



Ordinary Council Meeting Agenda

Monday 1 February 2021 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 Alexander Lew

Cr Polly Morgan

Cr Marcia Griffin

Cr Matthew Koce

Cr Mike Scott

Cr Nicki Batagol

Chief Executive Officer

Jacqui Weatherill

Executive Staff

Annaliese Battista – Director Planning & Place

Cath Harrod – Director Covid Response

Rick Kwasek – Director Environment & Infrastructure

Greg Curcio – Director Customer & Technology

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 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.

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 21 December 2020

Officer Recommendation

That the Council confirms the Minutes of the Ordinary Council Meeting of the Stonnington City Council held on 21 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 Planning Amendment 0759/15 – 7 Netherlee Street, Glen Iris

Planning Appeals Coordinator: Edward Wilkinson
Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider an application to amend Planning Permit 759/15 pursuant to Section 72 of the Planning and Environment Act 1987.

Abstract

Proposal

The proposal seeks to amend Planning Permit 759/15. The permit authorises the construction of two dwellings on a lot at 7 Netherlee Street, Glen Iris. The amendment application seeks to redesign Dwelling 2 from a Neo-Georgian design, to a more contemporary flat roofed design.

Officer Recommendation Summary

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

The proposal is supported for the following reasons:

- Two double-storey dwelling have already been approved under the existing permit. The amendment seeks to alter the floor layout and style of Dwelling 2, however the siting and footprint of the building are generally the same as the current approval
- The neighbourhood features a variety of housing styles, which incorporate single and double storey features, render, weatherboard and brick material as well as flat roof and pitched roof. The replacement of Dwelling 2's Neo-Georgian design for a more simple, flat roof design is consistent with the character of the neighbourhood.
- The proposal demonstrates a high level of compliance with Clause 55.

Issues

The following are the key issues in respect of this application:

- Neighbourhood character.
- Car parking design.

Officer's Response

The proposal seeks to amend the approved design of the yet to be constructed second dwelling (Dwelling 2) at this address. Dwelling 2 is proposed to face Anthony Street. Dwelling 1 (facing Netherlee Street) has already been constructed.

The proposal responds appropriately to the existing and preferred character of the area and has adequately addressed concerns raised by Council Officers and Council's Urban Designer during the application (subject to conditions).

The subject site is not within a Heritage Overlay or Neighbourhood Character Overlay and appropriately responds to Council's Neighbourhood Character Policy.

The proposal meets all of the Objectives of Clause 55.

Executive Summary

Applicant:	Megowan Architectural
Ward:	East
Zone:	General Residential Zone – Schedule 10 (GRZ10)
Overlay:	Special Building Overlay – Schedule 2 (SBO2)
Neighbourhood Precinct:	Garden Suburban 3
Date Lodged:	4 December 2019
Statutory Days: (as at Council Meeting date)	193
Trigger for Referral to Council:	More than 7 objections
Number of Objections:	16
Consultative Meeting:	Yes – held on 2 September 2020
Officer Recommendation	Notice of Decision subject to conditions

Background

The Proposal

A Section 72 Amendment application has been submitted to Council which seeks to alter the plans endorsed under Planning Permit 759/15.

Key features of the proposal can be summarised as follows:

- A substantial redesign of Dwelling 2 which was previously a Neo-Georgian style. It will now feature a contemporary flat roof with a modern architectural form comprised of strong rectangular elements, vertical windows, simple architectural detailing and materials include extensive glazing, painted wall panels and metal screening.
- The revised floor plan of Dwelling 2 comprises of a ground level entry, bedroom, ensuite/bathroom, an open plan kitchen, dining and living area, along with a study nook. The living room opens onto an east facing courtyard of 49.15 square metres.
- The revised first floor footprint of Dwelling 2 comprises three bedrooms including a large master bedroom with ensuite and walk-in-robe, a retreat and amenities.
- A double garage setback 6.1 metres from the Anthony Street frontage.
- An increased ground floor street setback to the Dwelling 2 porch (was 3.4 metres, now 4 metres).
- A decrease in side and rear setbacks in parts.
- A decrease in maximum building height of Dwelling 2 (was 8.2 metres, now 7.63 metres in southwest corner).
- A new first floor west facing balcony on the first floor accessed from the Retreat.
- Changes to materials.
- Modified front fence design to Dwelling 2 (no change in height).

On 24 July 2020 the applicant submitted revised plans under Section 57A of the Planning and Environment Act 1987 after notice had been undertaken to affected properties. These changes were largely to address concerns raised by Council Officers and objectors.

The proposed changes included setting back the proposed wall on boundary of Dwelling 2 with 5 Netherlee Street by 1 metre, increasing the first floor Anthony Street setback from 4.7 metres to 5.74 metres, clarification regarding permeability, deletion of the proposed carport door to Dwelling 1, reduction in the height of the front fence from 1.8 metres to 1.5 metres and a reduction in overshadowing to adjoining land.

Formal public notification of the revised 57A plans was not required given it was considered that the changes would not result in increased detriment from the plans previously advertised. Furthermore, the revision was submitted in response to officer and objector concerns and generally resulted in modifications which positively responded to these issues.

Site and Surrounds

The site is located on the northern side of Netherlee Street, approximately 178 metres west of Burke Road and 156 metres south of High Street.

The site has a lot frontage to Netherlee Street of approximately 15.24 metres and a maximum depth of 47.13 metres. The site is rectangular in shape and has a total lot area of approximately 718 square metres. The lot has a secondary frontage to Anthony Street (northern boundary of the site) with an existing vehicle crossover currently providing vehicle access

The site is occupied by a double storey Neo-Georgian style dwelling (known as Dwelling 1), also approved by Planning Permit 759/15. Dwelling 1 features a pitched roof of 25 degrees, eaves, large vertical windows, prominent porch and is of a predominantly rendered finish. Dwelling 1 is allocated three car spaces in the form of a double carport and associated tandem car space

The rear setback towards Anthony Street is currently vacant pending the construction of the second double storey dwelling approved under the permit (known as Dwelling 2), which is the subject of this amendment.

