



Ordinary Council Meeting Agenda

Monday 21 December 2020 at 7 PM

**Council Chamber, Malvern Town Hall
Corner Glenferrie Road & High Street 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 Kate Hely, Mayor
Cr Melina Sehr, Deputy Mayor
Cr Jami Klisaris
Cr Marcia Griffin
Cr Nicki Batagol
Cr Alexander Lew
Cr Matthew Koce
Cr Mike Scott
Cr Polly Morgan

Chief Executive Officer

Jacqui Weatherill

Executive Staff

Chris Balfour – Acting Director Planning & Place
Cath Harrod – Director Covid Response
Rick Kwasek – Director Environment & Infrastructure
Greg Curcio – Director Engagement & Innovation
James Rouse – Acting Director Community & Wellbeing

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.

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. The role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community. These meetings are an important way to ensure that the democratically elected Councillors work for the community in a fair and transparent way. Council business is conducted in accordance with Part C – Meeting Procedure section of Council’s Governance Rules.

Councillors carry out the functions, powers, authorities and discretions vested with them under the **Local Government Act 2020**, 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 Part 6 – Council integrity, Division 2 – Conflict of Interest of the Act.

About this meeting

The agenda, as specified in Stonnington’s Governance Rules, lists of all the items to be discussed. 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 at the meeting.

Arrangements to ensure meetings are accessible to the public

Council meetings are generally held at the Malvern Town Hall, corner High Street and Glenferrie Road (entry via Glenferrie Road via the door closest to the Malvern Police Station). The Council Chamber is accessible to all. Accessible toilets are also available. If you require translation, interpreting services or a hearing loop, 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 proceedings, the meeting agenda, motions and proposed alternate resolutions (also known as ‘yellows’), are displayed on a screens.

Live webcasting

Council meetings are broadcast live via Council’s website, allowing those interested to view proceedings without needing to attend the meeting. This gives people who are unable to attend, the ability to view 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 are visible. People in the public gallery will not be filmed, but if you speak, you will be recorded.

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 (usually the Mayor) and your responsibilities under the City of Stonnington Governance Rules – Division 8 – Questions to Council from Members of the Public, Division 12 – Recording of Proceedings and Division 13 Behaviour.

Your cooperation is appreciated. We hope you enjoy the meeting.

Mayor, Deputy Mayor and Councillors, Stonnington City Council

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1 Reading of the Reconciliation Statement and Affirmation Statement

2 Introductions

3 Apologies

4 Adoption and confirmation of minutes of previous meeting(s)

4.1 Minutes of the Ordinary Council Meeting held on 19 October 2020, 23 November and 7 December 2020

Officer Recommendation

That the Council confirms the Minutes of the Ordinary Council Meeting of the Stonnington City Council held on 19 October 2020, 23 November 2020 and 7 December 2020 as an accurate record of the proceedings.

5 Disclosure by Councillors of any conflicts of interest

6 Questions to Council from Members of the Public

7 Correspondence (only if related to Council business)

8 Questions to Council Officers from Councillors

9 Tabling of Petitions and Joint Letters

10 Notices of Motion

Nil.

11 Reports of Special and Other Committees - Informal Meetings of Councillors

12 Reports by Delegates

13 Urgent Business

14 General Business

14.1 Level Crossing Removal Advocacy

Manager City Strategy: Susan Price
Acting Director Planning & Place: Chris Balfour

Linkage to Council Plan

Liveability: The most desirable place to live, work and visit.

- L4** Enhance the design outcomes of public spaces, places and buildings.
- L5** Advocate for improved and accessible public transport to enhance liveability and economic growth.

Purpose of Report

To inform and discuss the results of the community engagement (Stage 1 and Stage 2) and seek endorsement of Council's proposed advocacy approach.

Officer Recommendation

That Council:

- 1. NOTE the Stage 1 and Stage 2 findings of the community engagement data into the potential Level Crossing Removal Projects on the Glen Waverley Line in Stonnington included in attachments 2 to 5 in particular the community expressed strong support for the removal of the three remaining level crossings.**
- 2. ADVOCATES to State and Federal Government to commit funding to urgently complete the three remaining level crossing removals on the Glen Waverley Line to minimise disruption.**
- 3. ENDORSE Council's Glen Waverley Line Level Crossing Removal Advocacy Document in Attachment 6 supporting a corridor and outcomes-based approach to the removal of the remaining level crossings.**

Executive Summary

The Level Crossing Removal Project (LXRP) is preparing a business case for the removal of level crossings at Glenferrie Road, Kooyong and Tooronga Road, Malvern. The Federal Government has provided \$260 million to undertake the Glenferrie Road, Kooyong level crossing removal.

Council has requested that the LXRP take a corridor approach when planning the removal of the three remaining level crossings on this line (Glenferrie Rd, Tooronga Rd and High St).

The LXRP have not undertaken early (business case) engagement. Council has been proactive to engage the community to better understand their views on the values and attributes that are important to the community along the corridor to inform the business case.

Council initially undertook a round of community engagement and then, to support the Stage 1 engagement process, a Stage 2 engagement was undertaken.

In both engagements the community expressed strong support for the removal of the remaining level crossings in this corridor but there was no consensus on a preferred design option (rail-under or rail-over). The community also expressed what its preferred outcomes are such as safety, greening, good design and materials and connectivity.

An outcome-based approach will allow Council to advocate for important legacy outcomes for the community, irrespective of the design.

Background

At the last Federal election, the Australian Government committed \$260 million to replace the existing level crossing at Glenferrie Road. Funding was also committed for the State Government to prepare business cases for level crossing removals at both Glenferrie Road, and Tooronga Road (but not High Street, Glen Iris).

The State Government's Level Crossing Removal Project (LXRP) is currently preparing the business cases for Glenferrie Road, Kooyong and Tooronga Road, Malvern and are considering all design solutions (e.g. rail-under, rail-over and or a hybrid design).

Council Officers have also requested LXRP investigate removing the level crossing at High Street, Glen Iris, as part of a corridor approach. LXRP has advised its role is to conduct technical and engineering investigations to inform the business case and requests to expand the business case to other level crossing sites should be directed to the Federal Government.

Council's Public Transport Advocacy: Reference Document 2018 endorses support for the removal of the above three level crossings (refer to **Attachment 1**). It also advocates for rail under road level crossing removal solutions in Stonnington.

Key Issues and Discussion

Recent experience, both here and in other Melbourne local council areas, and a comparison of the as-built conditions at Burke Road versus Toorak Road, shows a rail-over solution has some advantages when compared to a rail-under option.

It is noted that a rail-under option utilises a trench cutting construction method and not a rail tunnel. A trenched rail-under solution, while removing the train from sight, creates a disconnection between both sides of the rail line and does not provide any opportunities for public open spaces, community facilities, better train stations and appropriate access and connectivity throughout the precinct. They also have complex design implications during construction stage which impact the area for prolonged periods, even though they can offer some final design advantages depending on the methodology (trench or tunnel).

A rail-over option allows for active use of newly created space under the rail bridge, as well as better connectivity between opposite sides of the rail line. It also provides more opportunities for better landscaping.

Council officers have provided initial feedback to LXRP on technical matters and consistent with Council's existing strategies. Council also requested that LXRP engage the community so that they could capture its views and inform the Business Case but LXRP has not committed to doing so.

In light of LXRP not committing to early engagement, Council undertook its own engagement with the community in two Stages to seek feedback on what it considers are key issues

around the level crossing removals, what features of the local area need to be protected and improved. The community was also asked what key design features from completed level crossing removal solutions should be included in these projects. Council engaged, residents, business owners, commuters and key local stakeholders in 2 stages. In summary the feedback included (refer to **Attachments 2 to 5**):

- Strong support for a corridor approach
- Looking for improved stations, more landscaping and trees, retaining and improving amenity, vegetation, heritage and character
- Better and more public open space and community facilities
- Improved safety (more lighting and DDA compliance)
- Improved accessibility and connectivity for pedestrians and cyclists
- Inclusion of end-of-trip facilities
- Ensure connections to schools, the activity center and Vision Australia Headquarters are improved (especially if the station moves from its current location)

It is understood that the State Government business case will be finalised and presented for consideration in early 2021, so the window of opportunity to further feed into the business case with a formal Council position is limited to December.

These projects will have a long-lasting impact in our community so it is imperative that we seek maximum benefit for our community. Focusing on an outcome-based rather than a specific design solution will ensure the legacy outcomes will provide our community with benefits that last generations irrespective of the design option that is nominated by State Government.

A draft Advocacy Document has been prepared (refer to **Attachment 6**) taking into account the findings from the community engagement, extensive research and internal reviews. The 6 Draft Glen Waverley Line Level Crossing Removal Advocacy Document identifies the community's views, issues and opportunities.

Advocacy Approach

Stage 1 - Pre-Business Case (current)

The first (current) advocacy stage is high level referencing Council's existing relevant key strategies/action plans/policies that can influence the project, a summary of the findings of the community engagement and Council's advocacy position.

Stage 2 - After a specific treatment type is chosen

The second advocacy stage will respond to the proposed design option.

Next Steps

1. Adopt an advocacy position and present it to LXP, State and Federal Ministers.

Conclusion

Council undertook two stages of engagement with the community on future Level Crossing Projects. In both stages, the community expressed strong support for the removal of the remaining level crossings in this corridor but there was no consensus on a preferred design option (rail-under or rail-over). Council received feedback on outcomes the community seeks as part of the removal projects. A such, Officers have prepared a draft Glen Waverley Line Level Crossing Removal Advocacy Document and it is proposed that the Document be endorsed by Council to then be presented to LXP, State and Federal Ministers.

Governance Compliance

Policy Implications

Council has an existing advocacy position as articulated in Public Transport Advocacy: Reference Document - July 2018.

Financial and Resource Implications

The costs associated with engagement have been included in existing budgets.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

In Stage 1 Council sent 8300 postcards to all residents, owners and businesses within Stonnington within an 800m radius of each station directing them to the online survey. Over 675 responses were received via survey, social media, emails and phone calls. It is clearly an issue of great interest and importance to our community. As such, further testing of the community views was undertaken by a Stage 2 engagement on the broader community.

Stage 2 was conducted by independent external research experts, JWS Research. It comprised two focus groups and a telephone survey of 500 residents. The survey was weighted to over-represent the communities closest to the proposed works, with 250 respondents drawn from Toorak, Malvern and Kooyong.

The Stage 2 research found there is overwhelming community support for level crossing removals, with almost no opposition. However, the community is split on the design options, with no majority support for rail over or rail under options.

At the start of the survey, two out of five respondents indicated no design preference. Of those that did indicate a preference, a higher number preferred rail under road (noting that some respondents assume this will be tunnel option).

As respondents were asked to consider the options in more detail, there was a significant shift from no design preference towards rail over road.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Public Transport Advocacy Reference Document - 2018 [**14.1.1** - 60 pages]
2. Level Crossing Removal Survey Questions [**14.1.2** - 3 pages]
3. Level Crossing Removal Community Survey Results [**14.1.3** - 5 pages]
4. Glen Waverley Line Level Crossing Removal Second Engagement Overview [**14.1.4** - 1 page]
5. Glen Waverley Line Level Crossing Removal Second Engagement Report [**14.1.5** - 40 pages]
6. Draft Glen Waverley Line Level Crossing Removal Advocacy Document [**14.1.6** - 5 pages]

14.2 Planning Amendment 0916/99 - 672 Chapel Street, South Yarra

Manager Statutory Planning: Alex Kastaniotis
Acting Director Planning & Place: Chris Balfour

Purpose of Report

For Council to consider a secondary consent amendment to seek retrospective approval for security fencing at the public pedestrian entrances on part of the land bounded by Chapel Street, Malcolm Street, River Street and Alexandra Avenue (Development known as SY21) to prevent access to the public open space within the development at 672 Chapel Street, South Yarra.

Officer Recommendation Summary

That Council authorise Officers to issue a **Refusal of the secondary consent request** subject to grounds outlined in the Officer Recommendation, namely:

- It seeks to remove publicly accessible open space and pedestrian links.
- The proposed amendment to now remove pedestrian links in their entirety and restrict access to the open space within the development does not achieve the expectations of the originally approved permit.
- The proposed amendment presents unacceptable implications for urban design and character and will adversely impact the public realm.
- Attempts have been made to negotiate options with the Applicant (Best Hooper Lawyers representing the Body Corporate) including restricted hours of public access, however the Applicant was not prepared to make any changes.

Executive Summary

Applicant:	Best Hooper Lawyers
Ward:	North
Zone:	Activity Centre Zone - Schedule 1
Overlay:	Environmental Audit Overlay
Neighbourhood Precinct:	Forrest Hill FH-1
Date Lodged:	21 May 2019
Statutory days: (as at council meeting date)	528
Trigger for Referral to Council:	Application of Council interest
Cultural Heritage Plan	Not required
Number of Objections:	Not applicable, no notice undertaken
Consultative Meeting:	No
Officer Recommendation	That Council refuses the amendments to the plans under secondary consent

The Applicant is seeking to amend Planning permit number 916/99 issued on 11 January 2000 and the endorsed plans to allow for security fencing and gates at the public pedestrian entrances throughout the site that will alter the way the public open space is used, and effectively privatise the public open space area and the changes sought are considered to be of consequence when considering the relevant planning policy provisions.

Background

Planning permit number 916/99 was issued on 11 January 2000 which allowed for *'four residential buildings comprising 275 dwellings, an art gallery, convenience store and associated car parking'*. The development permitted under planning permit 916/99 is referred to as the 'SY21 development'.

This is the second amendment to the permit.

Following the issue of the permit the applicant applied to amend the permit to allow for the splitting of the development into three stages. The permit was amended on 3 July 2000. It was amended with the following changes:

- A new condition 1 requiring the submission of a Master Plan showing an overview of the development and the individual areas that makes up the stages and the completion dates for each stage.
- New condition 2 which referenced the staging of the development and the information required for the endorsement of the three stages.

The Masterplan appears to have been endorsed in accordance with condition 1. However, the plan on the file does not include a date of endorsement.

Stage 1 plans were endorsed on 27 June 2000.

Stage 2 and 3 plans were endorsed on 1 November 2001.

There are four pedestrian walkways through to the open space of the SY21 development from River Street, Malcolm Street, Chapel Street and Alexandra Avenue which are provided for in the *'Site Analysis Plan – Opportunities'* which was endorsed under the existing Planning Permit on 1 November 2001. This plan also depicts a large area at the centre of the development as 'public open space'.

The assessment provided within the Council report dated 6 December 1999 relevantly states in relation to the SY21 Open Space:

'The proposal incorporates a number of positive urban design principles that contribute to the improvement of the public realm environment, particularly in Chapel Street, as follows:

- *North-south and east west pedestrian/cycle linkages are provided to achieve integration with the site's surrounds and remain accessible to the public at all times of the day'.*

The existing Planning Permit however does not refer to Public Open Space contributions.

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Its Design and are known as Drawing No's: 1-5 and are Council date stamped 21 May 2019 and Drawing TP23 prepared by HPA and is Council date stamped 28 June 2019.

Key features of the proposal are:

- The addition of security fencing and gates at the public pedestrian entrances located on River Street, Malcolm Street, Chapel Street and Alexander Avenue (development known as SY21).
- Removal of area of public open space within the development and access to be secured for resident access only.
- Fence heights vary between 1.35m-1.9m and are constructed of steel.

The Applicant has advised that the SY21 Open Space and pedestrian access has become difficult to manage due to safety concerns and that the fences are already in place, having been established since at least 2006/2007.

The lodgement of this application is in response to a planning investigation, which established that the security fences have been erected and also contain signs which advise access is for 'residents only' without the necessary planning approval. The application seeks to remedy the breach.

Site and Surrounds

The subject site is located on part of the land bounded by Chapel Street, Malcolm Street, River Street and Alexandra Avenue, South Yarra.

Planning permit 916/99 allowed for the site to be developed with 269 dwellings, as well as an Art Gallery and a convenience store at ground level fronting Chapel Street.

The development approved under the subject permit comprises four building elements described as follows:

- Chapel (800 Chapel Street) – 12 level building that fronts Chapel Street.
- Malcolm (56 Malcolm Street) – 11 level building that fronts Malcolm Street.
- Mews (40 Chapel Mews) – 4 level building located east of and parallel to the Chapel building and links to Chapel and Malcolm creating a central mews court.
- Piazza (1 Chapel Mews) – 4 level building with a 10 level central tower and a narrow frontage to Chapel Street.

A north-south and east-west open space spine links the various residential elements on the site. The north-south and east-west pedestrian/cycle linkages are provided to achieve integration with the site's surrounds and were intended to remain accessible to the public at all times of the day.

In 1995 Council approved the 8 level building (44 residential units) on the south-east corner of Chapel Street and Alexandra Avenue.

In 1997 Council approved the 9 level building on the south-west corner of Alexandra Avenue and River Street (50 residential units).

In 1999 a permit was issued for the residential building fronting River Street.

The 12 level building (99 residential units) on the south-west corner of Alexandra Avenue and River Street was approved by VCAT in 2002.

The land bounded by Chapel Street, Malcolm Street, River Street and Alexandra Avenue is interfaced with the following:

- To the east of the site lies a residential precinct containing a number of large, detached traditional period dwellings together with some smaller lot development and some medium density development.
- To the south, exists the high rise mixed use Como development which includes residential apartments, commercial and retail uses.

- To the immediate north is the treed boulevard of Alexandra Avenue running adjacent to the Yarra River.
- To the west lies the Forrest Hill precinct, which contains numerous mid and high rise residential apartments. Melbourne High School also lies within this precinct.

Previous Planning Applications

The site has a long and varied history. In the 1980's, the site originally formed part of the Jack Chia South Yarra Project in which this development site was bounded by Toorak Road, Chapel Street, Alexandra Avenue and River Street (known as the SY Project Land). It was subject to the Comprehensive Development Zone 2B which provided the opportunity for the land to be developed for a mixture of commercial and residential purposes.

The SY Project Land was intended to be developed in accordance with the South Yarra Project Act 1984 (SYP Act), which made provision for development contributions to include a central open space component of the development, comprising 'Central Green' (land south of Malcolm street, not forming part of the subject site) and 'Central Blue' (land north of Malcolm Street) to be privately managed by the owners of abutting properties.

On 15 October 1992 an agreement called the '*Amendment L30 Contributions Agreement*' was entered into under Section 173 of the *Planning and Environment Act* between the previous owner and Council relating to development contributions on the SY Project Land.

Only 'Stage 1' of the development under SYP Act was completed. Stage 1 relates to land outside the SY21 Land to the south, extending to Toorak Road.

The Como Project Act 1994 repealed the SYP Act and was enacted to facilitate the development of the balance of the land subject to the SYP Act and SYP Agreement in light of the developers decision to only complete Stage 1 of the development.

The subject land was rezoned Residential C in 1994 pursuant to Amendment L46 to the Prahran Planning Scheme. This amendment allowed the development of flats on the land without the need to obtain a planning permit, subject to the submission of a development plan complying within a prescribed building envelope and criteria as set out in the Prahran Planning Scheme.

The Contributions Agreement was entered into under Section 173 of the *Planning and Environment Act* on 16 August 1994 between Council and Royalmist, the owner of the land bounded by Chapel Street, the Prahran Main Drain (it is assumed this extends to Toorak Road), River Street and Alexandra Avenue. This agreement superseded the '*Amendment L30 Contributions Agreement*' referred to above. The Contributions Agreement states that Royalmist intended to develop the land in two stages, Project A and Project B. The SY21 Land is included in the Project B land. This was intended to settle the requirements relating to development contributions and Public Open Space (POS) contributions on the land the subject of the Contributions Agreement. It appears the Contributions Agreement was required because the SYP Act and the Amendment L30 Contributions Agreement had been superseded.

Clause 2.1 of the Contributions Agreement outlines various obligations of Royalmist which were required, including requirements related to footpath and road widening, planting, works, payment of costs of a panel hearing and payment towards the refurbishment of the South Yarra Library and Princess Gardens Arts and Recreation Centre Gallery.

Clause 3.1.1(d) of the Contributions Agreement seeks to secure space open to the public specifically applying to land linking 'Central Green' to Chapel Street and River Street. 'Central Green' is the land south of the subject SY21 Land, known as the Project A land.

The SY21 Land and other land on the Chapel Street, Malcolm Street, River Street and Alexandra Avenue block were subsequently subdivided and developed in accordance with the staged subdivision shown on PS422665R. A number of permits have since been granted for subdivisions on this land, in which none of these permits impose POS contribution requirements in the conditions of the permits.

The Title

The site is described on Certificate of Title Volume 10542 Folio 858 / Plan of Subdivision 422665R and contains Covenant V141854K and Covenant PS422665R.

