirement.

Creation of the vacant lots will place extra demand on the open space within the immediate area as well as increased traffic and possible car parking issues. All relevant amenity aspects will be assessed at the time that a development proposal is considered.

### Grounds of Objection

In response to the grounds of objection not already discussed in the report, the following comments are made:

Many of the grounds of objection are more applicable to future development of the land.

#### **Impact on Utilities**

The subdivision plans have been referred to all service authorities (including Council's Infrastructure Unit). No objections from the service authorities have been raised, with conditional approval being provided. All requirements resulting from these referrals must be included as conditions of approval.

#### **Future Development**

This is not an appropriate consideration for the subdivision and will be relevant when a development proposal is lodged with Council.

#### **Loss of Amenity**

Amenity will be considered as part of any future development proposal.

#### **Negative Impact on Neighbourhood Character**

The subdivision is considered to be generally in keeping with the neighbourhood character and lot configuration in the area.

#### **Regard to be given to the previous Development Application**

Each proposal is assessed individually and on its merits.

#### **Streetscape and Street Character issues**

These matters will be considered as part of a future development proposal.

#### **Imposing a Restriction on future development of the lots**

This is not something that Council would impose automatically. However, if the applicant offers such a restriction, it may be a way for the applicant to satisfy the objectors in order to progress the application. As noted above, the applicant has made such an offer and amended the Plan of Subdivision accordingly.

### **Heritage Impacts**

The site is not affected by a Heritage Overlay and as such there will be no heritage impacts.

### **Setting a precedent**

As mentioned above, each proposal is assessed individually and on its merits.

### Public Open Space.

Clause 53.01 of the Stonnington Planning Scheme exempts two (2) lot subdivisions from a requirement for a contribution for the provision of public open space. It is noted however that if either lot was developed with a multi-unit development and further subdivided, consideration for a contribution would be made at that time.

### Human Rights Consideration

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

### **CONCLUSION**

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- Both lots are large enough to sustain at least a single dwelling.
- The proposal is in line with the lot configuration in the area.
- It is considered that the proposal satisfies Council policies and objectives for subdivision.

### **ATTACHMENTS**

⇒1. PA - 1276-18 - 22 Winter Street Malvern - Attachment 1 of 1

Plans

### **RECOMMENDATION**

***That a Notice of Decision to Grant a Planning Permit No: 1276/18 for the land located at 22 Winter Street, Malvern be issued under the Stonnington Planning Scheme for a Two (2) Lot Subdivision and Creation of a Restriction subject to the following conditions:***

- 1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.***
- 2. In accordance with section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:***
  - a) The subdivision is not certified under Section 6 of the Subdivision Act 1988 within two years of this permit.***
  - b) The subdivision is not completed within five years of the date of certification.***

*In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the period referred to in this condition.*

3. *Once the subdivision has started it must be continued and completed to the satisfaction of the Responsible Authority.*
4. *Reticulated water, sewerage, and electricity must be available to each lot shown on the endorsed plans before any lot can be used or occupied.*
5. *The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.*
- 
6. *All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.*
- 
7. *The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.*

*Yarra Valley Water Conditions.*

8. *SEWERAGE: The owner of the subject land must enter into an agreement with Yarra Valley Water for the provision of sewerage.*
- 
9. *WATER: The owner of the subject land must enter into an agreement with Yarra Valley Water for the provision of water supply.*
10. *An Application for Conditions must be lodged with Yarra Valley Water and all relevant conditions have been met.*
11. *Prior to the issue of the Statement of Compliance, the owner of the land must enter into an agreement with:*
  - a) *a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and*
  - b) *a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*

**3. PLANNING AMENDMENT - 0441/12 - 60 NICHOLSON STREET, SOUTH YARRA - S72  
AMENDMENT TO APPROVED PERMIT AND PLANS COMPRISING VARIOUS CHANGES TO  
THE ELEVATIONS**

**Acting Manager Statutory Planning: Phillip Gul**  
**General Manager Planning & Amenity: Stuart Draffin**

**PURPOSE**

For Council to consider a planning application for a Section 72 amendment to an existing planning permit for retrospective approval for an increased wall height of the wall on the eastern elevation and modifications to the garage door at 60 Nicholson Street, South Yarra Victoria.

Executive Summary

Applicant:	Alain Aurus
Ward:	North
Zone:	Neighbourhood Residential Zone
Overlay:	Special Building Overlay
Neighbourhood Precinct:	Inner Urban
Date lodged:	1 November 2017
Statutory days: (as at council meeting date)	25
Trigger for referral to Council:	More than 7 objections
Number of objections:	8 objections
Consultative Meeting:	Yes– held on 7 May 2019
Officer Recommendation:	Issue a Notice of Decision to Grant a Planning Permit.

**BACKGROUND**

History

Planning Permit No. 441/12 was issued on 17 January 2013. The permit allowed 'Alterations and additions to a dwelling on a lot less than 500sqm in a Special Building Overlay'. Plans were endorsed on 18 August 2016 to accord with the conditional requirements of the permit. The permit has been extended twice with works now required to be completed by 17 January 2020.

The Section 72 amendment application that is the subject of Council's consideration seeks retrospective approval for an increase in the height of the wall on the eastern elevation and modifications to the width and height of the garage door. The application was lodged as a result of planning enforcement investigations. A history of the Section 72 amendment application is outlined below:

- A Section 72 amendment application was lodged on 02 May 2017. The application lapsed on 03 October 2017.

- The Section 72 amendment application was lodged a second time on 01 November 2017 and advertising was prepared on 05 December 2017. Public notice letters were sent to the adjoining owners. A total of eight objections were received between 05 December 2017 and 03 January 2018. A statutory declaration was never submitted to Council at the completion of advertising as there was never a sign put on the site. It was also discovered that the dimensions shown on the plans Council date stamped 05 December 2017 were incorrect.
- Revised Plans were submitted under *Section 57A of the Planning and Environment Act 1987* twice. The first set of revised plans were submitted on 04 February 2019 and these plans were advertised (including 2 signs on site) in February. The second set of revised plans were submitted on 07 June 2019 and these are the plans subject to Council's consideration.

### The Proposal

The plans that form part of the basis of Council's consideration were prepared by Leon Moulton Pty Ltd and are known as Drawing No.s: TP01, TP02, TP03, TP04, TP05, TP06, TP07, TP08, TP09, TP10, TP11, TP12, TP13, TP14, TP15 and TP 16 and Council date stamped 07 June 2019.

The application was revised under *Section 57A of the Planning and Environment Act 1987* on 04 February 2019 and 07 June 2019. The revised plans submitted on 07 June 2019 show the correct height of the as built wall and garage on the eastern elevation and the heights shown on the plans are confirmed by findings from a survey plan. The plans Council date stamped 07 June 2019 are the plans that form part of the basis of Council's consideration.

The application is for an amendment to an existing Planning Permit. Under the provisions of Section 72 of the *Planning and Environment Act 1987*, it is only those elements of the proposal that represent a change from the approved development which are open for consideration and assessment by the Responsible Authority. Key features of the amendments are as follows:

- Retrospective approval for an increase in the height of the wall on the eastern elevation by a maximum of an additional 318 millimetres.
- Retrospective approval for the width of the garage door amended from 2.970 metres to 2.510 metres and the height of the garage door amended from 1.9 metres (measured from Natural Ground Level) to 2.49 metres (measured from Natural Ground Level).
- The amendment does not seek any changes to the permit preamble or conditions included on the permit.

### Site and Surrounds

The site is located on the south western corner of Moore Street and Nicholson Street. The site has the following significant characteristics:

- The subject site is rectangular in size and has a total site area of approximately 173 square metres.
- The site has a frontage to Nicholson Street of 8.08 metres and a side frontage to Moore Street of 21.320 metres.
- The site is currently occupied by a double storey dwelling, the upper level of which was approved under Permit no. 441/12.



The surrounding area is characterised by a mixture of single detached dwellings and semi-detached town house style development of single and double storeys. Architectural styles are a mixture of Edwardian and contemporary with some 1960s and 1970 multi-unit buildings dispersed throughout the wider area.

Directly to the north of the subject site is Nicholson Street. On the opposite side of Nicholson Street is the dwelling at No. 67 Moore Street. The dwelling is a double storey, rendered dwelling with secluded private open space located to the west of the dwelling.

To the east of the subject site is Moore Street. On the opposite side of Moore Street is the dwelling at No. 62 Nicholson Street. The dwelling is a single storey weatherboard dwelling with secluded private open space located to the south of the dwelling.

To the south of the subject site is the dwelling at No. 65 Moore Street. This dwelling is a single storey weatherboard dwelling with secluded private open space located to the west of the dwelling.

To the west of the subject site is the dwelling at No. 58 Nicholson Street. The dwelling at No. 58 Nicholson Street is a single storey weatherboard dwelling with a metal roof. The secluded private open space to the dwelling is located to the south west of the dwelling.

#### Previous Planning Application(s)

A search of Council records indicates the following relevant planning applications:

- Planning Permit No. 441/12 was issued on 17 January 2013 for 'Alterations and additions to a dwelling on a lot less than 500sqm in a Special Building Overlay'. The permit expires on 17 January 2020 for the completion of works. The works are nearing completion.

#### The Title

The site is described on Certificate of Title Volume 06182 Folio 243 / Title Plan 585889R and no covenants or easements affect the land.

#### Planning Controls

The following controls/permit triggers are considerations for this application:

##### *Zone*

Clause 32.09 - Neighbourhood Residential Zone (Schedule 3)

Pursuant to Clause 32.09-4 a permit is required to construct or extend one dwelling on a lot less than 500sqm. A development must meet the requirements of Clause 54.

Pursuant to Clause 32.09-4 of, a lot must provide the minimum garden area for the lot size. Given the subject site has a lot size of 172 square metres, there are no garden area requirements applicable to the site.

Clause 32.09-10 of the Neighbourhood Residential Zone states that a building must contain no more than 2 storeys at any point and be a maximum height of 9 metres. It is noted that the proposal contains no more than 2 storeys and is a maximum height of 7.7 metres, therefore compliant with Clause 32.09-10.

Schedule 3 to the Neighbourhood Residential Zone also includes modified ResCode Standards as follows:

	<b>Standard</b>	<b>Requirement</b>
<b>Site Coverage</b>	A5 and B8	Basements should not exceed 75% of the site area.
<b>Front fence height</b>	A20 and B32	Maximum height of 2 metres in streets in a Road Zone, Category 1.  Other streets 1.2 metres maximum height.

#### *Overlay*

##### Clause 44.05 – Special Building Overlay

Pursuant to Clause 44.05-2, a permit is required to construct a building or construct or carry out works.

#### *Particular Provisions*

##### Clause 54 – One dwelling on a lot

A development:

- Must meet all of the objectives of this clause.
- Should meet all of the standards of this clause.

#### Relevant Planning Policies

Clause 15	Built Environment and Heritage
Clause 21.06	Built Environment and Heritage
Clause 22.23	Neighbourhood Character Policy
Clause 32.09	Neighbourhood Residential Zone
Clause 44.05	Special Building Overlay
Clause 65	Decision Guidelines

#### Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land and by placing two sign(s) on the site. The public notification of the application has been completed satisfactorily.

The site is located in North Ward and objections from 8 different properties have been received. The concerns can be summarised as follows:

- Neighbourhood Character.
- Visual Bulk.
- Loss of sunlight.
- Loss of views.
- The permit was issued for construction of a wall of a particular height. If the wall was constructed in excess of this specified height it must be demolished or reduced in height.

A Consultative Meeting was held on 07 May 2019. The meeting was attended by Councillors Koce and Griffin, representatives of the applicant, objectors and a Council Planning Officer. The meeting did not result in any changes to the plans.

## Referrals

It was not considered necessary to undertake and referrals as part of the assessment of this application.

## **KEY ISSUES**

This is the first amendment to the planning permit and plans. This assessment is limited to the elements of the proposal that represent a change from the already approved development. This application seeks retrospective approval for the amendments. Each amendment is discussed in detail below.

### *Increase in the height of the wall on the eastern elevation*

The curved wall on the eastern elevation fronting Moore Street has been constructed to a maximum of approximately 318 millimetres higher than what is shown on the endorsed plans. The endorsed plans show that the wall should be constructed to a maximum height of 7.292 metres (measured from Natural Ground Level) and the proposed plans show that the wall has been constructed to a maximum height of 7.67 metres (measured from Natural Ground Level). The measurements of the height of the wall on the proposed plans is supported by findings from a survey plan and measurements that have been taken on the subject site by Councils Planning Enforcement team.

The objections raised concerns in regards to the visual bulk associated with the increased height. In this instance as the wall on the eastern elevation is a curved wall it ensures there is some articulation of the building and the bulk associated with the increased wall height is not unreasonable. Notably, the increase in the height of the wall by a maximum of 318 millimetres is not at odds with the height of other dwellings within the area which are 1-2 storeys in height.

The curved wall on the eastern elevation is not located directly opposite any habitable room windows or secluded private open space areas and therefore there will be no unreasonable amenity impacts as a result of the wall. The overshadowing diagrams submitted with the application confirm that there will be no additional shadow to any secluded private open space areas on any nearby properties as a result of the increased wall height.

Overall it is considered that the increase in the height of the curved wall on the east elevation is acceptable as it does not result in unreasonable amenity impacts and is not at odds with the character of the area.

### *Modifications to the width and height of the garage door*

The garage door of the dwelling has been constructed so that the width of the door is less than that shown on the endorsed plans and the height of the garage door is higher than that shown on the endorsed plans. The width of the garage door is 2.510 metres instead of 2.970 metres as shown on the endorsed plans. The height of the garage door has also been constructed to 2.49 metres (measured from Natural Ground Level) instead of 1.9 metres (measured from Natural Ground Level) as shown on the endorsed plans.

As this application is for the extension to an existing dwelling, Clause 52.06 (car parking) is not applicable. Nonetheless, the modifications to the garage door are supported as the height and width of the garage door is sufficient to allow a single car to park in the garage.

### Special Building Overlay

The subject site is covered by a Special Building Overlay. The finished floor levels have not changed on the subject site. The floor levels are the same as that shown on the endorsed floor plans. The floor plans show that the finished floor level of the dwelling is 12.2 AHD and the finished floor level of the garage is 12.03 AHD, these levels are in accordance with the finished floor levels specified in condition 5 and 6 of the permit.

### Objections

In response to the grounds of objection not already discussed in the report, the following comments are made:

- Loss of views.

There is no inherent legal right to views unless the scheme provides for it, which is not the case here.

- The permit was issued for construction of a wall of a particular height. If the wall was constructed in excess of this specified height it must be demolished or reduced in height.

For the reasons outlined in the report, the changes in the wall height is acceptable. If the changes were not acceptable then further compliance options would need to be considered, including whether the wall would have to be demolished or reduced in height.

### Human Rights Consideration

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the *Charter of Human Rights and Responsibilities Act 2006*.

### **CONCLUSION**

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The design, scale, siting and built form of the proposal is acceptable in relation to the neighbourhood character.
- The proposed development will not result in unreasonable amenity impacts to adjoining lots.

### **ATTACHMENTS**

1. PA - 441-12 - 60 Nicholson Street South Yarra - Attachment 1 of 1

Plans

## RECOMMENDATION

***That a Notice of Decision to Grant an Amendment to Planning Permit No: 441/12 for the land located at 60 Nicholson Street, South Yarra be issued under the Stonnington Planning Scheme for a Section 72 Amendment to approved Planning Permit and plans comprising an increase in the height of the wall on the eastern elevation and modifications to the garage door on the eastern elevation.***

**Plans to be amended as follows:**

- ***Increase in the height of the wall on the eastern elevation by a maximum of an additional 318 millimetres.***
- ***The width of the garage door amended from 2.970 metres to 2.510 metres and the height of the garage door amended from 1.9 metres (measured from Natural Ground Level) to 2.49 metres (measured from Natural Ground Level).***

**The amended permit will read as follows should it be amended:**

***The permit allows:***

***Alterations and additions to a dwelling on a lot less than 500sqm and in a Special Building Overlay in accordance with the endorsed plans and subject to the following conditions:***

***The following conditions apply to this permit:***

1. ***Before the commencement of the development, three (3) copies of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans advertised (Council date stamped 9 July 2012) but modified to show:***
  - a) ***Screening to the entirety of the south facing window of the first floor main bedroom, the western side of the first floor deck, and a portion of the southern side of the first floor deck in compliance with the requirements of Standard A 15 of Clause 54, generally as shown on TP - 07 and TP - 08 Council date stamped 3 December 2012.***
  - b) ***Any changes required by Conditions 3, 4, 5 & 6.***
2. ***The development must be in accordance with the endorsed plans unless otherwise agreed in writing by the Responsible Authority.***
3. ***Concurrent with the endorsement of development plans, the applicant must provide a Water Sensitive Urban Design Response addressing the Application Requirements of the draft Stormwater Management (Water Sensitive Urban Design) Policy to the satisfaction of the Responsible Authority.***
4. ***The project must incorporate the. Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
5. ***Any new floor level shall be at least 12.08m A.HD. (200mm above the applicable flood level).***

6. *Any new garage shall be at least 12.03m A.H.D. (150mm above the flood level).*
7. *Prior to the occupation of the building/ commencement of use, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.*
8. *Prior to the occupation of the building, privacy screens designed to limit overlooking as required in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building*
9. *This permit will expire if one of the following circumstances applies:*
  - a) *The development is not started within two years of the date of this permit.*
  - b) *The development is not completed within four years of the date of this permit.*

*The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.*

**NOTE**

*This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.*

**4. PLANNING APPLICATION - 0086/19 - 31 WASHINGTON AVENUE, MALVERN EAST - PARTIAL DEMOLITION AND EXTENSION OF A DWELLING ON A LOT LESS THAN 500M2 IN A NEIGHBOURHOOD RESIDENTIAL ZONE AND NEIGHBOURHOOD CHARACTER OVERLAY**

**Acting Manager Statutory Planning: Phillip Gul**  
**General Manager Planning & Amenity: Stuart Draffin**

**PURPOSE**

For Council to consider a planning application for partial demolition and extension of a dwelling on a lot less than 500m2 in a Neighbourhood Residential Zone and Neighbourhood Character Overlay at 31 Washington Avenue, Malvern East.

Executive Summary

Applicant:	Michael Rowell Architect
Ward:	East
Zone:	Neighbourhood Residential Zone – Schedule 4
Overlay:	Neighbourhood Character Overlay – Schedule 7
Neighbourhood Precinct:	Garden Suburban 4
Date lodged:	13 February 2019
Statutory days: (as at council meeting date)	109
Trigger for referral to Council:	7 objections
Number of objections:	7
Consultative Meeting:	Yes – held on 4 June 2019
Officer Recommendation:	Notice of Decision to Grant a Planning Permit

**BACKGROUND**

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Michael Rowell Architect dated 20 March 2019, were advertised March 2019 and known as Drawing No's DD01 through DD20 all date stamped 20 March 2019.

Key features of the proposal are:

- Demolition of part of the roof structure and parts of the internal walls
- Construction of a first floor addition of approximately 47sqm, comprising of:
  - 2 bedrooms with north facing windows facing Washington Lane,
  - Bathroom with east facing window in the south eastern corner of the addition; and
  - Internal staircase with south facing window and a metre high balustrade adjacent to the staircase and retreat.
- The proposed materiality of the first floor addition is:
  - Rendered brick wall,
  - Feature timber horizontal battens with a black finish on the northern façade of the dwelling between the first floor bedroom windows,
  - New terracotta tiled roof with 22.5 degree pitch to match existing roof; and

- Powder coated aluminium windows.
- Internal reconfiguration of the existing bedroom 2 to a study with staircase to the first floor.
- The maximum building height of approximately 7m.

### Site and Surrounds

The subject site is located on the western side of Washington Avenue and on the southern side of Washington Lane. The site has the following significant characteristics:

- The site is approximately 300m north of Dandenong Road.
- The site is an irregular shape with a frontage of 2m to Washington Avenue, the northern boundary of the lot has a length of 41.12m and is partially affected by a carriageway easement. The western side of the lot comprises of the main portion of land that is occupied by the existing dwelling and private open space with dimensions of 15.35m by 15.62m.
- The majority of the eastern boundary of the site is defined by the exterior face of the wall along the boundary between 31 Washington Avenue and 31A Washington Avenue.
- The site has a total area of 239sqm.
- The site is occupied by a single storey brick dwelling with terracotta tiled roof. The current dwelling comprises of two bedrooms, open plan living dining and kitchen, laundry, bathroom and a garage facing Washington Lane. There is a small area, of approximately 65sqm, of private open space along the western boundary of the site.
- The subject site is accessed via Washington Lane.
- Interfaces to the site include:
  - To the north of the site on the opposite side of Washington Lane is No. 33 Washington Avenue which is occupied by a single storey weatherboard dwelling with terracotta tiled roof.
  - To the east of the site is No. 31A Washington Avenue which is occupied by a single storey brick dwelling with terracotta tiled roof that was constructed as part of a dual occupancy development with the subject site in 1992 and subdivided in 1993.
  - To the south of the site is No. 29A Washington Avenue which is occupied by a singly storey brick dwelling with tin roof.
  - To the west of the site is No. 2 Washington Lane which is occupied by a single storey brick dwelling with terracotta tiled roof.
- The land immediately to the west of the subject site is not affected by the Neighbourhood Character Overlay – Schedule 7 (Californian Bungalow Significant Character Area).
- The wider area comprises of a mixtures of single and double storey dwellings predominantly of the Californian Bungalow style, however there are also a number of brick dwellings and modern rendered dwellings.

### Previous Planning Application(s)

A search of Council records indicates the following relevant planning applications;

- Planning Permit 913/17 issued on 10 January 2018 for partial demolition and subsequent buildings and works in a Neighbourhood Character Overlay. The approved works comprises converting the existing garage to a habitable bedroom, changes to the car parking arrangements and internal alterations. The permit is still valid however the applicant has advised they no longer wish to act on the approved works.



The Title

The site is described on Certificate of Title Volume 10113 Folio 567 / Lot 2 on Plan of Subdivision 325050X. No covenants affect the land.

The site is affected by a two metre wide carriage way easement along part of the northern boundary of the site in favour of 31A Washington Avenue.

Planning Controls

The following controls and permit triggers are considerations for this application:

*Zone*

Clause 32.09 – Neighbourhood Residential Zone

Pursuant to Clause 32.09-5 a permit is required to construct or extend one dwelling on a lot less than 300 square metres.

Pursuant to Clause 32.08-4 the minimum garden area requirement is not applicable to this application as the site has an area of less than 400sqm.

Pursuant to Clause 32.09-9, any development on the site may not exceed the maximum height or number of storeys specified. As the proposal constitutes no more than two storeys and is less than 9 metres in maximum height, the proposal is considered to meet this requirement.

Schedule 4 – Significant Character Precincts applies to the site. Pursuant to item 3 of Schedule 4 the following Clause 54 variations apply:

Standard		Requirement
Site coverage	A5	Basements should not exceed 75% of the site area

*Overlay*

Clause 43.05 – Neighbourhood Character Overlay

Pursuant to Clause 43.05-2 a permit is required to demolish or remove a building and construct a building or construct or carry out works.

Schedule 7 – Californian bungalow Significant Character Areas applies to the site. Pursuant to item 4.0 of Schedule 7, the following Clause 54 variations apply:

Standard		Requirement		
Street Setback	A3	Walls of buildings should be setback from streets the distance specified in Street Setback Table below. Street Setback Table		
		Development Context	Minumum setback from front street (metres)	Minimum setback from a side street (metres)
		All buildings	Equal to the prevailing setback from the front street of dwellings on the same side of the street in the same Overlay area.	Equal to the prevailing setback from the side street of all dwellings on a corner allotment within the same Overlay area.