The subject site forms part of an established residential area that is characterised by a diverse range of building styles. Both Netherlee Street and Anthony Street feature a mix of older single storey dwellings with recent extensions and more contemporary double storey dwellings, many with flat roofs.

Street planting along Netherlee Street and Anthony Street is comprised of mature London plane trees.

Previous Planning Application/s

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

Subject site

Planning Permit 759/15 was issued on 27 May 2016 for 'Construction of two dwellings on a lot within a General Residential Zone and Special Building Overlay.'

An amendment pursuant to Section 72 of the Planning and Environment Act 1987 was later issued on 1 December 2016. This amendment made a number of changes to; setbacks, reduced the overall building height, and made changes to windows.

On 25 August 2017 a second amendment was approved which deleted the alfresco area associated with Dwelling 1 and altered the design of the carport. Modifications to a number of conditions were also made.

Dwelling 1 has since been constructed, with an extension of time to the planning permit being granted on 22 April 2020 requiring works to Dwelling 2 to be completed by 27 May 2022.

9 Netherlee Street

Planning Permit 842/16 was issued by the Victorian Civil and Administrative Tribunal (VCAT) on 14 November 2019 for the 'Construction of a second dwelling on a lot within a General Residential Zone'. The permit authorises the construction of a two-storey dwelling at the rear of the existing dwelling at 9 Netherlee Street. The permit is yet to be acted upon and no plans have been endorsed to date.

The Title

The site is described on Certificate of Title Volume 05060 Folio 877 as Lot 12 on Plan of Subdivision 005679. No covenants affect the land.

An easement in favour of the former Melbourne Metropolitan Board of Works (now the responsibility of Yarra Valley Water) runs along the eastern boundary.

Planning Controls

Note: Only the changes to the approved proposal are considered as part of this amendment application.

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

Zone

Clause 32.08 - General Residential Zone – Schedule 10:

Pursuant to Clause 32.08-6 a planning permit is required for the construction and extension of two or more dwellings on a lot and must be assessed against the provisions of Clause 55 (Two or more dwellings on a lot).

Schedule 10 to Clause 32.08 varies the following requirements of Clause 55:

Standard		Minimum percentage of a lot set aside as garden area
B8	Site Coverage	Basements should not exceed 75% of the site area.
B13	Landscaping	In addition to the requirements of B13, at least one canopy tree should be planted on the site.
B17	Side and rear setbacks	For a distance of at least 5 metres behind the front façade 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. Where no setback is specified, standard A10 or B17 applies.
B18	Walls on boundaries	Walls should not be located on side boundaries for a distance of 5 metres behind the front façade of the building fronting the street.

Pursuant to 32.08-4, an application to construct or extend a dwelling on a lot above 650sqm must provide a minimum garden area of 35%. The application proposes 36.4% of the site as garden area and meets this requirement.

Pursuant to Clause 32.08-10, a dwelling must not be constructed that exceeds 9 metres. The development will be constructed to a height of 7.42 metres, meeting the requirement.

Overlay

Clause 44.05 – Special Building Overlay – Schedule 2:

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

Particular Provisions

Clause 52.06 - Car Parking:

Pursuant to Clause 52.06-5 the proposed development generates a requirement of four spaces (two to each dwelling). No visitor parking is required as the site is located within the Principal Public Transport Network Area and less than five dwellings are proposed.

The application meets this requirement and proposes a minimum of four spaces on site (contained within the carport of Dwelling 1, and within a double width garage associated with Dwelling 2).

Relevant Planning Policies

Clause 11 -	Settlement
Clause 15 -	Housing
Clause 15 -	Built Environment and Heritage
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 65 -	Decision Guidelines

Advertising

The application was 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 East Ward and objections from 16 different properties have been received. The objections are summarised as follows:

- The application is a new design and should have been lodged as a new application rather than a Section 72 amendment
- Visual bulk
- Neighbourhood character/lack of pitched roof
- Overshadowing
- Insufficient setbacks
- Swept paths do not comply
- Incorrect permeability
- Height of front fence

A Consultative Meeting was held on 2 September 2020. The meeting was attended by Councillor Klisaris and former Councillors Davis and Atwell, as well as representatives of the applicant, objectors and a Council Planning Officer. The meeting did not result in any changes to the plans beyond the revised Section 57A Plans that were lodged on 24 July, prior to the Consultative Meeting.

Referrals

Parks Department

- No objection.

Infrastructure Department

- No objection subject to the previously included permit conditions.
- Due to the easement not belonging to Council, there are no concerns over the easement.

Transport and Parking Department

- No objection to the design of the development.
- The traffic generated by the proposal is unlikely to unreasonably impact existing conditions from a traffic volume perspective.
- The width of the accessway gate at the property frontage is dimensioned as 3.3 metres which is satisfactory. The recommendation contained within the submitted Traffic Assessment Report for the gate width to be extended by a further 0.98 metres towards the east to provide more swing room is appropriate.
- Whilst the dimensions of the garage do not strictly comply with the 6 metre length requirement of the Planning Scheme, the area available is considered reasonable to cater for two parking spaces but it is recommended compliance be achieved.
- The proposed headroom, grade changes and gradient of the access way is satisfactory.

Officer response:

In addition to the above, it is noted that Council's traffic engineers requested a turntable be installed within the property boundary of Dwelling 2, to enable vehicles to exit the property in a forward direction.

Due to the low scale of the development, a turntable is considered an onerous requirement for this proposal. Future occupants are able to rely on reversing out of the driveway. Anthony Street is a low order dead end street where a reversing manuever is not considered dangerous. Turntables are more appropriate in large scale developments that are adjacent to arterial roads where reversing is dangerous.