Covenant V141854K restricts the following:

- Use of the site as a hotel, but excluding serviced apartments or;
- A commercial office, except for offices associated with serviced apartments and home occupation.
- Use of the site as a retirement complex.

The proposal does not contravene the above restrictions.

Item (c) of Covenant PS422665R relates to the erection of any structure (including any fence) to any part of the common property which *'forms or is part of a courtyard, terrace or balcony'*.

It is considered this restriction does not apply to the subject application, given that the proposed fences are erected in areas which do not fall within the definition of "courtyard, terrace or balcony". It is considered that erecting a fence to the entry points of the development does not breach this restriction on the title.

Planning Controls

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

Zone

Clause 37.08 – Activity Centre Zone- Schedule 1

Pursuant to Clause 37.08-5 a permit is required for buildings and works.

Clause 62.02-2 relates to 'Buildings and works not requiring a permit unless specifically required by the planning scheme'. A "fence" is identified in this provision as buildings and works not requiring a permit.

Given that the provisions of the Activity Centre Zone do not specifically require a permit for a fence, a permit is not required for these works.

Notwithstanding this, Condition 16 of the permit states the following:

"The use or development allowed by this permit and shown on the drawings and/or schedules endorsed to accompany the permit shall not be amended for any reason without the consent of the Responsible Authority".

As such, whilst the proposed buildings and works are exempt from requiring a planning permit, the endorsed drawings must be amended to show the new works and removal of public open space accordingly.

Overlay

Clause 45.03 - Environmental Audit Overlay

Pursuant to Clause 45.03-1 before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:

- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
- An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

This proposed addition of security fencing will not have any impact in this regard and a permit is therefore not required under this overlay.

Particular Provisions

Clause 62.02 – Buildings and Works

Pursuant to Clause 62.02-2, any requirement in this scheme relating to the construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone, does not apply to:

- A fence

As such, the security fencing proposed does not require a planning permit.

[Relevant Planning Policies](#)

Clause 21.02 – Overview

Clause 21.07 – Open Space and Environment

Clause 37.08 – Activity Centre Zone

Clause 65 – Decision Guidelines

Aboriginal Cultural Heritage

The subject site is located in an area of cultural heritage sensitivity and pursuant to Clause 15.03-2S it is policy that planning consider the Aboriginal Heritage Act 2006 for all Aboriginal cultural heritage. The Aboriginal Heritage Act 2006 stipulates that under the Aboriginal Heritage Regulations 2007 a cultural heritage management plan must be completed for any area that has cultural heritage sensitivity. Minor works associated with an existing high impact activity are exempt from the requirement to prepare a cultural heritage management plan under Division 2- Exempt Activities Regulation 15. A 'residential building' is classified as a high impact activity under Division 5 - High Impact Activities. The proposed security fencing is considered minor works. Accordingly, a cultural heritage management plan is not required.

[Advertising](#)

The application has not been advertised. This amendment has been lodged under the secondary consent provisions provided by Condition 16 of the permit. There is no ability to advertise under this assessment mechanism.

[Referrals](#)

Urban Design

- In 2007 the internal open space network within this development was fully open and accessible to the public.

- It was my understanding that this pedestrian network was created as public open space, not private open space.
- Since then, at various times, there have been security gates erected at the interfaces with the surrounding streets which have had the effect of 'privatising' the public open space.
- In my opinion, the internal open space network within this development was created as publicly-accessible open space and should remain so.

Strategic Planning

- Policy outcomes in the Activity Centre Zone, Chapel Revision and the Forrest Hill Neighbourhood Framework Plan identifies pedestrian links running north-south through the site.
- There is support for retention of the public pedestrian east-west link, in a general sense with policies relating to maximising permeability and improving and integrating the public space network.
- Maximising permeability throughout the Chapel Street Activity Centre is a key policy objective. In the context of an existing very constrained road space in Chapel Street, high density residential population and a shortage of public open space, any publicly accessible links or space are highly valuable.
- Our linkages and streets form a particularly important asset for the new and growing resident and worker community.
- It is considered that the decision on the development at the time was partly predicated on the development including public pedestrian links.
- The removal of public accessibility of the pedestrian links through the site is not supported.

Key Issues and Discussion

Condition 16 of Permit No 916/99 states that " The use or development allowed by this permit and shown on the drawings and/or schedules endorsed to accompany the permit shall not be amended for any reason without the consent of the Responsible Authority".

The applicant has sought secondary consent approval for the changes. The tests for deciding whether a development may be altered under a secondary consent provision are set down in *Westpoint Corporation Pty Ltd v Moreland CC (Red Dot)* [2005] VCAT 1049 and recently updated in *Oz Property Group (Flemington) Pty Ltd v Moonee Valley CC (Red Dot)* [2014] VCAT 397 where it was held that the following tests must be met:

- Do not result in a transformation of the proposal
- Do not authorise something for which primary consent is required under the planning scheme
- Is of no consequence having regard to the purpose of the planning control under which the permit was granted
- Is not contrary to a specific requirement as distinct from an authorisation within the permit, which itself cannot be altered by consent.

Is it a transformation?

The proposal is not a transformation, however, the addition of security fencing at the pedestrian entrances throughout the site will alter the way the public open space is used, and effectively privatise the public open space area and remove a key component of the way the site was allowed and intended to be used.

Does it authorise something that requires primary consent?

No. The permit preamble is not required to be altered to facilitate the proposed changes. The permit preamble currently allows for *'four residential buildings comprising 275 dwellings, an art gallery, convenience store and associated car parking'*. The proposal does not introduce any new planning permit triggers.

However, the planning merits of the proposed changes are not supported as discussed below.

Will it have a consequential impact? (in regard to the purpose of the planning control under which the permit was granted)

Yes. It is considered there is potential for the proposed amendments to have a consequential impact with regard to the purpose of the applicable planning controls.

Therefore the proposed amendment is considered to be 'of consequence' in terms of relevant planning policy. The proposal thereby fails to achieve this test.

Amendment C172 sought to implement the Chapel revision Structure Plan by introducing the Activity Centre Zone and Schedule 1 (ACZ1) into the Stonnington Planning Scheme. It applies to the Chapel Street Activity Centre. The amendment was required to give effect to the objectives and strategies contained in the Chapel revision Structure Plan 2013-2031, which guides future land use and development in the Chapel Street Activity Centre towards 2031. The Structure Plan provides comprehensive built form and urban design analysis, which identifies public realm and movement guidelines that seeks to maximise permeability through the Activity Centre and the accessibility to existing and proposed open space. The Forrest Hill Precinct Map (FH-1) also shows a north-south indicative pedestrian link through the subject site.

Amendment C172 has an extensive history over a number of years and was first exhibited from August to September 2014 in which extensive notification was undertaken including distribution of brochures to over 20,000 property owners and occupiers within and around the Activity Centre. Given the properties on the subject site were consulted about Amendment C172 it is considered that concerns with this new zoning and the future implications should have been raised at this time.

The planning merits of the proposed changes are not supported via the secondary consent mechanism as discussed below.

The proposal is also considered to potentially result in material detriment to other owners and occupiers of surrounding dwellings and apartments as well as the surrounding neighbourhood. In light of this position, it is not possible to consider the amendment via the secondary consent mechanism afforded by condition 16 of the permit given there is no ability to advertise under this assessment mechanism.

It is further noted that while public notification of the amendment application has not occurred (given the application has been made via the secondary consent mechanism), Council has received correspondence from a resident group whom objected to the proposal to restrict access through the site to residents only.

Is it contrary to a specific requirement within the permit?

The proposed addition of fences do not conflict with the permit preamble or any conditions included within the permit.

Planning Merits

The purpose of the Activity Centre Zone is, amongst other things, to encourage a mixture of uses and the intensive development of the activity centre as a focus for business, shopping,

working, housing, leisure, transport and community facilities, to support sustainable urban outcomes that maximise the use of infrastructure and public transport and to create through good urban design an attractive, pleasant, walkable, safe and stimulating environment.

The public realm and movement guidelines as outlined in Section 4.4 of Schedule 1 to the zone seeks to:

- *Maximise permeability through the Activity Centre and the accessibility to existing and proposed open space.*
- *Expand, improve and integrate the public open space network and shared path/bike links and pedestrian links within and through the Activity Centre.*
- *Provide new and improved pedestrian links that are attractive, accessible, identifiable, well-connected and safe for both day time and night time users.*
- *New publicly accessible open space and pedestrian links created on private land, should be designed and integrated so that they operate as if part of the public domain.*

The subject site is located within the *Forrest Hill* precinct that forms part of the *Chapel Street Activity Centre*. More specifically, it is located within sub-precinct FH-1 in the Forrest Hill Precinct Map. The precinct objectives of relevance are as follows:

- *To improve pedestrian connectivity to existing open spaces such as the Como Green and Yarra River.*
- *To maximise the permeability of the precinct through reinforcing and, where necessary, extending the grid of streets and laneways.*

The Forrest Hill Precinct Map (FH-1) shows a north-south indicative pedestrian link through the site and shows that pedestrian links were intended to be provided through the block from Alexandra Avenue, River Street and Malcolm Street, demonstrating a clear intent to keep the SY21 Open Space open to the public. A requirement at Clause 4.4 (Public Realm and Movement Requirement) of the ACZ1 is to *'Incorporate indicative pedestrian links as generally shown on the Precinct Maps'*.

Clause 21.02 (Overview) encourages, among other things, high quality and energy efficient design that contributes positively to the character of the municipality and enhances its public spaces, streetscapes and gateway localities.

Clause 21.07 (Open Space and Environment) identifies the City's low ratio of public open space compared to the metropolitan average and adjacent municipalities as a key issue. Consideration is further assisted by objectives and strategies referred to in the Scheme including the Chapel revision Structure Plan and Chapel revision Neighbourhood Framework Plan. These objectives have common themes with respect to connectivity and permeability between neighbourhoods and activity centres so as to maximise activity and surveillance with the aim of improved amenity, vibrancy, perceptions of safety and sense of community.

A key objective of the Chapel revision Structure Plan is *"To accommodate the movement needs of an increased number of people living, working and visiting the area in a convenient, safe and sustainable way, with more emphasis on pedestrians, public transport, and measures to address traffic congestion."* To achieve these, a connected network of convenient, safe links that prioritise pedestrians is vital.

Pedestrian links and public open space have been nominated on the subject site. The amendment seeks to remove the area of privately owned, public open space within the development through the addition of security fencing and gates at the public pedestrian entrances located on River Street, Malcolm Street, Chapel Street and Alexander Avenue.

It is considered that the secondary consent application to restrict public pedestrian access throughout the SY21 Open Space is inconsistent with the key public realm improvements sought by the existing permit and as required under the provisions of the Activity Centre Zone. Design policies advocate maximising permeability and linkages with the external environment as well as facilitating convenient and direct pedestrian movement. The pedestrian links and public open space within the SY21 development are considered to be a necessary and valuable contribution to the public realm and should be maintained.

As noted above in the Background section of this report, in relation to the existing permit, the Council report of 6 December 1999 states the proposal incorporates a number of positive urban design principles that contribute to the improvement of the public realm environment through the provision of north-south and east west pedestrian/cycle linkages to achieve integration with the site's surrounds and remain accessible to the public at all times of the day. This was one of the determining factors of the Council at the time to approve this development, and although this application to add fencing to the pedestrian entrances appears to be minor, the consequences of allowing the fencing closures conflict with the intent of the original approval.

The existing pedestrian linkages provided between River Street and Chapel Street and Malcolm Street and Alexander Avenue contribute positively to the vibrancy of the activity centre and provide a number of positive outcomes. These include enhancement of local accessibility, the creation of permeability through the site and provision for the functional and efficient movement of residents within the site and beyond. They are well designed for safety with numerous apartments providing passive surveillance of the links and passive surveillance provided by balconies and windows facing communal areas and pedestrian walkways. The pedestrian links throughout the site also include seating and planting to both sides of each link.

As noted by Council's Strategic Planning Department, in the context of an existing very constrained road space in Chapel Street, high density residential population and a shortage of public open space, any publicly accessible links or space are highly valuable. Our linkages and streets form a particularly important asset for the new and growing resident and worker community. Pedestrian links have the potential to provide important and unique public spaces within the Chapel Street Activity Centre. They provide an intimate setting that contrasts with main streets. These all contribute to the vibrancy of the Activity Centre.

The proposed amendment to now remove pedestrian links in their entirety is considered to be a departure from the original approval, does not achieve the expectations of the originally approved permit and should not be supported.

Reiterating the comments made above in the Advertising section of this report, the proposal has not been advertised under this assessment mechanism. The proposal is considered to potentially result in material detriment to other owners and occupiers of surrounding dwellings and apartments as well as the surrounding neighbourhood and it is considered that notification should be given to all adjacent properties along Chapel Street, Malcolm Street and River Street.

It should further be noted that Officers approached the permit applicant to explore the option of restricting hours of access into the site to allow for gate closures only in the evening hours to address security concerns raised by residents, rather than fully restricting access at all hours. Officers advised the applicant if this was an agreeable solution, they would need to apply for a Section 72 Amendment to allow for the permit to be conditioned to specify restricted hours of access (given Council does not have the ability to place permit conditions under the Secondary Consent mechanism). The permit applicant advised Council that the

Owners Corporation was not prepared to agree to this proposal and is seeking to pursue the full closure of the gates pursuant to the Secondary Consent mechanism.

Conclusion

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

- The proposed amendment does not meet the tests set down in *Westpoint Corporation Pty Ltd v Moreland CC (Red Dot)* [2005] VCAT 1049 and *Oz Property Group (Flemington) Pty Ltd v Moonee Valley CC (Red Dot)* [2014] VCAT 397 for consideration as a secondary consent, in that the changes sought are of consequence when considering the relevant planning policy provisions.
- The proposed amendment is contrary to the objectives and policies outlined in Clause 37.08 (Activity Centre Zone) of the Stonnington Planning Scheme as well as objectives and strategies of the Chapel revision Structure Plan and Chapel revision Neighbourhood Framework Plan, in that it seeks to remove publicly accessible open space and pedestrian links.
- The proposed amendment to now remove pedestrian links in their entirety and restrict access to the open space within the development does not achieve the expectations of the originally approved permit.
- The proposed amendment presents unacceptable implications for urban design and character and will adversely impact the public realm. The pedestrian links and public open space within the SY21 development are considered to be a necessary and valuable contribution to the public realm and should be maintained.

Governance Compliance

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

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 & Responsibilities Act 2006.

Attachments

1. 0916/99 - 672 Chapel Street, South Yarra [14.2.1 - 7 pages]

Officer Recommendation

That Council AUTHORISE Officers to refuse the application for the amendment under Secondary Consent for Planning Permit No: 916/99 for the land located at 672 Chapel Street, South Yarra under the Stonnington Planning Scheme to allow for the addition of security fencing at the public pedestrian entrances on part of the land bounded by Chapel Street, Malcolm Street, River Street and Alexandra Avenue subject to the following grounds:

1. ***The proposed amendment does not meet the tests set down in Westpoint Corporation Pty Ltd v Moreland CC (Red Dot) [2005] VCAT 1049 and Oz Property Group (Flemington) Pty Ltd v Moonee Valley CC (Red Dot) [2014] VCAT 397 for***

consideration as a secondary consent, in that the changes sought are of consequence when considering the relevant planning policy provisions.

- 2. The proposed amendment is contrary to the objectives and policies outlined in Clause 37.08 (Activity Centre Zone) of the Stonnington Planning Scheme as well as objectives and strategies of the Chapel revision Structure Plan and Chapel revision Neighbourhood Framework Plan, in that it seeks to remove publicly accessible open space and pedestrian links.***
- 3. The proposed amendment to now remove pedestrian links in their entirety and restrict access to the open space within the development does not achieve the expectations of the originally approved permit.***
- 4. The proposed amendment presents unacceptable implications for urban design and character and will adversely impact the public realm. The pedestrian links and public open space within the SY21 development are considered to be a necessary and valuable contribution to the public realm and should be maintained.***

14.3 Planning Application 1060/18 - 52 Wattletree Road, Armadale

Manager Statutory Planning: Alex Kastaniotis
Acting Director Planning & Place: Chris Balfour

Purpose of Report

For Council to consider a planning application for the construction of a multi dwelling development in a Residential Growth Zone and to create or alter access to a Road Zone Category 1 at 52 Wattletree Road, Armadale.

Officer Recommendation Summary

That Council authorise Officers to issue a **Notice of Decision to Grant a Planning Permit** subject to conditions outlined in the Officer Recommendation.

The proposal is 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 subject to the recommended conditions.
- The proposal will provide safe and convenient access arrangements and will not result in unreasonable traffic or parking impacts.

Executive Summary

Applicant:	O'Neill Consulting
Ward:	South
Zone:	Residential Growth Zone- Schedule 1
Overlay:	Nil
Neighbourhood Precinct:	Garden Suburban 1
Date Lodged:	16 October 2018
Statutory Days: (as at Council Meeting date)	35
Trigger for Referral to Council:	4 storey development and number of objections received
Number of Objections:	14 objections from 13 properties
Consultative Meeting:	Yes – held on 16 September 2020
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 Ferencz Baranyay Architect and are known as Drawing No.s: TP01-TP38 (inclusive) Council date stamped 16 November 2020 and Landscape Plan prepared by John Patrick Landscape Architects and known as Drawing No. L-TP01-B and Council date stamped 05 November 2020.

The application was also accompanied by a Traffic Impact Assessment Report (TIAR) prepared by Traffic Works, a Sustainability Management Plan (SMP) prepared by Energy Lab, a Waste Management Plan (WMP) prepared by Traffic Works, an Arboricultural Report prepared by John Patrick Landscape Architects and a Non Destructive Root Investigation Report prepared by John Patrick Landscape Architects.

The application seeks to construct a four-storey apartment building comprising 8 apartments, including 3x two bedroom and 5x three bedroom apartments.

Key features of the proposal are:

- Demolition of the existing dwelling on the subject site (no permit required).
- A total of 16 resident car spaces in the form of a two level automatic car stacker system are provided in a basement accessed by the existing crossover on Wattletree Road.
- A total of eight storage units are proposed in the basement.
- The ground floor level includes two x three bedroom apartments.
- The first floor level includes one x three bedroom apartment and two x two bedroom apartments.
- The second floor includes one x three bedroom apartment and one x two bedroom apartment.
- The third floor includes one x three bedroom apartment.
- Pedestrian access to the building is provided via a path from Wattletree Road to a centrally located lobby. All apartments are also accessible via a lift and stairwell from the basement.
- Private open space for each apartment will be provided in the form of balconies and ground floor open space varying in size between 8m² and 85m².
- The building presents a contemporary architectural style with a flat roof form. Materials and finishes include a combination of rendered finishes, zinc panel cladding, a metal roof and black aluminum window and door frames.
- The existing Maple tree within the nature strip of Wattletree Road is proposed to be retained.
- Removal of all vegetation on the site is proposed, none of which are deemed 'Significant' under Councils Local Law.
- The development will result in 60% site coverage at ground, 72% site coverage at basement and 30.32% permeability.
- The maximum height of the building will be 12.8 metres above natural ground level.

The application was revised after the consultative meeting and the plans advertised in July 2020 have been superseded by the plans Council date stamped 16 November 2020. Details of the changes are included under the "Advertising" section of the report.

Site and Surrounds

The site is located on the southern side of Wattletree Road in Armadale, approximately 40 metres east of its intersection with Kooyong Road in Armadale. The site has the following significant characteristics:

- The site is regular in shape with a frontage to Wattletree Road of 15.24 metres, a depth of 45.72 metres and a total area of approximately 696 square metres.
- The land has a fall from the north to south (front to rear) of 600 millimeters.
- The site is currently occupied by a single storey rendered dwelling with a tiled pitched roof form.
- The dwelling on the site is setback 9.5 metres from the street. A two metre high front fence extends across the frontage.
- A 3 metre wide unnamed laneway abuts the southern boundary, providing rear access to properties fronting Wattletree Road, Pelham Court and Kooyong Road.
- Vehicle access to the subject site is currently taken via the crossover at the front of the site on Wattletree Road.
- No significant trees exist on the site.

A mix of dwelling types can be found in the immediate vicinity, ranging from traditional single and double storey detached and attached dwellings to three and four storey townhouses and apartment buildings. There have been a number of four storey apartment buildings recently constructed, this is particularly noted in the four storey apartment building directly to the east of the site at 54-56 Wattletree Road (approved under permit no. 410/16). There are also examples of modern four storey apartment buildings located at 35 Wattletree Road (approved under Permit No. 907/10 by VCAT in 2011), 70 Wattletree Road (approved under Permit No. 1024/14) and 72-74 Wattletree Road (approved under Permit No. 1183/15).

The site has good access to a full range of recreation and community facilities. In particular, the site is located approximately 400 metres from the boundary of the Glenferrie Road and High Street Neighbourhood Activity Centre. Furthermore, the site is well served in terms of public transport with a tram service operating along Wattletree Road and the Armadale Railway station located nearby.