Walls on boundaries	A11	<p>A wall may be constructed on a boundary where:</p> <ul style="list-style-type: none"> <li>• It is a car parking structure or outbuilding that is set back at least 3 metres from the front facade of the building, and located on one side boundary; or</li> <li>• It is any other part of the building and is setback a minimum of 1.5 metres from one side boundary for a distance of 8 metres from the front facade of the building (refer to Schedule 7 for sketch showing minimum setbacks).</li> </ul> <p>All other requirements of Standards A11 continue to apply.</p>
Design Detail	A19	<p>The design of buildings and extensions should respect the preferred neighbourhood character of the area, specifically in relation to:</p> <ul style="list-style-type: none"> <li>• Scale and form,</li> <li>• Roof form, pitch and eaves,</li> <li>• Number of storeys,</li> <li>• Materials and finishes,</li> <li>• Façade articulation,</li> <li>• Building siting, and</li> <li>• Siting and design of vehicle access and car parking structures.</li> </ul> <p>New buildings should interpret the detailed elements of original dwellings that contribute to the neighbourhood character significance of the area in an innovative and contemporary manner that complements, rather than replicates, period dwelling styles.</p> <p>Pairs of attached dwellings should present to the street as a single dwelling particularly though its scale, form, roof design and siting.</p> <p>Second storey elements of new dwellings, and second storey additions to existing dwellings, should be sited and designed so that the single storey part of the building, including its roof form, is the dominant visual element when viewed from the street. This will require second storey elements to be:</p> <ul style="list-style-type: none"> <li>• Set back 8 metres from the front building façade where the main ridge line of the roof is perpendicular to the street, or located behind the main ridgeline of the roof where this is parallel to the street, and</li> <li>• Designed to complement the form and proportions of the existing dwelling or, if a new dwelling, other dwellings in the street. A car parking structure should be:</li> <li>• Visually unobtrusive and compatible with the development and the preferred neighbourhood character.</li> <li>• A maximum width of 4 metres where visible from the street.</li> <li>• Located at least 3 metres behind the front facade of the building. Hard paving surfaces within the front setback should be kept to a minimum to maximise space for planting. All other requirements of Standards A19 and B31 continue to apply.</li> </ul>

*Particular Provisions*

Clause 54 – One Dwelling on a Lot

### Relevant Planning Policies

Clause 15	Built Environment and Heritage
Clause 16	Housing
Clause 21.03	Vision
Clause 21.05	Housing
Clause 21.06	Built Environment and Heritage
Clause 22.23	Neighbourhood Character Policy
Clause 32.09	Neighbourhood Residential Zone
Clause 43.05	Neighbourhood Character Overlay
Clause 54	One Dwelling on a Lot
Clause 65	Decision Guidelines

### Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land and by placing 1 sign on the site. The public notification of the application has been completed satisfactorily.

The site is located in East Ward and objections from seven different properties have been received. The concerns raised in the objections can be summarised as follows:

- Overshadowing to vegetation
- Overlooking
- Second storey not in keeping with the character of the area
- Traffic impacts on the laneway
- Daylight access
- Impact on energy efficiency
- Over development of the site
- Loss of privacy
- Visual bulk
- Car parking

A Consultative Meeting was held on 4 June 2019. The meeting was attended by Councillor Klisaris, representatives of the applicant, objectors and Council planning officers. At the Consultative Meeting it was agreed between the applicant and objectors from 33 Washington Avenue that the first floor north facing windows would be opaque glass to a height of 1.7m from internal floor level subject to a condition on the permit. The meeting did not result in any other changes to the plans.

### Referrals

Given the nature of the proposal no referrals were deemed necessary.

## KEY ISSUES

### Neighbourhood Character

The subject site is located within the Garden Suburban 4 precinct of the Neighbourhood Character Policy under Clause 22.23. The following statement of preferred neighbourhood character for the precinct is:

*The Garden Suburban 4 (GS4) precinct comprises spacious and leafy streetscapes with Edwardian, Interwar or Post-war era and new buildings set in established garden surrounds. Regular front and side setbacks provide space around buildings and allow for canopy trees. New buildings or additions offer innovative and contemporary design responses while complementing the key aspects of building form, scale and design detail of the older dwellings in the precinct. Low or permeable front fences retain views to gardens and buildings from the street. Areas within a Residential Growth or Mixed Use Zone or within a substantial change area will accommodate more development with a more compact setting but with space for canopy trees and other vegetation and high quality, responsive design.*

The relevant preferred character for this precinct is:

- *To ensure new buildings and extensions do not dominate the streetscape.*
- *To encourage a high quality of building detailing that references, without mimicking, the details of buildings in the area.*
- *To maintain and reinforce the rhythm of spacing between and around buildings.*

The primary street frontage of the dwelling is to Washington Lane. The existing dwelling and proposed extension are recessed from Washington Avenue and set behind the adjoining dwelling at 31A Washington Avenue. The dwelling also has an interface and is orientated to Washington Lane. It is considered that the proposed addition will not dominate the streetscape of the lane and will sit comfortably within the wider streetscape of Washington Avenue. The consistent setback of the first floor addition of 2.5m from all sides of the existing ground floor footprint of the dwelling ensures that there is a consistent spacing around the building and reduces the visual bulk of the addition. The proposed first floor addition is considered in keeping the character of the area which comprises of a variety of double and single storey dwellings in a mixture of styles.

Pursuant to Clause 43.05 the Neighbourhood Character Overlay Schedule 7 applies to the site. The objectives of Schedule 7 – Californian bungalow significant character overlay are:

- *To ensure that new buildings and works contribute to the preferred neighbourhood character of the area.*
- *To encourage the retention of intact, original dwellings that contribute to the preferred neighbourhood character of the area.*
- *To maintain the established pattern of front and side setbacks in the street.*
- *To ensure that new dwellings or extensions to existing dwellings respect the dominant building height, form, façade articulation, materials and roof forms of the streetscape.*
- *To ensure that the use of design detail in new buildings complements, rather than mimics, that of the predominant building styles in the street.*
- *To minimise the loss of front garden space due to car parking and driveways, and minimise the dominance of car parking structures in the streetscape.*
- *To ensure space is available for the planting of trees and gardens.*

The proposal has been assessed against the key characteristics of the Californian Bungalow Precinct pursuant to item 1 of Schedule 7 below:

- *Single storey building scale with second storeys recessed behind the front façade.*

The proposed first floor addition is setback approximately 2.5m behind the front façade of the ground floor. Due to the existing built form of the dwelling and constrained shape of the block the proposed second storey cannot be recessed deeper within the site. There are a number of two storey dwellings in the vicinity of the subject site, including 30 Washington Avenue and 23 Washington Avenue. It is considered that prominent non-recessed second storeys form part of the character of the neighbourhood in the immediate vicinity of the site. It is considered that the proposal for the first floor addition is an appropriate response to the site context.

- *Simple floor plans with projecting front room and porch or verandah.*

The existing dwelling does not have any projecting front rooms, porches or verandahs. The garage is the most prominent feature of the dwelling façade fronting to Washington Lane. The existing dwelling has a simple floor plan that will be retained and carried through to the first floor addition which consists of two bedrooms, landing and a bathroom.

- *Orientation of buildings to the street according to lot orientation.*

The lot also has a 2m frontage to Washington Avenue, however this is considered to primarily be for street addressing purposes and the orientation of the dwelling is predominantly to Washington Lane. The orientation of the dwelling will not be altered as part of this proposal.

- *Consistent front and side setbacks.*

The proposed addition is located in the centre of the existing footprint of the dwelling. The existing symmetry and rhythm of the dwelling will be continued up onto the first floor through a consistent setback of 2.5m on all sides from the ground floor footprint of the dwelling.

- *Established planting, including canopy trees, in the front, side and rear setbacks.*

Existing planting is to be retained on the site. No significant vegetation will be impacted by the proposal.

- *Use of weatherboard, brick or brick and render.*

The addition is proposed to be constructed of:

- Rendered cement cladding
- Horizontal dressed timber battens
- Aluminium powder coat window frames
- Unglazed terracotta roof tiles

The proposed materiality is considered to complement the existing brick materiality of the dwelling and the dwellings on the adjoining lots. The materiality of the addition will also sit comfortably within the streetscape which is predominantly comprised of brick dwellings with terracotta tiled roofs.

- *Dark terracotta tiled, pitched roofs.*

The existing pitched form of the roof will be replicated above the first floor addition and will be clad with terracotta tiles to match the existing roof. It is considered by replicating these elements of the existing dwelling it will help to soften the addition and ensure it sits comfortably within the streetscape.

- *Car parking and car parking structures located behind the dwelling with side driveway access.*

The existing garage that faces Washington Lane is not proposed to be altered as part of the application.

- *Low brick or timber picket front fences*

The existing high brick front fence is not proposed to be altered as part of this proposal.

It is considered that the proposed addition is generally in keeping with the preferred character of the area as outlined above. As the dwelling is not an original Californian Bungalow it is considered to be of limited contribution to the character of the area.

The subject dwelling is not an original 'Californian bungalow' and has a minimal contribution to the character of the area by virtue of its location with Washington Lane. The proposed addition is small scale and responds to the scale and form of the existing dwelling and surrounding dwellings. The addition has been sited and designed so that the second storey does not dominate the streetscape and complements the existing dwelling. It is considered that the bungalow character of the streetscape will not be affected by the proposal and that the proposal will be visually unobtrusive and sit comfortably within the streetscape.

### Built Form

#### *Street setback*

The ground floor street setback of the dwelling is not proposed to be altered as part of the proposal. The existing setback of the dwelling is 26m from Washington Avenue and 2.23m from Washington Lane. The first floor addition will be setback approximately 5m from the Washington Lane frontage. Of the dwellings in the wider area that comprise of 2 storeys the setback of the first floor from the street frontage varies, from no setback to 1m setbacks from the façade of the ground floor, such as 21 Darling Road and 30 Washington Avenue. Due to the varied character of the area it is considered that the setback of the first floor is acceptable. However, this setback is not dimensioned on the plans. This will be required as a condition on the permit.

#### *Building Height*

Pursuant to Clause 32.09-9 the maximum allowable building height is 9m and 2 storeys. The proposed maximum building height is approximately 7m and brings the dwelling to 2 storeys. The height of the first floor addition is considered acceptable for the neighbourhood.

#### *Site Coverage and Permeability*

The site coverage and permeability of the subject site will not be affected by the proposed first floor addition. However, the site coverage is approximately 56% complying with Standard A5 and the permeability of the site is approximately 29% complying with Standard A6.

### Amenity Impacts

#### *Side and Rear Setbacks*

The wall height of the proposed first floor addition is 5.53m this requires a setback of 1.579m from the side and rear boundaries. The proposal has setbacks of greater than 2.5m from the eastern, south and west boundaries complying with Standard A10. However, as noted above, the first floor setbacks are not clearly dimensioned on the plans and this will be required as a condition on the permit.

*Daylight to existing windows*

With a wall height of 5.53m the minimum setback distance from any windows on the adjoining properties should be 2.765m pursuant to Standard A12. As discussed above, the proposed first floor addition is located greater than 2.5m from all side and rear boundaries and no adjoining windows are located within 1m of the site boundaries. Therefore, access to daylight from windows on adjoining properties will not be affected by the proposed addition and complies with Standard A12.

*North facing windows*

There are 3 north facing windows at the rear of No. 29A Washington Avenue that are within 3m of the southern boundary of the subject site. With a wall height of 5.53m the required setback of the first floor addition from these windows under Standard A13 is 2.185m. The proposed setback of the first floor is approximately 3.95m from the boundary, complying with the standard. It is considered that the proposed addition will not affect the existing sunlight access into the windows.

*Overshadowing*

Standard A14 seeks to ensure buildings do not unreasonably overshadow existing secluded private open space. Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 40 square metres with minimum dimension of 3 metres of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.

The submitted shadow diagrams demonstrate that the shadow cast by the first floor addition will fall within the subject site and within the existing shadows cast by the single storey dwelling, adjoining dwelling and fences on the adjoining lots between 9am and 2pm on the 22 September. At 3pm the proposal results in approximately 4 sqm of additional overshadowing to the eastern neighbouring property at 31A Washington Avenue. The adjoining property to the east of the subject site at 31A Washington Avenue has approximately 61 square metres of private open space along the western boundary. The majority of this open space is covered by a Perspex roof, the unroofed area of the garden clear to the sky is approximately 20sqm adjacent to the southern boundary. No. 31A Washington Avenue does not receive the required 40 square metres of daylight for 5 hours based on the existing conditions. The sunlight access to the rear secluded 31A Washington Avenue on the 22 September is summarised as follows:

<b>Time of Day</b>	<b>Existing area sunlight received (approximate)</b>	<b>Proposed area sunlight received (approximate)</b>
9am	2sqm	2sqm (no change)
10am	4sqm	4sqm (no change)
12pm	14sqm	14sqm (no change)
2pm	4sqm	4sqm (no change)
3pm	6sqm	2sqm (-4sqm)

The shape of the lot and close proximity of the existing dwellings constrains the ability for a first floor addition at the subject site to not result in any additional overshadowing. The proposed additional overshadowing has been reviewed against the decision guidelines of Standard A14 and it is considered that the 4sqm of additional overshadowing at 3pm is not unreasonable, particularly given there is a 5 hour window between 9am and 2pm beforehand where there won't be any additional shadowing to this space. The existing conditions at 31A Washington Avenue do not provide the required solar access to the secluded private open space, the sunlight penetration to this space is significantly impacted by the existing carport/pergola structure over the garden area.

The additional overshadowing is considered to be minor and the impact on neighbouring amenity will not be unreasonable, given the functional use of the space will ultimately not be affected. It is also noted that the proposal will not result in any additional overshadowing to the southern neighbour property at 29A Washington Avenue.

#### *Overlooking*

The two north facing first floor bedroom windows face the secluded private open space at No. 33 Washington Avenue. However, the windows are setback approximately 11m from the southern boundary of 33 Washington Avenue, which is separated by Washington Lane from the subject site. Therefore, the private open space is not within 9m of the habitable room windows and there is no requirement for screening under Standard A15. However, as noted above at the Consultation Meeting for the application it was agreed between the owner of the subject site and objector at 33 Washington Avenue that the windows would be opaque glass to 1.7m in accordance with Standard A15. It was agreed that this would be included as a condition on the permit.

There is potential for overlooking to habitable room windows and secluded private open space at 29A Washington Avenue from the first floor south facing window. This window is primarily from the stairs, however there is a low 1m balustrade between stairs and retreat. This allows view lines from the retreat over the stairs and through the south facing window to No. 29A. Pursuant to Clause 73.01 a habitable room is defined as *any room of a dwelling or residential building other than a bathroom, laundry, toilet, pantry, walk-in wardrobe, corridor, stair, lobby, photographic darkroom, clothes drying room and other space of a specialised nature occupied neither frequently nor for extended periods*. Therefore, the staircase itself is not a habitable space with potential for overlooking, however the adjacent 'retreat' is considered a habitable room. The submitted diagrams and section demonstrate that the majority of the view lines to the adjoining habitable windows are obscured by the existing eaves and setback of the retreat from the balustrade to the stairs. However, it is considered that there is still some potential for overlooking to the adjoining habitable windows and private open space at 29A Washington Avenue from the retreat, therefore the south facing window should be screened in accordance with Standard A15. As such, this will be included as a condition on the permit.

#### Design Detail

Pursuant to the varied Standard A19 of Schedule 7 of the Neighbourhood Character Overlay, second storey additions to existing dwellings should be sited and designed so that the single storey part of the building including its roof form is the dominant visual element when viewed from the street. As discussed previously, the subject site is constrained in shape and the second storey cannot be recessed deeper within the site. The site a depth of approximately 15.35m from Washington Lane, which allows little space to create a recessed secondary storey. The overall height of the addition is approximately 7m due to the pitch of the roof, whilst the first floor wall height is 5.24m. The addition has also been designed with even setbacks from the ground floor building footprint. It is considered that the above details of the design response result in a first floor addition that is appropriately sited and designed for the subject site. Due to the constrained size of the first floor addition and the design detail, including the pitched roof, it is considered that the proposed addition respectfully responds to the preferred neighbourhood character. Therefore, a variation from the second storey design and siting of Standard A19 is considered acceptable based on the design response and will not have excessive visual bulk when viewed from Washington Lane or Washington Avenue.



There will be no changes to the car parking arrangement or hard surfaces on the subject site.

### Water Sensitive Urban Design

Pursuant to Clause 22.18 Stormwater Management applies to extensions to existing buildings 50 square metre in floor area or greater. The proposed extension is less than 50sqm, therefore a water sensitive urban design response is not required.

### Objections

In response to the grounds of objection not already discussed in the report, the following comments are made:

- Overshadowing to the Oak tree at 30 Darling Road - The objectors concerns about overshadowing from the first floor addition and potential impacts on the health of the Oak tree at the rear of their property were referred to Council's Parks Department for comment. They advised that there will be no impact on the English Oak in the rear setback of 30 Darling Road from the proposed addition.
- Car parking – Pursuant to Clause 52.06-4 Clause 52.06 does not apply to the extension of a dwelling on a lot in the Neighbourhood Residential Zone. Therefore, the availability of parking spaces is not a consideration under this application. However, it is noted that the current parking spaces on the site will not be affected by the first floor addition.

### Human Rights Consideration

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the *Charter of Human Rights and Responsibilities Act 2006*.

### **CONCLUSION**

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The proposal will not result in any unreasonable amenity impacts on the adjoining properties and the proposal complies with all relevant objectives of Clause 54.
- The design, scale, siting and built form of the proposal is consistent with the existing neighbourhood character.

### **ATTACHMENTS**

- [1](#). PA - 86-19 - 31 Washington Avenue Malvern East - Attachment 1 of 1 Plans

## RECOMMENDATION

***That a Notice of Decision to Grant a Planning Permit No: 0086/19 for the land located at 31 Washington Avenue, Malvern East be issued under the Stonnington Planning Scheme for Partial demolition and extension of a dwelling on a lot less than 500m2 in a Neighbourhood Residential Zone and Neighbourhood Character Overlay subject to the following conditions:***

- 1. Before the commencement of the development, 1 copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans prepared by Michael Rowell Architect as advertised in May 2019 but modified to show:***
  - a) Dimension the setback of the first floor addition from all site boundaries.***
  - b) The first floor south facing window to be screened in accordance with Standard A15 and Condition 3.***
  - c) The first floor north facing bedroom windows to be fixed opaque glass to 1.7m above floor level.***
- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.***
- 3. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required by A15 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.***
- 4. This permit will expire if one of the following circumstances applies:***
  - a) The development is not started within two years of the date of this permit.***
  - b) The development is not completed within four years of the date of this permit.***

***In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.***

## NOTES

- I. This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.***
- II. Nothing in this permit hereby issued shall be construed to allow the removal of, damage to or pruning of a significant tree (including the roots) without the further written approval of Council.***

***“Significant Tree” means a tree or palm:***

- a) with a trunk circumference of 140 cm or greater measured at 1.4 m above its base;***
- b) with a total circumference of all its trunks of 140 cm or greater measured at 1.4 m above its base;***

- c) *with a trunk circumference of 180 cm or greater measured at its base; or*
- d) *with a total circumference of all its trunks of 180 cm or greater measured at its base.*

*Please contact the Council Arborists on 8290 1333 to ascertain if permission is required for tree removal or pruning or for further information and protection of trees during construction works.*

- III. *At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:*
  - i. *Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and*
  - ii. *Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.*



**5. PLANNING APPLICATION - 0962/18 - 320-322 HIGH STREET, WINDSOR -  
CONSTRUCTION OF A MULTI DWELLING DEVELOPMENT IN A RESIDENTIAL GROWTH  
ZONE AND SPECIAL BUILDING OVERLAY**

**Acting Manager Statutory Planning: Phillip Gul**  
**General Manager Planning & Amenity: Stuart Draffin**  
**Interim Chief Executive Officer: Simon Thomas**

**PURPOSE**

For Council to consider a planning application for a multi-dwelling development in a Residential Growth Zone and Special Building Overlay at 320 & 322 High Street, Windsor.

Executive Summary

Applicant:	Clarke Planning
Ward:	South Ward
Zone:	Residential Growth Zone – Schedule 1
Overlay:	Special Building Overlay
Neighbourhood Precinct:	Inner Urban
Date lodged:	21 September 2018
Statutory days: (as at council meeting date)	211
Trigger for referral to Council:	Building of four storeys or greater
Number of objections:	Six (6) objections from 6 different properties and one letter of support
Consultative Meeting:	Yes - held on 26 March 2019
Officer Recommendation:	Issue a Notice of Decision to Grant a Planning Permit

**BACKGROUND**

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Egg Architects Pty Ltd and are known as Drawing No.s: TP01; TP02; TP02A – TP02C; TP03 – TP13; TP13A – TP13B; TP14; TP14A; TP15 – TP18; TP18A – TP18C; & TP19 – TP47 inclusive (all Council date stamped 4 December 2018) and TP17A and TP18D (Council date stamped 10 January 2019), together with a Landscape Plan prepared by John Patrick Landscape Architects Pty Ltd (Council date stamped 21 September 2018).

The application seeks to construct a four-storey apartment building containing 10 dwellings (6 x 2 bedroom and 4 x 3 bedroom) over a single basement level providing for car parking (stacker arrangement), bicycle parking, storage (including waste) and services. The proposed building has a maximum height of 13.45 metres (top of lift and roof 'cap'). A total of 14 resident car spaces are provided in the basement (no visitor spaces provided), with access proposed via the existing vehicle crossover within The Avenue adjacent to a constructed laneway at the rear of the subject site.

Key features of the proposal are:

- Demolition of both existing two dwellings (no permit required);
- The 10 dwellings are arranged as five (5) two storey dwellings at the ground and first levels including four (4) three-bedroom and one two-bedroom 'townhouses' (Dwellings 1, 2, 3, 4 & 5). Level 2 comprises four (4) two-bedroom dwellings (Dwellings 6, 7, 8 & 9) and the top level (Level 3) comprises a single two-bedroom dwelling for the entire floor (Dwelling 10);
- Secluded private open space is provided for each dwelling in a variety of configurations. Dwellings 1 - 4 comprise both ground floor private open space (to the east) and balconies at Level 1 with outlook to The Avenue. Remaining dwellings benefit from balconies extending from living areas facing the north, east, south or west (or a combination of these);
- Vehicle access is gained via a single crossover to the basement (with stacker car parking) aligned to the existing crossover and driveway from The Avenue at the site's southwest corner. Basement site coverage is 70%;
- Pedestrian access into the building is via a centrally located entry from The Avenue, accessed via steps and a separate accessible ramp to a central lobby/foyer. A second entry is positioned adjacent to the driveway, providing exclusive access to a stairwell serving Dwelling 5, located substantially at Level 1;
- A mix of materials and finishes including select bricks (grey), aluminium cladding to all levels, vertical composite timber battens extending up Levels 1 and 2 at the street corner, aluminium window frames, clear balustrades, steel privacy louvres and a brick retaining wall/fence wrapping the ground floor street frontages;
- High, visually permeable front fencing to High Street, set back 500mm from the street boundary (1800mm high steel blades above a brick plinth of varying height on the boundary) and wrapping around the corner to The Avenue for much of this secondary frontage;
- A landscape plan prepared by John Patrick Landscape Architects illustrates proposed new planting to street setbacks and the eastern boundary (this plan reflects an earlier but similar 'pre public notification' development scheme, however it remains a relevant consideration). The vegetation palette is generally exotic with a mix of trees, shrubs and ground covers. Proposed planting within the High Street front setback area includes 2 new canopy trees with understory shrubs and various ground covers in raised planters within The Avenue setback area.

### Site and Surrounds

The subject site is located on the southeast corner of High Street and The Avenue and benefits from a laneway interface to the south. It is positioned approximately 450m to the east of Chapel Street and 60m from the Principal Activity Centre boundary (which terminates just west of The Avenue). Tram route 6 operates along High Street, with a tram stop located at the site frontage. The site has the following significant characteristics:

- Regular configuration with a total area of 731m<sup>2</sup>, comprising a 17.7m frontage to High Street and a 41.4m frontage to The Avenue.
- It contains two attached single fronted, single storey Edwardian dwellings with vehicle access from The Avenue and the southern laneway.
- Generally flat topography with no established canopy vegetation.

It is located within a varied built form context given the main road condition of High Street comprising a mix of traditional, single residential dwellings and multi-unit developments alongside fine grain commercial buildings and emerging contemporary residential forms of 3 or more storeys.

In contrast, The Avenue presents as a highly residential context with significant established street trees comprising predominately traditional single dwellings, post-war unit forms (including some recent contemporary development), a Private Hospital and complementary Medical Consulting Suites.