It is also noted that the design standards outlined in Clause 52.06-9 of the planning scheme only requires cars to exit the site in a forward direction '*If the accessway serves four or more car spaces or connects to a road in a Road Zone*', which is not the case here.

Furthermore, the existing/previously endorsed plans do not incorporate a turntable.

Whilst the proposed garage width of 5.61 metres does not comply with Clause 52.06, the previously endorsed plans provided a width of 5.5 metres. Therefore the proposal represents a minor improvement. Notwithstanding this, and noting the feedback received by Council's traffic engineers, a condition of permit will be required to increase the internal width of the garage to 6 metres.

Urban Design

- The proposed enclosure of the carport to Unit 1 will increase visual bulk to Netherlee Street and is not supported.
- The proposed front fence should be semi-transparent and limited in height to no more than 1.5 metres.
- The revised contemporary design character is accepted; given the presence of a number of contemporary 2-storey dwellings in the vicinity – four of which are in Netherlee Street, opposite No.7.
- The design response for Unit 2 should be revised to limit detrimental amenity impacts.

Officer response:

As part of the July 2020 Section 57A revision to the plans, the carport will no longer be enclosed with doors. In addition, the front fence has been reduced from 1.8 metres to 1.5 metres in height, providing greater transparency. The first floor western screening to the Retreat has also been reduced and setback further off the boundary.

Key Issues and Discussion

As noted previously, this application has been lodged as an amendment pursuant to Section 72 of the *Planning and Environment Act 1987*. Council's consideration is limited to the amendments to the permit and plans, which must be assessed against the relevant planning controls affecting the proposal.

Neighbourhood Character

State and Local Planning Policy requires the design of development to respect neighbourhood character and to respond appropriately to its setting. The Neighbourhood Character Policy at Clause 22.23 of the Stonnington Planning Scheme sets out the character and design guidelines for development and identifies the site as being located within the Garden Suburban 3 Precinct. The application has been assessed against the requirements of this precinct and is considered to generally comply.

With regard to the design objective of retaining intact, period dwellings, the amendment does not propose demolition beyond that already approved as part of the original permit.

The design objectives also seek to ensure new buildings do not dominate the streetscape. As it benefits from dual frontages, the proposal is able to have one dwelling facing Anthony Street and one dwelling facing Netherlee Street, which reduces visual bulk impacts. Furthermore, the adequate side setbacks and two-storey built form is proportionate to the streetscape.

Whilst the design is contemporary in nature, the flat roof reduces the overall height of the dwelling, which ensures the scale is respectful of the streetscape. The amended height is also lower than the currently approved design. Furthermore, the footprint and setbacks of the proposal is not dissimilar in its impact on adjoining land to the existing approval.

The site is not covered by a Heritage Overlay or Neighbourhood Character Overlay and is not subject to additional controls beyond the requirements of Clause 22.23 and Clause 55. The setbacks and footprint of the ground and first floor meets a key neighbourhood character objective of maintaining and reinforcing the rhythm of spacing between and around buildings. The provision of landscaping, and generous side and front setbacks as well as the absence of walls on boundaries is in line with the prevailing neighbourhood character.

Built Form

Front setback

The front setback of the existing approved Dwelling 2 to Anthony Street has been approved at 4 metres to the front façade of the dwelling. Noting that there is no existing building that abuts the lot and faces Anthony Street and the site not being on a corner, the required setback is 4 metres pursuant to Standard B6 (Street Setback) of the Stonnington Planning Scheme.

The revised design increases the front setback to 5 metres to the front façade of the dwelling, which reduces visual bulk to the street and provides greater opportunity for landscaping. The first floor street setback has also increased slightly from 5.69 metres to 6 metres, which provides an improved design response.

Dwelling height

The maximum height of Dwelling 2 has been reduced from 8.2 metres to 7.63 metres. This is considered to respect the existing and preferred neighbourhood character and is well below the maximum height limit of 9 metres as specified by the mandatory height controls within the General Residential Zone. It is noted that the second dwelling approved at the adjoining property 9 Netherlee Street has been approved with an overall maximum height of 8.25 metres under Planning Permit 842/16.

Site coverage and permeability

The proposed site coverage continues to comply with Standard B8 (Site coverage) at 56% (or 402.24m²), with permeability increased to 34.66%, which is greater than the 20% minimum required.

A STORM rating report has also been submitted which achieves a rating of 105% through the provision of a 6000 litre rainwater tank for Dwelling 1 and a 5000 litre rainwater tank for Dwelling 2. This exceeds the minimum requirements of Clause 22.18 (Stormwater Management - Water Sensitive Urban Design).

Energy efficiency

In accordance with Standard B10 (Energy efficiency), the proposal is considered to achieve and protect energy efficient dwellings and ensure the layout of the developments makes appropriate use of daylight. The open plan floor layout promotes the use of natural daylight and solar energy throughout Dwelling 2, with all north facing habitable rooms providing glazing to maximise solar access.

The applicant has provided notations on the plans confirming that double-glazed windows will be used throughout the site.

Landscaping

The amended proposal seeks to reduce the number of proposed canopy trees surrounding Dwelling 2 by four (from six to two).

The applicant has submitted a Landscape Plan which provides one Crepe Myrtle in the front setback of Dwelling 2 (capable of growing up to five metres in height) and one Magnolia in the front setback of Dwelling 2 (capable of growing up to eight metres in height). Council's arborist has reviewed this plan and supports the proposal.

Notwithstanding the approval of Council's Arborists, a condition is recommended to reinstate the proposed Hedging Ficus (a shrub capable of growing to 2.5 metres) along the western boundary in lieu of the proposed Creeping Fig (a climber) to provide more substantial landscaping along this boundary. Also, it is considered that a conditional requirement to provide an additional two trees (four trees total) will enhance the garden character of the area and better align with the original approval, which included six trees. The species and

location of the additional trees will be to the landscape architects discretion but must be to Council's satisfaction.