The site's immediate surrounds are described as follows:

- Wattletree Road adjoins the site to the north and is a declared arterial road (Road Zone Category 1) with two lanes of traffic running in each direction. Wattletree Road is also a Tram Priority Route in accordance with Clause 21.03 of the Stonnington Planning Scheme.
- To the east of the subject site is No. 54-56 Wattletree Road which is developed with a four storey apartment building approved under Planning Permit No. 410/16. The apartment building has west facing habitable room windows and terraces that face the subject. Vehicle access to the apartments is provided directly from the laneway at the rear and pedestrian access is provided from Wattletree Road.
- A 3 metre wide unnamed laneway abuts the site to the south, beyond which is the dwelling at 8 Kooyong Road and 6 Kooyong Road. The garage and associated studio of 6 Kooyong Road abuts the laneway.
- Directly to the west of the subject site are the dwellings at No. 10-16 Kooyong Road. These dwellings are described as follows:
 - No 16 Kooyong Road contains a single storey dwelling. A double garage is sited adjacent the common boundary with the subject site. The private open space area is located at the rear of the site. A two metre high fence extends along the Wattletree Road and Kooyong Road frontage of the site. The site is located within the Residential Growth Zone.

- No. 14 Kooyong Road is occupied by a single storey dwelling. The secluded private open space of the dwelling is located at the rear of the site and abuts the subject site. The site is located within the General Residential Zone.
- No. 10-12 Kooyong Road are an attached pair of dwellings. The secluded private open space of each of the dwellings is located at the rear of the site and abuts the subject site. The sites are located within the General Residential Zone.

Previous Planning Application/s

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

- Planning Permit 410/16 for 54-56 Wattletree Road issued on 11 July 2017 by VCAT for Construction of a multi dwelling development (four storey apartment building). Construction of the development has been completed.

The Title

The site is described on Certificate of Title Volume 08366 Folio 644 and no covenants or easements affect the land.

Planning Controls

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

Zone

Residential Growth Zone (Schedule 1 Key Boulevards)

Pursuant to Clause 32.07-5, 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 32.07-10, 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 55.03-5, 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 and western boundary abuts land in a General Residential Zone (GRZ12), the requirements of the above clauses must be met.

In addition, pursuant to Clause 32.07-9, 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 12.8 metres and contains 4 storeys above a basement.

There is no garden area requirement within the Residential Growth Zone (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 71%.

Overlay

Nil.

Particular Provisions

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.

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).

Pursuant to Clause 52.06-5 thirteen (13) car spaces are required to be provided. A total of 16 residents car spaces are provided in a stacker arrangement. The proposal allocates 2 spaces to each two and three bedroom dwelling. The design standards for car parking outlined at Clause 52.06-9 are applicable to the assessment of the application.

Land adjacent to Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road - Clause 52.29

Pursuant to Clause 52.29, the proposed alteration of access to High Street requires a planning permit and must be referred to The Department of Transport (formerly VicRoads) pursuant to Section 55 of the *Planning and Environment Act 1987*.

The application has been referred to the Department of Transport and they have advised that they have no objection, subject to conditions.

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. Two (2) bicycle spaces are required to be provided. A total of 8 bicycle spaces have been provided within the basement level.

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 15	Built Environment and Heritage
Clause 16	Housing
Clause 18	Transport
Clause 21.03	Vision
Clause 21.05	Housing
Clause 21.06	Built Environment and Heritage
Clause 22.05	Environmentally Sustainable Design
Clause 22.18	Stormwater Management (Water Sensitive Urban Design)
Clause 22.23	Neighbourhood Character Policy
Clause 32.07	Residential Growth Zone
Clause 52.06	Car Parking
Clause 52.29	Land adjacent to a Road Zone, Category 1
Clause 52.34	Bicycle Facilities
Clause 53.18	Stormwater Management in Urban Development
Clause 55	Two or more dwellings on a lot (ResCode)
Clause 65	Decision Guidelines

Advertising

The application has been advertised twice.

The application was originally advertised in July 2019 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 signs on the site.

The site is located in South Ward and objections from 5 different properties were received to the first advertising in July 2019. The objections can be summarised as follows:

- Overlooking.
- Overshadowing.
- Traffic and Car parking.
- Impact on north facing windows.
- Impacts on neighbouring trees.
- Noise.
- Construction issues.
- Service facilities are not shown.
- Overdevelopment of the site.
- Building height.
- Visual bulk.
- Neighbourhood Character.
- Daylight to existing windows.
- Side and rear setbacks.

To respond to concerns raised by Councils Planning Officers and Objectors, the application was subsequently amended via Section 57A of the Planning and Environment Act on 06 July 2020. The revised plans included a redesign of the building and a reduction in the number of apartments from 10 to 8. More specifically the revised plans included the following key changes to the development:

Basement Level

- Increase in the number of car parking spaces from 13 to 16.
- Reconfiguration and reduction in the size of the basement.
- Increased setback to the north from 5.12 metres to 6.72 metres and south from 1.07 metres to 1.59-1.98 metres.

Ground Level

- Reconfiguration of the ground floor and a reduction in the number of apartments from 3 to 2.
- Reconfiguration of the lobby, including the provision of a greater sense of address through siting north facing windows in the façade and relocation of the lift and stair core.
- The addition of north facing windows to both apartments at ground floor (can't see for apartment 2).
- Modifications to the setbacks to allow greater landscaping opportunities and larger private open space areas to the ground floor apartments.
- The front setback increased from 7.96 metre to 8.67 metres and part of the eastern setback increased from 1 metre to between 1 metres and 5 metres.

First Floor.

- Reconfiguration of apartment layout and increase in the size of the terraces.

- Increase in the front setback from a minimum of 4.91 metres to 6.57 metres and increase in the rear setback from between 1.85 metres to 2.5 metres to between 2.97 metres to 3.29 metres.

Second Floor

- Reduction in the number of apartments from 3 to 2 and a subsequent internal reconfiguration.
- Increase in the front setback from a minimum of 4.91 metres to 6.57 metres.
- Increase in the eastern setback from a minimum of 2.92 metres to between 2.9 metres and 3.62 metres.
- Increase in part of the western elevation including the terraces from a minimum setback of 1.79 metres to 2.24 metres,
- The rear setback increased from a minimum of 2.07 metres to between 2.9 metres and 3.25 metres.

Third floor

- Reconfiguration of the apartment including removal of the west facing terrace and relocation of it to the northern elevation.
- Increase in the front setback from a minimum of 6.55 metres to 7.89 metres measured to the wall.
- Reduction in the rear setback from 7.22 metres to 6 metres.

The revised application was advertised pursuant to Section 52 of the Planning and Environment Act 1987 in July 2020 by sending notices to the owners and occupiers of adjoining land and by placing two (2) signs on the site.

Objections from a total of 13 different properties have been received. At the time of the application first being advertised in July 2019, the apartment building at 54-56 Wattletree Road had not been completed, therefore the owners and occupiers of these apartments had not been sent letters. However when the application was advertised in July 2020 construction had completed and all of the owners and occupiers of 54-56 Wattletree Road were sent letters.

A Consultative Meeting was held on 16 September 2020. The meeting was attended by former Councillors Stefanopolous and Hindle, representatives of the applicant, objectors and a Council Planning Officer.

After the Consultative meeting, the application was formally amended via Section 57A twice. The amended plans were received on 05 November 2020 and 16 November 2020 and included the following key changes to the development:

- Relocation of air- conditioning condensers from the eastern side of the building to the basement and roof.
- Deletion of the access point to the air conditioning condensers from the eastern side of the building at second floor.
- Reconfiguration of the balconies for apartments 4 and 5 to align with the east and west elevations.
- Increase in the size of the ground floor living room and bedroom windows to dwelling 1.
- The addition of a roof plant area setback 29.5 metres from the front property boundary.
- Annotations of ESD features including solar panels on the roof, light coloured privacy screens, operable shading and storm water tank.

- Additional landscaping incorporated in the landscape plan, including the addition of a Native Frangipani and Capital Pear tree on the eastern boundary.

Further advertising of the amended plans was not considered to be necessary as the changes do not result in additional material detriment. The public notification of the application has been completed satisfactorily.

Referrals

A summary of the comments received from various departments is provided below.

Parks

- The landscape plan should incorporate some larger growing elements along the southern aspect, it is notated to only have a 3M hedge.
- No objection to a new vehicle crossover if the edge of the western splay follows the alignment of the Non Destructive Root Investigation.
- Standard tree protection condition to be included. This may need modification if the location of the services is shown close to the street tree.
- A street tree bond of \$1,367 is required for the Acer 'Autumn Blaze' (Autumn Blaze Maple) street tree on Wattletree Road.

Planner Response:

The above matters can be addressed by permit conditions.

Urban Design

- The plans can be supported subject to the setback of apartment 4 at first floor level on the eastern boundary being increased from a setback of 1.434 metres to a setback of 2.5 metres.

Planner Response:

The applicant has worked closely with Councils Planning Officers and Urban Design Advisor to address the concerns that have been raised to date. A condition will be included on the planning permit requiring the setback of apartment 4 on the eastern boundary at first floor level increased to 2.5 metres.

Transport and Parking

- The plans indicate a 2.2m headroom clearance along the ramp, and a 2.3m clearance within the basement. The applicant is to ensure the 2.2m clearance along the ramp is measured with the garage door in an open position.
- The plans indicate a sight distance triangle proposed on the west side of the accessway, which is reasonable. However, other plans indicate that vegetation will be placed close to the sight distance triangle. The plans should be amended to show vegetation removed near the sight distance triangle.
- The plans indicate a ramp grade of 1:10, 1:5, 1:4 but the end grade has been omitted. This is to be shown on plans, to ensure vehicle scraping does not occur.
- The plans submitted do not detail the proposed floor gradients of the entire parking area. The minimum gradient of the parking area shall be 1:100 (1.0%) for outdoor areas and 1:200 (0.5%) for covered areas to allow for adequate drainage as per AS 2890.1.
- The previous version of plans included collision detection sensors for the turntable, but it is unclear if the current version also includes it. The plans should be amended to show collision detection sensors.

Planner Response:

The above matters can be addressed by permit conditions.

Infrastructure

- Concerns were previously raised with the levels of the site, however the applicants engineer has confirmed the levels should be raised an additional 100 millimetres to provide protection from a 1 in 100 year storm as required by the Building Regulations. This is acceptable and will form a condition.
- Permit conditions are recommended to address drainage design, stormwater runoff and footpath levels.

Environmentally Sustainable Design

- The proposed development could provide an acceptable outcome from an ESD perspective, provided that details in the report and on plans are consistent.
- Items for further clarification and some inconsistencies in the documentation and on plans have been identified, these must be rectified prior to endorsement. It is believed that these outstanding items can be dealt with via permit conditions.

Department of Transport

The Department of Transport has considered this application and does not object, if the permit is subject to the following conditions:

- Prior to the occupation of the development, the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
- Vehicles must enter and exit the land in a forward direction at all times.

The Department of Transport also requests the following note be included on any approved permit:

- The proposed development requires the construction of a crossover, and the removal/reinstatement of a redundant crossover. Separate approval under the *Road Management Act 2004* for this activity is required from the Head, Transport for Victoria. Please contact the Department of Transport (Road) prior to commencing any works.

Key Issues and Discussion

Strategic Justification

The purpose of the Residential Growth Zone is to implement State and Local Planning Policies as follows:

- *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; and*
- *To ensure residential development achieves design objectives specified in a schedule to this zone.*

The State Planning Policy Framework encourages higher density residential development on sites within established urban areas close to activity centres, employment corridors and public transport.

Specifically, Clause 16 of the Stonnington Planning Scheme relates to housing and encourages diversity of housing; improved housing choice; affordable housing; and well located housing in relation to activity centres, employment and public transport.

In addition, local policies call for well-designed medium density housing that respects neighbourhood character, improves housing choice, makes better use of existing infrastructure and improves energy efficiency of housing. Further to this, Council's Municipal Strategic Statement (Clause 21.05-2) refers to the concept of change areas for residential growth and references 'substantial change', 'incremental change' and 'minimal change' areas as a key reference. 'Substantial change' areas are defined as land with immediate abuttal to a main road containing a tram or priority bus route, as well as land in, beside or opposite Activity Centres or in a Mixed Use Zone as a freestanding development.

The subject site has attributes which make it suited to being redeveloped for medium density housing. It is located in the Residential Growth Zone, fronting an arterial road in a Road Zone Category 1 and in an established 'substantial change area', where medium and high density housing exist and where new medium and high density housing developments are sought by policy as part of a targeted approach. It is apparent that as the area is redeveloped, the emerging character of this section of Wattletree Road involves built form which is likely to be robust.

The site is also well serviced by physical and social infrastructure, with commercial and community facilities within walking distance to the subject site. This includes the shops on Glenferrie Road located approximately 700 metres to the east of the subject site and Cabrini Hospital located 1 km to the east of the site.

The site is also located in convenient proximity to a range of public transport services. Armadale Railway Station is located approximately 550 metres (as a crow flies) north-west of the site. A tramline is also located in front of the site on Wattletree Road. These transport options provide convenient access to the wider metropolitan area.

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

Neighbourhood Character

The Neighbourhood Character Policy in Clause 22.23 sets out the preferred character and design guidelines for development in different character precincts. The subject site is located within the Garden Suburban 1(GS1) Precinct which includes the following statement of preferred neighbourhood character:

'The Garden Suburban 1 (GS1) precinct comprises leafy streetscapes with a range of Victorian, Edwardian or Interwar era and contemporary buildings set in established garden surrounds. In typical streets regular front and side setbacks provide space around buildings and allow for small, well designed garden areas that contribute to the landscape quality of the street. New buildings or additions offer innovative and contemporary design responses while complementing the key aspects of form, general

one-two storey scale and design detail of the older buildings. Low, visually permeable front fences retain views to gardens and dwellings from the street’.

Pursuant to Clause 22.23-3, when assessing proposals on a site within a substantial change area, Residential Growth Zone or Mixed Use Zone, it is policy to allow for greater change while reflecting the elements of preferred character. It is further noted that the design guidelines under the Neighbourhood Character Policy specify that areas within the Residential Growth Zone do not need to reflect the scale of built form within the streetscape, but rather any upper levels should be designed to minimise the impact on any adjoining residential property.

It is considered the proposal responds positively to the design objectives and guidelines for the Garden Suburban 1 precinct as follows:

- The existing building makes no significant contribution to the character of the streetscape and planning permission is not required for its demolition.
- The proposed development is of a contemporary design with a high architectural quality. It will present as a four storey building to Wattletree Road. The site being on a main road and within a substantial change area with a preferred height limit of 13.5 metres contemplates higher density developments with a more robust built form and compact setting. Despite it being of a more robust built form and different architectural style to the older housing stocks in the area, the development reflects other examples of contemporary infill development along Wattletree Road. Coupled with appropriate built form, setbacks, articulation and space for taller landscaping as discussed in detail below, the development is respectful of the existing, preferred and emerging neighbourhood character of the immediate area and reflects the future vision for the area and the purpose of the zone (RGZ).
- The development will provide an appropriate presentation to the neighbouring properties and the streetscape. A high degree of articulation has been provided in the built form and building façades through the use of horizontal and vertical elements, staggered setbacks, fenestration, balconies and building materials.
- The front setback is consistent with the broader streetscape and enables adequate landscaping within the frontage of the site. There are no boundary walls proposed and the building, including basement is adequately setback from both side boundaries to incorporate sufficient space for vegetation around the site to strengthen the existing landscape character.
- The basement setback provides good opportunities for screen planting to the lower scale development in the General Residential Zone to the western and southern side of the site.
- Car parking will be fully concealed within the basement level which ensures that it is not visually dominant to the streetscape.
- No front fence is proposed, this will ensure that there is passive surveillance of the streetscape and will allow for views to the landscaping within the front of the site.

Street Setback

The dwelling to the east at 54-56 Wattletree Road adopts a front setback of between 5.5-7.7 metres at its ground floor abuttal with the subject site. The upper floors are setback an average of 5.5 metres. The dwelling to the west is oriented towards Kooyong Road. Therefore, the proposed development should be set back approximately 6.6 metres from Wattletree Road at ground floor and an average of 5.5 metres above ground floor. The proposed development adopts a front setback of 8.6- 8.9 metres at ground floor and 6- 6.3 metres above ground floor. The street setbacks proposed comply with Standard B6 and are

considered sufficient to effectively reduce the developments visual impact from the streetscape.

Building Height

The proposed development has a maximum height of 12.8m. The proposed height is below the discretionary height of 13.5 metres and proposes a scale which is compatible with the neighbourhood which, as outlined above exhibits a number of robust four storey buildings. The fourth floor is recessed from the west to limit amenity impacts to the single storey dwellings at 10-16 Kooyong Road.

It is noted that the screening to the services extends 1.0 metre above the parapet height of the building. This structure is not part of the overall building height as per the planning requirements, and in any event is recessed behind the parapet with limited visibility from the street.

The height of the building is acceptable, given the sites interface with an arterial road and its location within a substantial change area (as identified under Clause 21.05) and its Residential Growth Zoning. Overall, the height of the form is considered appropriate.

Site Coverage and Permeability

The proposed site coverage is 60% and therefore complies with the 60% permissible by standard B8 and the basement represents site coverage of 72% which is below the 75% maximum prescribed by Schedule 1 to the Zone. Permeability of 30% well exceeds the minimum 20% required by Standard B9. These factors are considered to be indicators that the proposal does not represent an overdevelopment of the site.

Landscaping

Council's MSS and various local policies emphasise the provision of high quality landscaping and seek to ensure that landscaping forms a key consideration of development proposals. Clause 21.06-2 (Landscape Character) seeks to 'repair and reinforce the high quality landscape character of the City'.

Further to this, Clause 22.23 (Neighbourhood Character Policy) seeks 'to maintain and strengthen the garden settings of buildings and the tree canopy of the neighbourhood'. The policy further encourages a design response which 'includes planting around the perimeter of the site to strengthen the garden setting' and provides 'setback basements from all property boundaries to allow for in-ground planting'.

Given the subject site is located within a substantial change area, the typical expectations for landscaping of residential land as described above should be balanced against the policy direction seeking intensification of development and density within a more compact setting.

The application proposes to remove all of the vegetation across the subject site. None of the vegetation to be removed is significant vegetation. Councils Arborist has confirmed they have no objection to the removal of the trees on the site, subject to appropriate replacement planting.

The amended landscape plan prepared by John Patrick Landscape Architects dated 05 November 2020 shows the planting of twelve canopy trees across the site. This is greater than the number of existing canopy trees on the site. Nine (9) of the twelve (12) canopy trees are proposed on the western side of the site, this will soften the presentation of the development when viewed from the properties located within the General Residential Zone at 10-14 Kooyong Road. The canopy trees proposed on the western side of the development will reach a height of 6 to 10 metres. One large Red Box Canopy tree is proposed within the

front of the site. The red box canopy tree will reach a maximum height of 12 metres, this will soften the presentation of the development when viewed from Wattletree Road.

Landscaping on the southern and eastern boundaries is proposed in the form of a clipped hedge on the southern boundary and bamboo ground cover and two canopy trees on the eastern boundary. Councils Arborist has reviewed the plans and advised that the landscape plan should incorporate some larger growing elements along the southern aspect as the plans only show a low hedge on this boundary. Permit conditions will require a revised landscape plan with the planting of larger growing elements along the southern boundary.

As the development has the potential to adversely impact the street tree along Wattletree Road, a tree bond will be required for the tree as security to protect its health.

With regards to neighbouring trees, there is a Jacaranda tree located to the east at 54-56 Wattletree Road. Two Norway maple trees are also located to the west at 10 and 12 Kooyong Road and a large Box Elder tree is located within the private open space of 14 Kooyong Road. The arboriculture advice specifies that the proposed works are located outside of the Tree Protection Zone of the trees. Therefore, the proposal will not have any adverse impact on neighbouring trees.

It is considered that a balance between the objectives of the zoning to accommodate a higher intensity of development and Council's landscape character objectives would still be achieved by this development. Overall, the proposal is consistent with Council's MSS, the policy direction of the Neighbourhood Character Policy (Clause 22.23) and the objectives of Standard B13.

Access and Parking Location

The vehicle access is to be provided via the existing crossover on the eastern side of the Wattletree Road frontage. The existing crossover is proposed to be widened to 6.1 metres.

The access way occupies 40% of the site's frontage, which does not comply with the recommended maximum of 33% as specified by Standard B14. The location and design of the proposed crossover is supported by VicRoads, Council's Transport and Parking Unit and Parks Unit. It is also noted that the two existing crossovers on the subject site occupy 60% of the frontage. The proposed crossover is therefore acceptable.