The site has the following interfaces:

- To the **east**, at 324 High Street is a two-storey post-war brick residential building within the Residential Growth Zone comprising 5 attached townhouses extending north-south. Private open space for each dwelling is positioned adjacent to the common boundary at ground level. Vehicle access is gained via High Street to an open paved area as well as from the southern laneway to an at-grade car park. This site comprises substantial mature canopy and shrub vegetation, screening the dwellings from the street frontage and the eastern interface. Beyond this development at 330 High Street is a large, three-storey older style apartment building with a conventional hip and gable roof;
- To the **south**, the site abuts an east-west aligned constructed laneway that extends from The Avenue, terminating at an at-grade residential car park. Beyond the laneway at 60 The Avenue are two double storey residential buildings within the General Residential Zone (GRZ10) which are understood to be a student accommodation facility. Habitable room windows are positioned along the laneway boundary. The site also comprises established canopy vegetation, typically along the southern boundary and part of the northern boundary (front setback).
- To the **west**, is The Avenue, a 21m wide road reserve that includes parallel car parking and mature Plane Trees in nature strips to both sides, creating a green 'tunnel' effect along the streetscape extent. Opposite the site at 55 - 89 The Avenue and within the Residential Growth Zone is an early 2000's townhouse complex comprising 2 rows of attached 2 and 3 storey townhouses built in part to the High Street boundary. Vehicle access to this site is via a crossover from The Avenue into a linear car parking area behind the dwellings. Townhouses fronting The Avenue comprise individual entries to porches with low front fences and small shrubs.
- To the **north**, is High Street, a 20m wide road reserve that includes a tramline and clearway parallel parking to each side. A tram stop is located to the corner with High Street and The Avenue which includes a timber bench seat and rubbish bin enclosure. Directly opposite the subject site are two double storey attached commercial buildings within a row of two storey (equivalent) commercial buildings all zoned Commercial 1 Zone and constructed to the High Street boundary. No. 319 High Street at the Ivy Street corner is a traditional Victorian Building with a decorative parapet. No. 317 High Street is an infill rendered, post-war commercial building comprising full height glazing at the ground floor and aluminium framing.

#### Previous Planning Application(s)

A search of Council records indicates that there are no recent planning applications registered to this site.

### The Title

The site is described in two Certificates of Title:

- Volume 08265 Folio 087 as Lot 1 on Plan of Subdivision 031389 (320 High Street).
- Volume 08090 Folio 379 as Lot 2 on Plan of Subdivision 031389 (322 High Street).

There are no restrictive covenants registered on either title.

The only easements are party wall easements, on the common boundary of the two lots as shown on the respective title plans.

### Planning Controls

The following controls/permit triggers are considerations for this application:

#### *Zone*

Clause 32.07 – Residential Growth Zone (Schedule 1 *Key Boulevards*) (RGZ1).

Pursuant to Clause 32.07-5, a permit is required to construct two or more dwellings on a lot and a front fence that exceeds a height of 2.0m. A development must meet the requirements of Clause 55.

Pursuant to Clause 32.07-9, any buildings or works constructed on a lot that abuts land which is in a General Residential Zone, Neighbourhood Residential Zone, or Township Zone must meet the requirements of Clauses 55.04-1, 55.04-2, 55.04-3, 55.04-5 and 55.04-6 along that boundary (amenity impact objectives and standards). As the southern boundary abuts land in a General Residential Zone (GRZ10), the requirements of the above clauses must be met. In this instance the clauses already apply as a mandatory consideration.

In addition, a building used as a dwelling should not exceed a height of 13.5 metres (discretionary maximum height). The development as proposed has a maximum height of 13.45m and contains 4 storeys above a basement.

There is no garden area requirement within the RGZ provisions.

Schedule 1 to the RGZ modifies ResCode Standards A5 and B8 (site coverage) by providing that basements should not exceed 75% of the site area. As noted above, proposed basement site coverage is 70%.

Decision guidelines additional to those in the head clause and elsewhere in the planning scheme are:

- *Whether the development provides for an appropriate visual transition to residential properties in the Neighbourhood Residential Zone.*
- *Whether the proposal meets the preferred neighbourhood character statement and design objectives for the Precinct.*

#### *Overlay*

Clause 44.05 - Special Building Overlay (SBO).

Pursuant to Clause 44.05-2 a permit is required to construct a building or construct or carry out works as none of the listed exemptions apply.

#### *Particular Provisions*

Clause 52.06 – Car Parking



Pursuant to Clause 52.06-2, the car parking spaces required under Clause 52.06-5 must be provided on the land prior to the commencement of a new use.

Pursuant to Clause 52.06-5, a dwelling requires:

- 1 car space to each one or two-bedroom dwelling; and
- 2 car spaces to each three or more-bedroom dwelling.

Each new dwelling contains 2 or 3 bedrooms and is provided between 1 and 2 car parking spaces. The 10 new dwellings are required to provide a total of 14 car spaces. The proposal provides 14 car parking spaces in a stacker arrangement, with 2 spaces allocated to each three-bedroom dwelling and 1 space to each of the two-bedroom dwellings, thus meeting the statutory requirement.

There is no requirement for visitor parking as the land is identified as being within the Principal Public Transport Network Area as shown on the *Principal Public Transport Network Area Maps* (State Government of Victoria, August 2018).

#### Clause 52.34 – Bicycle Facilities

Pursuant to Clause 52.34 a development of 4 or more storeys is required to provide 1 bicycle space to each 5 dwellings for residents and 1 bicycle space to each 10 dwellings for visitors. A total of 3 bicycle spaces have been provided within the basement level for residents and a single visitor space adjacent to the accessible ramp within The Avenue has been allocated to visitors.

The requirements of Clause 52.34 (quantum of spaces) have been met.

#### Clause 55 – Two or more dwellings on a lot and residential buildings

A development:

- Must meet all of the objectives of this clause.
- Should meet all of the standards of this clause.

#### Relevant Planning Policies

- Clause 11 Settlement
- Clause 13 Environmental Risks and Amenity
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport
- Clause 21.02 Overview
- Clause 21.03 Vision
- Clause 21.05 Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.08 Infrastructure
- Clause 22.05 Environmentally Sustainable Design
- Clause 22.18 Stormwater Management (Water Sensitive Urban Design)
- Clause 22.23 Neighbourhood Character Policy
- Clause 53.18 Stormwater Management in Urban Development

#### Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining and adjacent land (and by placing 3 signs on the site). The public notification of the application has been completed satisfactorily.

The site is located in South Ward and objections from six (6) different properties and one letter of support have been received. Grounds of objection are summarized as follows:

- Loss of heritage buildings and heritage character;
- Loss of neighbourhood/streetscape character;
- Inadequate car parking provided within an area already experiencing a lack of car parking (during construction and longer term). Car stacker spaces will be used less than conventional car spaces;
- Overlooking into and loss of daylight and sunlight (overshadowing) to kitchen/living/balcony of dwelling at 6/330 High Street;
- Use of adjoining laneway will be compromised/obstructed by proposed construction of development on southern boundary (during construction and longer term). There will be an unacceptable risk of vehicle/vehicle conflict and vehicle/pedestrian conflict within the laneway and nearby in The Avenue. Vehicle access via the laneway could be lost;
- Additional traffic generation during construction will impact the use of the laneway for residents at 330 High Street (being the sole vehicle access to dwellings at 330 High Street);
- Loss of daylight and sunlight (overshadowing) to kitchen and bedroom of dwelling at 9/58 The Avenue;
- The proposed building will be dominant in the respective streetscapes and does not respond to the scale of existing and planned smaller residential buildings; and
- The proposal is an overdevelopment of a compromised site.

A Consultative Meeting was held on 26 March 2019. The meeting was attended by Councillors Stefanopoulos and Hindle, the permit applicant (planning consultant), the land-owners and Council's General Manager Planning and Amenity. No objectors attended the meeting. The meeting did not result in any changes to the plans or resolution of the objector concerns.

### Referrals

#### *Melbourne Water*

Pursuant to Clauses 44.05-6 and 66.03, the application was required to be referred to Melbourne Water as the relevant floodplain management authority under Section 55 of the Act.

Melbourne Water does not object to the proposal, subject to the inclusion of five conditions on any permit granted. The requirements of the permit conditions are largely reflected in the current design (finished floor levels) and where changes are required (the incorporation of a flood proof apex to the entry/exit of the basement car park) these are considered relatively minor and can be readily accommodated within the proposal.

#### *Urban Design (External Consultant)*

Urban design referral comments were prepared by Council's consultant urban designers in respect of an earlier iteration of the application plans and recommended a range of changes/revisions. These plans were later amended (relatively minor changes) and subsequently publicly advertised. The following comments (as summarised) need to be considered in this context:

- The subject site's ability to accommodate a modest infill residential development due to its corner (dual frontage) position along a main road, within close proximity to a Principal Activity Centre (PAC) and public transport is acknowledged;
- The adoption of a two-storey apartment typology at the ground and first floors with 2 levels of apartments above, is generally supported;

- The proposed residential development of up to 4 storeys is considered appropriate given the site's favourable strategic context, at the periphery of a Principal Activity Centre;
- The presentation of the proposed building offers a sensible interface response to the High Street frontage;
- The proposal offers a complementary built form response to the significant leafy green streetscape that extends along both sides of The Avenue. The 2 metre wide landscape belt, combined with a permeable stair well and private open spaces at all levels orientated to the streetscape, offers substantial public realm improvement from the current side fence condition. No unreasonable overshadowing will occur to the public realm or residential properties opposite;
- The proposal presents a relatively solid mass to the laneway interface and residential land beyond. The application of brick and timber composite materials assists to alleviate the presentation and 2 storey profile (with a minor rebated 3<sup>rd</sup> storey) at this edge is acceptable. It is recommended however that the building be compliant with Standard B17 to the southern interface;
- The proposal complies with Standard B17 to the eastern residential interface. The siting of private open spaces to this edge have been successfully screened with fixed louvres or angled shelves;
- The basement arrangement has provided adequate deep root planting opportunities to the north and west boundaries. A 1.2m buffer is also allocated along most of the eastern interface, that should sufficiently accommodate tall shrubs and understorey plantings to the residential abuttal;
- The integration of four 2 storey apartments at the ground and first level is a commendable approach, offering wide, dual (and triple) aspect dwellings with private open spaces at both levels in the form of courtyards and balconies with outlook to both street frontages;
- The positioning of the primary pedestrian entry to The Avenue is acceptable, given its clear legibility adjacent to the vertical lift and stair element and direct alignment with the large Plane Trees (street trees);
- The alignment and presentation of vehicle access as an open and splayed feature is a positive so as to not dominate the streetscape, and is further enhanced through brick walling, commensurate with the traditional residential stock in the area;
- The lift core treatment has been carefully managed and avoids the presentation of a rising 4 storey element to the eastern residential abuttal;
- The overall architectural response of the proposed development is supported; and
- The proposed development adequately responds to the preferred future character of the *Inner Urban Precinct* set out in policy at Clause 22.23 of the planning scheme.

**Planner Comment:**

The urban design comments are generally supportive of the proposal overall. They are however qualified to the extent that a range of revisions to the overall site plan, massing and composition and interface management have been recommended. These are considered in detail as part of the Assessment Section below.

*Transport and Parking Unit*

The following comments have been provided (as summarised):

- The proposal includes 14 parking spaces provided on-site. This meets the requirements of the Planning Scheme;
- Under the revised Planning Scheme requirements visitor parking is not required. However, based on the location of the proposed development it is recommended that some visitor parking spaces be provided on-site;

- Residents of the proposed development will be excluded from Council's Residential Parking Permit Scheme, and as such will not be eligible for residential parking permits;
- The traffic generation impact to the surrounding road network is unlikely to be significant;
- The proposal generally meets the relevant Design Standards within Clause 52.06-8 of the Planning Scheme subject to the following changes and/or additional detail shown on plans:
  - Minimum clear headroom clearance of 2.2m is to be provided when the garage door is in an open position and maintained along the accessway;
  - A splayed corner (south side of ramp) is required to assist with sight distance for both the development and vehicles using the laneway. The submitted traffic report suggests that the southern wall of the accessway ramp would be set back from the boundary such that there would be no visual obstructions on the side of the ramp. However, this does not appear to be the case;
  - Due to the design/geometry of the ramp, there is a potential for conflict between vehicles entering and exiting the garage along the ramp. To ensure that no vehicle conflict occurs along the ramp, the submitted traffic report recommends that a stop/go signal system be installed. The plans do not appear to include this system. This option or any other alternatives that may assist with conflicts along the ramp (such as a passing area) should be considered; and
  - The minimum gradient of the parking area shall be 1 in 200 (0.5%) for covered areas to allow for adequate drainage as per AS2890.1;
- The bicycle parking requirements of the Planning Scheme are for 3 bicycle spaces on site. 4 bicycle spaces have been proposed with 3 spaces located within the basement car park and 1 space located at ground level for visitors. This exceeds the requirements of the Planning Scheme;
- Full details of the bicycle parking design, including the height of installation and spacing of these spaces have not been specified on the plans provided. The bicycle spaces in the basement must be appropriately designed;
- There is a concern with the location of the bicycle spaces within the car park. The spaces are located opposite one of the car stacker spaces located on the south side of the car park. This suggests that cyclists would be accessing these spaces from the aisle which creates a vehicle conflict zone for vehicles using these spaces and those using the aisle to access their bikes. This does not provide sufficient protection to pedestrians using this area. It is recommended that the bicycle parking area be relocated to a separate location to segregate cyclists from the vehicles;
- The use of the existing vehicle crossing is satisfactory;
- As the property is located at the High Street/The Avenue intersection, corner splays are required to assist with sight distance issues. It is unclear from the plans if these splays have been proposed as the design of the proposed front fence is curved. It must be confirmed if corner splays are proposed and such areas must remain clear with no vegetation; and
- It is important that corner splays are provided to assist with pedestrian sight distance issues for pedestrians using the footpath and for vehicles using the RoW to see other vehicles exiting from the proposed development.

Planner Comment:

A response to the above issues is included in the Assessment Section.

### ESD

The following comments have been provided (as summarised):

- Areas of major concern as assessed against Council's ESD policy are:
  - Shading
  - Bicycle Parking
- Openable windows should be provided on each level to the western orientated stairwell to facilitate passive cooling;
- For all windows other than those shown behind vertical fixed metal fins, vertical adjustable external shading devices should be provided to western orientated windows, including those opening onto a balcony;
- Vertical adjustable external shading devices should be provided to all eastern orientated windows on the 2<sup>nd</sup> and 3<sup>rd</sup> floors;
- There should be at least one secure bicycle parking space per dwelling and one visitor bicycle parking space per 4 dwellings to achieve Council's best practice standard. This should be addressed;
- The architectural plans should be updated to reflect the bicycle parking commitment made within BESS. Details of bicycle parking should be shown on the plans;
- Details of improved daylight provision is required for east facing windows of apartments 1-5 (proposed 1.7m high screens should be angled upwards to improve daylight provision);
- Additional detail/clarification is required re the BESS in-built daylight calculator as there are some discrepancies;
- Natural ventilation has not been addressed within BESS. Details of compliant dwellings are to be provided;
- A BESS credit 4.1 Building System Water use reduction has been claimed however it is unclear how this is achieved;
- A BESS credit has been claimed for the provision of retractable clothes lines on the balconies of all apartments. This should be shown on the plans;
- The capacity of the proposed roof top Photovoltaic system should be shown on the roof plan;
- The following stormwater information is to be included on the architectural drawings:
  - Confirmation the roof areas are to be connected to the rainwater tank
  - Confirmation that rainwater will be connected to all toilets
  - Proposed means of access to the rainwater tank for maintenance
- There has been a commitment in BESS to provide at least 0.25 square metres of space per resident dedicated to food production. This is to be detailed/noted on the landscape plan and included in the revised SMP.

#### Planner Comment:

A response to the above issues is included in the Assessment Section.

### Waste

The following comments have been provided (as summarised):

- A comprehensive Waste Management Plan prepared by *LID Consulting* dated 31/08/2018 has responded appropriately well to the waste management challenges presented in the application plans.
- Any Planning Permit issued for the development must include a condition requiring the submission and approval of a Waste Management Plan (similar to the WMP referred to above).

Planner Comment:

These matters can be addressed by permit condition(s).

*Infrastructure*

No objection subject to the inclusion of the following conditions on any permit granted:

- Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations. *(Please do not state drainage design to satisfaction of Council, that is the responsibility of the relevant building surveyor to check and approve in accordance with the report and 'recommendations' for the legal point of discharge).*
- Prior to an 'Occupancy Permit' being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for the subdivision.
- The existing footpath levels must not be altered in any way at the property line (to facilitate the basement ramp).

Planner Comment:

These matters can be addressed by permit condition(s).

*Parks*

The following comments have been provided (as summarised):

- The submitted Arborist Report is acceptable
- Please require a detailed Tree Management Plan (TMP) to protect the street trees in The Avenue and High Street. The TMP must be to the satisfaction of the R.A.
- The submitted Landscape Plan is acceptable subject to the 'Later Detail' being approved by the R.A.

Planner Comment:

Standard permit conditions including a requirement for a bank guarantee can address tree protection and landscaping requirements.

**KEY ISSUES**

Strategic Consideration

The purpose of the Residential Growth Zone relevantly includes the following:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide housing at increased densities in buildings up to and including four storey buildings.*
- *To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.*

- *To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential area.*
- *To ensure residential development achieves design objectives specified in a schedule to this zone.*

Relevant to the proposal, State and Regional policy seeks to create a distinctive and liveable city with quality design and amenity. Development should respond to the surrounding character and built form context and contribute to neighbourhood character and sense of place.

Policy for housing allows for residential areas to be identified for minimal, incremental and high change that balance the need to protect valued areas with the need to ensure choice and growth in housing. There is also support for higher density housing to be located in areas close to services and public transport, increased housing in areas to create a 20 minute neighbourhood and provision of housing diversity that offers choice and meets changing household needs, support opportunities for a range of income groups to choose housing in well-serviced locations, is well designed and efficiently makes use of infrastructure.

At the local level, Council's Municipal Strategic Statement (Clauses 21.03 and 21.05-2) draws on the concept of change areas for residential growth and identifies 'substantial change', 'incremental change' and 'minimal change' areas as a key reference. 'Substantial change' areas relevantly include land with immediate abuttal to a main road containing a tram or priority bus route.

The subject site has attributes which makes it an obvious and suitable candidate for medium/higher density housing including its location within a Residential Growth Zone, its frontage to an arterial road in a Road Zone Category 1 and location within a 'substantial change area' on the periphery of an Activity Centre, where a relatively high proportion of housing is in the form of medium and high density housing and where new medium and high density housing developments are sought by policy as part of a targeted approach.

The location provides an appropriate opportunity for increased housing choice offering good access to services and transport. Given the subject site is located within a substantial change area, the typical expectations for site coverage, built form and landscaping of residential land should be balanced against the policy direction seeking both an intensification and greater diversity and density of residential development. Importantly, unlike the General Residential and Neighbourhood Residential Zones, the Residential Growth Zone does not seek development outcomes that respond to or respect an existing neighbourhood character as *substantial change* in building form and scale is clearly contemplated, with buildings up to and including 4 storeys.

#### Built Form

As stated above, the site is located within the Inner Urban Neighbourhood Character Precinct as defined by Council's Local Neighbourhood Character Policy at Clause 22.23.

The Statement of preferred character for this precinct is as follows:

*The Inner Urban (IU) character precinct is defined by buildings of innovative and high quality architectural styles that sit comfortably within compact streetscapes of Victorian, Edwardian and Interwar dwellings. Consistent front setbacks reinforce the building edge along the streets, and building heights and forms complement, rather than dominate, the rhythm of development. Well-designed gardens for small spaces contribute to the softening of the streetscape. Low or permeable front fences provide views of building facades and front gardens. Where present, car parking structures are located at the rear of buildings with access from rear lanes to provide continuous, uninterrupted footpaths for pedestrian friendly streets. Areas within a Residential Growth or Mixed Use Zone or within a substantial change area will accommodate more development within a more compact setting but with space for vegetation and high quality, responsive design. (Emphasis added)*

#### Response to Neighbourhood Character and Urban Design Considerations

The following assessment responds to urban design referral comments prepared by Council's consultant urban designer in respect of an earlier iteration of the application plans (the bulleted points in italics). As noted above, these plans were later amended and subsequently publicly advertised. The assessment needs to be considered in this context.

#### Site Plan

- *Implement a gated pedestrian entry from the High Street frontage to Apartment 1 to improve site efficiency and offer a level of 'activation' commensurate with the current residential condition along High Street.*
- *This gated access from High Street should also provide a permeable path to the gas and water meters positioned to the northeast corner of the site. The landscape plan should also integrate a paved pathway and steps to the dwelling frontage.*

#### Planner Comment:

The advertised plans include a gated pedestrian entry from the High Street frontage to Apartment 1 that 'activates' the frontage whilst the High Street footpath now provides convenient access to the meter area positioned in the site's northeast corner in front of the 1.8m high section of fence. A detailed landscape plan showing this pathway and steps to the Apartment 1 frontage should be required as a condition of any permit granted.

No further changes are considered necessary.

- *The primary entry to The Avenue should comprise accessible ramp access to the lobby level. This ramp should be carefully designed into the overall building so as to not present an overbearing (or over engineered) structure to The Avenue streetscape.*

#### Planner Comment:

The advertised plans show an accessible ramp access to the primary entry to The Avenue and lobby level beyond. The ramp, whilst desirable from an accessibility consideration, reads as a dominant element and somewhat over engineered structure that is built to the street boundary within The Avenue. Critically, the opportunity for a continuous landscaped setback is lost through the incorporation of the ramp. The provision of a landscaped setback within The Avenue is considered necessary in order to respond to the clear policy direction at Clause 22.23 for the provision of space for vegetation on 'Inner Urban' character type sites within substantial change areas.



It is also relevant that there is no requirement as such for the provision of the ramp, or indeed 'accessible' car parking in residential apartment buildings as there is no commercial floor space provided.

On balance therefore, it is considered that the ramp access should be deleted and the area set aside for landscaping purposes. This should be addressed by permit condition(s) on any permit granted.

- *The individual residential entry for Apartment 5, to the south of the primary entry, should be adjusted at the street boundary. The current splayed configuration presents what is effectively a trip hazard. It is recommended the garden bed is aligned to the boundary and the entry doorway is treated with a timber door and framing to appear distinct from the main entry, as a more domestic flavour.*

Planner Comment:

The advertised plans have made these changes. No further changes are required.

- *Ensure gated maintenance access is provided to the open area at the south-east corner. While it is essentially 'leftover' land as a result of the basement entry, at least 2 canopy trees can be accommodated.*

Planner Comment:

The submitted landscape plan shows the planting of two canopy trees in this area together with some understorey planting. It is agreed that as this landscape 'triangle' in the site's southeast corner will require ongoing maintenance there will be a need for gated access from the adjoining laneway. As TP9 and TP18 now show open style fencing and a pedestrian gate to this area no further change is required.

- *The blank wall of the lobby, fronting the courtyard of Apartment 1 to The Avenue should provide a window or louvre system to offer additional light and ventilation to this area. Alternatively there may be an opportunity to reduce the courtyard and provide a planter box with vertical landscape such as shrubs or creepers along the wall.*

Planner Comment:

The advertised plans show the provision of a highlight window to the southern lobby wall that adjoins the Dwelling 1 courtyard to The Avenue. As this is a communal space interfacing with a private space it is not an opportunity to provide additional openings without comprising privacy. On balance, the highlight window successfully breaks up an otherwise blank wall whilst also providing an additional natural light source. No further changes are considered necessary.

- *The Landscape Plan could include 'vertical' plantings along street interfaces. Currently, there are no new trees proposed within The Avenue setback. While there are 3 significant Plane Trees within the nature strip, opportunity exists to complement the existing character with new shrub and/or tree planting which provide screening to private open spaces and windows to this edge. To High Street, a layered landscape response could be contemplated to the frontage of the proposed terraces, including small shrubs at the interface, leading to higher shrub and canopy planting along the street boundary.*

Planner Comment:

The submitted landscape plan provides for canopy tree planting within the High Street setback area (x2), together with understorey plantings either side of the proposed front fence. Additional detail (usually reserved for a working landscape plan for construction) can and should include a multi-layered response within the High Street frontage.