Overall, the proposed landscaping is considered (subject to conditions) to meet the objective of Clause 55.03-8 (Landscaping) by encouraging development that respects the landscape character of the neighbourhood and providing appropriate landscaping.

Amenity Impacts

Side and rear setbacks

Schedule 10 of the General Residential Zone requires that:

For a distance of at least 5 metres behind the front façade 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.

Where no setback is specified, standard A10 or B17 applies.

The revised plans for Dwelling 2 demonstrate a 2 metre side setback from the boundary with 9 Netherlee Street and a 1 metre side setback from 5 Netherlee Street and satisfies this requirement.

It is noted that the garage was previously approved with a setback of 2.16 metres from the eastern side boundary. This has now been reduced to 2 metres. Also, parts of the western elevation were previously setback 1.5 metres and have now reduced to 1 metre. These minor reduction in setbacks can be accepted given a sense of separation is maintained between the properties and full compliance achieved with Standard B17 (Side and rear setbacks).

The required side setbacks to the first floor all comply as follows:

Wall location	Proposed wall height	Required setback	Proposed setback	Complies?
North (rear)	7.42-7.63 metres	2.51-2.82 metres	3.2 metres	✓
West (opposite 5 Netherlee St)	7.53 metres	2.62 metres	2.64 metres	✓
East (opposite 9 Netherlee St)	6.88-7 metres	1.98-2.09 metres	2.14-3.96 metres	✓

Daylight to existing windows

Standard B19 (Daylight to existing windows) requires that walls or carports more than 3 metres in height opposite an existing habitable room window be setback from the window at least 50% of the height of the new wall. If the new wall is within a 55 degree arc from the centre of the existing window. The proposed plans show a 4.1 metre high wall associated with the ground floor kitchen and dining area opposite the east facing habitable room window of 5 Netherlee Street. A setback of 2.05 metres is required from this window to ensure adequate daylight is provided and it is noted that 2.5 metres has been provided and therefore complies.

Overshadowing

Standard B21 (Overshadowing open space) of the Stonnington Planning Scheme requires:

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

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

Shadows cast by Dwelling 2 will only affect 9 Netherlee Street at 3pm based on the September Equinox. This will result in approximately 5.3m² of new shadows which will not negatively impact the useability of the secluded private open space due to its large area of approximately 227m². This is compliant with the requirements of Standard B21.

The property more likely to be impacted by overshadowing is 5 Netherlee Street to the west. The total area of secluded private open space (SPOS) for this property is approximately 258m², therefore 75% of this space is 193.5m² – the lesser area would therefore be 40m² which needs to receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.

The plans suggest that the greatest overshadowing occurs during the morning, with approximately 137m² of the SPOS affected by overshadowing, comprising of 84m² in new shadows, and 53m² in existing shadow (cast by the boundary fence and number 5 Netherlee Street onto itself). However, this will leave 56.5m² of SPOS unaffected by shadow which exceeds the minimum 40m² required.

By 10am the proposed development will cast approximately 30.6m² of new overshadowing, leaving 191m² unaffected by overshadowing.

This continues to improve into the afternoon, confirming compliance with the requirements of Standard B21 (Overshadowing open space).

Overlooking

East (towards 9 Netherlee Street)

On the ground floor, a 1.7 metre high paling fence with 0.5 metre trellis above is proposed on the boundary with 9 Netherlee Street, which will act as a visual barrier and reduce unreasonable overlooking from the ground floor.

On the first floor, bedroom 3 overlooks the SPOS of 9 Netherlee Street and requires this windows to be treated to prevent direct overlooking. The proposed elevations show a highlight window located 1.7 metres off the finished floor level, which complies with the requirements of Standard B22 (Overlooking).

West (towards 5 Netherlee Street)

On the ground floor, a 1.8 metre high paling fence with 0.5 metre trellis is proposed with the boundary of 5 Netherlee Street which will act as a visual barrier and reduce unreasonable overlooking from bedroom 1.

Windows to the first floor Retreat and bedroom 4 should be designed to limit direct overlooking into the SPOS of 5 Netherlee Street. Screening to 1.7 metres in height has been proposed which will have a maximum transparency of 25%. This complies with the Standard. However, insufficient detail/technical specifications of how the screening will look has been provided. A condition will require this detail to be provided.

Detailed Design

The proposal is considered to respect the existing and emerging neighbourhood character by combining a traditional pitched roof for Dwelling 1, whilst incorporating a lower, flat roof for Dwelling 2. The heavy canopy cover created by the mature London plane trees softens direct views of the proposed dwelling from Anthony Street.

Furthermore, Anthony Street comprises a variety of dwelling styles including a 1935 art-deco styled single storey house at 2 Anthony Street, and a dominant, double storey house at 1 Anthony Street with a double width garage that protrudes forward. 3 Anthony Street is a single storey, weatherboard, Californian Bungalow whilst number 7 Anthony Street is a contemporary double storey dwelling with a rendered finish and a street facing balcony.

The proposed amendment to Dwelling 2 references various design elements from the surrounding context including the use of screening, vertical windows, flat roof and other detailing.

The advertised plans proposed a 1.8 metre high front fence as part of this amendment. However, this has since been revised to a 1.5 metre high front fence as part of the Section 57A amendment which complies with the requirements of Standard B32 (Front fences).

Sustainable Design Assessment

Condition 18 of the current planning permit requires that:

The initiatives detailed in the BESS Report and STORM Rating Report in accordance with Clause 22.05 are to be implemented to the satisfaction of the Responsible Authority.

Clause 22.05 of the Stonnington Planning Scheme (Environmentally Sustainable Development) seeks to achieve best practice environmentally sustainable development. No BESS report or equivalent was part of the original endorsed plans, however, plans were endorsed which notate the proposed energy commitments by the owner/builder. The submitted plans continue to demonstrate compliance with Condition 18 of the planning permit by outlining the relevant commitments.