Each floor will have direct access to the basement car park internally via stairs, and a lift to cater for those with limited mobility. The ground floor habitable room windows have been positioned to avoid direct abuttal with basement ramp. Overall the objectives of Standard B15 are met.

Amenity Impacts

Side and Rear setbacks

It is noted that the proposed basement is concealed below ground, therefore an assessment on this level against the above provisions is not required.

Standard B17 (side and rear setbacks) sets out numerical requirements for side and rear setbacks. The tables below shows and assessment against these requirements.

East Elevation

Location	Proposed maximum wall height	Proposed setback	Setback required by Standard B17	✓*

Ground	3.2m	1.0m -5.0m	1.0m	✓
First	4.34m (to terrace)	1.4m	1.2m	✓
	5.9m (to wall of apartment 4)	1.4m	1.7m	✗
	6.2m (apartment 3 & hallway)	2.2m-3.6m	1.8m	✓
Second	9.4m (to bed 1 wall of apartment 6)	2.2m	4.5m	✗
	9.3m (apartment 7 & hallway)	2.9m-3.6m	4.4m	✗
Third	10.5m (to terrace wall of apartment 8)	2.2m	5.6m	✗
	12.4m - 12.8m (apartment 8)	3.0m-3.8m	7.5m - 7.9m	✗

As shown in the table above, there are variations from the standard required to the first, second and third floor. A condition is included on the permit requiring the setback of apartment 4 at first floor increased to a setback of 2.5 metres, this condition will ensure that the proposal exceeds the setback required by Standard B17 (side and rear setbacks).

The variation to the eastern side setbacks at second and third floor can be supported in this context, where substantial changes and more intensive development are directed. The proposed setbacks and articulation achieved through variation of materials and window placement will ensure that the siting of the development respects the preferred character. The proposed setbacks are generally consistent with the rhythm of spacing between properties along Wattletree Road. As a result, it is considered that the non-compliance will not significantly impact on the character of this area. The proposed setbacks also largely complies with daylight to existing windows (Standard B19) which will ensure that the habitable room windows of the apartments to the east are adequately protected.

West Elevation

Location	Proposed maximum wall height	Proposed setback	Setback required by Standard B17	✓✗
Ground	2.7m max	2.2m – 3.7m	1.0m	✓
First	5.7m max (to wall)	2.2m– 2.6m	1.6m	✓
Second	6.9m - 7.1m (to terrace of apt 7)	2.24m–2.6m	2.0m-2.2m	✓
	8.7m max (to wall)	3.8m	3.8m	✓
Third	10.0m (to terrace)	3.7m	5.0m	✗
	12.2m (to living room wall)	5.2m	7.2m	✗
	12.2m (stairwell to bed 1 wall)	7.2m	7.2m	✓

As outlined in the table above, where the proposal is located opposite the properties within the General Residential Zone to the west, it maintains compliance with the requirements of Standard B17.

The front portion of the third floor (terrace and living room wall) located opposite the dwelling at 16 Kooyong Road, within the Residential Growth Zone does not comply with the requirements of Standard B17. The variation required to part of the western setback at third floor can be supported in this local context, where substantial changes and more intensive developments are directed. The proposed setbacks provide an acceptable separation from

the adjoining property being a minimum of 3.74 metres at the top floor. Further there are no unreasonable amenity impacts as a result of the variation required, as the habitable room windows of 16 Kooyong Road are setback a minimum of 10.9 metres from the terrace and the shadowing impacts comply with Standard B21 (Overshadowing).

South Elevation

Location	Proposed maximum wall height	Proposed setback	Setback required by Standard B17	✓ x
Ground	2.4m	2.1m-2.4m	1.0m	✓
First	5.5m	2.9m-3.2m	1.6m	✓
Second	7.0m (to terrace)	2.9m-3.2m	2.1m	✓
	8.6m (to wall).	4.9m- 5.2m	3.7m	✓
Third	12.0m	6.0m-6.4m	7.1m	x

As outlined in the table above, there is a variation from the standard required at the top floor where the proposal is setback from the southern boundary. As the unnamed road provides a further separation of 3.0 metre from the subject site to the south (No. 6 Kooyong Road), the proposal will not result in any unreasonable amenity impacts to the neighbouring property. The setbacks of the development, including the unnamed road significantly exceed the requirements of standard B17. Furthermore, the unnamed road which separates the subject site with No. 6 Kooyong Road will ensure that the rhythm and spacing of the building is maintained when viewed from the residential properties to the south.

Daylight to existing windows and North facing windows

Standard B19 seeks to ensure adequate daylight is provided into existing habitable room windows. An assessment to each relevant interface is provided below.

East Elevation

The proposed development is located opposite ground, first, second and third floor habitable room windows of the dwellings to the east at 54-56 Wattletree Road. An assessment of the proposal to the ground floor habitable room windows of the dwellings at 54-56 Wattletree Road is outlined below.

Location	Proposed maximum wall height measured from the floor level of the opposite ground window (as per Section B-B)	Proposed minimum setback to the window.	Setback to the window required by Standard B19	✓ x
Ground	3.26m	4.0m	1.63	✓
First	6.36m	4.34m	3.18m	✓
Second	9.46m	5.9m	4.73m	✓
Third	12.56m	6.0m except for part of the third floor that is	6.28m	x

		setback 5.98 m.		
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As outlined in the table above, there is a variation from the standard required at the top floor where the proposal is setback from the eastern boundary. Part of the third floor is setback 5.98 metres from the west facing ground floor window of apartment G.01 at 54-56 Wattletree Road, this requires a variation from the Standard of 300 millimetres. The 300 millimetre variation required for part of the third floor where it is setback 5.98 metres from the west facing ground floor window of apartment G.01 at 54-56 Wattletree Road is acceptable in this instance given the narrow nature of the subject site and that the variation required is for the bedroom window and not a primary living space. It is also noted that this setback is located opposite the stairwell and lift and in order to achieve compliance a redesign of the lift and stairwell is required. The variation required for the remainder of the third floor is not acceptable, accordingly a condition will be included on the permit requiring the eastern setbacks of the third floor (except where the stairwell and lift is located) increased to comply with standard B19 of Clause 55.04-3.

With regard to the first, second and third floor neighbouring windows, the setbacks required from the windows will be even less. The Standard requires the wall height to be calculated from the floor level of the room containing the window (if located above ground level) and this in effect means that the wall height measured opposite the first, second and third floor windows will be shorter and compliance with Standard B19 is achieved to these remaining windows.

West Elevation

The existing dwellings at No. 10-16 Kooyong Road adjoining the subject site are single storey dwellings. The dwelling at No. 16 Kooyong Road is setback a minimum of 7.2 metres from the shared boundary with the subject site and the dwellings at No. 10-14 Kooyong Road are setback between 12-17.2 metres from the shared boundary with the subject site. On this basis, windows positioned on the eastern elevation of 10-16 Kooyong Road are provided with a minimum light court of 3 square metres with a minimum dimension of 1.0 metre clear to the sky, in accordance with Standard B19.

South Elevation

The dwelling to the south at 6 Kooyong Road has a first floor north facing window that abuts the laneway. As the laneway separates the subject site and this site, the windows are located a minimum of 3.0 metres from the common boundary and therefore an assessment against north facing windows is not required.

Overshadowing

Standard B21 of ResCode seeks to ensure buildings do not significantly overshadow the existing secluded private open space of adjoining properties. Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75%, or 40 square metres with minimum dimensions of 3 metres, whichever is the lesser area, of the secluded private open space should receive at least five (5) hours of sunlight between 9am and 3pm at the September Equinox.

East

The subject site shares an interface with the west facing secluded private open space areas of the apartments at No. 54-56 Wattletree Road. The sectional shadows at drawing TP37 and TP38 demonstrate the shadowing to the apartments. The apartment building at 54-56 Wattletree Road will cast shadow over itself and the private open spaces in the morning. The

ground floor private open space will receive sunlight at 12:00pm and 1:00pm and the proposed building will cast additional shadows at 2pm and 3pm on 22 September to the lower levels of the building.

With regards to the additional shadowing at 2pm to 3pm, the additional shadow falls predominantly on the ground and first floor apartments. Of the apartments that have additional shadow, only two of the apartments being G.06 and 1.06 have sole orientation towards the west. The ground level apartment G.06 will be predominantly shadowed by the existing fence and the existing dwelling on the subject site and the terrace of apartment 1.06 will be predominantly affected by the shadow of its screening. It is considered the objective of not causing unreasonable shadowing is met due to the relatively small amount of additional shadowing to the apartments. It is also noted that the additional shadow to the ground floor apartments is not well in excess of the existing shadows cast by a single storey dwelling and fence, therefore even if a lower building was developed on the subject site the shadows would still extend into the adjacent spaces. On balance, given the orientation of the building at No. 54-56 Wattletree Road and the setbacks proposed the extent of shadow proposed is an acceptable outcome.

West

To the west, the subject site shares an interface with the secluded private open space areas of No. 10 -16 Kooyong Road. The Standard requires that at least 40sqm of this area is to receive at least (5) hours of sunlight between the hours of 9am and 3pm at the equinox. The shadow diagrams submitted with this application indicate the proposal will result in additional shadow to the secluded private open space areas of these dwelling at 9am and 10am. At 9am the secluded private open space areas of No. 10 and 12 Kooyong Road will have 32m² and 35m² of sunlight and 14 and 16 Kooyong Road will have 52m² and 572m of sunlight. At 10 am the secluded private open space areas of 10-16 Kooyong Road will each have over 40 square metres of sunlight. The proposal complies with standard B21 for this interface given that the secluded private open space areas of each dwelling will receive at least five (5) hours of sunlight between 9am and 3pm.

South

To the south the subject site shares a direct interface with a laneway. There will be additional shadow to the secluded private open space area of No. 8 Kooyong Road, located on the opposite side of the laneway. The proposal complies with standard B21 for this interface given that the secluded private open space area of the dwelling will receive at least five (5) hours of sunlight between 9am and 3pm.

Overlooking

With regard to overlooking, Standard B22 specifies that any new windows or balconies with an outlook to a sensitive interface within a horizontal distance of 9 metres to be screened to a height of 1.7 metres above finished floor level.

It is proposed to construct a 2.0 -2.4m high boundary fence along the southern, eastern and western boundaries. Therefore, there are no overlooking issues from the proposed ground level.

East Elevation

The majority of the habitable room windows on the east elevation are located 1.7 metres from finished floor level or have obscure glazing to 1.7 metres from finished floor level on the East Elevation. The kitchen and bed 2 window to apartment 4 on the first floor does not have screening and there are overlooking opportunities from these windows. Accordingly a

condition will be included on the permit requiring screening to the kitchen and bedroom 2 window on the east elevation at first floor level in accordance with Standard B22. This will ensure the proposal will not result in any unreasonable overlooking into the secluded private open space areas or habitable room windows of the apartments at no. 54- 56 Wattletree Road. It is also noted that the third floor east facing habitable windows to the hallway and living area are not noted as being fixed to 1.7 metre from finished floor level, a condition will be included on the permit requiring this.

The screening to the balconies on the east elevation are incorporated in the form of a 1.5 metre high screen and planter box to the second floor terrace of apartment 7 and a 1.5 metre high bladed screen to the first floor terrace of apartment 4. The screening proposed does not comply with Standard B22 and there are concerns that there may be overlooking opportunities from the terraces at first and second floor to the secluded private open space areas and habitable room windows of the apartments at no. 54- 56 Wattletree Road. Therefore, permit conditions will require screening to the terraces at first and second floor level on the east elevation in accordance with Standard B22 or the provision of overlooking diagrams that show no unreasonable overlooking into the private open space and habitable room windows of the apartments at no. 54-56 Wattletree Road. This will ensure the proposal will not result in any unreasonable overlooking into the apartments of No. 54-56 Wattletree Road.

West Elevation

The habitable room windows and terraces on the west elevation have bladed screens to 1.7 metres from finished floor level or terraces with 1.5 metre high screens. The applicant has advised that the screens will restrict downward views to the private open space areas of the dwellings to the west. The applicant has also submitted a section diagram of the screens, however the screens are not spaced to be no more than 25% transparent and it is unclear how the screens will restrict views to the private open space areas of No. 10-16 Kooyong Road. Therefore, permit conditions will require screening to the habitable room windows and terraces on the west elevation in accordance with Standard B22 or the provision of overlooking diagrams that show no unreasonable overlooking into the private open space of No. 10-16 Kooyong Road.

South Elevation

Along the southern façade all of the habitable room windows have obscure glazing to 1,7 metres from finished floor level. The terrace is not screened to comply with the Standard. A condition will be included on the permit requiring screening to the terrace on the south elevation in accordance with Standard B22 or the provision of overlooking diagrams that show no unreasonable overlooking into the private open space of and habitable room windows of No. 6 and 8A Kooyong Road.

Noise Impacts

The proposed apartment building is not expected to generate noise above and beyond that normally associated with a residential development. A condition of permit will require that all plant and equipment 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.

Internal Amenity

The development will have a clear sense of address, identifiable by way of a landscaped pedestrian path located centrally to the Wattletree Road frontage leading to a foyer. Overall,

the building entry and internal circulation area satisfy the objectives of Standard B42 (Building entry and circulation objectives).

The new dwellings will be provided a good level of internal amenity. The apartments have generally been designed to achieve energy efficient dwellings. Each proposed apartment will be of a reasonable size. The plans note that the apartments will have floor areas between 83-134 square metres. Each apartment will have direct access to natural light and ventilation.

Standard B41 (Accessibility objective) seeks to ensure the design of dwellings meet the needs of people with limited mobility. The pedestrian entry to the building is appropriately graded to allow easy access for people with limited mobility. The development includes a lift in the central lobby area to access all levels of the building. In terms of internal apartment layout, the applicant has submitted as per drawing TP02 that Apartments 1,2,3,4 and 5 are compliant with Standard B41. It is considered that the objective of Standard B41 is met.

The apartments will be provided with ample internal storage areas including walk-in-robos, wardrobes and built in cupboards within each dwelling as well as external storage of 6 cubic metres, at the basement level. The internal storage areas as per drawing TP02 within apartments vary between 9.39 and 21.79 cubic metres per dwelling and will exceed the requirements as required in Standard B44 (Storage objective).

All dwellings will receive adequate access to daylight to all habitable rooms. All single aspect habitable rooms have a floor to ceiling height of 2.7 metres and a room depth that comfortably complies with the numeric requirements of Standard B47 (Room depth objective).

The dwellings at ground level have private open space areas between 65sqm and 90sqm. Importantly, the ground level space is appropriately connected to the living areas and has a good solar orientation making it suitable for future residents. For dwellings with private open space above ground floor, Standard B43 (Private open space above ground floor objective) requires balconies of at least 8 square metres and 2 metres in width. Each apartment above ground floor except for apartment 8 is provided with a balcony with a minimum dimension of 2 metres and a minimum size of 8 square metres in accordance with the Standard. Apartment 8 has a minimum width of 1.8 metres, however on balance this is acceptable given the length of it is 9.5 metres and the total area is 17 square metres. All dwellings will be provided with either courtyards or balconies which will provide adequate solar access given the orientation of the site.

In terms of Standard B46 (Functional layout objective), the new dwellings are adequate in size with the smallest bedroom having dimensions of 3.2 metres by 3 metres. All main bedrooms have a minimum depth of 3.4 metres and the smallest living room will be 14sqm in size with a minimum width of 4.25m which complies with the recommendation of Standard B46 (Functional layout objective).

Site Services

The development provides for adequate space for services to be installed and maintained effectively. Site services are located externally within the front setback and internally within the foyer. Bin storage area is located at the basement level and is easily accessible by residents via lifts. The mailboxes are proposed within the front of the site and are easily accessible by the Australia Post for delivery. Service cabinets within the front setback are well integrated into the architectural design and their location is easily accessible by utility providers. The objectives of Standard B34 have been met.

Car Parking and Traffic

The proposal exceeds the statutory car parking requirement of Clause 52.06 with two car parking spaces provided within a car stacker arrangement for each 2 and 3 bedroom dwelling. There is no requirement for visitor parking and as such none has been provided.

As detailed in the “Referrals” section of this report, there are outstanding items that need to be shown on the plans with regard to the design of the car parking layout and accessway. The items relate to dimensions showing the clearance on the ramp, gradients of the car parking spaces, sight triangles and ramp gradients to be shown on the plans. These matters are not fundamental and can be addressed via conditions.

Sustainable Design Assessment

A Sustainability Management Plan (SMP) was submitted with the application. The proposed development seeks to incorporate several environmentally sustainable design initiative to achieve a BESS score of 56 % and a STORM rating of 125 % both of which exceed best practice. The SMP submitted was based on the advertised plans dated July 2020 and not all of the key commitments are outlined on the plans. Permit conditions are included to require an updated SMP with corresponding plans.

Subject to appropriate permit conditions, the proposed development includes features designed to achieve best practice for sustainable design, particularly in terms of Indoor Environment Quality (IEQ), daylight access, natural ventilation, shading and stormwater management, and achieves an acceptable ESD outcome.

Objections

- Impacts during construction.

Noise and traffic impacts during construction phase are governed by Council’s Local Laws and will be addressed during the Building Permit process.

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 subject to the recommended conditions.
- The proposal will provide safe and convenient access arrangements and will not result in unreasonable traffic or parking impacts.

Governance Compliance

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

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 & Responsibilities Act 2006.

Attachments

1. 1060/18- 52 Wattletree Road, Armadale [14.3.1 - 45 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 1060/18 for the land located at 52 Wattletree Road, Armadale under the Stonnington Planning Scheme for construction of a multi dwelling development in a Residential Growth Zone and to create or alter access to a Road Zone, Category 1 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 amended plans Council date stamped 16 November 2020, prepared by Ferencz Baranyay Architect, but modified to show:***
 - a) ***The finished floor level of the ground floor increased by an additional 100 millimetres. There is to be no change in the overall building height as a result of this.***
 - b) ***The eastern setbacks of the third floor (except where the stairwell and lift is located) increased to comply with standard B19 of Clause 55.04-3, and any consequential internal reconfiguration. The setbacks from any other boundaries must not be reduced.***
 - c) ***The eastern setback of apartment 4 at first floor increased to a setback of 2.5 metre metres, and any consequential internal reconfiguration. The setbacks from any other boundaries must not be reduced.***
 - d) ***Screening to the kitchen and bedroom 2 window on the east elevation at first floor level in accordance with Standard B22.***
 - e) ***Screening to the terraces at first and second floor level on the east elevation in accordance with Standard B22 or the provision of overlooking diagrams that show no unreasonable overlooking into the private open space and habitable room windows of the apartments at no. 54-56 Wattletree Road.***
 - f) ***Screening to the habitable room windows and terraces on the west elevation in accordance with Standard B22 or the provision of overlooking diagrams that show no unreasonable overlooking into the private open space of No. 10-16 Kooyong Road.***
 - g) ***Screening to the terrace on the south elevation in accordance with Standard B22 or the provision of overlooking diagrams that show no unreasonable overlooking into the private open space and habitable room windows of No. 6 and 8A Kooyong Road.***
 - h) ***Third floor east facing habitable windows to the hallway and living area noted as being fixed to 1.7 metre from finished floor level in accordance with Standard B22.***

- j) The 2.2m clearance along the ramp shown with the garage door in an open position.*
- j) Removal of vegetation near the sight distance triangle.*
- k) The end grade of the ramp and any associated change to the ramp grade to ensure vehicle scraping does not occur.*
- l) The floor gradients of the entire parking area. The minimum gradient of the parking area is to be 1:200 (0.5%) to allow for adequate drainage as per Australian Standards.*
- m) Collision detection sensors for the turntable.*
- n) Any modifications to the crossover so that the edge of the western splay follows the alignment of the Non Destructive Root Investigation prepared by John Patrick Architects and dated 22 February 2019.*
- o) An updated Sustainability Management Plan as required by Condition 11.*
- p) All information/items to be demonstrated on the relevant development plans as required by condition 11.*
- q) Any changes required by Condition 3 (Landscape Plan), Condition 10 (Waste Management Plan), Condition 12 (Water Sensitive Urban Design) and Condition 23 (Department of Transport crossover requirements).*

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. Concurrent with the endorsement of any 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 plan Council date stamped 05 November 2020 prepared by John Patrick Landscape Architects but modified to show):*
 - a) The inclusion of larger growing elements along the southern boundary.*
- 4. Before 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.*
- 5. Before the development (including excavation and demolition) starts, a tree protection fence must be erected around the Acer 'Autumn Blaze' (Autumn Blaze Maple) street tree. Fencing is to be compliant with Section 4 of AS 4970.*
- 6. 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 \$1,367as security against a failure to protect the health of the Acer 'Autumn Blaze' (Autumn Blaze Maple)*

street tree within the nature strip of Wattletree Road to be retained. 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 trees and, provided they have not been detrimentally affected, the bank guarantee will be discharged.