In contrast, no canopy trees are shown within The Avenue setback area as the adjacent established street trees (Plane Trees) have canopies that extend into the subject site which effectively preclude the planting of canopy trees on the site in this location. Lower level planting including some screen planting to private open spaces and windows to this edge should be introduced within The Avenue setback area. This will be achievable with the deletion of the accessible ramp as detailed above.

Vertical planting may be possible (such as a vertical garden), however for the western aspect of the building (to The Avenue), this may not be viable in a practical sense. As the building is of a high architectural quality, it is not considered necessary to 'screen out' the building with vertical plantings.

#### Massing and Composition

- *Removal of private open space of Apartment 10 (level 3) along the eastern interface. This will reduce the 'wedding-cake' effect of the eastern profile and simplify the overall form at this sensitive edge when viewed from High Street.*

#### Planner Comment:

The Dwelling 10 private open space adjacent to the eastern interface can be considered as a secondary space, with the primary open space orientated to the north and northwest. The eastern extent is relatively narrow and accessed from the living area adjacent to the kitchen and connects with the primary space at the northeast corner of the dwelling. A 1400mm high screen with 350mm angled ledge (see TP12 and TP19) provides the 'up stand' to the balcony in this location and is required for safety and privacy reasons, the latter to prevent unreasonable overlooking to the adjoining dwellings to the east.

The concern expressed by the urban design consultant is considered valid, particularly when the building is viewed from the public realm of High Street, both directly in front of the site and obliquely from the northeast across (and through) the relatively generous front setback of the adjoining development to the east. Despite this, it is not considered necessary to delete the entire length of the eastern strip of private space in order to address the issue. Pulling back the northern boundary of the narrow, eastern strip of open space to align with the front setback of the adjoining building at 324 High Street is considered necessary (at a minimum, being 5 metres (approx.) to the south of where it is shown on the plans), however perhaps a logical placement of the northern up stand would be further back at the northern end of the kitchen wall.

Ultimately, the rationale behind the change is a public realm interface design consideration and as long as the eastern balcony is reduced such that the northern edge sits in line with (or behind) the front wall of the development at 324 High Street, the outcome will be an acceptable one.

This change has implications for the treatment of the remaining up-stand to the terrace area, with the eastern up-stand needing to be pulled back to the west. It is considered that the eastern up-stand should align with (and sit behind) the start of the fixed louvre screens to the High Street facade, which also coincides with the eastern edge of the Dwelling 6 balcony that sits below at Level 2. These changes can be addressed by permit condition(s).

- *Refine the presentation of the eaves extending over the balcony of Apartment 9 at level 2 to the south and west. In its current form, it appears as a heavy box adding to the perception of bulk at this somewhat sensitive interface. While eaves or awnings are supported for sustainability and practicality, alternative treatments should be lightweight and potentially include transparency effects.*

Planner Comment:

This change has been shown on the advertised plans (most of the eave overhang on the south and west elevation have been deleted for the southwest balcony). No further changes are required.

Interface Management - High Street

- *The introduction of a low fence at the street boundary (up to 1m high) incorporating a landscape buffer with a 1.8m high permeable fence set behind. When combined with a layered landscape planting response along this edge, adequate privacy will be provided to Apartment 1 while avoiding an overbearing fence structure (taller than an average person) to the streetscape.*

Planner Comment:

A low brick fence (or plinth) is shown on the advertised plans to the High Street boundary, with a 1.8m high metal blade permeable fence set back 500mm from the front boundary sitting atop the brick plinth level. This replaces the earlier design scheme which placed the entire front fence on the High Street boundary. The overall height of the combined fence treatment varies with the highest point being at the site's northwest corner where the fence is approximately 2.2 metres in height. Accordingly primary planning consent is required for the fence as it exceeds a height of 2.0 metres to High Street.

The proposed front fencing, together with the landscaping treatment (that will incorporate a layering of plantings of different heights) will sit comfortably in the High Street streetscape where high fencing is commonplace. Critically, the fence will not be overbearing given it comprises two parts, with the taller element being visually permeable and set off the front boundary. No changes in fence placement, design or height are considered necessary.

Interface Management – South

- *The proposed building should be compliant with Standard B17 to the southern interface. To level 3, the current setback of 2.7m to the southern boundary exceeds the standard and the building should be setback further to meet this massing envelope. While the neighbouring site is not a traditional dwelling, there are several north facing windows to this edge which will be adversely impacted by shadow. The increase in setback at level 3 should alleviate shadow impacts to neighbouring north-facing habitable room windows and offer a greater 'transition' to the residential streetscape of The Avenue further to the south.*

Planner Comment:

Firstly, it is noted that there are no north facing windows within the residential accommodation building at 60 The Avenue within 3 metres of the subject site therefore Standard B20 does not apply. Despite that shadow diagrams show that there will be some shadowing to north facing windows between 11.00am and 2.00pm at the September equinox, the extent of shadowing is likely to be confined to the ground level (front room) and not significantly exceed the existing shadows cast by the high northern boundary fence to this property. To the extent of the North-facing windows objective 'To allow adequate solar access to existing north-facing habitable room windows', this is considered to be met and no changes to the proposed building envelope are considered necessary in order to improve solar access.

Relevantly however, Standards B17 and B18 (and the respective corresponding objectives) set maximum wall height and minimum setback requirements (discretionary) and seek to ensure that the height and setback of walls from the rear (southern) boundary (and the location, length and height of walls on the rear boundary) respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. Despite that the adjacent development to the south at 60 The Avenue is a residential building and not a dwelling, it is considered that the broader neighbourhood character considerations warrant careful analysis of the southern interface and ultimately in this case, an increased rear setback for the third or top level occupied by Dwelling 10.

TP18D usefully shows the actual B17 and B18 rear setback and boundary profile lines (southern boundary) together with the 'effective' B17 and B18 rear setback and boundary profile lines as measured from the southern boundary of the adjoining laneway. The respective profiles (red lines) show that there is non-compliance with the 'actual' profile (in its entirety) and partial non-compliance with the 'effective' profile.

For the purpose of this assessment, it is highlighted that in circumstances where there is a rear laneway interface/abuttal, it is common for the B17 & B18 building envelope profile lines to be adopted on the basis of the far laneway edge forming an effective site boundary. However in all cases a contextual analysis is required. The laneway B17 & B18 profile lines show 'non-compliant' elements comprising of a small corner of Dwelling 9 at Level 2 (essentially the top of the robe of Bedroom 2 which is considered a negligible encroachment) and a larger area of Dwelling 10 at Level 3 (generally to the extent of much of the en-suite of Bedroom 1). In order for an acceptable transition in form and height to the General Residential Zone land beyond the laneway (also zoned GRZ) where a lower scale of building form is expected within The Avenue (up to 3 storeys), it is considered that Level 3 should be compliant with the effective B17 setback as taken from the southern laneway boundary. This may result in the entire southern wall of Level 3 being set back further from the southern title boundary (by approximately 2.2 metres), or alternatively a design solution could combine a lesser setback than 2.2 metres and an angled roof profile for the en-suite to fit the B17 (laneway) profile. A permit condition requiring compliance with the effective Standard B17 minimum rear setback for Level 3 (as measured from the southern boundary of the laneway) is recommended, with the requisite change and reconfigured floor space being absorbed within the balance of the building envelope.

#### Interface Management – East

- *It is recommended that in the event it is not removed, (Dwelling 10 eastern balcony) further refinement of the balcony shelves is undertaken [to] reduce the overall height of the balustrade. Given the height and setback of this balcony, a standard balustrade height could be provided with suitably angled shelf to neighbouring private open space.*

#### Planner Comment:

This change has been addressed above. No further changes are considered necessary.

#### Street Setback

Standard B6 is not met as it calls for a minimum front setback of 8 metres to High Street and a minimum front setback of 3 metres is proposed. With the exception of some minor encroachments, the side setback to The Avenue does meet Standard B6.

In respect to the High Street setbacks (and indeed the street setbacks generally), the proposal does however meet the corresponding setback objective 'To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site' for the following reasons.

Firstly, there is a clear expectation for significant change from existing conditions in substantial change areas. This includes most aspects of building envelopes.

Perhaps most relevantly in this instance, adjoining land to the east and extending further east to Normanby Street is also within the Residential Growth Zone and identified as a substantial change area. Within this strip of residential land there is considerable variation in front building setbacks, with the adjoining property at 324 High Street exhibiting perhaps one of the more generous front setbacks. The existing dwellings on the subject site form part of the varied setbacks that are clearly evident, noting the minimum front setbacks of approximately 3 - 4 metres. Looking to the west of the subject site, the townhouse development on land at 55 – 89 The Avenue (also within the Residential Growth Zone) incorporates dwellings that are built to the High Street frontage. Beyond this site is land within the Activity Centre Zone.

With the above contextual and policy factors in mind, it is considered that the front setbacks proposed (together with the overall composition and façade detailing of the building) provide an appropriate transition between the varied setbacks to the east of the site and the typically harder edge of development to the west. Clearly, the setbacks as proposed also make efficient use of the site. No changes to the street setbacks are considered necessary.

#### Landscaping

Landscaping has been largely addressed in the above commentary (including in respect of the recommendation that the accessible ramp be deleted from within The Avenue setback to provide additional landscaping), however additional consideration is warranted. In the context of a reduced front building setback (providing a large aperture or open view line to the building's northeast corner from the public realm of High Street (north east) on the oblique angle) and local policy that seeks 'space for vegetation' for developments in substantial change areas, it is considered that an additional or expanded landscaping opportunity needs to be provided within the eastern ground level courtyard of Dwelling 1. Specifically there is an opportunity to expand a planter box sited to the northern side of the courtyard by extending it southwards to the extent of the start of the basement level below. This will provide a far greater soil volume and in-ground planting opportunity for an additional small tree. This can be addressed by permit condition.

#### Front fence

The proposed front fence has been largely addressed in the above commentary and is considered acceptable, despite that Standard B32 is not met. The non-compliance is minimal, being a difference of approximately 200mm for only a small section of the fence. No changes are required.

#### Dwelling Diversity

Standard B3 is not met as the development does not provide for at least one dwelling that contains a kitchen, bath or shower, and toilet and wash basin at ground floor level. This is not considered problematic in this instance as the relevant objective 'To encourage a range of dwelling sizes and types in ten or more dwellings' is clearly met. Plans show a variety of floor plans and open space configurations, two or three bedrooms and sizes ranging from 66.73 square metres to 178.89 square metres. No changes are considered necessary.

#### Amenity Impacts

##### *Overshadowing and daylight access*

Overshadowing impacts and daylight access to the adjacent property to the south at 60 The Avenue are compliant with Standards B21 and B19. It follows that there will be no unacceptable overshadowing impacts to the private open space of the objector's property further south at 9/59 The Avenue (or indeed any unacceptable shadowing/daylight access impacts in relation to habitable room windows for this dwelling).

The proposal also complies with Standard B19 *Daylight access* with respect to the existing development to the east.

Standard B21 *Overshadowing* is not met however in respect of these properties to the immediate east. This is because Standard B21 provides that if existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of the standard, the amount of sunlight should not be further reduced. The detailed shadow diagrams (including sectional shadow diagrams) show that the proposal does not result in additional overshadowing to the east at 9am, 10am, 11am, 12.00pm, and 1.00pm at the September equinox. At 2.00pm, the proposal will result in additional overshadowing to the five ground-level secluded private open spaces of between 2.9 to 3.6 square metres. There will also be a slight increase in shadowing to the most southern of the secluded private open spaces at 3.00pm, which under existing conditions is almost entirely in shadow along with the remaining four ground level spaces.

There are a number of relevant factors to consider in determining whether the additional shadow impacts are acceptable. These include the design response (generally), the amenity of the existing dwellings and the effect of the reduction in sunlight on the existing secluded private open space. Even in the context of relatively compact secluded private open spaces, the reduction in sunlight is not considered significant. The adjoining dwellings each have the advantage of first floor balconies in addition to their ground level courtyards. In each case, the balconies (understood to be off bedrooms) offer an alternative outdoor area and at 2.00pm the balconies are not affected by any additional shadowing. Further, the design response needs to be considered in the context of the zoning of the land and the strategic directions which clearly flag change. In this instance, the design response manages to balance these strategic directions and the reasonable amenity expectations of adjoining residents to provide a polite response to the east.

In relation to the two objector properties further east at 330 High Street, Standards B19 and B21 are comfortably met. For the above reasons, it is considered that the objective 'To ensure buildings do not significantly overshadow existing secluded private open space' is met.

Whilst not determinative of the matter, it is noted that no objections have been received from any of the adjoining properties at 324 High Street. No changes are considered necessary.

#### *Overlooking*

Standard B22 is not met for a number of the east facing habitable room windows/balconies.

Whilst the majority of east facing habitable room windows and balconies have been suitably screened in accordance with the standard (through a variety and in some cases a combination of screening techniques), it is considered that the potential for unacceptable overlooking of the adjoining unit development remains in respect of Dwellings 6 & 9 (Level 2) where some angled views are possible. For the Level 3 east facing habitable room windows that are not screened, (Bedrooms 1 & 2 and part of a living area), it is considered that the adjacent roof deck of the building will prevent or at least substantially restrict downward views.

Turning to the southern interface, the only potential overlooking is to a number of north facing habitable room windows at 60 The Avenue from the south facing living room window of Apartment 5 (Level 1) and the south facing living area/associated balcony of Apartment 9, together with the Bedroom 2 window of this dwelling. The potential for overlooking is limited by the intervening laneway, the setback of the adjacent building and the existence of the high fence on the southern side of the laneway.

For completeness however, it is recommended that a permit condition be included on any permit granted that requires amended plans demonstrating compliance with Standard B22 for all east and south facing habitable room windows and balconies. As noted above, this will not require further change for some of these windows/balconies given the extent of screening already shown on the plans.

There are no concerns with respect to overlooking to land at 330 High Street, nor to land at 58 The Avenue, being the properties from which a number of objections have been received. This is on the basis that the nearest boundaries of these two properties are approximately 25 metres and 21 metres respectively from the subject site, being well beyond the 9 metre minimum distance used as the benchmark within Standard B22.

#### Internal Amenity

##### *Private open space*

A number of dwellings with ground level private open space have less than 40 square metres of private open space and therefore are non-compliant with Standard B28. This is not uncommon for apartment developments. Importantly however, the ground level spaces are appropriately connected to living areas, have good solar orientation and have relatively generous dimensions making them entirely suitable for future residents. In the case of Dwellings 1 & 4, two separate areas of private open space are provided, whilst bedrooms to these dwellings at first floor also have balconies. Further, there is a good supply of public open space in close proximity to the subject site. No changes are considered necessary to these dwellings.

For dwellings with private open space above ground floor, Standard B43 requires balconies of at least 8 square metres and 2 metres in width. A number of dwellings have balconies in the 1.5m to 1.7m width range with areas of between 10 and 18 square metres. Having regard to the larger than minimum sizes (areas), it is considered that a minimum width of 1.8 metres (in lieu of 2.0 metres) should be achieved to provide an acceptable degree of internal amenity for Dwelling 5. On balance, all other dwellings are considered acceptable. This can be achieved via permit condition, with the increased width taken from the internal living area of Dwelling 5. This change will not unduly compromise the internal living spaces.

##### *Storage*

Storage areas within the basement range from 7 cubic metres to 12 cubic metres. There is no indication on the plans as to how these storage areas will be allocated to the proposed two and three bedroom dwellings, however they clearly exceed 6 cubic metres. Internal storage is not documented, noting 9 cubic metres is required for each of Dwellings 5-10, whilst 12 cubic metres is required for each of Dwellings 1-4 under Standard B44. This can be addressed by permit condition.

##### *Accessibility, Functional layout, Room depth, Windows and Ventilation*

The requirements of Standards B41, B46, B47 and B48 have generally been met. In respect of Standard B46, there are a limited number of bedrooms that have dimensions less than the minimums set out in Table 10 to this standard. In each case, the non-compliance extends to room width or depth but not both, with the extent of non-compliance being minimal and typically not exceeding 50 -100mm. Bedroom 1 of Dwelling 6 is the most non-compliant with a width of 2800mm in lieu of 3000mm. As this bedroom has a depth ranging between 3590mm and 4080mm (in lieu of the minimum 3000mm) it is considered on balance the bedroom dimensions meet the relevant objective by providing functional areas that meet the needs of residents. Importantly, all bedrooms are provided with built in robes that are additional to the minimum dimensions. Compliance with B49 (ventilation) is not clear (see ESD comments), whilst compliance with B41 should be more clearly demonstrated on amended plans. This can be addressed by permit conditions.

## Car Parking and Traffic

### *Car Parking Provision*

The 10 new dwellings are required to provide a total of 14 car spaces. The proposal provides 14 car parking spaces in a stacker arrangement in the basement, with 2 spaces allocated to each of the 4 three-bedroom dwellings and 1 space to each of the 6 two-bedroom dwellings and complies with the requirements of the Stonnington Planning Scheme. No visitor car parking is required for the reasons discussed earlier in this report.

Despite that no visitor car parking is required, the Council's Transport and Parking Unit has recommended that some visitor car parking be provided on-site, noting that demand for parking within The Avenue is high. As there is no statutory parking requirement for visitor parking in this instance, any requirement for visitor car parking imposed by the Council would be successfully challenged on appeal at VCAT. Further, it is noted that a total of four on-street car spaces will continue to be accommodated along the site's secondary frontage to The Avenue post-development, as per existing conditions. Accordingly, it is recommended that no visitor parking be required on-site.

### *Traffic Generation*

The applicant has provided a Traffic Generation & Impact Assessment which estimates an average of 5 vehicle trips per day per dwelling which results in 50 daily vehicle movements. The traffic generation during each of the commuter peak hours is estimated to be 5 vehicle movements (one vehicle being generated, on average, every 12 minutes during the commuter peak hours).

As confirmed by Council's Transport and Parking Unit, the additional traffic generated by the proposal is unlikely to be significant and will not adversely impact on the safety or operation of the road network.

### *Car Park Design*

As detailed in the "Referrals" section of this report, there are a number of matters that need to be addressed/require further consideration:

#### Sight lines

In reviewing the comments of Council's Transport and Parking Unit and the application material, there appears to be some confusion about the extent of sight lines provided to the south of the proposed access ramp where it intersects with The Avenue. The submitted Traffic engineering Assessment addresses the issue as follows:

*'Sight triangles in accordance with the requirements of the Planning Scheme are to be achieved on both sides of the access ramp at the footpath, noting that the southern wall of the access ramp will be setback from the boundary such that there are no visual obstructions on the departure side of the ramp'.*

The relevant plans (in particular TP09, TP18 and TP18A) clearly show that the southern boundary wall (that adjoins the ROW) is set back from The Avenue by approximately 3.6 metres such that there is a clear line of sight to the north and the south available to vehicles exiting the basement garage. Despite that at first glance the sightline triangle appears in TP09 as slightly less than the 2.5m x 2.0m triangle provided on the northern side, it is in fact larger and the available line of sight is considered acceptable as there will be clear views of pedestrians utilising the adjacent footpath and ROW, together with vehicles exiting the ROW onto The Avenue. In acknowledging the existing condition of high fencing to both the southern and western (The Avenue) boundaries at the site's south western corner is associated with two dwellings and not ten as proposed, the proposal clearly represents a significant improvement in respect to sight distance. No changes are recommended.



Potential sight line concerns were also raised by Council's Transport and Parking Unit in relation to proposed fencing at The Avenue/High Street corner of the site. It is noted that the existing condition is one of high (approx. 2 metres), solid fencing to both street frontages at the corner. A very small splay that is clear of fencing is adjacent to the fences. The proposed fencing treatment at the corner comprises a low brick base element on the respective boundaries to a maximum height of approximately 400mm (including at the actual corner), with a taller, and partially visually permeable element ('vertical steel angle' to an additional 1800mm) set back 500mm from the High Street boundary and 1855mm from The Avenue. Low level landscaping is proposed within the respective setbacks of the taller fence elements. Subject to proposed landscaping being no higher than 900mm above natural ground level (being a maximum height of approx.. 500mm above the brick base), it is considered that adequate sight lines will be achieved, noting also that the proposal will be a substantial improvement on the existing condition. This can be addressed by condition of permit.

#### Width & Operation of Access Ramp

The submitted Traffic engineering Assessment addresses the issue as follows:

*'To ensure that no vehicle conflict occurs along the access ramp, it is recommended that stop/go signals be installed at the top and bottom of the ramp. The default settings of the signals should be such that a green light is constantly given to vehicles entering the site from The Avenue, except when a vehicle is exiting the site'.*

The provision of a one-way ramp is acceptable in this instance as it complies with the relevant Design Standard and is routinely used for developments such as this. This is subject to the installation of stop/go signals at the top and bottom of the ramp. The exploration of an alternative arrangement such as the provision of a passing area is not considered warranted. The provision of stop/go signals can be addressed through condition(s) of any permit granted.

#### Design Detail – gradients and headroom clearance

Design details regarding ramp gradients and minimum headroom clearance can be addressed by condition(s) of permit as required.

#### *Bicycle Parking*

A total of four bicycle spaces are to be provided on site, with three spaces provided within the basement car park (via wall mounted vertical rails) and one space provided via a standard bicycle hoop at ground level, located adjacent to the building's entry/exit lobby. This meets (exceeds) the statutory requirement of 3 spaces.

Concern with the location of the bicycle spaces within the car park have been raised by the Transport and Parking Unit, specifically that the spaces are located opposite one of the car stacker spaces located on the south side of the car park and this may give rise to conflict between vehicles using the stacker car spaces and those using the same aisle to access their bikes. A review of the swept path diagrams within the submitted Traffic Engineering Assessment relevantly show that vehicles accessing and egressing the car space(s) adjacent to the bicycle parking area can do so comfortably without encroaching into the bicycle parking area. In order to provide sufficient protection to pedestrians using this bicycle parking area, it is recommended that bollards and line marking be used to more clearly define/separate the bicycle parking area and the main access aisles used by vehicles to access/egress car spaces. This can be addressed by condition(s) of permit. Accordingly, it is not considered necessary to relocate the bicycle parking area.

In relation to the design detail of the bicycle parking, this can be addressed by condition(s) of permit as required (see also ESD bicycle parking assessment below).

#### ESD and WSUD

As noted in the 'Referral' section above, Council's ESD officer has identified two critical areas of major concern as assessed against Council's ESD policy which are Shading and Bicycle Parking

On the issue of shading, it is agreed that the building's western aspect could benefit from the provision of adjustable external vertical shading devices for all windows (including those opening onto a balcony) other than those shown behind vertical fixed metal fins. There is also merit in providing openable windows on each level to the western orientated stairwell to facilitate passive cooling. It needs to be borne in mind however that the three established Plane Trees within The Avenue directly in front of the proposed building are deciduous with extensive canopies and will provide an effective natural mechanism to control solar access and heat during the warmer months of the year.

On the issue of improved daylight provision for east facing windows of Apartments 1-5, specifically the suggestion that 1.7m high screens should be angled upwards to improve daylight provision, this is considered a reasonable change provided outlook from these dwellings is not unduly compromised.

As noted above, the requisite bicycle parking under the planning scheme is 3 resident spaces and these have been provided within the basement. Local policy however seeks a greater provision, being 10 resident spaces and 2 visitor spaces for this development.

There is clearly scope to provide 10 resident spaces within the basement. Opportunities for the provision of an additional 7 spaces include within the storage areas that are at least 10 cubic metres (there are 6 of them) and potentially to the northern side of a smaller refuse room. Similarly, with the deletion of the accessible ramp to the main building entry as recommended above, a total of 2 visitor bicycle spaces can be provided adjacent to the entry. These changes can be addressed by permit condition(s).

Where considered appropriate, matters of clarification/additional detail on plans and within consultant reports, together with improved ESD performance can be addressed by permit conditions.

#### Objections

In response to the grounds of objection not already discussed in the report, the following comments are made:

- Heritage concerns  
A memorandum of advice dated 5 April 2019 was prepared by Bryce Raworth Pty Ltd (Heritage & Conservation Consultants) at the Council's request to provide a preliminary assessment of the site with a view to determining whether it warrants a heritage overlay control. The advice concludes that the two Edwardian dwellings on the site do not warrant an individual heritage overlay control and are not located in a streetscape that is worthy of protection as part of a heritage overlay precinct.

It is highlighted that no planning approval is required to demolish the two existing dwellings.

#### Construction management issues

- Concerns have been raised about access to the laneway during construction. This and other construction management issues are sufficiently dealt with through relevant local laws.