Special Building Overlay

The Special Building Overlay affects the western portion of the site which identifies the land as being liable to inundation by overland flows from the Council drainage system. Having regard to the decision guidelines outlined in Clause 44.05-7 (Special Building Overlay), it is not considered that the amendment will increase the susceptibility of the development to flooding and flood damage nor will it obstruct floodwater. Noting the existing use and development of the land for a dwelling, and the application being referred to Council's Infrastructure Engineer who did not raise any new issues subject to the conditions which are currently incorporated on the planning permit, the proposal meets the requirements of the overlay.

Objections

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

- Concerns at the lodgement of an amendment to the original permit application in lieu of a 'fresh' application.

Pursuant to Section 72 (1) of the Planning and Environment Act 1987:

A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.

The applicant's submission of a Section 72 Application is essentially the same process as a new/separate planning permit application being lodged. It is advertised the same way and assessed under the same provisions. The existing permit is still relatively recent, and the lodgement of an amendment to this permits avoids the proliferation of multiple permits for the site.

The assessment of this applications focuses only on the amendment itself and does not revisit all the issues associated with the original approved development.

Therefore, the applicant has followed a legitimate process pathway of amending their existing planning permit, which continues to entail an assessment against the relevant planning scheme provisions.

Conclusion

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

- The neighbourhood features a variety of housing styles which incorporate, single and double storey features, render, weatherboard and brick material as well as flat roof and pitched roof. The replacement of the Neo-Georgian design of Dwelling 2 for a simpler flat roof design reflects the character of the neighbourhood.
- The proposal demonstrates a high level of compliance with Clause 55 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. 0759/15 - 7 Netherlee Street, Glen Iris [14.1.1 - 21 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Amend Planning Permit No: 759/15 for the land located at 7 Netherlee Street, Glen Iris under the Stonnington Planning Scheme for construction of two dwellings on a lot within a General Residential Zone and Special Building Overlay subject to the following conditions:

Condition 1 amended to state the following (bolded conditions represent new conditions):

- a) A storage area, a minimum of 6m³ in size, provided to Dwelling 1.***
- b) The tree root barrier required by Condition 4.***
- c) Any changes required by Condition 10.***
- d) The 1:100 scale to be corrected on all the floor plans and elevations.***

- e) ***The internal length of the garage of Dwelling 2 to be increased to a minimum of 6 metres and provided with a 1:200 gradient.***
- f) ***The proposed vehicle gate to Dwelling 2 widened by 980 millimetres towards the east.***
- g) ***A notation on the elevations demonstrating a minimum headroom of 2.1 metres at the garage entrance when the door is in an open position.***
- h) ***Additional details/diagrams/technical specifications provided to demonstrate how the proposed 1.7 metre high screening complies with Standard B22.***
- i) ***Deletion of reference to the proposed pedestrian opening on the Anthony Street frontage.***
- j) ***The proposed solar gas hot water boosted unit to be shown on the roof plan.***
- k) ***A Landscape Plan generally in accordance with that prepared by Zenith Concepts advertised in March 2020 (Council date stamped 12 March 2020) but modified to:***
 - ***align the proposed changes to the built form;***
 - ***replace the 6x Creeping Fig along the western boundary of Dwelling 2 with a Hedging Ficus or other suitable shrub species;***
 - ***provide an additional 2x canopy trees***

All to the satisfaction of the Responsible Authority.

Condition 2 amended to state the following:

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.

New Condition 11 and subsequent renumbering of conditions to state the following:

Prior to the commencement of any works over any easement, the permit holder must obtain approval from the relevant authorities to remove and/or build over the easements pertaining to the site to the satisfaction of the Responsible Authority.

New Note C and subsequent relabelling of notes to state the following:

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.

New Note D to state the following:

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.

New Note E to state the following:

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.

14.2 Planning Amendment 0973/14 - 5 Commercial Road, South Yarra

Planning Appeals Coordinator: Edward Wilkinson

Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a Section 72 Amendment Application to the approved Planning Permit No. 973/14, to allow for a Restaurant and Café Liquor Licence and the installation of business identification signage at 5 Commercial Road, South Yarra.

Abstract

Proposal

The amendment seeks to introduce a Restaurant and Café Liquor Licence, to vary the permitted hours of operation and patron numbers, and to install business identification signage, all in association with an existing food and drink premises permitted under Planning Permit 973/14.

Officer Recommendation Summary

That Council authorise Officers to issue a **Notice of Decision** subject to conditions outlined in the Officer Recommendation. The proposal is supported for the following reasons:

- The proposal responds adequately to the relevant State and Local Planning Policy. In particular the application responds well to policy listed at Clause 22.10 (Licensed Premises) of the Stonnington Planning Scheme.
- The proposed patron numbers, hours of operation and liquor service are considered acceptable and appropriate in this location.
- The proposal, subject to conditions, will not have adverse impacts on the surrounding properties in particular having regards to the dwellings above and in the nearby vicinity.

Issues

The following are the key issues in respect of this application:

- Noise impacts from the increased number of patrons, extended hours of operation and the introduction of a liquor licence.
- Amenity impacts on residential properties in the surrounding area

Officer's response

The proposal will not result in unreasonable noise impacts as it:

- proposes a closing time of 9.00pm,
- includes a Noise and Amenity Action Plan, as required by Clause 22.10 (Licensed premises).
- will be required to comply with the State Environment Protection Policies and Council's Local Laws relating to noise, by way of permit conditions.

The proposal will not have unreasonable impact on the amenity and safety of residential properties as it:

- is considered appropriate to its location,
- generally present a low risk of adverse impacts by its nature, and meets relevant requirements of Clause 22.10 (Licensed premises).

The proposal meets relevant requirements of Clause 52.06 (Car parking) and a reduction in the car parking requirements is already contemplated by the Approved Permit. Given the moderate increase to the scale of the existing restaurant, the proposal will not generate any additional unreasonable traffic impacts with regards to traffic volume and on-street parking.