- 7. 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).**
- 8. 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.**
- 9. 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.**
- 10. Concurrent with the endorsement of any plans, a Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. The WMP must be generally in accordance with the Waste Management Plan prepared by Leigh Design Council date stamped 16 October 2018, but modified to be:
 - a) Updated to reflect the new layout shown on the plans submitted for endorsement.****
- 11. Concurrent with the endorsement of any plans, a Sustainable Management Plan (SMP) must be 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. The Sustainable Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Energy Lab , Council date stamped 23 September 2020 but modified to show:
 - a) Water efficient landscaping including planting and irrigation strategies to be shown on the plans or points removed from the Water Credit 3.1 section of the report.**
 - b) A site management plan that details construction phase prevention of litter, sediments and pollution entering the stormwater systems.**
 - c) The following items included on the relevant development plans and within the SMP;
 - i. Double glazing shown on the plans for the windows.******

- ii. The balcony finish of the dwellings shown on the plans. The finish it to be a reflectance of 60%.*
- iii. Updates to refer to the new layout shown on the plans submitted for endorsement.*
- iv. Connection to internal toilets confirmed on the plans, along with an access point for maintenance.*
- v. Roof plan to show extent of drainage areas to be connected to the rainwater tank.*
- vi. insulation assumptions required to achieve minimum energy ratings included on materials schedule*

All works must be undertaken in accordance with the endorsed Sustainable 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.

- 12. Concurrent with the endorsement of any plans, a Water Sensitive Urban Design (WSUD) report must be submitted to and approved by the Responsible Authority. Upon approval the WSUD report will be endorsed as part of the planning permit and the development must incorporate the Water Sensitive Urban Design initiatives outlined in the WSUD report to the satisfaction of the Responsible Authority. The report must be generally in accordance with the Stormwater Management (WSUD) Report prepared by Energy Lab Council date stamped 23 September 2020 but modified to:***
- a) Updated to refer to the new layout shown on the plans submitted for endorsement.***

No alterations to the WSUD report may occur without written consent of the Responsible Authority.

- 13. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
- 14. Prior to the commencement of the development hereby approved, the permit holder must obtain approval from Council's Building and Local Laws Department to construct or modify any vehicle crossover/s providing access to the subject site. The issue of a planning permit does not provide approval for vehicular crossovers which are outside of the title boundary.***
- 15. Prior to the occupation of the building, any existing vehicular crossing made redundant by the development hereby permitted must be removed and reinstated as standard footpath and kerb and channel at the permit holder's cost to the approval and satisfaction of the Responsible Authority.***
- 16. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required by 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.***
- 17. Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development, including construction of vehicle***

crossover, must be done so at the cost of the applicant and subject to the relevant authority's consent.

- 18. 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.***
- 19. 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. Ventilation systems must be designed and installed in accordance with the relevant Australian Standards.***
- 20. 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.***
- 21. 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 and detention (if applicable) 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.***
- 22. The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp).***

DEPARTMENT OF TRANSPORT CONDITIONS

- 23. Prior to the occupation of the development, the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.***
- 24. Vehicles must enter and exit the land in a forward direction at all times.***

END OF DEPARTMENT OF TRANSPORT CONDITIONS

- 25. 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:

DEPARTMENT OF TRANSPORT NOTES

- A. The proposed development requires the construction of a crossover, and the removal/reinstatement of a redundant crossover. Separate approval under the Road Management Act 2004 for this activity is required from the Head, Transport for Victoria. Please contact the Department of Transport (Road) prior to commencing any works.**

END OF DEPARTMENT OF TRANSPORT NOTES

- B. 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.**
- C. 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.**
- D. 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.**
- E. The crossover must be constructed to Council's Standard Vehicle Crossover Guidelines unless otherwise approved by the Responsible Authority. Separate consent for crossovers is required from Council's Building and Local Law Unit.**
- F. The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".**
- G. 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.**

14.4 Planning Application 0555/20 - 1093-1095 & 1097-1099 Malvern Road, Toorak

Manager Statutory Planning: Alex Kastaniotis
Acting Director Planning & Place: Chris Balfour

Purpose of Report

For Council to consider a planning application for construction of a multi-unit development in a General Residential Zone and alteration of access to a Road Zone, Category 1 at 1093-1095 & 1097-1099 Malvern Road, Toorak.

Officer Recommendation Summary

That Council authorise Officers to issue a **Notice of Decision to Grant a Planning Permit** subject to conditions outlined in the Officer Recommendation.

The proposal is supported for the following reasons:

- The proposed development is consistent with the objectives of State and Local Planning Policy.
- The character of the area has evolved in recent years and features 3 and 4 storey apartment buildings as well as new detached dwellings and unit developments interspersed with traditional homes.
- The proposal provides for a satisfactory landscape response that will contribute to the landscape character of the area.
- The development will not unreasonably impact upon adjoining residential amenity
- The development will provide for an acceptable level of internal amenity.
- Sufficient car parking is provided in accordance with the Stonnington Planning Scheme and the development will not result in unreasonable traffic and parking impacts.
- The Consultative Meeting did not result in any changes to the plans.

Executive Summary

Applicant:	Shieldpeak Pty Ltd c/- Urbis
Ward:	North
Zone:	General Residential Zone, Schedule 1
Overlay:	N/A
Neighbourhood Precinct:	Garden Suburban 3
Date Lodged:	13 July 2020
Statutory Days: (as at Council Meeting date)	103
Trigger for Referral to Council:	Four storey building
Number of Objections:	13
Consultative Meeting:	Yes – held on 26 November 2020
Officer Recommendation	Notice to Decision to Grant a Permit

Background

The Proposal

The plans that form part of the basis of Council's consideration were prepared by Conrad Architects and are known as Project No. C2001, Drawing No's: TP01 to TP34 and Council date stamped 10 September 2020.

Key features of the proposal are:

- Demolition of the existing dwellings and outbuildings (no permit required);
- Construction of a four storey building comprising 22 three-bedroom apartments;
- Provision of 46 resident car parking spaces and 22 bicycle parking spaces at basement level;
- Vehicle access is via a new double width crossover located towards the western end of the frontage to Malvern Road;
- Pedestrian access to a common lobby is provided centrally along the frontage and all apartments are accessible via a lift and stairwell from the basement;
- A maximum building height of 14.49 metres (not including screened roof plant);
- A contemporary built form response utilising a variety of materials including render, stone cladding and metal.
- Construction of a 1.97 metre high front fence incorporating stone clad piers and metal infill panels.
- Retention of two significant trees within the south-east corner of site, supplemented by a further 14 canopy trees and additional vegetation.

Site and Surrounds

The site is located on the northern side of Malvern Road, between Hopetoun Road to the west and Glenferrie Road to the east. The site has the following significant characteristics:

- The site is made up of two lots with a combined frontage to Malvern Road of 44.5 metres and a total area of approximately 2,713 square metres.
- The land is regular in shape with a fall of approximately 1 metre from front to rear.
- The western lot is currently occupied by a double storey rendered brick dwelling with a garage to the western side of the frontage. The lot is sparsely vegetated and contains a tennis court and swimming pool to the rear of the dwelling.
- The eastern lot is occupied by a single storey brick dwelling, small outbuildings and a swimming pool. A cluster of large trees exists within the front setback and hedge planting borders the perimeter of the site.
- Both lots are fronted by a high fence which is characteristic of properties along Malvern Road in the vicinity.

The surrounding area exhibits a range of housing types and styles including several three and four storey apartment developments. The site has the following direct interfaces:

- The adjoining property to the west at 1089-1091 Malvern Road is occupied by a large single storey, Italianate villa known as 'Lillirie' and is covered by a site-specific Heritage Overlay (HO273). The Heritage citation for the site states that the significance of the property is derived from the distinctive comparatively wide façade and associated block frontage, with remnant garden setting (mature trees, drive formation) for the otherwise common 19th century single storey Italianate suburban villa style. The expansive front setback is formally landscaped and includes several mature trees.

- The subject site is bordered by two properties to the east. Firstly, 1101-1103 Malvern Road is occupied by a three storey building comprising 8 apartments above a basement carpark accessed from a rear laneway. The building exhibits high site coverage with landscaping limited to the perimeter of the lot.
- To the north of the above property is 20 Church Street which partially abuts the subject site's eastern boundary. This property has been recently developed with a double storey detached dwelling. The rear private open space shares a direct interface with the subject site and incorporate a large tree.
- Directly to the north of the subject site are three properties at 14, 16 and 18 Church Street. Each lot is occupied with a detached, single dwelling. All three dwellings are constructed in a French provincial style, with 14 and 18 being two storey and 16 being single storey. Numbers 14 and 18 have rear private open space areas that directly interface with the subject site. However, the dwelling at 16 Church Street is built almost to the rear boundary with an internal courtyard area of secluded open space located further towards the middle of the lot.
- Malvern Road abuts the southern boundary of the subject site which is covered by the Road Zone, Category 1, identifying it as a significant road under the responsibility of VicRoads. The road incorporates a tram line. Directly opposite the subject site on the corner of Malvern Road and Adelaide Street is a recently constructed four storey building comprising of 8 apartments above basement carpark accessed from Malvern Road.

Previous Planning Application/s

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

- Planning Application 237/17 for the construction of a five storey apartment building on the subject site was refused under delegation on 10 August 2017. The decision was appealed to the Victorian Civil and Administrative Tribunal (VCAT) who upheld the refusal.
- Planning Permit 828/13 for the construction of a three storey apartment building comprising 15 dwellings at 1101-1103 Malvern Road (directly to east) was issued on 13 October 2014. The permit was amended in 2017 to reduce the number of dwellings to 8 and make associated changes to the built form. The development has been constructed.
- Planning Permit 1040/16 for the construction of a four storey apartment building comprising 9 dwellings at 1100-1102 Malvern Road (opposite to south) was issued on 31 August 2018. The permit was amended on 13 December 2018 resulting in the number of dwellings being reduced to 8. The development has been constructed.

The Title

The site is described on the following Certificates of Title:

- Volume 3667 Folio 291; Lot 4 on Plan of Subdivision 005543. No covenants or easements affect the lot.
- Volume 10086 Folio 350; Lot 1 on Title Plan 93370D. A 0.91 metre wide drainage easement runs along the rear/northern boundary of the lot. No covenants affect the land.

Planning Controls

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

Zone

Clause 32.08 – General Residential Zone, Schedule 1

Pursuant to Clause 32.08-6 a permit is required to construct two or more dwellings on a lot.

Pursuant to Clause 32.08-4, a minimum garden area of 35% is required to be provided on a lot greater than 650 square metres. The development provides a minimum garden area of 38.4% in compliance with this mandatory requirement.

Schedule 1 specifies that a building used as a dwelling must not exceed a height of 13.5 metres unless 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, in which case the height of the building must not exceed 14.5 metres. This site has an allowable height of 14.5 metres and a lift overrun may exceed this height by up to 1.2 metres. The development complies with a proposed maximum building height of 14.49 metres to the parapet and a lift overrun not exceeding 1.2 metres above the roof.

A development must meet the requirements of Clause 55 (ResCode). Schedule 1 modifies the following requirements:

- Site coverage (Standard B8) - Basements should not exceed 75% of the site area.
- Side and rear setbacks (Standard B17) - For a distance of at least 5 metres behind the front facade of the building fronting the street, setback new buildings (including basements) a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height.

Overlay

There are no overlays affecting the land.

Particular Provisions

Clause 52.06 - Car Parking

Pursuant to Table 1 at Clause 52.06-5 two car spaces are to be provided to each three-bedroom dwelling. It is noted that Planning Scheme Amendment VC148 (gazetted on 31 July 2018) removed the requirement for the provision of visitor car parking spaces on development sites located within the Principle Public Transport Network area.

The development proposes 22 three-bedroom dwellings and 46 car parking spaces. This exceeds the statutory requirement by two spaces thus a permit is not required pursuant to this Clause. However, the design standards for car parking outlined at Clause 52.06-9 are applicable to the assessment of the application.

Clause 52.29 – Land Adjacent 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. An application must be referred to the Department of Transport as the relevant Roads Corporation.

Relevant Planning Policies

Clause 11 - Settlement

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 22.05 - Environmentally Sustainable Development

Clause 22.18 - Stormwater Management

Clause 22.23 - Neighbourhood Character Policy
Clause 32.08 – General Residential Zone
Clause 52.06 - Car Parking
Clause 52.27 - Land Adjacent to a Road Zone, Category 1
Clause 52.34 - Bicycle Facilities
Clause 55 - Two or more dwellings on a lot (ResCode)
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 signs on the site. The public notification of the application has been completed satisfactorily.

The site is located in North Ward and objections from 13 different properties have been received. The objections are summarised as follows:

- Height, bulk, scale and massing
- Overdevelopment
- Dominance to streetscape and adjacent heritage property
- Insufficient setbacks
- Visual bulk
- Inadequate visual articulation
- Impact on neighbouring secluded private open space
- Overlooking
- Overshadowing
- Loss of views
- Impact on neighbouring trees
- Insufficient landscaping
- Increased traffic congestion
- Noise
- Air pollution
- Internal amenity

A Consultative Meeting was held on 26 November 2020. The meeting was attended by Councillors Koce and Hely, representatives of the applicant, objectors and a Council planning officer. The meeting did not result in any changes to the plans.

Referrals

A summary of the comments received from various departments is provided below.

Department of Transport

- No objection to the proposal subject to permit conditions (4) regarding the design of the proposed vehicle crossover; removal of redundant crossovers; vehicles to exit the site in a forwards direction; and mitigation measures for disruption to tram operation on Malvern Road during construction of the development.

Transport and Parking

- The proposed resident parking provision exceeds the Planning Scheme requirements.
- Residents of the development will be excluded from the Resident Permit Parking Scheme.

- The ramp grades, width of accessway, passing area, headroom clearance and pedestrian sight triangles are satisfactory.
- The standard parking space dimensions and internal garage dimensions are satisfactory.
- A minimum floor grade of 1 in 200 (0.5%) across undercover parking areas is provided for drainage purposes.
- The development provides a total of 24 bicycle spaces on site, with 22 for residents in the basement and 2 for visitors at ground level. This exceeds the requirements of the Planning Scheme, being 4 for residents and 2 for visitors, and is satisfactory. The location and design of bicycle parking accords with Australian Standards.
- As vehicle access is to Malvern Road, traffic generation is a matter for the Department of Transport to consider.
- The design of the vehicle crossover is subject to the requirements of the Department of Transport.
- There is no requirement to provide loading facilities on site.
- Doors to the service cabinets must not block the footpath in the open position.

Urban Design

- This is a well-designed response to the site and its surrounds, with generous landscaped setbacks from the adjoining properties to the east, north and west.
- There are no concerns with the proposal.

Parks

- The two valued trees within the site, a Pin Oak and Golden Elm, are being retained. A Tree Management Plan (TMP) and tree retention bonds should form conditions of permit.
- The design has taken into account the locations of established trees within the adjacent properties. These neighbouring trees must also be included in the TMP.
- A new masonry fence is proposed which appears to be inside the alignment of the current brick fence along the southern boundary of the property, within the structural root zone of the retained Pin Oak tree.
- The landscape plan is suitable for approval.

Planner note: The requirement for a TMP and tree bond will form permit conditions. The applicant has confirmed that a pier and beam construction method (ie. no continuous strip footings) will be utilised for the new fencing within the tree protection zone of the Pin Oak tree and this is reflected in the updated Landscape Plans received by Council on 10 September 2020. This is appropriate to limit any impact on the tree roots. The TMP will be required to reflect this requirement.

Infrastructure

- The applicant will need to engage a suitably qualified Engineer to investigate the existing drainage and whether or not its capacity is adequate and in good condition.
- Assuming the drain needs to be replaced, the owner must at their cost provide a new easement drain to be constructed in accordance with a plan submitted to and approved by Council. The works must be constructed under the supervision and to the satisfaction of Council's Infrastructure Unit prior to concentration of runoff from the development.
- Permit conditions are recommended to address drainage design, stormwater drainage and runoff and retention of footpath levels.

Environmentally Sustainable Design

- The development achieves a BESS score of 57% and a STORM score of 101%, both of which meet Best Practice.
- Further clarification is requested for internal daylight levels for a number of Living/Kitchen areas due to room depth/width and orientation and 'saddle back' bedroom windows with wing walls on either side of the external windows, as well as an internal study with no windows to Apartment 1.03. Daylight modelling should be provided to demonstrate Council's best practice standard is met.
- Provision of adequate shading is required to address issues of excessive heat gain. Fixed external shading is recommended to all north facing habitable room windows and adjustable external shading to all east and west facing habitable room windows.
- Harvesting of rainwater from trafficable balconies on the third floor into a rainwater tank is not supported. An alternative treatment measure, such as a raingarden within common property, should be considered.
- Further details/annotations are required to ensure the plans accord with the Sustainable Management Plan (SMP).

Planner note: A detailed discussion of ESD concerns is provided within the assessment below. Permit conditions are included to address additional information to be provided on the plans and within the SMP.

Waste Management

- A comprehensive Waste Management Plan (WMP) accompanied this proposal. This document responded well to the waste management challenges presented in the plans.
- The WMP should provide the flexibility for future ratepayers to opt for Council waste collections.
- A condition of permit is recommended requiring a WMP (similar to that previewed) to be submitted for approval, amended to address the above issue.

Key Issues and Discussion

History

The previous planning application (237/17) for the construction of a five storey apartment building on the subject site was refused by Council officers by virtue of the following:

- An inappropriate design response to the surrounding context and preferred neighbourhood character.
- An unsatisfactory landscape response including the failure to retain significant trees on site, lack of sufficient canopy trees and deep soil planting, and the potential to adversely impact neighbouring trees to the west due to the siting of the basement and access ramp on the boundary.
- Excessive dominance and visual bulk to the street and adjoining properties due to the sheer size and unbroken mass of the building to all elevations, with the proposed height compounded by the minimal street setback of 4.05m.
- Unacceptable impact on the adjacent heritage property due to the lack of articulation and modulation to the western elevation.
- Unreasonable overlooking of neighbouring properties.
- An unacceptable level of internal amenity for future residents.
- Failure to meet environmentally sustainable design objectives.
- Potential for partially submerged ground floor to be subject to potential flooding impacts.

The proposed development is considered to have satisfactorily addressed the above concerns for the reasons outlined within the assessment below.

Strategic Context

The overarching policies and objectives at both a State and Local level encourage urban consolidation in established urban areas and medium density residential development in and around neighbourhood activity centres and close to public transport. These strategies call for well-designed medium-density development that respects neighbourhood character, improves housing choice, makes better use of existing infrastructure and improves energy efficiency.

Council's Local Policy on the location of residential development at Clause 21.05-2 seeks to maintain a clear distinction between the type of development outcomes in locations for higher density development and the lower density residential hinterland. The subject site is identified as being suitable for substantial change as it is located on a main road which is defined as being a 'tram/bus priority route' within Council's Strategic Framework Plan (Clause 21.03-3). This is reflected by the zoning of the land as General Residential Zone which includes the following purpose: *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.* The proposal will provide for a greater range of housing stock in this section of Toorak, which is consistent with Clause 21.05-4 (Housing diversity) which calls for a range of dwelling types.

In addition to being highly accessible to public transport, the site is also conveniently located close to small neighbourhood activity centres including Malvern Hill Village and Malvern Village to the east, as well as the Glenferrie Road / High Street major activity centre to the south which consists of commercial facilities and community services for local and everyday retail, office and service needs. The site is also proximate to several recreational and education facilities.

Essentially, there is strong policy support within the Planning Scheme for a higher density residential development on the subject site. The relevant State and Local Policy regarding the provision of housing also refers to the importance of maintaining and enhancing neighbourhood character. Detailed consideration must be given to how the proposal specifically responds to the neighbourhood character, design and residential amenity. These elements are discussed in further detail below.