#### Human Rights Consideration

This application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Stonnington Planning Scheme), reviewed by the State Government and which complies with the *Charter of Human Rights and Responsibilities Act 2006*.

#### CONCLUSION

Having assessed the application against the relevant planning controls, it is recommended that the proposal be supported for the following reasons:

- The proposed development is consistent with the objective of the Planning Policy Framework.
- The proposal provides a satisfactory response to the preferred neighbourhood character and objectives of ResCode, subject to the recommended conditions.
- The proposed development is considered to be of a high architectural quality with a built form outcome which is acceptable for the site and surrounding context.
- The scale, massing and siting of the building will not result in unreasonable amenity impacts to adjoining properties.
- The proposal will provide safe and convenience access arrangements and will not result in unreasonable traffic or parking impacts.

#### ATTACHMENTS

- |     |   |       |
|-----|---|-------|
| ⇒1. | PA - 962-18 - 320-322 High Street Windsor - Attachment 1 of 3 | Plans |
| ⇒2. | PA - 962-18 - 320-322 High Street Windsor - Attachment 2 of 3 | Plans |
| ⇒3. | PA - 962-18 - 320-322 High Street Windsor - Attachment 3 of 3 | Plans |

#### RECOMMENDATION

***That a Notice of Decision to Grant a Planning Permit No: 962/18 for the land located at 320 & 322 High Street, Windsor be issued under the Stonnington Planning Scheme for construction of a multi dwelling development in a Residential Growth Zone and Special Building Overlay subject to the following conditions:***

1. ***Before the commencement of the development, one (1) electronic copy of plans drawn to scale and fully dimensioned must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans advertised in February 2019 but modified to show:***
  - a) ***The removal of the proposed accessible ramp within The Avenue and the provision of landscaping within this area;***
  - b) ***The rear (southern) building setback of the third level (Apartment 10) increased to meet the requirements of Clause 55 Standard B17 (as measured from the southern boundary of the adjoining laneway in lieu of the site's southern boundary);***
  - c) ***A reduction in the extent of the Dwelling 10 eastern and north-eastern balcony and associated balustrading/up-stand by:***

- i) Pulling back the northern extent of the eastern section such that it is set back equal to or greater than the adjoining building at 324 High Street;*
- ii) Pulling back the north eastern up-stand towards The Avenue such that it aligns with (and sits behind) the start of the fixed louvre screens to the High Street façade and coinciding with the eastern edge of the Dwelling 6 balcony that sits below at Level 2.*
- d) The installation of stop/go traffic signals within the basement and at the top of the basement ramp;*
- e) Provision of openable windows on each level to the western orientated stairwell to facilitate passive cooling;*
- f) Confirmation the roof areas are to be connected to the rainwater tank and that rainwater will be connected to all toilets;*
- g) Proposed landscaping at the High Street/The Avenue corner being no higher than 900mm above natural ground level (being a maximum height of approx. 500mm above the brick base) to facilitate appropriate vehicle sight lines at the intersection;*
- h) minimum headroom clearance within the basement of 2.2 metres;*
- i) A minimum grade of 1 in 200 across the basement floor for drainage purposes;*
- j) Provision of ten resident bicycle parking spaces within the basement;*
- k) Provision of a minimum of two visitor bicycle parking spaces adjacent to the main pedestrian building entrance;*
- l) Full details of the bicycle parking design, including the height of installation and spacing of these spaces;*
- m) The provision of line marking and the installation of bollards adjacent to the three bicycle spaces shown on the basement plan to the minimum extent required to provide clear separation from the access aisle(s) to car parking spaces;*
- n) All consequential changes arising from satisfying the requirements of Melbourne Water as set out in Conditions 24-27;*
- o) East and south facing habitable room windows and balconies screened, as required in accordance with the requirements of Standard B22 of Clause 55.04-6.*
- p) All balcony and/or habitable room window screening on the elevations to be fully dimensioned and annotated in accordance with Standard B22 of Clause 55.04-6.*
- q) An expanded planter box/planting area within the eastern ground level courtyard of Dwelling 1 (on the northern side of the courtyard by extending it southwards to the extent of the start of the basement level below to provide a far greater soil volume and in-ground planting opportunity for an additional small tree).*
- r) Any notations/changes required by the Sustainability Management Plan in accordance with Condition 4, including but not limited to:*
  - iii) Vertical adjustable external shading devices are to be provided to all of west and east facing windows of the top floor apartment.*
  - iv) Vertical adjustable external shading devices are to be provided to all eastern orientated windows to all habitable rooms on the second.*
  - v) Retractable clothes lines are to be provide on the balconies for each apartment.*
  - vi) In regards to the first floor, apartments 01 to 05 east facing bedrooms, further details are to be provided of the proposed 1.7m high screen with the screen slats angled upwards to improve the daylight provision while still addressing the overlooking issues.*

- vii) *All operable windows are to be noted/detailed on the architectural elevations.*
- viii) *Provide one formal bicycle parking rack per dwelling.*
- s) *The width of the Apartment 5 balcony increased to 1.8 metres without increasing the size of the external balcony envelope to The Avenue;*
- t) *Provision of internal dwelling storage in accordance with the requirements of ResCode Standard B44;*
- u) *Fully dimensioned floor plans demonstrating compliance with ResCode Standard B41;*
- v) *A Landscape Plan in accordance with Condition 7;*
- w) *A Tree Management Plan in accordance with Condition 9;*
- x) *A Waste Management Plan in accordance with Condition 18.*

*All to the satisfaction of the Responsible Authority.*

2. *The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.*
3. *Before the development starts, a schedule of construction materials, external finishes and colours to the satisfaction of the Responsible Authority must be submitted and approved. When approved, the schedule will be endorsed and will form part of the permit.*
4. *Concurrent with the endorsement of any plans pursuant to Condition 1 a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must include, but is not limited to, the following:*
  - a) *Demonstrate how Best Practice measures from each of the 10 key Sustainable Design Categories of Stonnington Council's Sustainable Design Assessment in the Planning Process (SDAPP) have been addressed;*
  - b) *Identify relevant statutory obligations, strategic or other documented sustainability targets or performance standards;*
  - c) *Document the means by which the appropriate target or performance is to be achieved;*
  - d) *Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring;*
  - e) *Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.*

*All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to the Sustainable Management Plan may occur without written consent of the Responsible Authority.*

5. ***Prior to the commencement of the use of the building approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.***
6. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
7. ***Before the development starts, a landscape plan to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must be in accordance with the landscape concept plan received by Council on 21 September 2018, prepared by John Patrick Landscape Architects Pty Ltd, but modified to show):***
  - a) ***A survey (including botanical names) of all existing vegetation to be retained and/or removed.***
  - b) ***Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.***
  - c) ***A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.***
  - d) ***Landscaping and planting within all open areas of the site.***
  - e) ***A minimum of five (5) canopy trees (minimum 2 metres tall when planted) in the following areas:***
    - ***Two (2) within the front setback (High Street);***
    - ***Two (2) within the southeast corner adjacent to the access ramp and adjoining laneway; and***
    - ***One (1) within the enlarged planting area forming part of the secluded private open space area of Dwelling 1 (as required by Condition 1).***
  - f) ***All other necessary changes to reflect the advertised development plans and amendments required by Condition 1.***
  - g) ***The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.***
  - h) ***Details of all proposed hard surface materials including driveway, pathways, patio or decked areas.***
  - i) ***A multi-layered landscape response within the High Street frontage.***
8. ***Before the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***

9. **Concurrent with the endorsement of development plans a Tree Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the Tree Management Plan will form part of this permit and all works must be done in accordance with the Tree Management Plan.**

**The Tree Management Plan must detail measures to protect and ensure the viability of the three *Platanus acerifolia* (London Plane) trees located within The Avenue nature strip and the single street tree located in the High Street nature strip directly in front of the subject site.**

**Without limiting the generality of the Tree Management Plan it must have at least three sections as follows:**

- a) **Pre-construction (including demolition) – details to include a tree protection zone, height barrier around the tree protection zone, amount and type of mulch to be placed above the tree protection zone and method of cutting any roots or branches which extend beyond the tree protection zone.**
- b) **During-construction – details to include watering regime during construction and method of protection of exposed roots.**
- c) **Post-construction – details to include watering regime and time of final inspection when barrier can be removed and protection works and regime can cease.**

**Pre-construction works and any root cutting must be inspected and approved by the Parks Unit. Removal of protection works and cessation of the Tree Management Plan must be authorised by the Parks Unit.**

10. **Before the development (including excavation and demolition) starts, a tree protection fence must be erected around each of the London Plane trees. Fencing is to be compliant with Section 4 of AS 4970.**
11. **Prior to the endorsement of plans and prior to any development commencing on the site (including demolition and excavation whether or not a planning permit is required), the owner/developer must enter into a Deed with the Responsible Authority and provide it with a bank guarantee of \$63,255.00 as security against a failure to protect the health of the three London Plane trees located on the nature strip within The Avenue. The applicant must meet all costs associated with drafting and execution of the Deed, including those incurred by the responsible authority. Once a period of 12 months has lapsed following the completion of all works at the site the Responsible Authority may discharge the bank guarantee upon the written request of the obligor. At that time, the Responsible Authority will inspect the tree(s) and, provided they have not been detrimentally affected, the bank guarantee will be discharged.**
12. **Concurrent with the endorsement of plans or prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), whichever occurs sooner, a letter of engagement must be provided to the Responsible Authority from the project arborist selected to oversee all relevant tree protection works. The project arborist must be an appropriately experienced and qualified professional (minimum Cert IV or equivalent in experience).**

13. ***The project arborist must maintain a log book detailing all site visits. The log book must be made available to the Responsible Authority within 24 hours of any request.***
14. ***Prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), the project arborist must advise the Responsible Authority in writing that the Tree Protection Fences have been installed to their satisfaction.***
15. ***Prior to the commencement of any works on the land, each Tree Protection Zone nominated within the approved Landscape Plan must:***
  - a) ***be fenced with temporary fencing in accordance with the attached specifications annotated in this permit to the satisfaction of the Responsible Authority.***
  - b) ***include a notice on the fence to the satisfaction of the Responsible Authority advising on the purpose of the Tree Protection Zone, the need to retain and maintain the temporary fencing and that fines will be imposed for removal or damage of the fencing and trees.***
  - c) ***no vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone without the prior written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.***
16. ***A copy of the tree protection zones are to be included in any contract for the construction of the site or for any other works which may impact upon the trees.***
17. ***The permit holder/developer must advise Council in writing that a Certificate of Occupancy has been issued in respect to the development and that the 12 month establishment period has commenced.***
18. ***Concurrent with the endorsement of plans a Waste Management Plan, generally in accordance with the plan prepared by Low Impact Development Consulting and received by Council on 21 September 2018, must be submitted to and approved by the Responsible Authority. The Waste Management Plan must include:***
  - a) ***Dimensions of waste areas;***
  - b) ***The number of bins to be provided;***
  - c) ***Method of waste and recyclables collection;***
  - d) ***Hours of waste and recyclables collection;***
  - e) ***Method of presentation of bins for waste collection;***
  - f) ***Strategies for how the generation of waste and recyclables from the development will be minimised.***

***When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.***

19. ***The collection of wastes and recyclables from the premises (other than normal Stonnington City Council collection) must be in accordance with Council's General Local Laws.***



20. ***Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.***
21. ***All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority.***
22. ***Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.***
23. ***All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.***

**Conditions required by Melbourne Water**

24. ***The dwellings must be constructed with finished floor levels set no lower than 22.56 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 22.26m to AHD.***
25. ***The entry/exit driveway of the basement carpark must incorporate a flood proof apex set no lower than 22.15m AHD, which is 300mm above the applicable flood level of 21.85m AHD at location of development.***
26. ***All doors, windows, vents and openings to the basement car park must be a minimum of 300mm above the applicable grading flood level.***
27. ***All proposed setbacks must be maintained as per shown in the submitted report, referenced above.***
28. ***Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.***

**End Melbourne Water Conditions**

29. ***Prior to the occupation of the building, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.***

30. *Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.*
31. *Prior to an 'Occupancy Permit' being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for the subdivision.*
32. *The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp).*
33. *This permit will expire if one of the following circumstances applies:*
- a) *The development is not started within two years of the date of this permit.*
  - b) *The development is not completed within four years of the date of this permit.*

*In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.*

**NOTES:**

- I. *This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.*
- II. *Council has adopted a zero tolerance approach in respect to the failure to implement the vegetation related requirements of Planning Permits and endorsed documentation. Any failure to fully adhere to these requirements will be cause for prosecution. This is the first and only warning which will be issued.*
- III. *Nothing in this permit hereby issued shall be construed to allow the removal of, damage to or pruning of a significant tree (including the roots) without the further written approval of Council. "Significant tree" means a tree:*
  - i. *with a trunk circumference of 180 centimetres or greater measured at its base; or*
  - ii. *with a trunk circumference of 140 centimetres or greater measured at 1.5 metres above its base; or*
  - iii. *listed on the Significant Tree Register.*

*Please contact the Council Arborists on 8290 1333 to ascertain if permission is required for tree removal or pruning or for further information and protection of trees during construction works.*

- IV. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.**
- V. The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".**
- VI. At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:**
- i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and**
  - ii. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.**



## 6. COMMUNITY GRANTS 2019-2020

**Civic Support Officer: Judy Hogan**

**Acting General Manager Corporate Services: Jon Gorst**

### **PURPOSE**

The purpose of this report is to assist Council in determining on community grants, both cash and in-kind, to a wide range of groups within the Stonnington Community.

### **BACKGROUND**

A review of the Council Community Grants Program was undertaken on 29 January 2019 where Council approved the following recommendation:

#### ***That Council:***

- 1. approve the revised Community Grant funding guidelines;***
- 2. open applications on-line for Community Grants on Tuesday 12 February 2019 and close Tuesday 26 March 2019; and***
- 3. establish a Community Grants Working Group comprised of all Councillors to review the applications and Officer comments to provide recommendations to Council for consideration; and***
- 4. all prior applicants in the 2018-2019 Community Grants funding round be advised of the 2019-2020 Community Grant deadlines and the acquittal requirements for current grants.***

The Community Grants Program was developed to maximise partnership opportunities with a wide range of community groups to develop activities and provide services which are not available through Federal, State or private funding sources.

The Council provides an opportunity for community groups and organisations to apply for funding through the annual community grants program. This is an annual program which aligns with the financial year July to June.

Funding priority will be given to applications that respond to identified community needs and align with Council's vision, pillars and strategies.

In addition, priority will be given to programs, services and activities that propose:

- New and existing project services that are targeted toward a demonstrated high need area with a clear benefit to the Stonnington community;
- Generally take place within the City of Stonnington boundaries, or subject to conditions, be cross border services that are provided to the Stonnington community;
- Projects and services that enhance the health and wellbeing of residents especially in line with the Stonnington Public Health and Wellbeing Plan 2017-2021;
- Projects that strengthen volunteer participation in planning, management and provision of services;
- Groups demonstrating an innovative approach to an issue or problem;

- Projects that promote access and inclusion especially in line with Council's Access and Inclusion Plan 2014-17;
- Projects that encourage participation by young people, older people, people with disabilities and people from culturally diverse backgrounds that minimise social isolation and build community connectedness;
- Demonstrate sustainability; and
- Align with the Charter of Human Rights and Responsibilities Act 2006.

All applications are assessed by Council Officers from various areas of Council against the Community Grants Program Policy and Guidelines supplied to each applicant, together with a review of previous funding.

Applications with Council Officer draft recommendations are then reviewed at a meeting of the Council Community Grants Working Group which is comprised of Council Officers from various areas of Council and Councillors. All Councillors are invited to attend.

The Council Community Grants Working Group takes into account a balance of interests given the variety of community groups requesting Council's support, the number of Stonnington residents who are members as well as each group's financial position.

In accordance with an audit recommendation Council has used the Smarty Grants online program to manage the community grants process which was first used in 2015/16 financial year. Applications were received from 142 community groups/organisations for over 450 funding requests which initially totalled over \$665,804 in cash requests. Not all applications meet the criteria and have either been recommended for refusal or reduced while still making every effort to distribute the available funds in a fair and equitable manner.

### **Categories of Community grants available in 2019/2020**

Annual Grants	<p>Annual Grants are provided to organisations to deliver programs, projects and activities that benefit Stonnington residents and align with Council priorities and strategic direction.</p> <p>Examples include:</p> <ul style="list-style-type: none"><li>• Social and cultural programs;</li><li>• Minor capital works (less than \$2,000);</li><li>• Equipment purchases (less than \$2,000);</li><li>• Environmental initiatives;</li><li>• Public health and wellbeing activities; and</li><li>• Activities that increase opportunities for organised and passive physical exercise.</li></ul> <p>Funding agreements and reporting requirements are customised according to the level of funding provided.</p> <p>An annual acquittal is required to be completed in June.</p>
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<p>Partnership Grants (service agreements)</p>	<p>Partnership Grants are available to organisations that provide programs and services within Stonnington.</p> <p>This grant category is available for community groups that provide continuous and significant services to the community that align with Council priorities.</p> <p>These groups include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Neighbourhood Houses;</li> <li>• Citizen Advice Bureau;</li> <li>• Emergency relief and material aid providers; and</li> <li>• Large service providers.</li> </ul> <p>Partnership Grants provide funding on a recurrent triennial (3 years) basis to ensure the on-going operations of the organisation. This funding is CPI adjustment indexed annually, as approved by Council and is subject to meeting the following requirements:</p> <ul style="list-style-type: none"> <li>• The setting and meeting of Key Performance Indicators, set with, and reported to, Council;</li> <li>• Acknowledgement of Council support; and</li> <li>• submission of annual acquittal documents.</li> </ul> <p>Funding agreements and reporting requirements are customised according to the level of funding provided.</p> <p>An annual acquittal is required to be completed in June.</p>
<p>In Kind Grants (community facilities)</p>	<p>In Kind Grants provide subsidised use of Council owned venues and facilities, including community transport.</p> <p>The Council venues available for subsidised use include:</p> <ul style="list-style-type: none"> <li>• Malvern Town Hall</li> <li>• Malvern Banquet Hall</li> <li>• Chris Gahan Training Room</li> <li>• Phoenix Park Community Centre</li> <li>• Functions on Chapel (FOC) available up to September 2019</li> <li>• Grattan Gardens Community Centre (Community Hall)</li> <li>• Chapel Off Chapel</li> <li>• Malvern Library Meeting Room</li> <li>• Toorak Library Meeting Room</li> </ul> <p>The Community Transport Service available for use</p> <ul style="list-style-type: none"> <li>• Council Bus – 22 seater</li> <li>• Council Bus – self-drive 12 seater</li> </ul>

**DISCUSSION ON ASSESSMENT**

All applications must be received via the Smarty Grants Program. A pre – eligibility check was undertaken to ensure applications meet the eligibility criteria.

All applications were then assessed by Council Officers across various areas of Council against the Community Grants Program Policy and Guidelines supplied to each applicant, together with a review of previous funding. A

Applications with Council Officer draft recommendations were reviewed at a meeting of the Council Community Grants Working Group.

All Councillors were invited to attend the meeting on Wednesday 12 June 2019 which was chaired by the Mayor, Cr Stefanopoulos where consideration was given to each of the Council Officer draft recommendations. Notes of this meeting were circulated to all Councillors following the meeting.

Applications in full have been made available in the Councillor Lounge for perusal by Councillors and are available to view prior to the Councillor Briefing Session.

#### **FINANCIAL IMPLICATIONS**

Council approved 21 partnership community grants at the Council Meeting on 9 July 2018 as listed in Attachment 1 for a three year term ending in 2021. Partnership Grants provide funding on a recurrent triennial (3 years) basis to ensure the on-going operations of the organisation. This funding is CPI adjustment indexed annually (1.2% based on the Australian Bureau of Statistics annual movement to the March 2019 Quarter for Melbourne), as approved by Council and is subject to meeting the following requirements:

- The setting and meeting of Key Performance Indicators, set with, and reported to, Council;
- Acknowledgement of Council support; and
- Submission of annual acquittal documents.

Funding agreements and reporting requirements were customised according to the level of funding provided.

An annual acquittal is required to be completed in June of each year.

Council Officer recommendations for the cash and in-kind grants applications and total funding available under the 2019/20 budget are as follows:

#### **Financial Recommendations by Council Officers for discussion**

<b>Cash</b>	
<b>Budget 2019/20</b>	<b>\$670,946</b>
Recommended Cash Grants 2019/20	\$241,326
Community Partnership Grants (includes a CPI increase of 1.2%) 2018-2020 committed	\$391,772
<b>Total cash community grants</b>	<b>\$633,098</b>
Balance Uncommitted cash	\$37,848
<b>In Kind Grants (Venue waiver &amp; Council bus use)</b>	
<b>Budget 2019/20</b>	<b>\$489,794</b>
In Kind venue recommendation	\$460,499
In Kind Council Bus recommendation	\$23,941
<b>Total In Kind Grants recommendation</b>	<b>\$484,440</b>
Balance Uncommitted in kind	\$5,354



<b>Total 2019/20 Budget</b>	<b>\$1,160,740</b>
<b>Total Cash and In Kind recommendations</b>	<b>\$1,117,538</b>

In assessing the 2019-2020 applications officers have endeavoured to balance out the provision of existing services while also providing for new services/programs. Cash and in kind funding has been recommended for projects that benefit people from disadvantaged backgrounds, increase community participation and support the health, wellbeing and connectedness of Stonnington residents.

#### **HUMAN RIGHTS CONSIDERATION**

These applications have been assessed and recommendations made that are in keeping with the principles of the Charter of Human Rights and Responsibilities Act 2006.

#### **ATTACHMENTS**

- |   |          |
|---|----------|
| <a href="#">1.</a> Attachment 1 of 2 Partnership Agreements                       | Excluded |
| <a href="#">2.</a> Attachment 2 of 2 Community Grants 2019 - 2020 Recommendations | Excluded |

#### **RECOMMENDATION**

***That Council adopt the recommendations from Council Officers for the 2019/2020 Community Grants Program as shown in Attachment 1 and 2 totalling:***

- ***\$391,772 Community Partnership Grants (GST exclusive) Attachment 1;***
- ***\$241,326 Cash Grants (GST exclusive) Attachment 2; and***
- ***\$484,440 In Kind Grants (GST exclusive) Attachment 2.***



## 7. ARTS AND CULTURE GRANTS 2019/20 PANEL RECOMMENDATION

**Coordinator Arts & Culture : Nicole Warren**  
**General Manager Community & Culture: Cath Harrod**

### PURPOSE

The purpose of this report is for Council to consider projects and programs recommended for funding through Council's Arts and Cultural Grants program for the 2019/20 financial year.

### BACKGROUND

Council's support of arts and cultural activities, particularly festivals and events, is an investment in the community's wellbeing. The City of Stonnington's Arts and Cultural Grants program brings creative, innovative, dynamic and contemporary projects that enhance the cultural, community and economic development to the City of Stonnington.

The Arts and Cultural Grants program reflects the strategic visions of the Arts and Cultural Strategy:

- Arts and Culture to be valued and promoted.
- Arts and Culture surprises, delights and engages the community and beyond.
- Creative talents are encouraged and supported through sustainable links and partnerships.

The Arts and Cultural Grants and Guidelines are based upon Council's Arts and Cultural Strategy's four key themes:

- Leadership and Advocacy
- Creative Communities
- Creative Spaces
- Sharing the Creative City.

Applications for Arts and Cultural Grants opened on 11 February 2019 and closed on 26 April 2019. Calls for submissions were made from February to April 2019 via Arts Hub - Australian arts industry web site (advertisement and editorial), direct email, Council's website, In Stonnington magazine, Council's *What's On* EDM, as well as other social media platforms. Potential applicants were invited to attend an Arts and Culture Grants information session held on 4 February 2019 and Council officers were available during the application submission period to speak with applicants via phone, email and in person.

### DISCUSSION

The 2019/20 operating budget has an allocation of \$440,000 for Arts and Cultural Grants.

Council committed a total of \$130,000 in triennial funding for 2018 to 2021, leaving a remaining allocation of \$310,000.

Council has received a total of 49 applications, for cash and in-kind support with requests totalling \$626,934.

The Annual Arts and Cultural Grants are open to all artists, organisations and individuals seeking to deliver arts projects within Stonnington.