Executive Summary

Applicant:	The Kai Group
Ward:	North
Zone:	Clause 32.07 – Residential Growth Zone (Schedule 1)
Overlay:	Clause 43.02 – Design and Development Overlay (Schedule 17)
Date Lodged:	10 September 2020
Statutory Days: (as at Council Meeting date)	53
Trigger for Referral to Council:	Number of objections
Patron Numbers	65 including 25 internally and 40 in the front courtyard
Number of Objections:	16
Consultative Meeting:	Yes – held on 3 December 2020
Officer Recommendation	Notice of Decision to Grant a Section 72 Permit

Background

The Permit History

Planning Permit No. 973/14 was issued on 2 April 2015 by Council. The Permit allowed alterations and additions to the existing building, part use of the land as a Food and Drink premises (Café) in a Residential Growth Zone, waiver of loading bay requirement and reduction in the car parking requirement.

Plans were first endorsed on 8 September 2015.

A first amendment was approved on 16 June 2016 under Secondary Consent. The approved changes comprised of external alterations and internal reconfigurations. The concurrently endorsed documentation depicts the current approval including relevant floor and elevation plans, a Sustainable Design Assessment and a Waste Management Plan.

The Proposal

This is the second amendment proposed to the Permit.

The plans that form part of the basis of Council's consideration was prepared by *The Kai Group* and are known as *Advertised Plans* Council dated stamped 23 September 2020 and a *Redline Plan* Council date stamped 13 November 2020.

Other supporting documentation accompanying the Assessed Plan include:

- A *Noise and Amenity Action Plan*, Council date stamped 23 September 2020
- A written submission concerning revised hours of operation and patron numbers Council date stamped 10 December 2020

The amendment seeks the following changes to the approved Planning Permit and Conditions (emphasis underlined):

Preamble		
Approved		Proposed
Alterations and additions to the existing building, part use of the land as a Food and Drink premises (Café) in a Residential Growth Zone, waiver of loading bay requirement and reduction in the car parking requirement		Alterations and additions to the existing building, <u>Restaurant and Café Liquor Licence in association with part use of the land as a Food and Drink premises (Restaurant) and construction of business identification signage in a Residential Growth Zone</u> , waiver of loading bay requirement and reduction in the car parking requirement.
Conditions		
Approved		Proposed
Condition 8	A maximum number of 50 patrons may be catered for on the premises at any one time to the satisfaction of the Responsible Authority.	A maximum number of <u>65 patrons, including 25 inside the building and 40 in the front courtyard</u> may be catered for on the premises at any one time to the satisfaction of the Responsible Authority.
Condition 9	The use hereby permitted may only operate between the hours of 7.00am and 7.00pm, Monday to Sunday to the satisfaction of the Responsible Authority.	The use hereby permitted <u>and its associated sale and consumption of liquor</u> may only operate between <u>7:00am and 9:00pm</u> , Monday to Sunday to the satisfaction of the Responsible Authority.

The amendment also seeks the following changes to the approved plans:

- One (1) internally illuminated business identification sign to be installed under the existing awning facing the intersection of Commercial Road and Affleck Street
- The proposed business identification sign to be 3 metres wide and 0.6 metres long and installed approximately 2.5 metres above the pavement

- The licensed areas including the internal space and the front courtyard to be shown on the Redline Plan.

Site and Surrounds

The site is located on the north western corner of Commercial Road and Affleck Street, approximately 50 metres east of the intersection with Punt Road. The site is within close proximity to Chapel Street (approximately 70 metres to the east), providing good access to retail, entertainment and services. The site has excellent access to public transport facilities including tram services along Commercial Road and Chapel Street, and bus services on Punt Road.

The site has the following significant characteristics:

- The site is regular in shape and has a total area of approximately 936 square metres.
- The site provides a frontage of 25.6 metres to Commercial Road and a frontage of 36.58 metres to Affleck Street.
- The site is improved by an eight-storey octagonal building with a roof terrace. It contains a restaurant and communal car park at ground level, dwellings from Level 1 to Level 6, a theatre and a communal sunroom at Level 7 and an open decking area at the roof terrace level.
- The existing building has a maximum building height of approximately 22.9 metres and is setback 5 metres from Commercial Road, 4.5 metres from the western boundary, 2.5 metres from Affleck Street and 12.5 metres from the northern boundary. It is also noted that the front setback (i.e. the front courtyard) to Commercial Road forms part of the subject tenancy.
- Vehicle access is provided via Affleck Street leading to the communal car park at the rear of the building.
- Pedestrian access to the subject tenancy is provided via the Commercial Road frontage, and pedestrian access to the dwellings above is provided via Affleck Street
- The subject tenancy is located on the ground floor, comprising the southern half of the internal floor space and the front courtyard.

The site has four interfaces, which can be summarised as follows:

- To the immediate north is a 3.05 metre wide lane (Right of way). Beyond the lane is the land at 1 Affleck Street, South Yarra, which is improved by a single storey brick dwelling dating to the Victorian era. Further to the north are contemporary double storey dwellings interspersed amongst period single storey dwellings.
- To the immediate west is the land at 262-268 Punt Road, South Yarra, situated at the intersection of Punt Road and Commercial Road and used as a service station. The existing building is sited along the eastern boundary. In addition, the Alfred Hospital Complex is located diagonally opposite the service station.
- To the immediate south, the site fronts Commercial Road, which provides a key east-west corridor and is designated a Road Zone, Category 1. Beyond Commercial Road is a mixture of single and double storey dwellings, with the exception of a café located at 12 Commercial Road, South Yarra.
- To the immediate east, the site fronts Affleck Street, which is a two way residential street. Across Affleck Street are two double storey dwellings.