Neighbourhood Character

The site is within the *Garden Suburban 3* Neighbourhood Character Precinct as defined by Council's Local Neighbourhood Character Policy at Clause 22.23. The policy requires that the statement of preferred character and design guidelines for the respective precinct be taken into account when assessing development applications. The policy acknowledges, at Clause 22.23-2, that where a proposal is in a substantial change area it is *policy to allow for greater change while reflecting the elements of preferred character.*

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

The Garden Suburban 3 (GS3) precinct comprises spacious and leafy streetscapes with Victorian, Edwardian, Interwar or Post-war era and new buildings set in established garden surrounds. Generous, 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, one-two storey 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 following is noted with regard to the proposed development and the statement of preferred character as well as the specific Design Objections of the GS3 Precinct:

- The character of the area has evolved in recent years and features 3 and 4 storey apartment buildings as well as new detached dwellings and unit developments interspersed with traditional homes.
- The existing buildings on the subject site are not historically significant and planning permission is not required for their demolition.
- The proposed building presents a three storey base to the street with a well-recessed fourth floor. This ensures the development will complement the scale of buildings along Malvern Road and will not dominate the streetscape. The front elevation steps back towards the sides with the primary façade adopting framing elements with a defined central portion designed to represent two distinct built forms. This assists to break up the breadth of the elevation which spans two lots.
- The development represents a contemporary architectural design response which is well-articulated and selected materials include stone cladding, light render finishes and metal balustrades which are complementary to surrounding development.
- The development is well setback from all boundaries to reflect and reinforce the rhythm of spacing between and around buildings within the streetscape. The siting enables a suitable landscape response incorporating a number of canopy trees and lower level vegetation around the perimeter of the site to complement the garden character of the precinct and soften the built form.
- The front setback is consistent with the broader streetscape of Malvern Road and enables the retention of two large, mature trees within the front garden.
- The provision of a communal basement car park ensures that car parking structures do not dominate the streetscape and hard paved areas are minimised.
- The proposed 1.97 metre high front fence is compatible with the scale of the development and will complement adjacent fencing which is typically high in this main road context.

Further to the above, the development is considered to be respectful of the adjacent heritage listed property to the west at 1089 Malvern Road, as required by Council's Local Heritage Policy at Clause 22.04 of the Planning Scheme. The proposed front setback of 8 metres will enable views to the substantial front garden on the neighbouring property and will not impact existing views to the significant building. The development represents an improvement on existing conditions in this regard, due to the presence of a garage which is currently sited along the western boundary directly adjacent to the street boundary, which effectively blocks views of the heritage property from pedestrians approaching from the east.

The proposed building provides a minimum setback of 5 metres from the western side boundary at ground and first floor level, and increased setbacks at both the second and third floors ensures they are visually recessive. The western elevation of the development is highly articulated to break up the built form and effectively reduce visual bulk impacts. Substantial vegetation is provided within the side setback to further soften the appearance of the built form. These elements of the development are considered to provide an appropriate response to this sensitive interface.

Built Form

The application has been assessed against the objectives and standards of Clause 55 - Two or more dwellings on a lot (ResCode). A full assessment against the applicable requirements

of Clause 55 has been undertaken and demonstrates that the development achieves a high level of compliance, with the following notable standards highlighted and discussed.

Street Setback

The prescribed front setback is the average setback of both abutting dwellings or 9 metres, whichever is the lesser. Based on the adjoining front setbacks of approximately 25 metres and 6.5 metres, a 9 metre street setback is required. The façade is articulated vertically and proposes a minimum setback to the street of 8.08 metres to the three storey base, and a setback of 12.9 metres to the top floor.

This is an appropriate response when considering the setback to the adjacent heritage building is an anomaly, and prevailing setbacks on the northern side of Malvern Road in the vicinity are approximately 7.13 metres on average. The proposed setback is compatible with the apartment development to the west of the heritage property, at 1085 Malvern Road, which is setback approximately 8 metres, as well as the neighbouring apartment building directly to the east of the subject site, which is setback 6.5 metres. The street setback of the development allows for the retention of two large trees within the front garden in addition to four smaller canopy trees which are proposed to be planted along the frontage.

Building Height

Due to the fall in the land, the development proposes a building height above natural ground level of between 13.15 metres at the street elevation to 14.49 metres to the north-east corner of the top floor. This complies with the 14.5 metre maximum height specified by the General Residential Zone for a sloping site. The lift overrun extends 1.2 metres above the roof and screening to the roof plant is 1.4 metres which is considered acceptable. These elements are centrally located on the roof and will have limited, if any, visibility from surrounding properties.

The four storey scale of the development is compatible with the main road location and the surrounding built form context, and the visual impact of the building height from the street and adjoining properties will be limited due to the top floor being well recessed from the floors below.

Site Coverage and Permeability

Schedule 1 of the General Residential Zone varies ResCode and states that a basement should not exceed 75% of a site's area. The proposed basement footprint equates to site coverage of 65.6% in compliance with the varied requirement. Above ground, the proposed site coverage of the building is 59.3% which is less than the 60% permitted by the standard.

ResCode seeks at least 20% of the site to be of permeable surfaces, and the application proposes 22.2%, thereby complying with this requirement.

Landscaping

The proposal offers a meaningful landscape response which is respectful of the landscape character of the neighbourhood. The development seeks to retain two significant trees within the front setback and provide deep soil planting opportunities for several new trees around the perimeter of the site, including 11 medium-large canopy trees and 14 medium-large screening trees, as well as lower scale planting. The building setbacks above and below ground allow for a generous amount of vegetation to be incorporated into the overall landscape design, and are adequate to ensure that trees on neighbouring properties are not adversely impacted.

Vegetation is also proposed to the upper levels which incorporate planter boxes around balcony edges to soften the appearance of hard surfaces and to assist the integration of the

building into the neighbourhood. With appropriate maintenance, the proposed landscaping will provide a safe, functional and attractive environment for future residents.

As recommended by Council's arborist, a Tree Management Plan will be required as a condition of permit and tree bonds will be required for the two retained trees as security to protect their health during and post-construction.

Amenity Impacts

Side and Rear Boundary Setbacks

Schedule 1 to the zone varies the side setback standard requirements and seeks new buildings, including basements, to be setback a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height, for a distance of at least 5 metres behind the street facing façade.

The development exceeds the requirements with basement setbacks of 1.6 metres to the west and 3.64 metres to the east, and above ground setbacks of 8 metres to the west and 12.7 metres to the east.

The development is fully compliant and again exceeds the remaining setback requirements of the standard. Due to the modulation of the building elevations, setbacks are staggered to all floors. To the rear, setbacks to the north range from a minimum of 4.95 metres at ground floor level up to 13 metres to the top floor. The development steps back from the rear corners of the building where it is opposite secluded private open space areas to the rear, noting that the central portion of the building is adjacent to neighbouring built form which exists close to the common boundary. Side setbacks to the west range between 5.04 metres to 12.1 metres and to the east, the side setbacks range between 4.57 metres and 10.1 metres. The proposed side and rear setbacks are sufficient to limit amenity impacts, including daylight to existing habitable room windows and visual bulk impacts from neighbouring secluded private open space areas.

Given the overall form of development and the site's location on a main road, it is considered that the amenity of neighbouring residential properties will not be unreasonably reduced. The proposed side and rear setbacks are deemed to make efficient use of the site whilst providing sufficient building separation between neighbouring buildings to respect the existing and emerging character of the area.

Overshadowing

Due to the orientation of the site and the layout of adjoining properties there will be no unreasonable overshadowing of neighbouring secluded private open space areas and the development achieves full compliance with the applicable standard.

The development will not cast shadows over the primary secluded private open space associated with the property to the west, which is sited to the rear (north) of the dwelling. To the east, the neighbouring apartment building orients all private courtyards and balconies to either the front or rear of the site. The development will not impact shadowing on this property until after 2pm at the equinox, therefore all secluded private open spaces will remain unaffected between 9am to 2pm which meets the prescriptive requirements of the standard. There are no other secluded private open space areas abutting the site which will be adversely impacted by shadows cast from the development.

Overlooking

The development seeks to minimise opportunities for overlooking of neighbouring properties, whilst maximising the internal amenity of the proposed dwellings. The proposal incorporates a variety of methods to limit overlooking including obscure glazing and external screens to a

height of 1.7 metres above finished floor level, as well as 1 metre wide planter boxes around balcony edges to restrict downwards views. However, the proposal is also seeking to rely on existing vegetation to the north-west corner and proposed vegetation to the south-east corner to reduce overlooking opportunities, and this is not considered appropriate as it may not be a permanent measure.

To the north, the secluded private open spaces of the properties at 14 and 18 Church Street are located within 9 metres of proposed balconies and habitable room windows on the ground, first and second floors of the development. It is noted that existing boundary fencing will sufficiently limit overlooking into neighbouring properties at ground level and, due to the setback of the third floor, there will be no direct overlooking from this level as the setback exceeds 9 metres.

There is an existing tall hedgerow along the rear of 14 Church Street which would assist to restrict views from the first floor of the development into this property. However, this is insufficient as the development cannot rely on the longevity of the vegetation. It is considered that additional screening is required to the first floor north facing balcony of Apartment 1.03 and the second floor north facing living/dining room windows of Apartment 2.03, in order to protect the amenity of 14 Church Street.

Similarly, to protect the amenity of the secluded private open space at 18 Church Street, additional screening is required to the first floor north facing balcony of Apartment 1.05 and the second floor north facing living/dining room windows of Apartment 2.04. The trafficable area of the balcony associated with Apartment 2.04 is 8.958 metres from the common boundary. Given the ResCode standard requires provision of screening within 9 metres, it is considered that screening is not required in this instance given the negligible shortfall of less than 50mm.

To the west, there is a garage on the common boundary with an accessway to its front and rear which runs along the common boundary. Thus there are no habitable room windows or areas of secluded private open within 9 metres of the proposed building.

To the east, potential overlooking from the first floor is largely addressed with the use of 1.7 metre high external screens or obscure glazing to habitable room windows and balconies. However, there is some potential for oblique views into a ground level courtyard at the rear of 1101-1103 Malvern Road and the secluded private open space of 18 Church Street from the east facing dining room window of Apartment 1.05 as it only has a 1.4 metre high screen. Furthermore, the eastern side of the balconies associated with this apartment and Apartment 2.04 above are also inadequately screened to sufficiently limit views to 18 Church Street. Additional screening is required to these areas.

The first and second floors of the neighbouring apartment building to the east incorporate screening to all windows and balconies facing the subject site, therefore additional screening on the proposed development is not necessary to protect this interface.

Permit conditions are included to address the above recommended screening requirements. Additionally, the floor plans and elevations do not indicate that obscure glazing is fixed and with a maximum transparency of 25 per cent, nor are the specific details of the external screens provided to windows and balconies shown. Therefore, these requirements will also form permit conditions to ensure compliance with the overlooking standard is met.

Subject to the suggested conditions of permit, the proposed development will provide appropriate screening to limit the impacts of overlooking on neighbouring properties.

Internal Amenity

The building is provided with a clearly defined pedestrian entry located centrally along the Malvern Road frontage and a communal stairwell and two lifts provide access to all floors from the basement. Apartments G.03 and G.04 also have independent stairwells providing direct access from their garage in the basement to the dwelling. The communal hallways on each floor are safely laid out and provide a window or skylight for natural daylight access and a waste chute for convenience.

There are six apartments on the ground and second floors, seven on the first floor and three on the top floor. All dwellings have three bedrooms yet range in size internally from 151sqm to 278sqm. The apartments each have a functional layout with well-proportioned, open-plan living spaces and bedrooms which meet or exceed the minimum dimensional requirements. The development is considered to make appropriate use of solar energy. Some of the single aspect living areas exceed a depth of 9 metres which can potentially limit daylight access to the space furthest from the window. However, in this instance, the apartments have generous floor to ceiling heights of 2.8 metres and large proportioned floor to ceiling windows which extend the entire width of the living area. These factors will enable adequate daylight into the living areas which are appropriately sized for family accommodation.

All bedrooms are provided with direct daylight access with no reliance on borrowed light. The centrally located east and west facing apartments each include one bedroom which has a window to a smaller secondary area which can be described as a 'saddleback window'. Each saddleback window exceeds the minimum width requirement of 1.2 metres and does not exceed the maximum depth allowable. The windows are clear to the sky and extend from floor to ceiling enabling good daylight access.

The floor plan layout will ensure natural cross-ventilation can be achieved to more than half of the dwellings, with only 40 percent required for compliance with the applicable standard. At least half of the dwellings are also designed to be accessible to people with limited mobility and include adaptable bathrooms.

All dwellings are provided with generous secluded private open space in the form of either ground level courtyards which range in size between 99sqm up to 306sqm, or balconies ranging in size between 18sqm to 159sqm. All spaces are conveniently accessed from the open plan living area and are suitable to meet the needs of future residents. Some of the apartments have private open space to the south or sides of the building with no solar access directly from the north, however they will receive direct sunlight from the east in the morning and/or the west in the afternoon. This is considered acceptable for an apartment development as it is not practicable to provide all private open space areas to the north. It is noted that the street facing courtyards and balconies oriented to the south will provide good passive surveillance of the public realm.

Good storage facilities are provided within the development to meet the minimum requirements. Within the basement each dwelling is provided with a minimum area of 6 cubic metres, although many storage units exceed this size, and this is supplemented by additional cupboard storage within each dwelling to meet the minimum requirements.

Overall it is considered the development provides a high level of internal amenity for future residents.

Car Parking and Traffic

The application attracts an on-site car parking requirement of 44 spaces for residents, being two for each dwelling. As previously indicated, there is no requirement for visitor car parking as the subject site is located within the Principal Public Transport Network area.

The proposal exceeds the car parking requirements with a total of 46 spaces, providing a surplus of two spaces. All parking is within the basement, with two of the apartments being provided with a three car garage, three apartments will have a two car garage, and the remaining dwellings will each be allocated two spaces.

Council's Transport and Parking Department have reviewed the provision of parking and the layout and access arrangements of the basement and are supportive of the proposal.

Council's Transport and Parking department have assessed the proposed bicycle parking provision and layout and confirm that it is compliant with the requirements of Clause 52.34 and the Australian Standards. One space for each residence is provided within the basement and 2 visitor spaces are conveniently located adjacent to the ground floor entry to the building.

The Department of Transport has not raised any concerns with the anticipated increase in traffic generated by the development, and the access arrangements are acceptable subject to permit conditions which have been included in the recommendation.

Sustainable Design Assessment

A Sustainable Management Plan (SMP) was submitted with the application. The SMP uses the BESS tool to demonstrate that the objectives of Clause 22.05 have been addressed. The BESS score achieved for this development is 57%. This score meets best practice (minimum 50%) and demonstrates an adequate response.

The development proposes several ESD commitments including a 10kW rooftop solar panel system; a rainwater harvesting system for toilet flushing and irrigation; energy and water efficient fixtures and appliances; high performance glazing; environmentally preferable internal finishes; and bicycle parking for all residents.

In response to the concerns of Council's ESD officer in relation to daylight to some habitable rooms, the applicant has submitted a revised Sustainable Management Plan which includes daylight modelling to key apartments. The results clearly demonstrate compliance with Council's best practice standard and it is noted that even the bedrooms with saddleback windows achieve the minimum daylight requirements.

Apartment 1.03 has an internal study with no direct access to natural daylight. However, the study is located within an open hallway extending between the dwelling entrance and the living area. There is no potential for this area to be enclosed to form a separate habitable room in the future and, for this reason, the lack of a window to this well-utilised space is considered to be acceptable.

In terms of shading, to the north fixed overhangs are provided to the second and third floor windows which is adequate to mitigate solar heat gain. However, the Level 1 bedroom windows detailed with shrouds (which are not dimensioned) and the horizontal battens to the ground floor pergolas, which are spaced too far apart to provide effective shading, are not considered to be provided with adequate shading. Adequate, fixed external shading should be provided to all north facing glazing to habitable rooms in order to prevent passive solar gain in summer while enabling warming winter sun access. This can be addressed via permit condition.

To the east and west, the habitable room windows will be exposed to relatively low sun angles (below 60 degrees) in mid-summer. At this time, normal fixed horizontal sun shading becomes ineffective. Furthermore, high performance glazing is not the preferred option as it can have a substantial impact on heating due to reduced solar gain in winter. Therefore, adjustable vertical shading devices are required. This could be in the form of operable

louvres, sliding shutters or external blinds. A permit condition is included requiring adjustable, external shading devices to be provided to both the east and west facing habitable room windows.

The SMP includes a Water Sensitive Urban Design (WSUD) response which indicates that the development achieves a STORM Rating of 101%. This is achieved by the provision of a 40,000 litre rainwater tank connected to all toilets within the development. However, the proposal seeks to harvest rainwater from the trafficable balconies on the top floor, which is not acceptable for reuse by toilets. This issue can be addressed via a permit condition requiring a revised WSUD response.

Subject to the above conditional requirements, the development will meet the objectives of the Local policies at Clause 22.05 (ESD) and 22.18 (WSUD) of the Planning Scheme.

Objections

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

- The planning scheme does not offer protection of existing views.
- The development will not generate excessive noise or air pollution beyond that typically expected for a residential use.

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 objectives of State and Local Planning Policy.
- The proposal provides for a satisfactory landscape response that will contribute to the landscape character of the area.
- The development will not unreasonably impact upon adjoining residential amenity as determined by compliance with ResCode (Clause 55) Objectives.
- The development will provide for an acceptable level of internal amenity.
- Sufficient car parking is provided in accordance with the Stonnington Planning Scheme and the development will not result in unreasonable traffic and parking impacts.

Governance Compliance

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

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 & Responsibilities Act 2006.

Attachments

1. 0555/20 - 1093-1095 & 1097-1099 Malvern Road, Toorak [**14.4.1** - 17 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 555/20 for the land located at 1093-1095 & 1097-1099 Malvern Road, Toorak under the Stonnington Planning Scheme for construction of a multi-unit development in a General Residential Zone and alteration of access to a Road Zone, Category 1 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 September 2020 but modified to show:**
 - a) **Service cabinets setback or designed to ensure open doors are wholly contained within the property boundary.**
 - b) **Obscure glazing annotated to specify it is fixed and to a height of 1.7 metres.**
 - c) **Provision of overlooking screening to the first floor north facing balcony of Apartment 1.03 in accordance with Standard B22 at Clause 55.04-6.**
 - d) **Provision of overlooking screening to the first floor east facing dining room window and the north and east facing balcony of Apartment 1.05 in accordance with Standard B22 at Clause 55.04-6.**
 - e) **Provision of overlooking screening to the second floor north facing living/dining room windows of Apartment 2.03 in accordance with Standard B22 at Clause 55.04-6.**
 - f) **Provision of overlooking screening to the second floor north facing living/dining room windows and the eastern side of the balcony of Apartment 2.04 in accordance with Standard B22 at Clause 55.04-6.**
 - g) **The details of all external overlooking screens to windows and balconies to be specified including type, materials and transparency in accordance with Standard B22 at Clause 55.04-6.**
 - h) **Fixed external shading devices provided to all north facing glazing of all habitable rooms to ensure that the north windows are shaded from the spring equinox till the autumn equinox (21 September to 21 March). Where sun shading devices are being utilised a dimensioned section diagram must be included to demonstrate their effectiveness.**
 - i) **External operable sun shading devices provided to all east and west facing glazing of habitable rooms, which could be in the form of operable louvres, sliding shutters or external blinds. The external shading devices are to be clearly shown/noted on the plans and elevations.**
 - j) **Details in accordance with the SMP required by condition 3 including but not limit to: the location, capacity and intended re-use of any fire test system water tank; co-location of recycling within the waste room; and connection of the rainwater tank to all toilets within the development.**

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. **Concurrent with the endorsement of any plans pursuant to Condition 1 a Sustainable Management Plan (SMP), generally in accordance with the plan prepared by Ark Resources dated 24 November 2020, 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 be modified as follows:**
- a) **Provide an updated WSUD response to remove harvesting of rainwater from third floor balconies. The rainwater harvesting system must only collect roof water.**

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.

4. **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.**
5. **The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.**
6. **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 generally in accordance with the plan prepared by Jack Merlo Design and Landscape dated 9 September 2020, but modified to show:**
- a) **Water efficient landscaping as indicated within the SMP.**
7. **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.**
8. **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 *Quercus palustris* (Pin Oak) and *Ulmus glabra* 'Lutescens' (Golden Elm) trees located within the front setback of the subject site and the established trees within proximity of the boundary of the adjoining lot to the west at No. 1089 Malvern Road.

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

- a) **Pre-construction – 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.