Applicants do not need to be based in Stonnington, however the activity or project must be delivered within the municipality. Assessments are made against the stated assessment criteria and applications are rated and ranked in relation to each other. Grant decisions are based primarily on information supplied in the application and support material provided. City of Stonnington receives many more applications than it can support. The success of an application rests ultimately on the merits of the proposal against the assessment criteria and in competition with all the other applications considered for funding. In many cases the panel will recommend funding of an amount less than requested.

- A panel of assessors was convened prior to grant applications closing and submitted for General Manager approval (as per Council requirements). The panel is comprised of:

- Council officers including;
  - 1x Manager level officer
  - 1x Coordinator level officer
  - 2x Senior level officers
  - 1x Administration officer
- External Assessor;
  - 1x Industry expert for peer assessment

Each panel member completed an individual assessment before convening with the panel to collate final scores and recommendations for Council.

Each application has been assessed against the following criteria by the grants assessment panel.

Theme	Criteria	Weighting %
<b>Artistic</b>	1. Provide clear and detailed information on the project including expected outcomes.	30%
	2. Propose an innovative project and prove your capacity to deliver it by providing a detailed project timeline and relevant artistic support material	
	3. Include and/or celebrate local or specific communities within the City of Stonnington.	
	4. Demonstrate potential or confirmed career advancement opportunities for artists involved in the project. This could be through an extension of skills or development of existing and new audiences.	
<b>Capacity</b>	5. Facilitate arts and business partnerships including local businesses.	10%
<b>Financial</b>	6. Show a viable, accountable budget with diverse sources of income.	20%
<b>Marketing</b>	7. Demonstrate a commitment to maximising audience numbers and participation from the local community.	30%
	8. Provide a detailed marketing plan.	
	9. Demonstrate a capacity to attract participation and audience numbers from the wider metropolitan area and regional Victoria.	
<b>Operational</b>	10. Propose projects that align with City of Stonnington Council Plan.	10%

Following the assessment process, the panel have recommended funding for 27 applications (see Attachment A) totalling \$300,976.

#### **POLICY IMPLICATIONS**

The Arts and Cultural Sponsorship program sits within the strategic objectives of Community and Liveability in the Council Plan.

The program is aligned with Council's strategy to recognise and enhance Stonnington's diverse culture and indigenous heritage through programs and events which support the arts, traditions and heritage.

#### **FINANCIAL AND RESOURCES IMPLICATIONS**

Council's 2019/20 budget allocation for Arts and Cultural Sponsorship is \$440,000 of which \$430,976 has been recommended to be allocated to sponsoring arts and cultural projects and programs, including \$130,000 of Triennial funds endorsed for 2018/19, 2019/20 and 2020/21.

The \$9,024 balance of funds will be distributed following future report/s to Council.

#### **LEGAL ADVICE & IMPLICATIONS**

Arts and Cultural Grant recipients are required to enter into a formal sponsorship agreement with Council. Sponsorship agreements are reviewed by Council's Risk and Integrity team and Corporate Counsel.

#### **CONCLUSION**

It is recommended that Council allocate a total of \$300,976 of the Arts and Cultural Sponsorship 2019/20 to 27 applicants that have been recommended for funding as shown in Attachment 1.

The remaining balance of \$9,024 is to be distributed following future Council report/s.

#### **HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Victorian Charter of Human Rights and Responsibilities Act 2006.

#### **ATTACHMENTS**

<a href="#">1.</a> Attachment A - Arts and Culture Grants Over \$20K Overview.pdf	Excluded
<a href="#">2.</a> Attachment B - Arts and Culture Grants Up to \$20K Overview.pdf	Excluded
<a href="#">3.</a> Attachment C - Arts and Culture Grants Chapel Off Chapel Venue Hire InKind.pdf	Excluded
<a href="#">4.</a> Attachment D - Arts and Culture Grants Venue Hire InKind.pdf	Excluded
<a href="#">5.</a> Attachment E - Arts and Culture Grants Collated Overview.pdf	Excluded

## RECOMMENDATION

*That Council:*

- 1. Allocate a total of \$300,976 of the Arts and Cultural Grants pool of funds for 2019/20 to 27 applicants that have been recommended for funding as shown in Attachment A.*
- 2. The remaining balance \$9,024 to be distributed following future Council report/s.*

## 8. PRAHRAN SQUARE LAUNCH AND ANNUAL ACTIVATION PLAN

**Manager Arts, Culture & Economy: Eddy Boscarol**  
**General Manager Community & Culture: Cath Harrod**

### PURPOSE

The purpose of this report is to present a proposal for the Prahran Square Launch and Annual Activation Program for the 2019/20 financial year, for Council's consideration.

### BACKGROUND

The Prahran Square Carpark is expected to open to the public late July and the Square is expected to be open mid-September 2019. When opened to the public, Prahran Square in Prahran will have almost 10,000m<sup>2</sup> of multifunctional urban parkland with over 500 spaces of underground car parking.

Council has secured the consultancy service of Matt Jones to develop the Prahran Square Launch and Annual Activation Program. Matt has led the strategic planning and ongoing program management of all aspects of Federation Square's internationally acclaimed public events program, delivering in excess of 2,000 unique events and activities annually from 2008-2018.

In order to activate Stonnington's exciting new public square and surrounding Prahran precinct a Launch and Annual Activation Program has been developed to ensure Prahran Square delivers optimal return on investment for Council, sustained relevance to Stonnington's residents and traders, and be a compelling destination to visitors.

The vision for Prahran Square is, "to be recognised as a world-class public space that is owned and enjoyed by all, enhancing the commercial sustainability and vibrancy of surrounding precincts."

In order to achieve this vision, Prahran Square requires a consistently managed, curated Activation Program to ensure the space's long-term relevance and vitality to the community is maintained. Therefore, it is important to have the right Activation Program to ensure that the site becomes an iconic cultural and recreational destination for residents, businesses, shoppers and visitors to Stonnington, with a diversity of spaces - from those for quiet contemplation to those designed to stage vibrant community events.

Consultant Matt Jones and Council's Manager Arts, Culture and Economy employed the following approach in the development of the Launch and Annual Activation Plan:

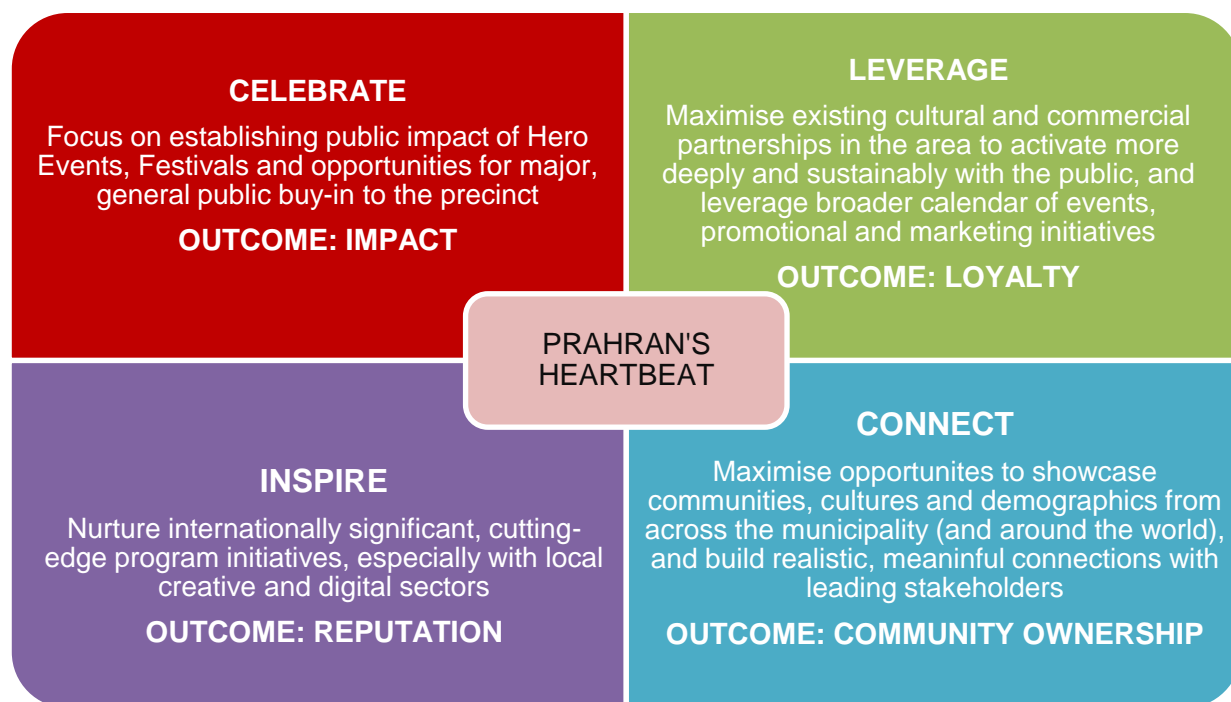
- **Research:** Undertake discovery work to consolidate all current stakeholders, resources, and Council's plans, policies and guidelines.
- **Consultation:** Engage all key internal and external stakeholders in building optimal program rhythm, shape and content. Consultation included a broad range of Council business units and Executive Management Team, the Project Steering Committee, the Chapel Street Precinct Association, Toorak Road South Yarra Business Association, Pran Central, National Institute of Circus Arts and Prahran Market.
- **Development:** Create an Initial Program Plan for Year 1 (including launch) and Activation Operation Strategy.

## DISCUSSION

The Activation Program proposes to position Prahran Square as one of Melbourne's inspirational public spaces; part of the fabric of Melbourne's community and the heart of Prahran. Prahran Square will be a place of gathering, community ownership, discourse, stimulation, learning and entertainment. Through the Activation Program, Council will seek to enhance public space utilisation and visitor experience through contemporary technological applications, creative executions, strategic partnerships and venue hires. A copy of the Activation Program is provided as Attachment 1.

## Key Priorities

Based on the outcomes of research and consultation, a set of four priorities have been identified to focus the Activation Program for 2019-20.



## Program Principles

A set of key principles have been established to underpin planning considerations and enable consistent delivery of activities and events that will achieve the corporate vision and focus on deepening community connections.

The principles are the first iteration of a scoring criteria for curating the Annual Activation Program, and enabling the programming team to make defensible decisions that can be internally and externally be justified.

- **Access for all:** Incorporating all ages, ability and communities, free and affordable entertainment and learning opportunities. Communicating onsite access aids. This also includes operating as a preferred venue of choice achievable by delivering exceptional customer service, uncomplicated client interfaces, first class assets and competitive pricing.
- **Leverage:** Leveraging off program opportunities, partners and tenant presented opportunities to gain non-cash value.



- **Integration:** Delivering a program that maximises opportunities and resources across the four Program streams. Integrating the four streams will ultimately deliver a quality experience for the visitor. The process in doing so achieves efficiencies across all resources (i.e. staff, budget, assets), and enhancement of event outcomes (i.e. consolidating smaller experiences into a larger, bigger impact whole).
- **Financial sustainability:** Maximising venue hire potential and clients, unlocking new revenue streams such as the screens, supplementing core budget expenditure lines in other Program streams by encouraging in-kind and partner contributions where possible.
- **Site specificity:** Embedding Prahran Square's physical and social environment in Program activities. Both internal and external activity generators should be encouraged to make the physical environment in which their activity is occurring a focus, for example, ensuring online marketing, event information/signage, and public addresses reflect the meaning of the site.
- **Civic voice:** Structuring the program to enable the maximum number of "activity generators" (i.e. event clients and Stonnington internal programmers) to produce events and activities which encourage public participants to engage and to leave their mark at Prahran Square. Events should seek to build a direct relationship and connect with the public.
- **Interactivity:** Enhancing visitor engagement with Program elements, where and when possible, by employing multimedia resources to enhance visitor engagement.
- **Venue Utilisation:** Encouraging an appropriate distribution amongst locations and programming in under-utilised locations and time slots.
- **Tenant Synergies:** Providing opportunities for tenant business to leverage and contribute to the program.

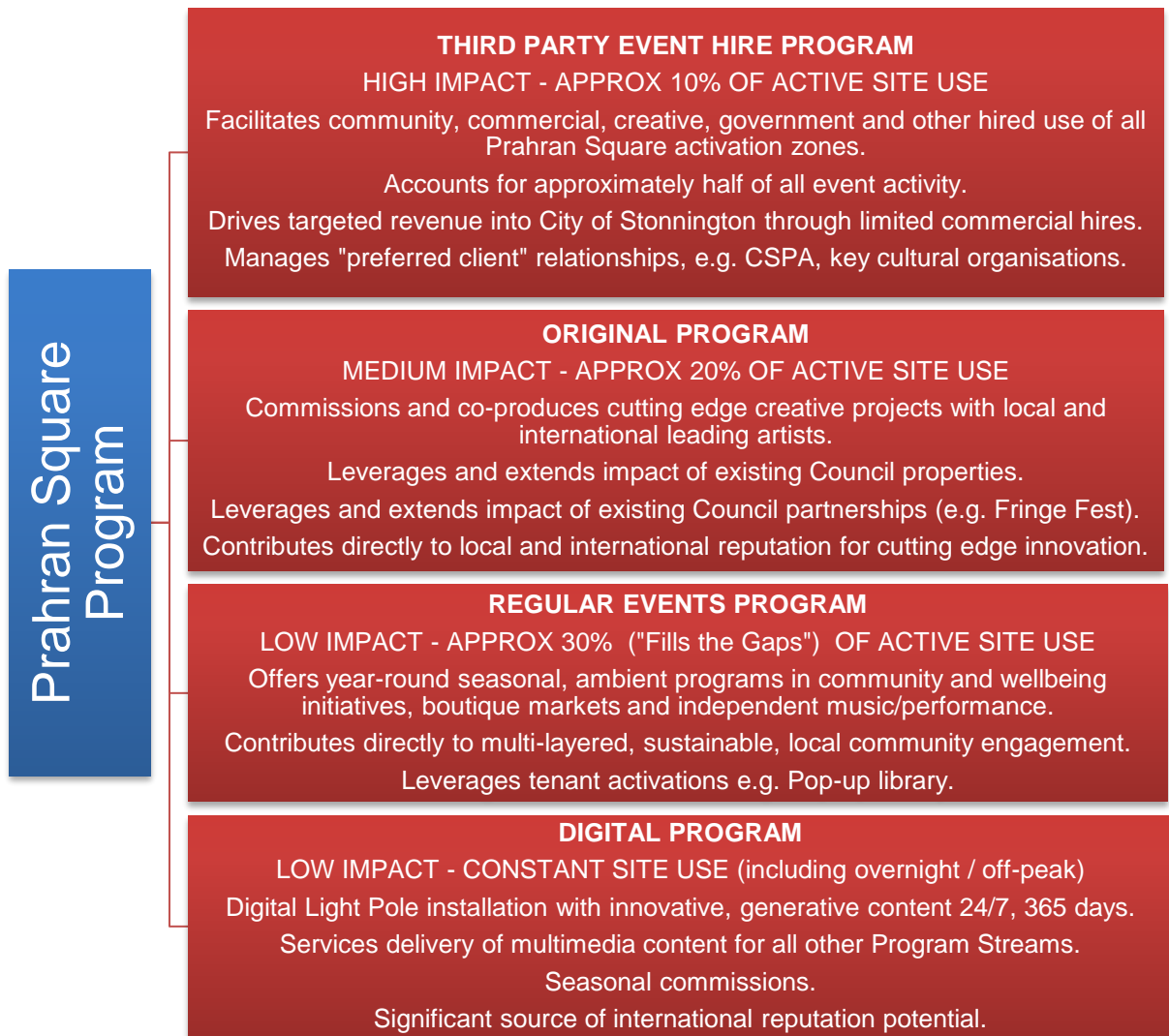
### Launch

The launch of Prahran Square is proposed to run over a six day period starting from Tuesday 22 October and concluding on Sunday 27 October 2019 with regular programming then commencing. The launch will provide an opportunity for the community to get to know, and celebrate Prahran Square, sampling all that is to come. The launch week will showcase series of family-friendly activities together with music, art and digital programs. Detail regarding key features and proposed schedule for the launch is provided as Attachment 2.

### Activation Program Framework

The Activation Program comprises activities generated internally (Original Program and Digital Program), and activities that are generated by external sources (Third Party Events Program and Regular Events Program).

The Framework outlined in the figure below is designed to best facilitate the maximum number of quality events, derived from as many sources as possible, presented to the public as an integrated and harmonious overall offer – while still allowing the site to "breathe" and not become over-populated.



This multi-input approach avoids the extremes of typical event programming – being neither a passive “hall for hire”, nor a top-down “programming autocracy” as can be common in curator-led institutions like galleries or arts centres.

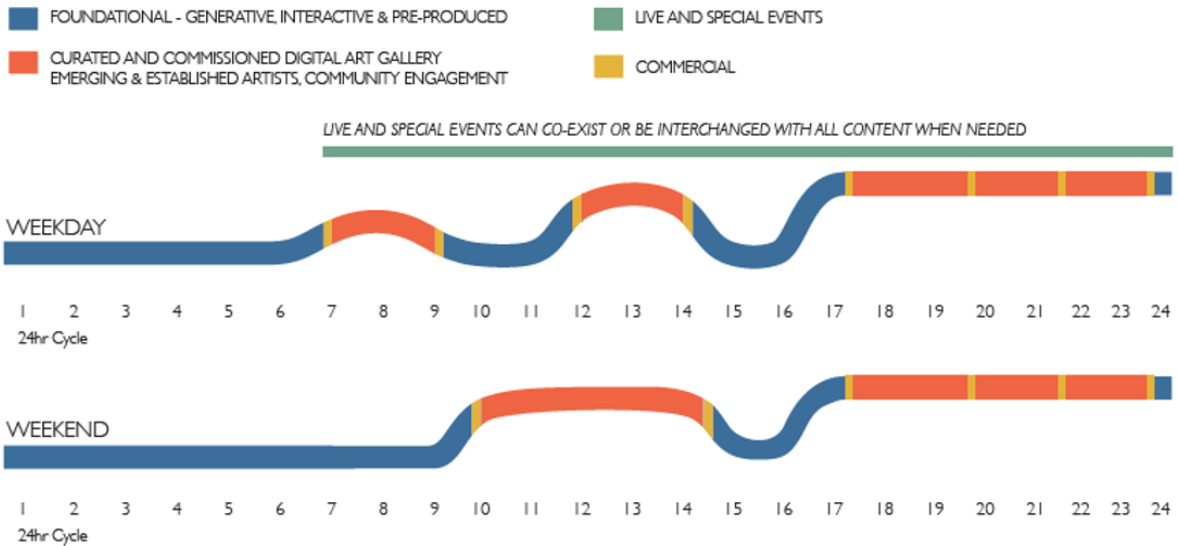
Rather, the multi-faceted Program at Prahran Square increasingly represents a new approach – one that actively instigates and resources initiatives, but is also fully engaged with and responsive to its mass of diverse stakeholders.

The Activation Program is not just about producing events for the community, it is about working pro-actively with the community, thereby championing an overall “civic voice” and consistently celebrating the site’s totally unique and incomparable sense of physical place.

### Seasonal Programming

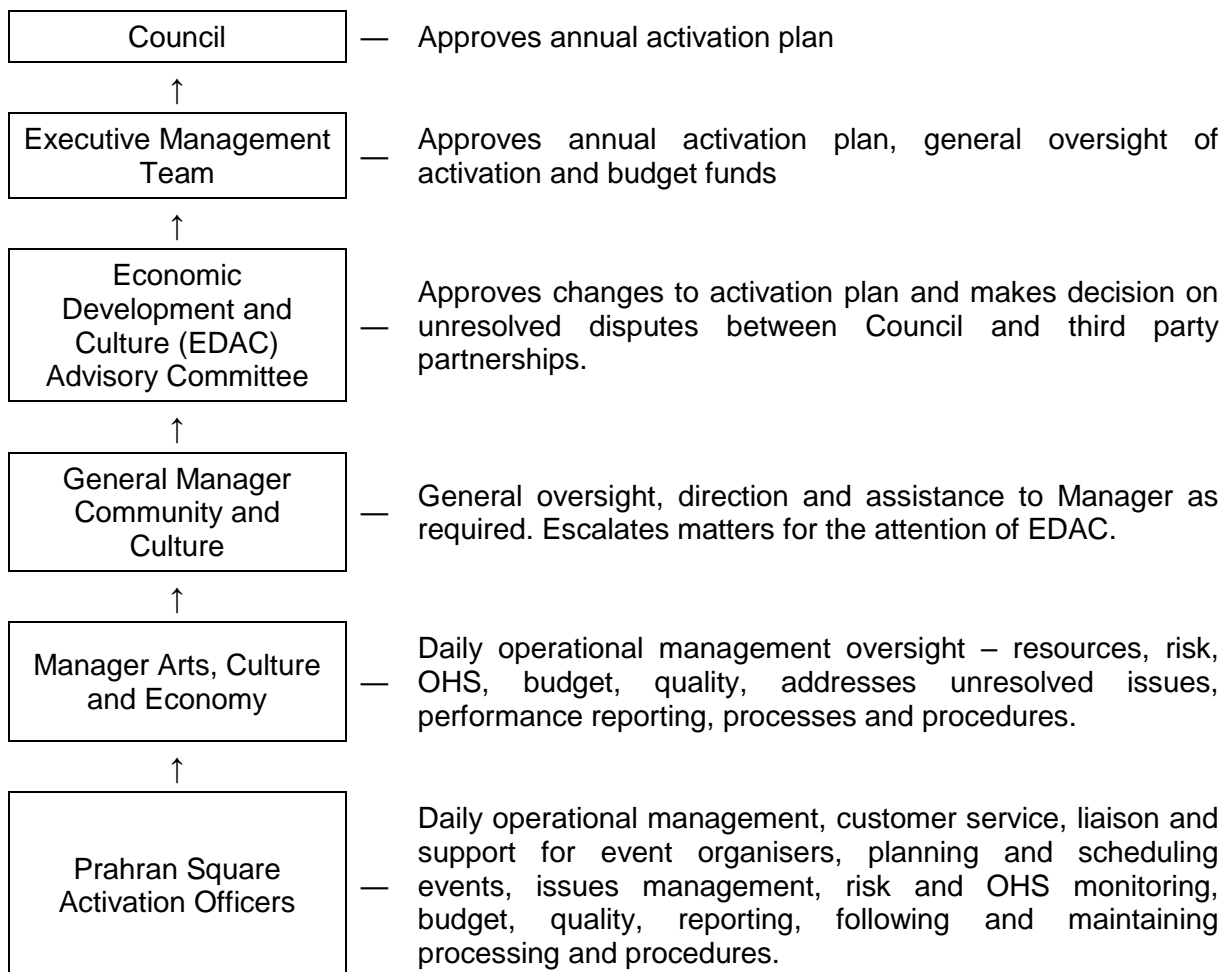
In order to tell the Prahran Square story in a simple and comprehensive manner and to ensure that it is accepted by the public, it is proposed to cluster the programming based on a seasonal approach.

The Program recognises the need to let the site breathe and focus program and other activation offers in accordance with the indicative “daily rhythm” for the site (see image below). This will guide the Digital Program (Ramus Art Pole) content plan as well as programming more broadly.



### Governance

The following governance structure is proposed to ensure that adequate support is provided to the Prahran Square Activation to ensure the venue is run in accordance with Council policies and procedures and established Program Principles and Activation Framework within the approved Annual Activation Plan.



## **POLICY IMPLICATIONS**

The Prahran Square Launch and Annual Activation Plan aligns with the strategic pillars of the Council Plan 2017-2021, specifically:

- Community – Enhance community health and wellbeing outcomes through quality service and strategic partnerships. Support local organisations with equitable access to facilities, training and resources.
- Liveability – Strategically invest in open spaces, sporting fields and community facilities, and optimise use according to community needs.
- Economy – Promote Stonnington’s premier vibrant precincts, employment clusters and cultural assets as hubs for shopping, hospitality, entertainment and culture.

The Program also aligns with strategic objectives outlined in the following strategies:

- Chapel ReVision Structure Plan (adopted in 2016).
- Arts and Cultural Strategy 2019-2023 (Draft).
- Economic Development Strategy 2017-2021.