Previous Planning Application/s

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

- Planning Permit No. 856/10 was issued on 2 May 2012 under the direction of *Victorian Civil Administrative Tribunal* (VCAT). The permit allowed construction of a six storey development with a maximum height of approximately 19.1 metres comprising 51 dwellings. A Food and drink premises (café) was conditioned to allow no more than 50 patrons at any one time and operate between 7.00am and 7.00pm. As the Permit was not acted upon within the prescribed timeframe, it is expired.
- Planning Permit No. 576/15 was issued on 11 November 2015 under officer delegation. The permit allowed Restaurant and Café Liquor Licence associated use of the land as a Food and drink premises in a Residential Growth Zone. The permitted liquor licence allowed a maximum number of 50 patrons and liquor supply and consumption between 7.00am and 7.00pm Monday to Sunday. This permit was acted upon by the previous business owner (Mister Zen Café) however is no longer in use.

In the surrounding area, the following planning permits / applications are of relevance:

262-268 Punt Road, South Yarra (to the immediate west)

- Planning Permit No. 133/17 was issued on 11 July 2017 under officer delegation. The permit allowed use of the land as a Convenience Restaurant (Section 2 use) and internally illuminated business identification signage. In accordance with the permit conditions, the permitted restaurant may accommodate a maximum number of 34 patrons (including 6 in the outside dining area) and operate between 5:30am and 11.00pm every day.

12 Commercial Road Prahran (southern side of Commercial Road, opposite the site)

- Planning Permit No. 563/06 was first issued on 21 August 2007 under the direction of the *Victoria and Civil Administrative Tribunal* (the Tribunal). The permit allowed partial demolition in a Heritage Overlay, construction of buildings and works in a Residential Growth Zone, Heritage Overlay and Special Building Overlay, use of land as a Food and drink premises (café) with associated parking dispensation and business identification signage. In accordance with the permit conditions, the permitted café may accommodate a maximum number of 51 patrons (including 31 internally and 20 in the rear courtyard). With regards to hours of operation, internally, it may operate between 7.00am and 3.30pm from Monday to Saturday, and 8.00am 3.00pm on Sunday; and externally, between 9.30am and 3.00pm from Monday to Saturday.

In accordance with the VCAT Order (P422/2007 & P493/2007), in paragraphs 34-36 in particular, the Tribunal's acknowledged that '*the amenity of residential properties on Commercial Road is impacted by noise of traffic, trams and ambulances, in fact the area is of high activity*'; and in this context, it is possible to address potential offsite amenity by way of permit conditions addressing noise.

The Title

The subject tenancy is described on Certificate of Title Volume 11622 Folio 813 / Lot 7 on Plan of Subdivision 735390K. No covenant or easements affect the land.

Planning Controls

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

Zone

Clause 32.07 – Residential Growth Zone (Schedule 1)

Pursuant to Clause 32.07-1, use as a Food and Drink Premises (restaurant) is a Section 2 use that requires a planning permit.

Pursuant to Clause 32.07-8, a planning permit is required to construct a building or construct or carry out works for a Section 2 use. The proposed building and works are limited to installation of business identification signage. Pursuant to Clause 32.07-14, sign requirements are at Clause 52.05. This zone is in Category 3.

Overlay

Clause 43.02 – Design and Development Overlay (Schedule 18)

Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works. Schedule 18 to the Overlay further stipulates that a planning permit is not required to construct a building or to construct or carry out works that would result in the height of the buildings and works being less than 25.7 metres above the Australian Height Datum (AHD).

In this amendment, the proposed building and works are limited to installation of business identification signage at ground level. As such, a planning permit is not required under the provision of this Overlay.

Particular Provisions

Clause 52.05 – Signs

Pursuant to Clause 52.05-13, a planning permit is required to display a business identification sign.

Clause 52.06 – Car parking

Pursuant to Clause 52.06-5, column B of Table 1 (number of car parking spaces) applies to the site. Specifically, the statutory rate for use of the land as a restaurant is 3.5 car parking spaces to each 100 square metres of leasable floor area.

In this amendment, no change to the existing floor area is proposed. As such, the Clause is not triggered.

Clause 52.27 – Licensed Premises

Pursuant to Clause 52.27, a permit is required to sell or consume liquor if a licence is required under the *Liquor Control Reform Act 1998*. As the amendment seeks to introduce a Restaurant and Café Liquor Licence, a planning permit is triggered under this Clause.

Relevant Planning Policies

21.03	Vision
21.04	Economic Development
22.03	Advertising Policy
22.10	Licensed Premises Policy
32.07	Residential Growth Zone
43.02	Design and Development Overlay
52.06	Car Parking
52.27	Licensed Premises
65.01	Approval of An Application or Plan

Advertising

The application was 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 (2) signs on the site. The public notification of the application was completed satisfactorily.

Sixteen (16) objections were received during the advertising period. The grounds of objections are summarised as follows:

- The amendment will impact residential amenity due to being located in a residential street. The proposed outdoor dining, the proposed liquor licence, the increased patron number, the extended hours of operation and music played within the premises will result in increased noise.
- No consultation with the Body Corporate was initiated by the applicant, and the proposed external licensed space encroaching the walkway which is part of the Common Property.
- The increased seating capacity is excessive and will result in unreasonable amenity impact on the residential properties nearby.
- The proposed liquor licence will increase the possibility of nuisance, vandalism and other anti-social behaviours.
- The proposed number of patrons is excessive and does not meet the Covid19 social distancing requirement.
- The amendment will exacerbate the existing parking congestion and the increased foot traffic will block community pathways and interfere with the residents' daily commute.