9. **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 \$79,425.00 as security against a failure to protect the health of the Pin Oak tree (representing \$48,110.00) and Golden Elm tree (representing \$31,315.00) to be retained on site. 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.**
10. **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).**
11. **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.**
12. **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.**
13. **Prior to the commencement of any works on the land, each Tree Protection Zone nominated within the approved Tree Management 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.***
14. ***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.***
15. ***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.***
16. ***Concurrent with the endorsement of plans a Waste Management Plan, generally in accordance with the plan prepared by Leigh Design dated 18 June 2020, must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be updated to provide the flexibility for future ratepayers to opt for Council waste collections.***
- 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.***
17. ***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.***
18. ***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.***
19. ***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.***
20. ***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.***
21. ***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.***

Department of Transport Conditions

22. ***Prior to commencement of use or occupation, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the***

Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and may be submitted electronically. The plans must be generally in accordance with the plans prepared by Conrad Architects Dwg. No. TP10 Rev. A dated July 2020 (Floor Plan – Ground Level) but modified to show:

- a) **a sealed accessway crossover at least 6.4m wide at the site boundary with the edge of the crossover angled at 60 degrees to the edge of the road with 3.0m radial turnouts.**
 - b) **Any road assets and street trees that needs to be relocated.**
 - c) **A corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road.**
 - d) **Accessway grades that are not steeper than 1:10 (10 per cent) within 5 metres of the frontage.**
 - e) **Any security boom, barrier, gate or similar device controlling vehicular access to the premises must be located a minimum of 9 metres inside the property to allow vehicles to store clear of the Malvern Rd pavement and footpath.**
23. **Prior to the commencement of use or occupation, all disused or redundant vehicle crossings must be removed, and the area reinstated to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.**
24. **Vehicles must enter and exit the land in a forward direction at all times.**
25. **The permit holder must avoid disruption to tram operation along Malvern Road during the construction of the development. Any planned disruptions to tram operation during construction and mitigation measures must be communicated to and approved by the Head, Transport for Victoria and Yarra Trams a minimum of thirty-five days (35) prior. The permit holder must ensure that all track, tram and overhead infrastructure is not damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Head, Transport for Victoria at the full cost of the permit holder.**

End Department of Transport Conditions

26. **Written confirmation by a Licensed Land Surveyor must be provided to the Responsible Authority verifying that the development does not exceed 14.5 metres in height above natural ground level. This must be provided at frame stage inspection and at final inspection.**
27. **Prior to occupation of the building or commencement of use, any existing vehicular crossing made redundant by the building and works hereby permitted must be broken out and re-instated as standard footpath and kerb and channel at the permit holders cost to the approval and satisfaction of the Responsible Authority.**
28. **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. As required by the Building Regulations, 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.

- 29. 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 and detention (if applicable) to ensure that all works has 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.***
- 30. The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp).***
- 31. The owner/developer must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the standalone detention system, the owner may provide stormwater tanks that are in total 3,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.***
- 32. 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:

- A. The proposed development requires the construction of a crossover. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport prior to commencing any works.***
- B. 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.***
- C. 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.***
- D. 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:

- i. with a trunk circumference of 140 cm or greater measured at 1.4 m above its base;*
- ii. with a total circumference of all its trunks of 140 cm or greater measured at 1.4 m above its base;*
- iii. with a trunk circumference of 180 cm or greater measured at its base; or*
- iv. 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.

- E. 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.***
- F. The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".***
- G. 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.***

14.5 Brookville Road Toorak Area Study Consultation Results

Manager Transport & Parking: Ian McLauchlan
Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Liveability: The most desirable place to live, work and visit.

L6 Maintain Council's infrastructure and assets essential for the sustainable operation of the City.

Purpose of Report

To advise Council of the consultation results received as part of the Brookville Road Toorak Area Study and seek approval to install parking restrictions in Canterbury Road.

Officer Recommendation

That Council:

1. **NOTE that the proposals for Brookville Road, Fairbairn Road, and Edward Street in Toorak be abandoned in light of the community consultation.**
2. **APPROVE the proposal for Canterbury Road Toorak, which is the installation of:**
 - a. **NO STOPPING restrictions operating 8-9:30am, 2:30-4 School Days for the first two parking spaces on the east side of Canterbury Road, south of the existing 10m NO STOPPING restriction at the Selborne Road intersection;**
 - b. **PERMIT ZONE restrictions operating at all times, on both sides of Canterbury Road between Edward Street and Springfield Avenue abutting residential properties; and**
 - c. **15-MINUTE restrictions operating 8:15-9:15am, 3-4pm School Days on Canterbury Road abutting Brookville Gardens.**
3. **NOTE that officers will notify the properties consulted in Brookville Road, Edward Street and Canterbury Road, and the submitters, of the Fairbairn Road proposal.**

Executive Summary

Separate parking and traffic consultation was undertaken in streets surrounding Toorak Primary School, in an attempt to mitigate traffic concerns and improve parking opportunities for residents. Following consultation, changes are proposed only in Canterbury Road, and no changes are proposed in Brookville Road, Fairbairn Road and Edward Street in Toorak.

Background

A report was presented at the Council Meeting on 16 December 2019, in response to concerns expressed by residents of streets near the Toorak Primary School. The concerns raised related to traffic and parking difficulties generally, but particularly during the commuter

peak period and the Toorak Primary School pick-up/drop-off times. This report is included as the **Background Report**.

As part of that report, Council decided to consult on parking and access changes in Brookville Road, Fairbairn Road, Edward Street and Canterbury Road. Consultation has concluded, and the results for each consultation are discussed below.

The **Consultation Material** for all streets is included as an attachment.

Key Issues and Discussion

Brookville Road

The proposal for Brookville Road was:

- Install NO STOPPING restrictions on the south side of Brookville Road operating 8-9:30am, 2:30-4pm SCHOOL DAYS, between Mathoura Road and Canterbury Road; and
- Alter the existing NO PARKING and NO STOPPING restrictions which currently operate 8:15-9:15am, 3-4pm on SCHOOL DAYS to operate 8-9:30am, 2:30-4pm SCHOOL DAYS on both sides where applicable.

Please refer to **Brookville Road Consultation Report** for detailed consultation analysis.

Officer Assessment

For a permissive parking proposal (i.e. 2-HOUR restrictions), it may be considered reasonable to proceed with the proposal based on the number of responses. However, this proposal is for prohibitive parking restrictions (NO STOPPING). Given only 50% of the street responded (and the school did not respond), and a number of respondents objected to the proposal, it is not considered reasonable to proceed. As such, it is recommended that this proposal be abandoned.

Fairbairn Road

The proposal for Fairbairn Road was:

- Commence a Section 223 consultation process under the Local Government Act to prevent vehicle entry from Edward Street into Fairbairn Road between 8-9:30am, 2:30-4pm SCHOOL DAYS.

Please refer to **Fairbairn Road Consultation Report** for detailed consultation analysis.

Officer Assessment

Due to the number of submitters who opposed the proposal, it is recommended that this proposal be abandoned.

Edward Street

The proposal for Edward Street was:

- Extend the existing NO STOPPING restrictions on the north side of Edward Street by approximately 6m to the west.

Please refer to **Edward Street Consultation Report** for detailed consultation analysis.

Officer Assessment

Due to the number of respondents who opposed the proposal and no submitters requested to be heard by Council, it is recommended that this proposal be abandoned.

Canterbury Road

The proposal for Canterbury Road was:

Option 1:

- NO STOPPING restrictions operating 8-9:30am, 2:30-4pm School Days for the first two parking spaces on the east side of Canterbury Road, south of the existing 10m NO STOPPING restriction at the Selborne Road intersection;
- PERMIT ZONE restrictions operating 9am to 6pm School Days, on both sides of Canterbury Road between Edward Street and Springfield Avenue abutting residential properties, and
- 5-MINUTE restrictions operating 8:15-9:15am, 3-4pm School Days on Canterbury Road abutting Brookville Gardens.

Option 2:

Same as OPTION 1, **except** the PERMIT ZONE restrictions operate at all times (instead of 9am-6pm on school days).

- NO STOPPING restrictions operating 8-9:30am, 2:30-4pm School Days for the first two parking spaces on the east side of Canterbury Road, south of the existing 10m NO STOPPING restriction at the Selborne Road intersection;
- PERMIT ZONE restrictions **operating at all times**, on both sides of Canterbury Road between Edward Street and Springfield Avenue abutting residential properties, and
- 5-MINUTE restrictions operating 8:15-9:15am, 3-4pm School Days on Canterbury Road abutting Brookville Gardens.

Option 3:

- No parking restrictions.

Please refer to **Canterbury Road Consultation Report** for detailed consultation analysis.

Officer Assessment

As Option 2 received the most support (and considering the separate proposals consulted, this proposal received the most engagement by the community). It is considered reasonable to proceed with this option (however with the 5-MINUTE restrictions modified to 15-MINUTE restrictions in light of the feedback received from the kindergarten).

Conclusion

Separate parking and traffic consultations were undertaken in streets surrounding Toorak Primary School, in an attempt to mitigate traffic concerns and improve parking opportunities for residents. Following the consultation, it is recommended that the proposals in Canterbury Road, Fairbairn Road and Edward Street be abandoned. It is also recommended that the proposal proceed in Canterbury Road (slightly modified to address the concerns of the kindergarten).

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

The installation of parking signage can be covered by an existing capital budget.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

Consultation can be viewed in each consultation report.

There was no requirement for external stakeholder consultation in this proposal.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Background Report [**14.5.1** - 4 pages]
2. Consultation Material [**14.5.2** - 13 pages]
3. Brookville Road Consultation Report [**14.5.3** - 6 pages]
4. Fairbairn Road S223 Consultation Report [**14.5.4** - 6 pages]
5. Edward Street Consultation Report [**14.5.5** - 3 pages]
6. Canterbury Road Consultation Report [**14.5.6** - 4 pages]

14.6 Multipurpose Sport and Recreation Facility - Master Plan Update

Manager Active Communities: James Rouse
Director Community & Wellbeing: Cath Harrod

Linkage to Council Plan

Community: An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.

- C5** Increase participation in physical activity through long-term recreation planning and service delivery.
- C7** Support local community organisations with equitable access to facilities, training and resources.

Liveability: The most desirable place to live, work and visit.

- L1** Strategically invest in open spaces, sporting fields and community facilities, and optimise use according to community needs.

Purpose of Report

The report seeks endorsement of the Terms of Reference for the establishment of the Multipurpose Sport and Recreation Facility Stakeholder Reference Group, including nominating the Councillor representatives.

Officer Recommendation

That Council:

- 1. ENDORSE the draft Terms of Reference for the Multipurpose Sport and Recreation Facility Stakeholder Reference Group (refer Attachment 1).**
- 2. ENDORSE Cr _____ (East Ward) and Cr _____ (South Ward) as members to the Multipurpose Sport and Recreation Facility Stakeholder Reference Group, along with the Mayor Cr Hely (North Ward).**

Executive Summary

Council officers have progressed the implementation of the Council resolution of 7 December 2020 in relation to the independent review of suitable sites for the establishment of an indoor sporting stadium. In relation to the Multipurpose Sport and Recreation Facility Stakeholder Reference Group, this report seeks Council's endorsement of the draft Terms of Reference, nominations for Councillor representatives and approval to advertise for community representatives.

Background

At Council Meeting 7 December 2020, an update on Percy Treyvaud Memorial Park Masterplan was provided to Council.

At the meeting, following consideration of the report, Councillors, resolved in part:

That Council:

8. *APPROVE the establishment of a Stakeholder Reference Group to provide input and advice into the aforementioned Independent Site Review made up of the following representatives.*
- i. The Mayor (North Ward) and two Councillors (East and South Ward)*
 - ii. Prahran Netball Associations (one representative)*
 - iii. Victorian Basketball Association (one representative)*
 - iv. Community Representatives (three representatives made up of – 1 x East Ward, 1 x North Ward, 1 x South Ward)*

Key Issues and Discussion

Stakeholder Reference Group

Council resolved in February 2018 to adopt a Terms of Reference for the initial stakeholder group of the multipurpose sport and recreation facility at Percy Treuvaud Memorial Park. Council officers have adapted these Terms of Reference (attachment 1) making them appropriate for the new Stakeholder Reference Group.

The Multipurpose Sport and Recreation Facility Stakeholder Reference Group is to consist of:

- The Mayor (North Ward) and two Councillors (one East and one South Ward)
- Prahran Netball Association (one representative)
- Basketball Victoria (one representative)
- Community Representatives (three representatives made up of – 1 x East Ward, 1 x North Ward, 1 x South Ward)

Councillors are requested to nominate their interest to participate in the stakeholder group.

Officers are currently undertaking an Expression of Interest process for Community Representatives for the Committee.

Conclusion

Council officers have adapted the previous stakeholder group Terms of Reference, making them suitable for application in providing input and advice in to the independent site review. Consultants will be engaged to undertake an independent site review as per the Council resolution, and the input of the Multipurpose Sport and Recreation Facility Stakeholder Reference Group will be fed into the work of the consultants. A report will be presented to Council in April 2020.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

There are no financial and resource implications associated with this report.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

External stakeholder consultation will be undertaken in the format of a Stakeholder Reference Group, as outlined in the body of this report.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Terms of Reference Site Review Multipurpose Sport and Recreation Fac [14.6.1 - 5 pages]
2. 14.1 - Percy Treyvaud - Alternative Recommendation- Cr Lew and Cr Morgan - final [14.6.2 - 2 pages]

14.7 Durward Road and Prior Road, Malvern East - Parking Restriction Consultation

Manager Transport & Parking: Ian McLauchlan

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Community: An inclusive City that enhances the health and wellbeing of all residents, where people can feel safe, socially connected and engaged.

- C4** Enhance community engagement to ensure Council makes long-term decisions in the best interests of the community.

Purpose of Report

To seek approval to re-consult the residents of Prior Road, Malvern East on the existing parking restrictions installed in the street.

Officer Recommendation

That Council:

- 1. AUTHORISE officers to consult the residents in Prior Road, Malvern East on the removal of the PERMIT ZONE parking restrictions in February 2021 after the Christmas/School Holidays.**
- 2. AUTHORISE officers to consult the residents in Durward Road, Malvern East on the removal of the PERMIT ZONE parking restrictions in February 2021 after the Christmas/School Holidays.**

Executive Summary

In response to concerns regarding parking in the streets in the vicinity of Chadstone Road, Council previously decided that PERMIT ZONE restrictions be installed in some streets. Since the installation of these restrictions, the residents of Durward Road and Prior Road have requested that these restrictions be removed through petitions. This report considers the views expressed in the petitions received and the history of these restrictions and recommends further consultation occur after the upcoming holiday period.

Background

At the Council meeting 4 February 2019 regarding the Percy Treyvaud Memorial Park Draft Masterplan part 5 of the decision was that *“Consultation be undertaken with residents of Abbotsford Avenue, Rob Roy Road, Armstrong Court, Quentin Road, Durward Road, Rebecca Road, Rowena Road, Bowen Street, Alma Street and Gauntlet Road regarding the possible introduction of parking restrictions in accordance with the recommendations of the traffic works report.”*

In accordance with this Council direction, a two-stage consultation process was adopted. The first stage was an initial consultation with the above-mentioned streets to determine if there was an appetite for restrictions and the type of restrictions desired.

After the first stage of consultation, at the Council meeting of 24 June 2019, Council resolved to consult a number of local streets in the vicinity of Chadstone Road with proposals to install parking restrictions. After this round of consultation, it was resolved to install PERMIT ZONE parking restrictions on both sides of Durward Road and other streets consulted at the time.

Following the installation, a significant number complaints were received around the restrictive nature of PERMIT ZONE parking.

Following the introduction of these PERMIT ZONE parking restrictions, a petition was then received signed by the residents of Prior Road requesting that Council install PERMIT ZONE parking restrictions in their street as well to control the flow-on effect of the parking restrictions installed. In response to these concerns, Council undertook a second round of consultation within streets which received parking restrictions (Durward Road) and in streets in which complaints were received relating to not receiving parking restrictions (Prior Road).

After this round of consultation, at the Council Meeting of 27 April 2020, a report was considered on this second round of consultation. In this report Council as part of the decision, resolved to install PERMIT ZONE restrictions on both sides of Prior Road and retain the existing PERMIT ZONE restrictions installed in Durward Road. The full report is included as **Attachment 1**. It should be noted that this decision excluded the frontage between 19 Prior Road and 21 Prior Road which remained unrestricted as these properties were ineligible to participate in Council's Residential Parking Permit Scheme.

Following the introduction of the PERMIT ZONE parking restrictions in Prior Road and the decision to retain the PERMIT ZONE parking restrictions in Durward Road, further complaints were received from residents in both streets. These complaints primarily remained the same and revolved around the restrictive nature of the PERMIT ZONE restriction. **Attachment 2** is provided as context for these complaints.

From these complaints, a petition from each street was received signed by respective residents of each street. Each petition was arranged asking Council to remove the PERMIT ZONE restrictions.

The Prior Road petition was received on 6 July 2020 just prior to the second round of COVID-19 restrictions and the Durward Road petition was tabled at Council on 21 September 2020. As conditions were not as normal due to the COVID lockdown the report was delayed to Council as Council had been dealing with the constant changing environment that the COVID-19 pandemic had caused. In addition, with the caretaker period also being conducted prior to the Council election in October, it was required that this report be held over until the new Council had formed. As such, this report has now been submitted.

Key Issues and Discussion

As outlined above, a petition for each street was received with the aim to remove the PERMIT ZONE parking restrictions installed. The Durward Road petition was signed by 18 residents representing 13 properties in Durward Road and 5 properties from the surrounding local roads. The Prior Road petition was signed by 18 residents representing 18 properties. The petitions are provided as **Attachments 3 and 4**.

In the most recent consultation, the results displayed for both Prior Road and Durward Road a slight majority was in favour of the PERMIT ZONE installation and **Attachment 5** provides a summary of these consult results. Due to the slight majority in favour, Council decided to proceed with the installation. This was also the second time that Durward Road residents were consulted and both times the consultation result swayed in favour of PERMIT ZONE restrictions.

Council has also received positive feedback from a resident stating opposing views from those signing the petition. This is also provided in **Attachment 2**.

As outlined in Council's procedure to consider consultation results (endorsed by Council on 1 June 2020), if a decision made on a consultation result is not supported by the community, the restrictions can be modified after further consultation, or by direct decision of Council.

When a petition is received to reconsider parking restriction, it is normal practice to allow for a reasonable time period to pass before parking changes would be reconsidered. This is generally around 12 months, unless there is a decision of Council to act sooner.

Given the approaching Christmas/School Holiday period, consultation on any parking proposal would not normally occur until February 2021 when schools return. This is due to the potential of residents not being home during this period. As conditions are returning to normal outside of COVID-19 this would allow further investigation during the Christmas trade to observe how parking in this area is affected.

For example, the subject streets were inspected during the recent Black Friday shopping event. Black Friday trade occurred at Chadstone on 27 November 2020 from 8am to 12am. Historically, this is a day that can expect higher than normal patronage at Chadstone due to sales. This allowed officers to observe the number of vehicles parked within the local streets at random intervals of the day. A summary of the number of parked cars is provided below:

	10:45am	4:15pm	8:40pm
Prior Road Permit Zone	7 occupied out of 32 spaces (22% full)	12 occupied out of 32 spaces (38% full)	10 occupied out of 32 spaces (31% full)
Prior Road Unrestricted Section	1 occupied out of 3 spaces (33% full)	1 occupied out of 3 spaces (33% full)	2 occupied out of 3 spaces (66% full)
Durward Road North of Abbotsford Road	5 occupied out of 25 spaces (20% full)	8 occupied out of 25 spaces (32% full)	11 occupied out of 25 spaces (44% full)
Durward Road South of Abbotsford Road	6 occupied out of 46 spaces (13% full)	10 occupied out of 46 spaces (22% full)	15 occupied out of 46 spaces (33% full)

The inspections displayed that the PERMIT ZONES in these streets were providing protection from non-local parking in these streets with all the vehicles parked displaying residential parking permits, except within the unrestricted section of Prior Road. In addition, the numbers above show that the number of parked vehicles was not high and there was plenty of opportunity for residents to park. This was similar to the surrounding streets with the same parking restrictions.

Rowena Road and the park side of Quentin Road are areas which remain unrestricted. These areas were observed to have higher number of parked vehicles throughout the day. For example, the park side of Quentin Road can occupy approximately 14-15 vehicles (depending on vehicle sizes). All of these spaces were fully occupied during these time intervals surveyed. Rowena Road has approximately 52 spaces available for parking. The highest number of parking in the street observed was during the 8:40pm survey where 32 spaces were occupied which equates to a 62% occupancy rate. The PERMIT ZONE restrictions appear to be having a positive impact as lower occupancies were observed when compared to the unrestricted streets.

Prior Road has only had the one consultation. As such, based on the precedence set by the other local streets being consulted twice, it would be reasonable to consult Prior Road for a second time. This would remain consistent with all the streets involved which were provided

two opportunities of consultation. In addition, by February 2021 over 6 months would've passed since the petition was initially received from the residents.

Durward Road has already been consulted twice on this matter with the restrictions remaining in place from May 2020. If the Prior Road consultation is deferred to February 2021 then given:

1. the elapse of time since the decision was made to retain the restrictions in Durward Road; and
2. a petition has been received sign by 13 properties in Durward Road;

the street could be re-consulted again for a final time so a definitive answer from the residents on the parking situation can be determined.

Conclusion

A petition has been received from the residents of Prior Road and Durward Road for the removal of the newly installed PERMIT ZONE parking restrictions. Durward Road has been consulted twice whereas Prior Road only once. Based on the time that has passed and the petitions received, it is considered appropriate to consult Durward Road and Prior Road again on whether they would like the PERMIT ZONES retained or removed.