The Program will focus carefully on events and activities that deliver tangible value and measurable return in either civic, cultural or commercial terms. Events that do not show a value to Council’s strategic objectives and do not align with the Program Principles will not be considered.

## **FINANCIAL AND RESOURCES IMPLICATIONS**

Council’s 2019/20 budget allocation for Prahran Square Annual Activation is \$180,000. Additionally, existing budget allocations exist for Council events and festivals which will relocate to Prahran Square.

## **LEGAL ADVICE AND IMPLICATIONS**

Third Party Event Companies are required to enter into a formal agreement with Council. Event Agreements are reviewed by Council’s Risk, Safety and Assurance department and Corporate Counsel.

## **CONCLUSION**

The Prahran Square Carpark is expected to open to the public late July and the Square is expected to be open mid-September 2019. The launch of Prahran Square is proposed to run over a six day period starting from Tuesday 22 October and concluding on Sunday 27 October 2019.

Prahran Square requires a holistic activation program to achieve the full scope of Council’s vision for the site as both world class and locally relevant, and which accommodates an optimal blend of purposes (from community through to commercial), while still preserving an ambient function. The site is neither a passive park, nor a gated cultural institution – rather, it is a contemporary public space that requires a clearly curated management model to deliver maximum value return to Council and the community. To this end, a Prahran Square Launch and Annual Activation Program has been developed for Council’s endorsement.

It is recommended that Council endorse the Prahran Square Launch Plan to be held from 22 to 27 October and endorse the 2019/20 Annual Activation Plan as outlined in the report.

## **HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Victorian Charter of Human Rights and Responsibilities Act 2006.

## ATTACHMENTS

- |   |          |
|---|----------|
| <a href="#">1.</a> Attachment 1 - Prahran Square Activation Program 2019/20 | Excluded |
| <a href="#">2.</a> Attachment 2 - Prahran Square Launch Proposal            | Excluded |

## RECOMMENDATION

### *That Council:*

- 1. Endorse the Prahran Square Launch Proposal for a six day conducted from 22 October to 27 October 2019.*
- 2. Endorse the Prahran Square Activation Program 2019/20.*
- 3. Note the governance structure and decision making process for the ongoing programming of Prahran Square.*



**9. OSBORNE AVENUE, GLEN IRIS BETWEEN MALVERN ROAD AND MILTON PARADE -  
PARKING INVESTIGATION RESULTS**

**Traffic Engineer: David Ventura**  
**Manager Transport & Parking: Ian McLauchlan**  
**Acting General Manager Assets & Services: Rick Kwasek**

**PURPOSE**

To consider the recent parking investigation conducted in the section of Osborne Avenue, Glen Iris between Malvern Road and Milton Parade.

This report was requested to come to Council in the *Questions to Council Officers from Councillors* section of the meeting on 4 March 2019.

**BACKGROUND**

*Context and Community Submission*

In late November 2018 an email was received from a resident which included copies of 15 pro-forma letters signed by 15 residents representing 15 properties in the section of Osborne Avenue between Malvern Road and Milton Parade.

The pro-forma letter stated that a previous study had been completed in the street in 2017, but no restrictions were installed because the parking conditions were assessed during the day, and the issue is actually occurring after hours and on weekends.

The pro-forma letter requests Council to install resident only parking.

At the Council meeting on 4 March 2019 the pro-forma letters were tabled. In addition, the following was noted in the *Questions to Council Officers from Councillors*:

*3. Parking in Osborne Street Glen Iris*

*Cr Atwell asked for report back to Councillor Briefing including details of past surveys in respect to parking issues raised for Osborne Street between Malvern Road and Milton Parade.*

*The General Manager Assets and Services Simon Thomas noted this request.*

The parking investigation was put on hold to complete this report, however after discussions with Cr Atwell, it was determined that a new parking investigation and subsequent consultation be conducted with the residents combining the results in a report back to Council. This report outlines this process and the results of the consultation.

*Parking Characteristics*

The subject section of Osborne Avenue is between Milton Parade and Malvern Road. The parking in this section is unrestricted. An image of the street is shown below.



The street is located close to the railway line, but is over 400m walking distance from the nearest station. Vehicle access to the station is not available from Osborne Avenue or Milton Parade. Therefore, parking for the station is not expected to be a major concern at this time. The concern raised by the community is in regard to night time and weekend parking, which supports this conclusion.

In the subject section of Osborne Avenue there are 7 low density dwellings and 11 higher density (more than 3) dwellings. Three of these higher density dwellings (including one that has been slated for redevelopment) are not eligible for residential parking permits.

## DISCUSSION

### *Historical Investigation*

As indicated above, daytime parking restrictions were investigated in February 2017 in response to a multi-signatory letter from residents.

Officer surveys were undertaken in Osborne Avenue at various times of the day and various times of the week during February 2017. There were approximately 35 on-street car spaces available in Osborne Avenue at that time (depending on how vehicles are parked) and the maximum occupancy level observed during these surveys was 62%. The average parking occupancy over the surveys was 54%.

It should be noted that graphs of the parking survey results obtained are not available, due to the survey reporting used at the time (as external contractors were not used).

These figures were not sufficient for consideration of parking restrictions at that time, and the lead signatory of the letter was advised of this outcome.



### Current Investigation

In late November 2018 a pro-forma multi-signatory letter was received which clarified that the resident concern was with parking at night and on the weekends.

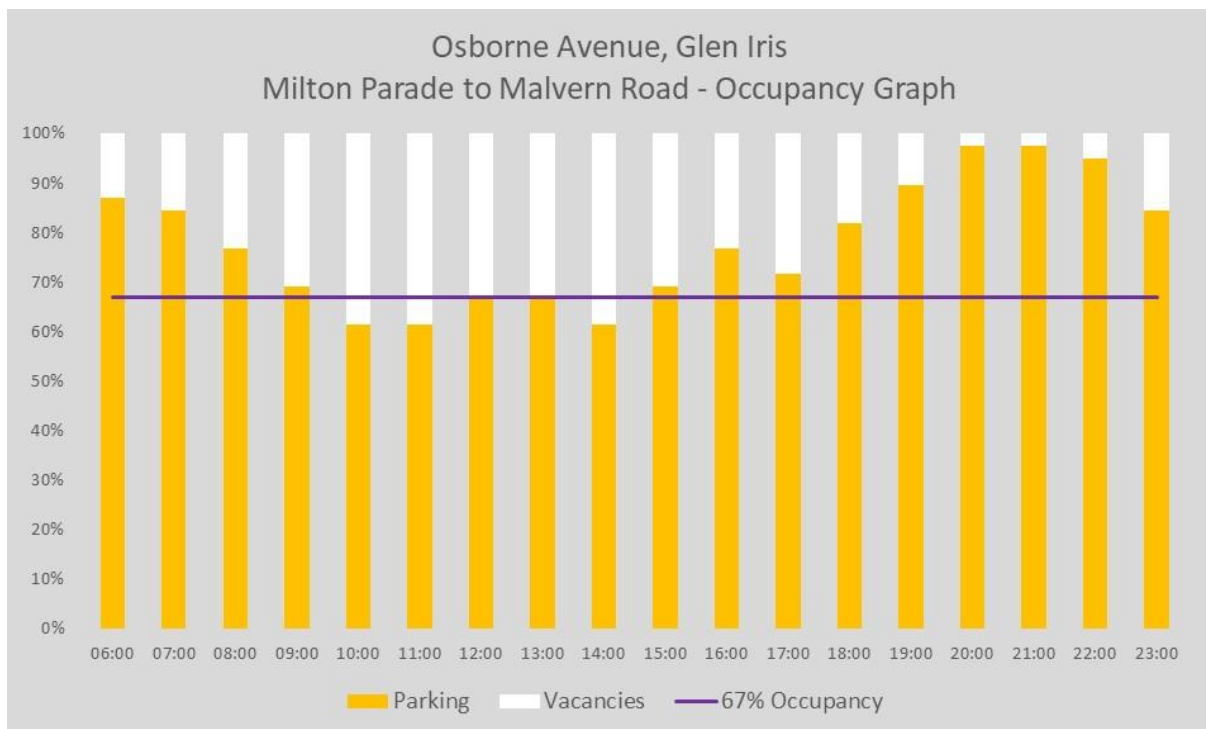
As a consequence, a parking survey to capture this particular issue was organised. This could not occur until after the 2018-19 Christmas/school holiday period. As discussed above, this was put on hold as the matter would be tabled at Council. After this occurred the parking surveys commenced.

The independent survey was undertaken by an external survey consultant, on a typical weekday. The survey was undertaken on a Wednesday, in a week unaffected by school or public holidays. On the survey day the hourly parking occupancy was recorded from 6am to 11pm, to allow for the evening period to be captured, and to check if any changes during the day period had occurred since 2017.

Typically when the occupancy graphs are provided in reports the officers make an assessment of resident and non-resident parking. This is based either on permit use (in streets where permits are required for extended duration parking), or on those vehicles parked at 6am being assumed as residents.

However, in this case the issue raised by the community is that residents of nearby new apartments on Malvern Road are parking in the street, restricting access for existing residents of properties within Osborne Avenue. As such, there is no effective way to estimate the resident parking demand, as a resident of Osborne Street parked in the street overnight would be indistinguishable from an apartment resident from Malvern Road parked in the street overnight.

The below graph shows the occupancy of the parking in Osborne Street on a typical day.



This graph supports the concern raised in the multi-signatory letter that parking in the evenings is difficult for residents. The average parking occupancy through the day (9am to 6pm) is 67%, but outside of these hours the average is 88%. The full survey period average is 78%.

Based on these results, there is sufficient evidence for an evening or overnight parking restriction.

The only restriction which is likely to be effective overnight is PERMIT ZONE, which allows enforcement officers to attend and issue infringements without the need to repeatedly patrol and mark up vehicles.

Based on the data collected, daytime parking restrictions were considered at the same time. It appears that since the survey work was completed in 2017 that on-street parking conditions during the day have worsened. The increased development on Malvern Road, with more apartment buildings now completed (not eligible to access resident parking permits), may be a contributing factor to this.

#### *Consultation Options*

In order to address the specific concern raised in the community submission, a restriction which covers nights and weekends could be proposed. An appropriate restriction would be PERMIT ZONE operating from 6pm-Midnight Monday to Friday, and 9am to Midnight on Saturday and Sunday. This could be proposed on one side of the street in the first instance, and exclude the frontage of properties not eligible for restrictions.

Alternatively, and noting the previous submission in 2017 and the increased parking now occurring, the restriction could be simplified to PERMIT ZONE operating 9am to Midnight all days on one side of the street.

If one side of the street is to be restricted, the choice of sides is not obvious. The number of spaces available on each side is approximately even, and the number of signatories to the community request is also approximately evenly distributed.

#### *Proposal Development*

The above options were subsequently communicated to the head petitioner who was supportive of PERMIT ZONE parking between 9am to MIDNIGHT, 7 days a week. It was recommended that the west side be considered for restriction, as there are slightly more spaces available, and fewer property frontages ineligible for permits, however the head petitioner indicated that the east side would be preferred.

#### *Consultation Undertaken*

Based on the discussions with the head petitioner, a circular was distributed to residents abutting Osborne Avenue between Malvern Road and Milton Parade in May 2019 with a proposal to:

- Install PERMIT ZONE parking restrictions operating from 9am to MIDNIGHT, 7 days a week, on the east side of Osborne Avenue, Glen Iris between Malvern Road and Milton Parade.

A plan was submitted, and is included as Attachment A.

#### *Consultation Result*

A total of 69 properties along Osborne Avenue (between Malvern Road and Milton Parade) were distributed the circular with 32 responses received, equating to a 46% response rate. This response rate is higher than is typically received, and can be considered representative of the wishes of residents of the street.

The responses received are shown in Image 1 and Table 1 below.

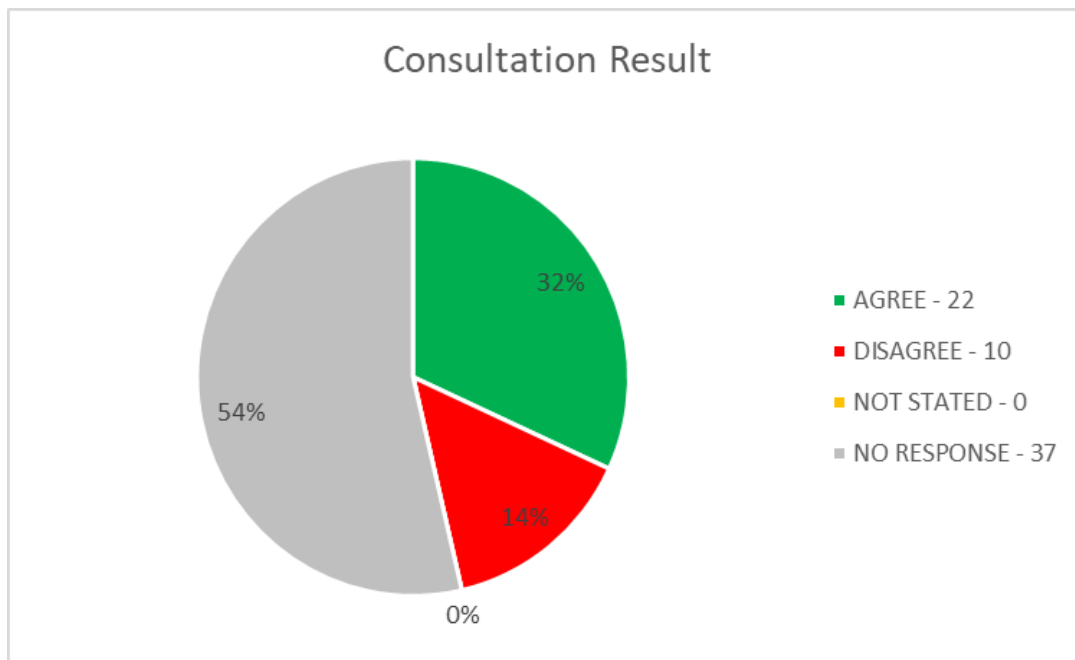


Image 1: Community Result – Osborne Avenue, between Malvern Road and Milton Parade

Table 1: Community Result – Osborne Avenue, between Malvern Road and Milton Parade

Proposal	Agree	Disagree	Not Stated	No Response
Install PERMIT ZONE Restrictions	22 (32%)	10 (14%)	0 (0%)	37 (54%)

The respondent comments have been summarised in Attachment B.

#### Consultation Analysis

At the conclusion of the consultation period, the majority of respondents were supportive of the proposal proceeding. The respondents who agreed with the proposal provided supportive comments generally agreeing that the parking issue can be alleviated if preference is provided to the residents on one side of the street.

Those opposed to the proposal provided concerns as outlined in Attachment B. In summary, those opposed were of the opinion that the unrestricted west side of the street would become difficult to park as parking would be transferred onto this side. This can be a general consequence of installing parking restrictions on one side of the street. In addition to this concern, 7 out of the 10 respondents that disagreed with the proposal are from properties that are not eligible to receive residential parking permits and this further heightens the disapproval.

In unrestricted streets, restricting one side of the street is providing a balanced approach to the parking. Although one side is proposed to be restricted, the opposing side is available for longer term parking if required, particularly for those without a parking permit. Although these respondents are not happy that they are not eligible to use permits, restricting both sides of the street would mean that these residents would not be able to park in Osborne Street at all. It would appear from the circular results that most residents would prefer some restrictions rather than restricting the entire street. On the basis of the feedback and the results of the circular, it is reasonable to proceed with the option to install parking restrictions only on the east side of the street.

### Officer Assessment

It is recommended that in light of the community response, the proposal to install PERMIT ZONE 9am- MIDNIGHT, 7 days a week on the east side of Osborne Avenue between Malvern Road to Milton Parade proceed.

### **FINANCIAL AND RESOURCES IMPLICATIONS**

The cost to complete the parking study across the area selected was \$1,090 excluding GST, and was funded from the 2018/19 Financial Year budget.

### **CONCLUSION**

In response to a request from residents, a survey was conducted which revealed high parking occupancy in Osborne Avenue between Malvern Road and Milton Parade, particularly during the evening. As such, a proposal was developed to install PERMIT ZONE restrictions on the east side of Osborne Avenue between Malvern Road and Milton Parade operating 7 days a week 9am to MIDNIGHT. The proposal was supported by 69% of respondents, and opposed by 31% of respondents. Due to the response, it is considered reasonable to proceed.

### **HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

### **ATTACHMENTS**

- |  |                          |
|--|--------------------------|
| ⇒1. Attachment A - Osborne Avenue, Glen Iris between Malvern Road and Milton Parade - Proposal to Install Permit Zone Parking - Plan | Excluded                 |
| 2. Attachment B: Respondents Comments and Officer Response   | Confidential<br>Excluded |

### **RECOMMENDATION**

#### ***That Council:***

- 1. Install PERMIT ZONE parking restrictions operating from 9am to MIDNIGHT, 7 days a week on the east side of Osborne Avenue Glen Iris between property boundary of 56 & 54 Osborne Avenue to the property boundary of 52 and 50 Osborne Avenue and south of the driveway of 48 Osborne Avenue to 10m north of Malvern Road.***
- 2. Those property occupiers previously consulted be notified of the decision.***

## 10. GRATTAN STREET, PRAHRAN - ONE-WAY FLOW CONSULTATION

**Manager Transport & Parking: Ian McLauchlan**  
**Acting General Manager Assets & Services: Rick Kwasek**

### PURPOSE

To present to Council the results of the recent consultation with residents/businesses that would be directly affected by converting Grattan Street, Prahran to a one-way street (southbound).

### BACKGROUND

At the Council meeting on 4 March 2019 it was resolved *that Council:*

1. *Note the report regarding traffic conditions in Grattan Street, Prahran.*
2. *Consult those property occupiers abutting Grattan Street and Hinton Lane on a proposal to implement one-way flow along the full length of Grattan Street from Commercial Road to Greville Street.*
3. *A further report be brought to Council following the consultation.*

### DISCUSSION

A letter and questionnaire was hand delivered on 29<sup>th</sup> April, 2019, to all properties (households and businesses) that abut and have access to Grattan Street, Hinton Lane and Glass Place (this included those with a Porter Street or Greville Street address). A copy of the letter and survey form is attached (see **Attachment 1**).

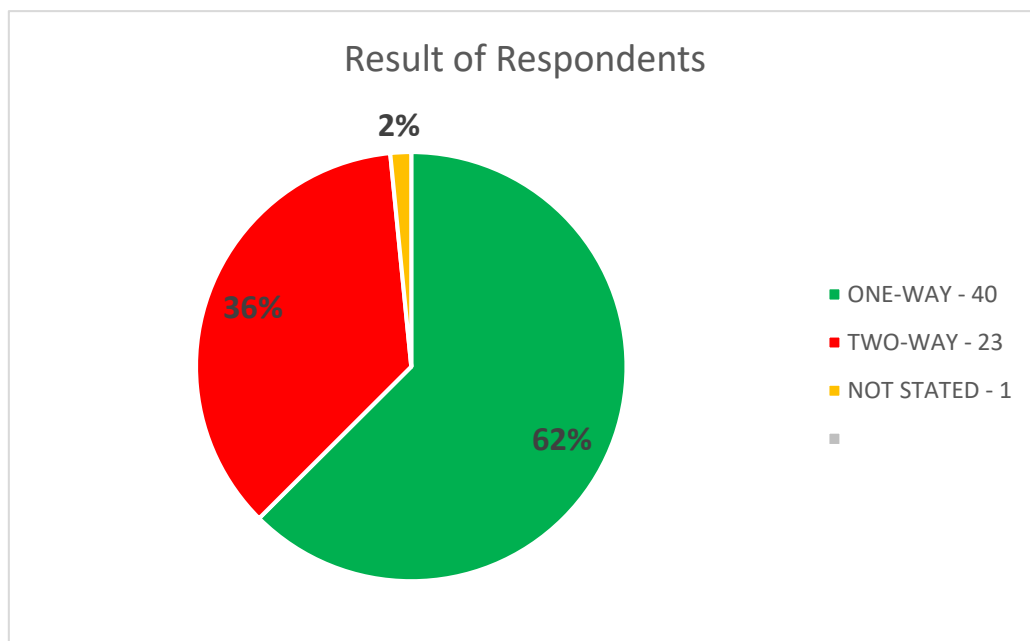
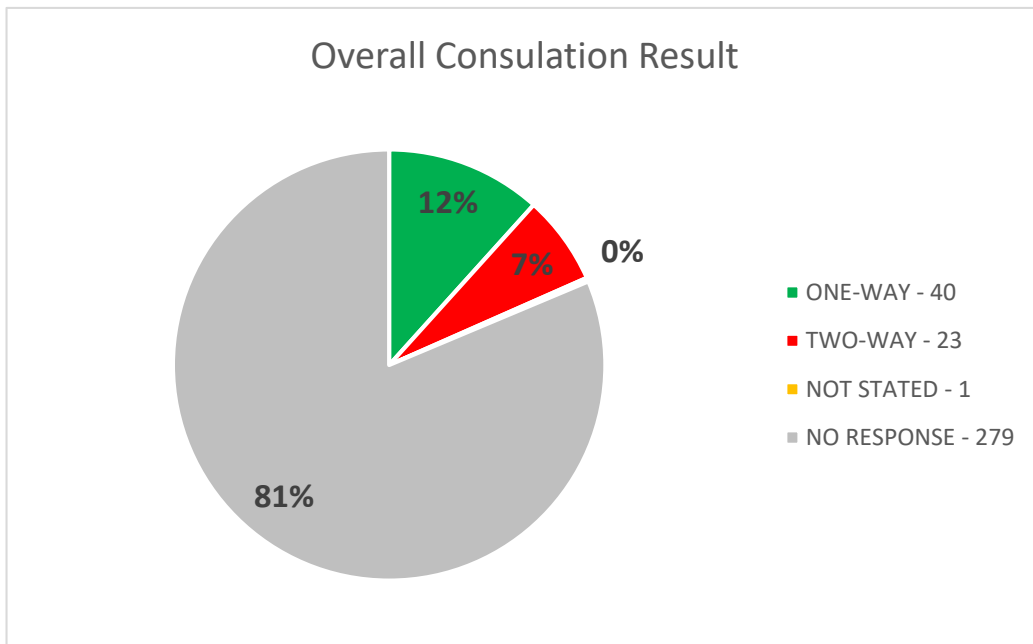
Recipients were requested to provide feedback by 17 May 2019 about whether they would prefer to have Grattan Street converted to one-way flow southbound or to retain the existing two-way flow.

### Questionnaire Survey

#### *Survey Results*

A total of 343 letters were distributed with 64 questionnaires returned by 7 June 2019. The survey results are summarised in the table and graphs below.

	<b>Number of Responses</b>	<b>Overall Percentage</b>	<b>Percentage of Respondents</b>
One-way Preference	40	12%	62%
Two-way Preference	23	7%	36%
Not Stated	1	0%	2%
No Response	279	81%	
Total Number of Households / Businesses Consulted	343		
Response Rate		19%	



The proposed one-way flow for Grattan Street was supported by 62 percent of questionnaire respondents but they only represent 12 percent of all households / businesses the letter was distributed to.

Overall there was a response rate of 19 percent. Typically when the response rate is less than 20 percent a proposal would be abandoned.

#### *Respondents Feedback Comments*

Residents provided various comments along with their preference. Some of these are summarised below:

- Congestion often occurs when drivers travelling in opposite directions fail to give way to each other. This is exacerbated when the available road width is narrowed by cars parked on both sides for the length of the street and there are very few passing opportunities. This often also results in exchanges of road rage.
- Parking and traffic conditions in Grattan Street near Commercial Road as a result of *The Cullen hotel* are an issue. There are often taxis and other vehicles for the hotel in No Stopping areas near the intersection or double parked which obstructs the traffic flow at the northern end of the street. Would like to see parking prohibited on at least one side of the street near Commercial Road, or a Taxi or Loading Zone installed.
- Respondents who would prefer to retain the two-way flow were mainly concerned with the impact that the southbound direction would have on their ability to leave the area especially when the railway boom gates at Greville Street are down and traffic is queued back along Greville Street. This would mean that they would not be able to turn out of Grattan Street.
- Would prefer that the two-way flow be retained with parking removed from the entire length of one-side of the street to provide the room for two-way traffic flow. They felt that removing the parking would not be a major concern once the new Cato Street underground car park is opened.
- Conditions in Grattan Street will improve once the new Cato Street car park is opened.
- Commercial Road is busy and having to enter from there would add additional time to accessing the street.

It is apparent that when there are vehicles parked on both sides of Grattan Street the available carriageway width is not able to accommodate simultaneous two-way traffic flow. The relatively high volume of traffic and limited passing opportunities for extended lengths exacerbate the congestion in the street (all be it that the majority of traffic along the street is being generated by residents/staff that live/work on Grattan Street).

The traffic conditions at the intersection of Greville Street and Porter Street (i.e. at the Prahran railway level crossing) were considered by the independent assessment that was undertaken by Cardno. The report indicates *that should either partial or full southbound flow option be implemented by Council along Grattan Street, the signalised and unsignalised intersections forming part of the study area will continue to operate generally in line with existing conditions.*

### Options

Given the consultation result obtained, the following options are available:

#### **1) Proceed with wider Community Consultation for a One-Way Flow Proposal**

While the response rate was low (19 percent) the majority of the responses were in favour of the proposal. This would provide further formal consultation with the broader community in accordance with S223 of the Local Government Act.

#### **2) Abandon the Proposal**

Less than 20% of those that would be directly affected by the proposal responded to the recent consultation process.

**3) Alter the Proposal and re-consult the immediately affected residents of Grattan Street.**

Having regard to the comments received it appears that many of the respondents, both for and against, the one-way proposal feel that the traffic conditions (congestion, road rage, etc.) need to be addressed. The alternative options to address such concerns are:

- Retaining two-way flow at the northern end of the street (e.g. up to the Community Centre car park entrance or Hinton Lane) and have one-way southbound flow for the rest of the street.
- Retain two-way traffic flow for the entire length of the street and remove parking from one side of the street. If all parking from one side of the street is removed, unimpeded flow for the whole length of the street would be available. Alternatively some of the parking from one side of the street could be removed to provide passing bays. For example, if 3 spaces are removed after every 6 spaces on the eastern side of the street this would provide approximately 20 metres long passing bays every 35 to 40 metres (effectively removing only a third of the spaces from one side of the street). The implications of such a proposal would be best investigated with parking surveys undertaken after the parking supply in the area is increased following the opening of the underground car park at Cato Street.

The option to alter parking would only require community consultation with those directly affected by the change.

- 4)** A fourth option is to reassess the street once the Cato Street Carpark Redevelopment project is complete and the traffic patterns have stabilised.

With the low response rate obtained (19%), it would normally be appropriate to abandon the proposal however, consideration could be given to alternative options such as removing/altering parking subject to further investigation at an appropriate time when the "Cato Square" project/car park is completed.

In the interim, it is likely a reduction of some congestion associated with the parking conditions near the Commercial Road end, could be achieved by altering the parking at this location. Subject to a further consultation it is recommended that:

- 1) the existing "No Parking" (7 to 9am) and "2P" (9am to 6pm) restrictions outside The Cullen to be converted to "No Parking" at all times to improve two-way traffic flow on most occasions while still allowing passengers to be dropped off/picked up clear of the intersection, without double parking; and.
- 2) the "¼P" (9am to 6pm) parking outside 31 Grattan Street (opposite The Cullen hotel) apply at all times to discourage vehicles from being parked for extended periods at this location outside of the current hours of operation.

**FINANCIAL AND RESOURCES IMPLICATIONS**

As advised in the report submitted to Council on 4<sup>th</sup> March, 2019, the study undertaken, which included detailed surveys and an origin-destination study, was completed for \$22,880 including GST.

A parking investigation to remove or alter car parking from one side of Grattan Street is estimated to cost in the order of \$5,000 to \$10,000.



## CONCLUSION

Although the majority of questionnaire respondents supported converting the traffic flow at Grattan Street from two-way to one-way southbound the figures only represented 19 percent of those properties consulted. When the response rate is less than 20 percent the usual practice is to abandon the proposal.

In light of the survey comments and responses it is suggested that rather than abandoning the proposal residents are surveyed again on alternate options of modifying or removing the parking from one side to improve the traffic conditions along Grattan Street to provide either unimpeded access or to improve passing opportunities.

It would also be advantageous to alter parking restrictions at the northern end of Grattan Street to improve traffic conditions near the Commercial Road intersection. Traffic conditions will continue to be monitored and reassessed after the Cato Street Carpark Redevelopment is completed and traffic patterns have stabilised.

## HUMAN RIGHTS CONSIDERATION

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

## ATTACHMENTS

⇒1. Grattan Street - Consultation Letter Excluded

## RECOMMENDATION

*That Council:*

- 1. Note the consultation results for the proposed one-way southbound traffic flow at Grattan Street, Prahran.**
- 2. In light of the response undertake further consultation on options to modify the parking on one side of Grattan Street to assist traffic flow.**
- 3. Concurrent with the consultation in recommendation 2, seek the views of affected residents and businesses on altering the existing “¼P”, “No Parking” and “2P” parking restrictions at the northern end of Grattan Street to improve traffic conditions near Commercial Road.**
- 4. Receive a report on the further consultation results for consideration.**
- 5. Advise all property occupiers previously consulted of the decision.**



## **11. STONNINGTON CYCLING REFERENCE GROUP - TERMS OF REFERENCE UPDATE**

**Acting Coordinator Transport & Parking: Jordan Allan**  
**Manager Transport & Parking: Ian McLauchlan**  
**Acting General Manager Assets & Services: Rick Kwasek**

### **PURPOSE**

To seek approval to amend the Stonnington Cycling Reference Group Terms of Reference, and to commence the process to seek nominations for the next term of the Group.

### **BACKGROUND**

At the meeting of Council on 4 February 2013 a Stonnington Cycling Reference Group was established through the endorsement of the Terms of Reference. This document defines the Group, and includes details regarding membership criteria, roles, and responsibilities.

The initial group comprised 4 community representatives (3 residents and a business owner), 2 Councillors (as Chair and alternate Chair), and relevant staff. The people comprising the Group were endorsed at the meeting of Council on 20 May 2013.

In accordance with the Terms of Reference, the Group was refreshed in 2016. New nominations for membership were sought from the community, and a Group again comprised of 4 community representatives (3 residents and a business owner) was endorsed at the Council meeting of 9 May 2016.

The Stonnington Cycling Reference Group has provided valuable community input to strategy formation and project implementation through the 2 terms served to date. As the 2nd term has elapsed, it is now an appropriate time to form a new Stonnington Cycling Reference Group for the next term.

However, prior to conducting the next Expression of Interest (Eoi) process to solicit community nominations for positions in the Group, a review of the Terms of Reference has been undertaken.

### **DISCUSSION**

The review of the Terms of Reference has been undertaken to expand the membership of the Group, update selection criteria for the Group, and provide some clarity for the scheduling of meetings of the Group. Feedback was sought from the previous Stonnington Cycling Reference Group on possible alterations to the Terms of Reference at the last meeting of the group in February, 2019.

An issue arose in the latter stages of the previous term where the availability of the Group members to meet was limited, and required rescheduling of the meeting several times. A member of the Group also left, which meant only 3 community members remained.

The review of the Terms of Reference seeks to expand the group membership, and formalise what constitutes quorum for a meeting of the Group. The adjustment of the Terms of Reference also seeks to engage with sections of the community which may be currently missed, including students and workers within the municipality.

A copy of the updated Terms of Reference is included as Attachment 1.

It is proposed that the group comprise a 6 community members, to be selected following an EoI process. Nominations received as part of this process will be evaluated by officers, and the final selection of members will be reported to Council for decision. The Council will also be asked to nominate a Chair and alternate Chair at that time.

In order to facilitate reasonable scheduling of meetings, it is proposed that the Chair and/or alternate and 3 community members would constitute a quorum.

The Terms of Reference indicates that 4 meetings per year will be held, nominally in March, June, September and December.

To be eligible for selection to the Group, community members must live, work, or study in the City of Stonnington. Nominations for membership would be encouraged from individuals:

- that are able to represent the interest of cyclists; and/or
- that are able to represent sections of the community with an interest in cycling; and/or
- with personal interests in cycling; and/or
- that represent educational, commercial or retail interests within the municipality.

The selection criteria for community membership are as follows:

- Resident, non-resident worker, student, or business operator in the City of Stonnington;
- Demonstrated interest in cycling (on / off road);
- Disclosure of membership / involvement in any other similar groups (eg. member of Bicycle Network, bicycle user groups);
- Level of experience in cycling (frequency ride bike, eg. daily, weekly, fortnightly, monthly, occasionally, not at all);
- Representation of a segment of the community with cycling interest; and a
- Statement of commitment to the terms of engagement of the Group and the expected time requirements.

Ideally in selecting representation for the group Council would seek to appoint a member who is a resident in each ward (3), a business operator in Stonnington (1), a student in Stonnington (1) and a non-resident who works in Stonnington (1), making a total of 6 representatives.

The change to the above criteria is to include those who study or work within the municipality. The previous Terms of Reference limited membership to ratepayers, however with the increase in employment and educational facilities (particularly in the west end of the municipality), it is desirable to seek membership from those who use the cycling network regularly but may not be ratepayers.

As an example, schools provided with car parking, can seek to have parents/students rely on sustainable transport modes, including cycling. Capturing community feedback from a student of this school would be beneficial.

Expanding the group to include an additional member will mean that quorum can be more likely be met without needing every member to be present. This has been a concern in the past when members are unavailable, particularly at late notice.

The purpose of the Group is largely unchanged. As the Terms of Reference state, the Stonnington Cycling Reference Group will:

- Contribute to the planning of implementation of the current Stonnington Cycling Strategy, as appropriate;
- Provide input into specific cycling initiatives, including programs and infrastructure planning and development;
- Provide information on general issues pertaining to the achievement of cycling objectives within the City of Stonnington; and
- Ensure that cycling initiatives and programs are developed that achieve a balanced outcome having regard to Council Plan priorities, other stakeholder and community interests, having regard to the current urban environment.

The Group remains not a formally delegated committee of Council and as such has no formal authority or decision making powers.

#### **FINANCIAL AND RESOURCES IMPLICATIONS**

The resource implications for the Stonnington Cycling Reference Group will be largely be in-kind, in the form of Councillor and officer time, meeting room use, etc.

#### **CONCLUSION**

The Stonnington Cycling Reference Group has now completed 2 terms, and has provided valuable community input to strategy formation and project implementation through the terms served to date. Prior to forming the next group, a review of the Terms of Reference has been conducted, and it is proposed that the revised Terms of Reference included as Attachment 1 be endorsed. The makeup of the reference group includes a member who is a resident in each ward (3), a business operator in Stonnington (1), a student in Stonnington (1) and a non-resident who works in Stonnington (1), making a total of 6 representatives, an increase of one.

The appointing of members will be the subject of a subsequent report to Council.

#### **HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

#### **ATTACHMENTS**

- ⇒1. Attachment 1 - Cycling Reference Group - Terms of Reference Excluded

#### **RECOMMENDATION**

*That Council:*

1. ***Endorse the updated Stonnington Cycling Reference Group Terms of Reference.***
2. ***Conduct an Expression of Interest process for membership of the next Stonnington Reference Group.***
3. ***Consider a further report with nominations for the next Stonnington Reference Group after completion of the Expression of Interest process.***



## 12. STONNINGTON PUBLIC HEALTH AND WELLBEING PLAN - MID TERM PROGRESS UPDATE

**Community & Health Planner: Karyn Knight**  
**Manager Advocacy, Performance and Customer Experience: Tracey Limpens**

**PURPOSE** The purpose of this report is to present Council with a mid-term progress update of the Stonnington Public Health and Wellbeing Plan (SPHWP) 2017–2021.

### BACKGROUND

The City of Stonnington plays a key role in influencing the built and social environment in which we live, grow, work and play; and providing services to improve the physical and mental health and wellbeing of Stonnington residents throughout all life stages.

The *Public Health and Wellbeing Act 2008*, requires Council to prepare a municipal public health and wellbeing plan every four years following council elections. The SPHWP is an evidence-based document that guides Council's planning, policy and strategic directions for protecting, improving and promoting public health and wellbeing at a local community level.

The SPHWP, which was adopted in October 2017, articulates five overarching health priority areas or pillars:

- 01 / Pillar one: Active and healthy lifestyle
- 02 / Pillar two: Community safety
- 03 / Pillar three: Vulnerable communities
- 04 / Pillar four: Harmful alcohol and other drug use
- 05 / Pillar five: Violence and injury

The SPHWP is one of council's key strategic documents and is closely aligned with the Council Plan and Municipal Strategic Statement. The Pillars also align to health and wellbeing priorities of the *Victorian Public Health and Wellbeing Plan 2015-2019*.

This review provides an overview of health and wellbeing achievements to June 2019.

### DISCUSSION

Improving health outcomes in local communities through place based prevention and early intervention activities can take many years, requiring a concerted and collective effort across a range of sectors.

The Public Health and Wellbeing Act 2008 requires councils to review their municipal health and wellbeing plan during its term and amend, if appropriate.

This review is predominately a 'process evaluation': 'Are we doing what we said we would do?'

Allied health services, and government departments and agencies also play a part in the delivery of this plan.

The review process also provides the opportunity for Council to conclude activities that might no longer be necessary; and/or to commence new activities in response to newly identified need. Over the period of this review there have been no significant changes to either the policy context or Stonnington's population demographics to indicate that changes to the existing SPHWP strategies or objectives are required.

At the end of the four-year term, the SPHWP will be evaluated (impact evaluation process) in conjunction with the preparation of a new municipal health and wellbeing plan for 2021-25.

The short-term impact of strategies can be gauged by the range of health and wellbeing-related activities delivered. Over the last two years a significant number of health promotion activities have been delivered either directly by Council or through the support of local health service providers and strategic partnerships (for example Southern Melbourne Primary Care Partnership, Star Health, Caulfield Community Health, Women's Health in the South East and Prahran Mission).

Attachment 1: Health and wellbeing achievements July 2017 – June 2019 provides a comprehensive list of achievements across each of the five overarching pillars.

#### **FINANCIAL**

Financial support for the implementation of the SPHWP is provided through Council's annual budget. Funding is also sought from the state and federal governments and agencies such as VicHealth for the implementation of eligible projects.

In addition, Council provides financial support to local agencies through the community grants program to deliver activities that meet the objectives of the Council Plan and SPHWP.

#### **CONCLUSION**

Implementation of the SPHWP through the activities and plans of business units is progressing as planned with health and wellbeing related strategic activities on track.

The overall direction and strategies of the SPHWP are still relevant with no changes required.

#### **HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

#### **ATTACHMENTS**

[⇒](#)1. Attachment 1: Health and wellbeing achievements July 2017 - June 2019 Excluded

#### **RECOMMENDATION**

***That Council:***

- 1. Notes the Stonnington Public Health and Wellbeing Plan (2017-21) mid-term progress.***



### **13. UPDATE ON THE PROPOSAL TO INSTALL A PUBLIC TOILET WITHIN HAWKSBURN VILLAGE**

**Acting Manager Urban & Infrastructure Projects: Simon McKenzie - McHarg**  
**Acting General Manager Assets & Services: Rick Kwasek**

#### **PURPOSE**

The purpose of this report is to provide Council with an update on the consultation undertaken on the provision of a public toilet within Hawksburn Village.

#### **BACKGROUND**

The *Hawksburn Village Structure Plan* was adopted by Council on the 22 August 2016 in order to *'provide a framework for land use, built form, movement and open space for the activity centre'* (Pg. 5). The structure plan assesses the current land use, built form and open space provisions within the precinct and provides an action plan to respond to this changing environment. One of these actions is to *'investigate and consult on a new public toilet within the activity centre'* (pg. 37).

The structure plan describes the existing public realm within Hawksburn Village as having *'relatively narrow footpaths along Malvern Road'* and *'a lack of public open space'* (Pg. 10). As such there currently is limited available space to successfully retrofit a new public toilet facility into this environment without significant impact on the amenity and character of the surrounding precinct.

In response to this action plan, and following an investigation of possible sites an assessment of three possible locations for a public toilet was undertaken within Council owned land (refer to attachment – Toilet facility location options). These location were:

- South West corner of Westbourne Street and Malvern Road
- The rear carpark of the Woolworth site
- The middle car park accessed of Malvern Road

The suitability of a public toilet within each location was assessed on the following criteria:

- Land ownership
- Access, safety and amenity
- Ability to meet disability access requirements,
- Underground services,
- Impact to parking and
- Cost to Council

The assessment found that all three options were problematic and that there currently is no ideal location for a public toilet within the Hawksburn Village precinct. Each site had various issues relating to safety, amenity and the limited amount of open space surrounding each location. Accessibility was also seen as a concern and was difficult to achieve. Acknowledging these constraints, only *Option One- South West Corner of Westbourne Street and Malvern Road* met the required disability access requirements and as such was seen to be the only practical location within the precinct's currently available public realm. Refer to the image below for indicative location of the public toilet amenity on Westbourne Street.



On assessment of the three locations, consultation was undertaken on *Option One- Westbourne Street* in line with the Council resolution on the 11 April 2016 as outlined below.

1. *Note the preferred option for construction of a new public toilet in the Hawksburn Village Shopping Centre; Location 1, Westbourne Street, Toorak near the corner of Malvern Road.*
2. *Note the consultation process for the proposed toilet location.*
3. *Note the outcome of the consultation process will be the subject of a future council report.*

Consultation on *Option One- Westbourne Street*, was undertaken. A summary of this, along with officer's recommendations is discussed within this report.

## DISCUSSION

### *Community Consultation*

Consultation with local traders and residents on *Option One- Westbourne Street*, occurred in May 2017. Traders immediately adjacent to the proposed facilities (5 no.) were hand delivered a letter describing the proposal and included a location plan and indicative images of the toilet facilities.

In summary, Council did not receive support for this proposal. Residents and businesses within close proximity to the facilities expressed strong opposition due to perceived anti-social behavior, reduced amenity value, potential loss of business and reduced property values which a public toilet may bring to an area. Specifically, some traders expressed concerns that the toilet would have a negative impact to their business by detracting customers from entering their building and obstructing views of their building and advertising. Surrounding residents objected to the proposal due to the impacts on the outlook from their balconies, bedrooms, living rooms and kitchens.

From an Urban Design perspective, installing a toilet facility into this location raises some concerns as there is limited space available between the toilet and adjacent building. A new toilet here would impose a slightly narrower walkway of approximately one meter in width, creating several blind spots and increase the opportunity for anti-social behaviour. This is also a compromise of accessibility standards which ideally recommends an offset of 1.5m. The general amenity of this highly pedestrianised intersection would also be impacted by the footprint of the building extending into the currently restricted provision of open space and reducing access to sunlight.

A toilet facility in this location will also require the relocation of several council owned and third party assets including a fire hydrant, telstra communications and water mains, creating significant additional costs for Council.

Whilst the Hawksburn Village Structure Plan has identified the need for a public toilet within the precinct, implementing one at the corner of Westbourne Street and Malvern Road goes against many of the documents identified objectives, including:

- *Establish a high quality pedestrian oriented public realm along Malvern Road, Hobson Street and Barnsbury Road (Pg. 20).*
- *Improve north-south pedestrian connectivity (Pg. 20)..*
- *Ensure streets and public open spaces in Hawksburn Village are safe, accessible and have a high level of amenity during and day and the night time (Pg. 20).*

#### *Potential to incorporate public toilet facility into future redevelopment*

The existing Woolworths site on Malvern Road has been identified within the structure plan as an *existing retail anchor* and a *strategic opportunity* for redevelopment (Pg. 15 & 16). The structure plan identifies the potential for this strategic opportunity to *'provide both public open space and relief or resting space off the main footpath'* (Pg. 20). Future development of the site may consider consolidating both Council and privately owned property with greater potential to integrate a new public toilet facility. This opportunity would provide a better outcome for businesses and residents rather than trying to retrofit a public toilet into a limited area.

As such Council officers are recommending that the provision of a new public toilet facility be implemented as part of the future redevelopment of the Woolworths site either within private property, as part of a permit requirement or incorporated within the re-designed open space surrounding this building. It is expected that this would be captured as part of Council's standard planning process.

#### **POLICY IMPLICATIONS**

Council have responded to the action within the Hawksburn Village Structure plan to *'investigate and consult on a new public toilet within the activity centre'* and as such there are no further policy requirements.

The decision to incorporate a public toilet facility either as part of a future redevelopment of the retail anchor site Woolworths or within a redeveloped open space surrounding this development would require negotiations with the relevant land owners at the time of application. It is expected that this would be subject to Council's standard planning application and negotiation processes at a later date.

## FINANCIAL AND RESOURCES IMPLICATIONS

There are no financial or resource implications associated with this recommendation. There is currently a capital works budget allocation of \$20,000 towards a public toilet within Hawksburn Village. It is expected that these funds will be reallocated as Council savings or assigned to another appropriate capital works budget.

## LEGAL ADVICE & IMPLICATIONS

There is no know legal advice or implications associated within this decision

## CONCLUSION

In line with the recommended actions within the *Hawksburn Village Structure Plan*, Council officers have investigated opportunities to retrofit a new public toilet within the Hawksburn Village Activity Centre. Three locations were previously assessed on their ability to meet specific criteria and, whilst each location identified specific issues, Council elected to undertake consultation on *Option One – Corner Westbourne Street and Malvern Road* as this was the most practical option within the current urban realm environment.

Significant negative feedback was received through the consultation process with business owners and residents objecting due to the perceived anti-social behavior, reduced amenity value, potential loss of business and reduced property values which a toilet may bring to an area. As such this location was not supported by the local community. As there are currently no other appropriate locations for public toilets within Hawksburn Village, Council officers are recommending that the provision of these facilities be considered as part of the future redevelopment of the retail anchor site Woolworths either within privately owned property or incorporated within the re-designed open space surrounding this building.

## HUMAN RIGHTS CONSIDERATION

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

## ATTACHMENTS

⇒1. Toilet facility location options Excluded

## RECOMMENDATION

***That Council:***

- 1. Notes the strong opposition towards a potential public toilet facility at the corner of Westbourne Street and Malvern Road, Hawksburn***
- 2. Notes the limited opportunities for public toilet facilities within the Hawksburn Village Precinct and***
- 3. Recommends a public toilet facility be considered as part of future anchor retail development either within private property or in the surrounding Council owned land***

## **14. APPOINTMENT OF AUTHORISED OFFICERS PURSUANT TO THE PLANNING AND ENVIRONMENT ACT 1987 - STATUTORY PLANNING**

**Acting Manager Statutory Planning: Phillip Gul**  
**General Manager Planning & Amenity: Stuart Draffin**

### **PURPOSE**

The purpose of this report is to recommend that Council approve new *Instruments of Authorisation* to various staff members.

### **BACKGROUND**

Section 224 of the *Local Government Act* 1989 and numerous other Acts and Regulations require that authorised officers (Council staff or the staff of contractors) be appointed for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.

Authorisations are reviewed regularly and are updated due to:

- a) Appointment of new staff;
- b) changes in the names of Acts;
- c) the introduction, amendment or revocation of legislation;
- d) changes in position titles; and
- e) changes in roles.

In most cases, the authorisations are approved by the Chief Executive Officer, but the *Planning and Environment Act* 1987 specifically requires that authorisations under that Act be issued by resolution of the Council and sealed.

As a result of staff departures and recent appointments, it is recommended that new authorisations pursuant to the *Planning and Environment Act* 1987 be approved. Following is an updated list of the people required to be authorised in the Statutory Planning Unit.

### **HUMAN RIGHTS CONSIDERATION**

This recommendation complies with the Charter of Human Rights and Responsibilities Act 2006.

### **ATTACHMENTS**

1. PA - S11A - Appointment of Officers under P&E Act 1987 - Attachment 1 of 1 Excluded

## RECOMMENDATION

*That Council:*

1. *That the attached Instrument of Authorisation pursuant to the Planning and Environment Act 1987 from Council to:*
  - a) *John Baird;*
  - b) *Kathy Dougherty;*
  - c) *Peter Dreimanis;*
  - d) *Tristan Huliganga;*
  - e) *Jennifer Ozer; and*
  - f) *Katherine Petrentsis**be approved and sealed.*

o) *Confidential*

1. **STRATEGIES FOR CREATING OPEN SPACE**

**Acting Manager City Strategy: Anthony De Pasquale**

Confidential report circulated separately.

Confidential