No consultations are recommended over the Christmas/Summer holiday period until schools return in late January/early February. This is due to the potential of residents not being home during this period. As such, it would be recommended that this consultation occur in February 2021. Delaying a re-consultation would also allow further investigation during Christmas trade as conditions return to normal.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

There are no financial and resource implications associated with this report.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

At this stage, no further consultation has occurred with the streets of Durward Road and Prior Road. The result of this report will dictate how Council proceeds with further consultation.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Local Parking Restrictions Survey in Streets in the Vicinity of Chadstone [14.7.1 - 4 pages]

2. CONFIDENTIAL REDACTED - Emails received from residents of Durward Road and Prior Road [14.7.2 - 6 pages]
3. Durward Road Malvern East - Petition [14.7.3 - 2 pages]
4. Prior Road, Malvern East - Petition [14.7.4 - 2 pages]
5. Consultation Report Extract from Council Report 27 April 2020 [14.7.5 - 4 pages]

14.8 Tree Work Permit Appeal - 18 St Georges Road, Toorak

Manager Open Space & Environment: Simon Holloway

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Environment: A cleaner, safer and better environment for current and future generations to enjoy.

E4 Protect, maintain and grow the City's street tree population to enhance the character, identity and liveability of the City of Stonnington.

Purpose of Report

To present an appeal for a Tree Work Permit application for the removal of four (4) significant trees under the City of Stonnington Local Law to Council for consideration and final decision.

Cr Koce requested that this matter be brought to Council for determination.

Officer Recommendation

That Council UPHOLD the appeal and not issue a permit for the removal of three (3) Syzygium paniculatum (Magenta Cherry) trees and one (1) Cedrus libani (Lebanon Cedar) from 18 St Georges Road, Toorak.

Executive Summary

A property owner in the City of Stonnington has applied for a permit under Council's Local Law to remove several trees from their property. Several permits have been issued to remove and prune trees, whilst a number have been refused. An appeal has been lodged, seeking to overturn a Council officer decision to refuse to issue a permit to remove four trees.

This report outlines the details of the permit application, Council officer decisions and justification for refusal to issue permits and the appeal to Council.

Background

Overview

Owners of 18 St Georges Road, Toorak, have applied for a permit to remove a number of large, 'significant' trees under Council's Local Law (Part 14 Tree Protection) to facilitate the development of the land.

In total, 19 tree work permits were applied for as follows:

Permit sought	No.	Council Decision
Tree removal	18	9 refused 6 issued 3 no permit required (trees under size for 'significant' threshold)
Tree pruning	1	1 issued

The property owners, through an agent, have appealed the decision to refuse tree removal permits for four trees that impact on the proposed use and development, being 3 x *Syzygium paniculatum* (Magenta Cherry) and 1 x *Cedrus libani* (Lebanon Cedar).

Site Context

18 St Georges Road, Toorak, is a property of approximately 6,000m² located opposite Tahara Road and extends between St Georges Road and St Catherines Lane. The following image illustrates the location of this property.



The property has essentially been cleared with the intention of constructing a new home and garden for the new property owners.

Subject trees

The four (4) trees for which removal permits have been sought and refused and are being appealed include:

	Common name	Botanical Name	Height	Spread	Site Ref
1.	Magenta Cherry	<i>Syzygium paniculata</i>	8m	7 x 7m	Tree 9
2.	Magenta Cherry	<i>Syzygium paniculata</i>	10m	8 x 8m	Tree 10
3.	Magenta Cherry	<i>Syzygium paniculata</i>	9m	8 x 8m	Tree 11
4.	Cedar of Lebanon	<i>Cedrus libani</i>	18m	16m x17m	Tree 12

All four trees are located together on the northern boundary of the property in the vicinity of the tennis court of 20 St Georges Road and the driveway of 20A St Georges Road.

Reason for request to remove trees

Whilst not specified in the permit application, it is understood through correspondence with the owner and their agent that the trees are sought to be removed to facilitate the

development of the land with a new home and garden. It is not proposed to sub-divide the land, nor develop it into higher density dwellings.

It is understood that there is an imperative to commence works onsite immediately due to a Foreign Investment Review Board ruling.

Local Law

The City of Stonnington's General Local Law provides a statutory framework for regulating and managing a range of activities throughout the municipality, including the protection of Significant Trees on private land.

Part 14 of the Local Law pertains to Tree Protection. A tree work permit is required under the Local Law to prune or remove a 'Significant Tree', as defined by the local law (based on size).

When assessing an application for a permit in relation to a Significant Tree, officers must take into consideration the following where relevant:

- a) the condition of the tree (health and structural condition)
- b) whether the proposed action is to be undertaken for reasons of health or safety
- c) whether the tree is causing significant property damage
- d) the effect of the proposed action on the amenity of the neighbourhood
- e) any other matter relevant to the circumstances of the application that is drawn to Council's attention or of which Council is aware.

The City of Stonnington follows a clear protocol with respect to tree work permit applications and appeals made under the Local Law, as follows. This is aimed at ensuring the intention of the Local Law to protect Significant Trees is met and that applicants have a fair and reasonable process.

1. Initial application

- Tree work permit applications made under the Local Law are assessed by Council's arboriculture unit.
- For each application, Council engages an independent, qualified consulting arborist to assess each tree and provide Council with advice on its health, structure, risk, management options and a recommendation on its retention or removal.
- In assessing the application, Council officers consider all relevant factors under the Local Law and takes into consideration the advice and recommendation of the consulting arborist.
- Council (officers) advises the applicant of its decision and reasoning in writing. If refused, the applicant is advised that they can appeal the decision in writing and are encouraged to supply additional supporting documentation.

2. Administrative appeal

- Initial appeals are assessed by the Manager Open Space & Environment and senior arborists, taking into account the original application and any additional supporting documentation provided by the applicant.
- Council (officers) advises the applicant of its decision and reasoning in writing. If refused, the applicant is advised that they can raise the matter with a Ward Councillor and seek to have the matter brought before Council for a final decision.

3. Council appeal

- If requested by a Councillor, a report is prepared for Council outlining the full history of the permit application and includes an officer recommendation.
- The appeal is considered at a formal Council Meeting and Council's decision is final.

Urban Forest Strategy

In assessing the tree work permit applications, reference is also given to Council's Urban Forest Strategy and its objectives for tree management on public and private land throughout the city.

The City of Stonnington's Urban Forest Strategy provides a clear policy framework for Council's position on the protection of healthy, established trees throughout the city. The strategy notes the critical importance of a healthy, diverse and mature urban forest to the city's liveability, environment and prosperity.

The strategy notes the progressive loss of large, established trees from private land – estimated at more than 1,000 per year. Over time, this will erode the extent of tree canopy cover over the city, diminish the positive values that trees provide in an urban landscape and increase exposure to urban heat island effect. Council's is committed to protecting and increasing tree canopy cover throughout the city.

A key priority of the Urban Forest Strategy is to maximise the protection and retention of existing trees in the urban landscape (Key Direction 1). Under this direction, Council commits to, among other things:

- Promote the value and importance of retaining trees in urban landscapes.
- Maximise the retention of high-value trees and established trees with large canopies.
- Protect trees defined as Significant Trees through continued administration of the Local Law.
- Minimise tree removals through the land use planning process.
- Only support the removal of healthy, established trees when there is a compelling arboricultural, community safety or public value reason to do so.

Key Issues and Discussion

Assessment of application – 4 subject trees

To assist with processing the tree work permit application for the four subject trees, Council commissioned an assessment of each tree by an independent, qualified consulting arborist with the request to provide Council with advice on its health, structure, risk, management options and a recommendation on its retention or removal.

A copy of the Tree Assessment Report for each of the four subject trees is attached. Note, Council's standard practice is to not make public these reports.

The independent, consulting arborist advice provided on the four trees can be summarized as follows:

	Common name	Botanical Name	Site Ref	Advice

1.	Magenta Cherry	<i>Syzygium paniculata</i>	Tree 9	<ul style="list-style-type: none"> • Good health and structural condition • Provides a moderate contribution to the wider amenity • Provides good boundary screening • No arboricultural reasons, or reasons provided in the application, to justify premature removal of the tree • Recommend not issuing a permit to remove
2.	Magenta Cherry	<i>Syzygium paniculata</i>	Tree 10	<ul style="list-style-type: none"> • Good health and structural condition • Provides significant contribution to the wider amenity • Tree is an integral part of a mature planting that provides significant screening to the property • No arboricultural reasons, or reasons provided in the application, to justify premature removal of the tree • Recommend not issuing a permit to remove
3.	Magenta Cherry	<i>Syzygium paniculata</i>	Tree 11	<ul style="list-style-type: none"> • Good health and structural condition • Provides significant contribution to the wider amenity • Tree forms part of a significant mature boundary screen • No arboricultural reasons, or reasons provided in the application, to justify premature removal of the tree • Recommend not issuing a permit to remove
4.	Cedar of Lebanon	<i>Cedrus libani</i>	Tree 12	<ul style="list-style-type: none"> • Good health and structural condition • Provides a moderate contribution to the wider amenity • There were no arboricultural reasons, or reasons provided in the application, to justify premature removal of the tree • Recommend not issuing a permit to remove

On the basis of the independent tree assessments, advice of the consulting arborist and context of Council's commitments under its Urban Forest Strategy, the application to remove the four subject trees was refused.

The advice to the applicant noted that the trees were assessed as being in good health and sound structural condition; that the subject trees made a significant contribution to the broader landscape amenity; and that there were no compelling arboricultural reasons to remove the trees. The applicant was advised of the opportunity appeal the decision and invited to provide additional documentation supporting their position.

Administrative Appeal

An appeal of the decision to refuse to issue removal permits for the four subject trees was submitted by Bochsler Design Studio on behalf of the property owner. The appeal reiterated the intention of the property owner to construct a new house and garden and that the trees were incompatible with the proposed design. No additional information was provided in the form of an independent arborist report or other.

The application was re-assessed by Council officers. In the absence of any additional substantive information about the trees, their health and structural condition, health and safety issues, property damage or impact on the neighbourhood, Council officers determined to uphold the appeal and not issue permits to remove the four trees. This decision was conveyed to the applicant in writing (attached), noting reasons for the decision and opportunity to raise the matter with a Ward Councillor.

Council Appeal

Bochsler Design Studio on behalf of the property owner, submitted an appeal to North Ward Councillors (attached). Cr Koce requested that the matter be brought to Council for determination.

Conclusion

An application has been made to remove four large, 'significant' trees under Council's Local Law (Part 14 Tree Protection) to facilitate the development of the land at 18 St Georges Road, Toorak.

The application has been through the full administrative process and has now been referred to Council for determination.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

There are no financial and resource implications associated with this report.

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

If there was none, include the following statement>>

There was no requirement for external stakeholder consultation in this proposal.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. CONFIDENTIAL REDACTED - Tree Assessment Report - Tree 9 [14.8.1 - 2 pages]
2. CONFIDENTIAL REDACTED - Tree Assessment Report - Tree 10 [14.8.2 - 2 pages]
3. CONFIDENTIAL REDACTED - Tree Assessment Report - Tree 11 [14.8.3 - 3 pages]
4. CONFIDENTIAL REDACTED - Tree Assessment Report - Tree 12 [14.8.4 - 3 pages]
5. CONFIDENTIAL REDACTED - Administrative Appeal - Officer Response [14.8.5 - 2 pages]
6. CONFIDENTIAL REDACTED - Council Appeal [14.8.6 - 3 pages]

14.9 Thomas Oval, South Yarra Dog Park

Manager Project Management & Delivery: Madelyn Eads-Dorsey

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

Liveability: The most desirable place to live, work and visit.

L4 Enhance the design outcomes of public spaces, places and buildings.

Purpose of Report

To provide Council with an update on stakeholder feedback on the proposed dog friendly park at Thomas Oval, South Yarra and seek endorsement of the draft concept plans prior to undertaking further stakeholder engagement.

Officer Recommendation

That Council:

- 1. ENDORSE the draft concept designs for the dog friendly park at Thomas Oval, South Yarra for the purposes of community consultation and engagement.**
- 2. NOTE the proposed community and stakeholder engagement plan as provided in Attachment 4 of this report.**

Executive Summary

Council have allocated \$300,000 within the 2020/21 Capital Works budget towards the delivery of a new dog friendly park at Thomas Oval, South Yarra. Council have also been successful in securing additional grant funding of \$275,000 from the State Government's Suburban Parks Program towards this project.

An additional budget allocation of \$209,000 is also available from Council's 2021/22 Capital Works budget to improve other amenities within the park outside of the dog park facilities.

Initial stakeholder engagement on the project was undertaken in May 2020 to develop an understanding of community sentiment towards these facilities, to gain an understanding of current park uses and to inform the development of the draft concept plans.

Background

The City of Stonnington currently has more than 8,000 registered dogs. This high level of dog ownership and Council's limited open space has led to competition between various park users and dog owners within the same space. There are also few adequately sized parks to provide these facilities without displacing other park users.

Thomas Oval in South Yarra is a unique site which can accommodate the proposed dog park facilities without compromising other park users, due in large part to its comparatively low level of community usage. The site is elevated 20m above the surrounding Como Park North and has views of the City to the South East and of the Yarra River to the North. A footpath network exists which travels through a natural park setting with native trees, shrubs rocks and boulders. There is a large flat grassed area and exercise stations in the South of the park. The park can only be accessed from three points; via a timber deck from the West, concrete bleachers from the South and a vehicle Maintenance road from the East. This parks topography and limits to access has resulted in the park being underutilised by the local community.

Providing dedicated dog friendly facilities, along with improving other general amenities within the park will provide amenities for the currently high dog walking community within the park whilst also encouraging other park users to the space for passive and active recreation.

Key Issues and Discussion

In May 2020, Council officers undertook a stakeholder engagement program to seek initial feedback on the proposal for a dedicated dog friendly dog park at Thomas Oval (Refer to **Attachment 1** - Stakeholder Engagement Summary). **1750** postcards were sent to local residents and posters were installed in and around the park inviting people to provide feedback via an online survey and an 'ideas board' on Council's dedicated webpage. The survey asked a series of questions relating to current usage, whether they would support new dog friendly facilities as well as the types of dog facilities they would like to see in the park. Local sporting organisations were also contacted directly and invited to provide feedback on the proposal. Below is a summary of the feedback received:

Community response

41 community members completed the survey and there were **30** ideas posted on the 'ideas board'. In summary, **54%** of respondents currently used the park 'at least once a week', **76%** of people use the park for 'dog walking' and **35%** use the park for 'personal exercise'. **71%** of respondents also said they would use the park 'at least once a week' if new dog friendly facilities were implemented. This is an increase of **17%** from the current weekly usage.

Suggestions for new dog friendly facilities included; Water facilities (tip out bowl) **64%**, Fencing **62%**, Shade **44%** adventure/ agility play **38%** more seating **36%** and bags and bins **33%**.

Sports organisations response

A letter was sent to the following sporting organisations, inviting them to provide feedback on the proposed new dog friendly facilities:

Melbourne Rugby Union Football Club (MRUFC), Malvern City Football Club, Prahran Netball Association, Powerhouse Rowing Club, Wesley College Boathouse, Royal South Yarra Lawn Tennis Club, Old Geelong Sporting Club, South Yarra Cricket Club

Apart from the MRUFC, all other sporting organisations were either supportive of the proposal or did not provide any comment. The MRUFC provided the below response:

'In terms of design ideas, our vision is to see a dedicated rugby union pitch built at the site for all year access by Melbourne Rugby Club and Melbourne High School. This would offset some of the access that we have lost at Gardiner Park to both AFL and Soccer as well as providing a rugby venue for winter pre-season, in-season overflow fixtures; and Rugby 7s training and competition in the spring'. (Refer to attachment 2 MRUFC letter)

An assessment of the opportunity to provide a dedicate rugby union pitch on Thomas Oval was undertaken and it was determined that the available space was not sufficient for these facilities. As determined in Stonnington's Draft *Sport's Facilities Guidelines*, the required area for a rugby pitch and associated facilities (including unisex change rooms and shower facilities) is 8,300m². This is above the total available space of 7,200m² within Thomas Oval and as such would not only prohibit the implementation of a dedicated dog friendly facility, but would also displace the current users of the park for exercise, dog walking and other general passive and active recreation. As such it was determined that the implementation rugby pitch within this area was not appropriate. The MRUFC will continue to be consulted through the design process and will be notified of the decision, should Council choose to endorse the concept plans for the dog friendly park.

Draft Concept Plan

A draft concept plan (refer to **Attachment 3**) was developed in response to the feedback received through the initial stakeholder engagement program. The designs seek to provide a dedicated fenced off dog park with specific dog friendly facilities whilst also improving other amenities within the park, including paths, exercise stations, irrigation, lighting, more native trees and garden beds for a broader community use.

Specifically the designs propose 6 individual 'zones' to cater for a variety of park users:

Zone 1 and 2 propose improved entrances to the park with feature pavements, bins, dog bag dispenser, drinking fountains, public art and seating.

Zone 3 is a 'quite space' for dogs and their owners, with varying natural surface including dry riverbed pebbles, sands, mulches and gravels to provide a range of textures and scents for dogs. This space also includes a small shelter with feature seating that incorporates dog play elements and a sculptural ring tunnel obstacle for active dog play.

Zone 4 is a large open lawn area with small natural mounds to increase interest and play opportunities for dogs in a controlled environment. The area is bound by a stabilised gravel path, a perimeter fence and densely planted garden beds with natural boulders space controlled fenced environment. There are also two small shelters with feature seating within this area. There is also a CCTV camera proposed for this area.

Zone 5 is an existing natural environment which will be retained for informal use and passive surveillance of the dog friendly facilities. Additional native tree planting, more garden beds and seating are also proposed within this area.

Zone 6 is a large open lawn area retained for active and passive recreation outside of the dog friendly facilities. This space includes a perimeter concrete path creating a larger circuit around the park and includes appropriately space fitness equipment, additional trees and garden bed planting and seating.

Following endorsement of this draft concept plan, further stakeholder engagement will be undertaken seeking specific feedback on these draft concept design. The plans will then be amended accordingly and reported back to Council, along with a summary of the stakeholder feedback for endorsement prior to proceeding to detailed design.

Conclusion

Initial consultation on a proposed new dog friendly facility at Thomas Oval found that there was strong support for these new facilities, with the general consensus determining that there would be a greater uptake of park usage if these facilities were implemented. Following this feedback, draft concepts were developed which sought to provide a range of dog friendly facilities as well as improving other existing amenities within the park.

Following Council endorsement of these concept plans, further consultation will be undertaken seeking specific feedback on these designs. This feedback, along with the finalised concept plans will be reported back to Council for endorsement prior to commencing to detailed design.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

Below is a summary of the estimated costs based on the current level of design and allocated funding. These costs will be further refined as the concept designs are finalised and detailed designs are developed.

Dog friendly facilities	Cost Estimate (Esc. GST)	Funding allocation
Dog friendly facilities	\$575,000	Grant (\$275,000) and capital (\$300,000)
Other park improvements	\$109,000	Capital budget
CCTV allowance	\$100,000	Capital budget
Total	\$ 784,000	

Conflicts of Interest Disclosure

No Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

There are no legal / risk implications relevant to this report.

Stakeholder Consultation

As discussed above an initial round of community consultation was undertaken to gain an understanding of the level of support for the proposed dog friendly facility at Thomas Oval, South Yarra. Feedback through this process found that a new dog facility would be well supported by the local community. Local sporting organisations were also consulted and with the exception of the MRUFC, all organisations were either supportive or indifferent to the proposal. The MRUFC were not supportive of the proposal as they have previously requested Thomas Oval be allocated to a rugby union facility. Further investigation into the required size of these facilities found that this is not an appropriate location and these facilities would not only exclude the implementation of a new dog friendly facility but would also displace a range of other current users of Thomas Oval.

Subject to Council endorsement, further consultation on the draft concept plans will be undertaken with the community, the designs will be amended appropriately and will be reported back to Council for endorsement prior to proceeding to detailed design. The MRUFC will also be notified of this decision.

Following Council endorsement of the draft concept plans, additional stakeholder engagement will be undertaken in February 2021. Surrounding residents, businesses, affected sporting organisations, general park users and specific dog walking communities will be invited to provide feedback on the proposed designs via an online survey and on-site workshop. Postcards will be sent to surrounding community and posters will be installed within the park providing relevant information on how stakeholders can get involved. The draft concept plans will then be amended to incorporate feedback received and will be reported back to Council in March 2021 for final consideration and endorsement.

Human Rights Consideration

Complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Thomas Oval Dog Friendly Area Summary Report 28 Sept 20 [14.9.1 - 3 pages]

2. MRUFC Response Thomas Oval 030820 [**14.9.2** - 1 page]
3. Thomas Oval Landscape Concept Plan Final [**14.9.3** - 6 pages]
4. Thomas Oval Dog Park Communications Plan [**14.9.4** - 13 pages]

15 Confidential Business