A Consultative Meeting was held on 3 December 2020. The meeting was attended by Councillors Hely and Koce, representatives of the applicant, objectors and a Council planning officer. As a result of the meeting, the applicant submitted revised plans pursuant to Clause 57A of the *Planning and Environment Act 1987*. These plans supersede the originally advertised plans (Council date stamped 23 September 2020) and are referenced as Assessed Plans in this Report. The key changes are outlined in the Table below:

	Advertised	Revised following Consultative Meeting
No. of patrons	100 including 40 inside the building and 60 in the front courtyard	65 including 25 inside the building and 40 in the front courtyard
Hours of restaurant operation	7.00am to 10.30pm, Monday to Sunday	7.00am to 9.00pm, Monday to Sunday
Hours of liquor consumption	7.00am to 10.30pm, Monday to Sunday	7.00am to 9.00pm, Monday to Sunday
Extent of licensed space	Internal floor space and the entire front courtyard	Internal floor space and part of the front courtyard <u>Officer Note</u> The assessed Redline Plan has been updated to exclude all areas that are identified as Common Property in the Certificate of Title. The proposed licensed areas are within the legal

		title boundary of the subject tenancy.
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Referrals

The Head, Transport for Victoria

The proposed display of an illuminated sign is not opposed subject to the following conditions:

1. *During the operation of the sign, the following maximum average luminance and Threshold Increment values must not be exceeded:*

<i>Lighting condition</i>	<i>Max average luminance (cd/m²)</i>	<i>Max %</i>	<i>Adaptation Luminance</i>
<i>Full sun on face of signage</i>	<i>No limit</i>	-	-
<i>Daytime luminance</i>	<i>6000</i>	-	-
<i>Morning and evening twilight, and overcast weather</i>	<i>700</i>	-	-
<i>Night time</i>	<i>150</i>	<i>20%</i>	<i>0.25</i>

2. *The signs must not be reflective, flashing or contain moving/animated images.*

Community & Health Planner

Referral comments are summarised as follows:

- The premises are located on the ground floor of a residential building. - The land is zoned a Residential Growth Zone, which allows a limited range of non-residential uses in appropriate locations to serve the local community needs.
- An extension to the operating hours is reasonable however; given the circumstances, a daily closing time of 10:30pm closing time is not approved. An earlier closing time of 9.30pm is recommended from Sunday to Wednesday, 10pm on Thursdays and 11pm on Friday and Saturday nights only to ensure no further unreasonable amenity impacts for nearby residents.

Key Issues and Discussion

Operation of the zone

The site is situated in a Residential Growth Zone (Clause 32.07) where use of the land as a restaurant requires a planning permit. The purpose of the zone seeks to '*allow education, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations*'. This indicates that moderate commercial intrusion may be appropriately located in residential areas.

In this amendment, the permitted use of the land as a food and drink premises (café) is amended to read as 'food and drink premises (restaurant)'. Pursuant to Clause 73.03 (Land use terms) of the Stonnington Planning Scheme, 'restaurant' and 'café' are both used to prepare and sell food and drink for consumption on the premises, meaning that the nature of the use remains unchanged and is consistent with the approved Permit. As such, the use as a Food and drink premises (restaurant) is appropriate in this context given it is largely the

same as the approved use of the café, and that it will cater for community needs and will not impact adversely on the operation of the zone.

Local Planning Policy

Clause 21.03 (Vision) of the Stonnington Planning Scheme sets out strategic themes concerning economic development, housing, built environment and heritage, environment and open space, and infrastructure. With respect to economic development, this Clause recognises that entertainment and hospitality uses contribute to the vitality and viability of the city provided that they do not dominate or adversely affect activity centres and the surrounding residential areas.

Clause 21.04 (Economic Development) of the Stonnington Planning Scheme specifically seeks to support entertainment uses whilst managing the potential negative impacts of licensed premises and other entertainment uses on retail viability and adjoining residential amenity. The policies outlined in this Clause include:

- Encourage commercial and community uses permissible in residential zones to locate close to activity centres, community hubs, public transport and other related uses.
- Encourage the retention of the existing residential stock to facilitate its future re-use for residential purposes.
- Ensure non-residential uses do not have an adverse impact on the amenity of the surrounding residential area through noise, hours of operation, traffic or parking associated with the use.

Directly related to the area of economic development is Council's Licensed Premises Policy at Clause 22.10 of the Stonnington Planning Scheme. The Policy recognises the importance of licensed premises in the municipality in contributing to the vibrancy and economic strength of the municipality and seeks to provide reasonable commercial opportunities for the trading of licensed premises whilst mitigating adverse amenity impact on the surrounds.

In light of the above policies, in assessing this amendment, the following is noted:

- The use as a restaurant is considered to be a contributory element to Commercial Road that features a number of hospitality uses. This is considered responsive to Clause 21.03 (Vision).
- The site provides convenient access to public transport. The proposed use is considered to be consistent with Clause 21.04 (Economic Development).
- The amendment proposes to extend the closing time from 7.00pm to 9.00pm. The increase of two (2) hours is moderate and will continue to operate within acceptable limits given the mixed use character of the surrounding area. Importantly, the licensed hours are within the limits recommended under Clause 21.10 (Licensed Premises Policy), which specify hours to be no later than 11pm for premises adjacent to a residential zone. With regards to amenity impacts, a detailed assessment is included below.

In light of the above, the amendment as a whole provides an appropriate response to Council's local policies, and the proposed liquor licence is in accordance with Council's licensed premises policy as stipulated at Clause 22.10.

Cumulative impact

Clause 52.27 (Licensed Premises) of the Stonnington Planning Scheme seek to address cumulative impact issues resulting from clusters of entertainment venues through planning assessment or licensed premises proposals. According to *Planning Practice Note No. 61* (Licensed premises: Assessing cumulative impact), a cluster of licensed premises may occur

where there are 3 or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land, or 15 or more licensed premises within a radius of 500 metres from the subject land.

Liquor licence data obtained from the *Victorian Commission for Gambling and Liquor Regulation* (VCGLR) indicates that there is one licensed premises and 12 licensed venues operating within a radius of 100 metres and 500 metres respectively. As such, the site is not considered to be situated in an existing cluster of licensed premises and will not contribute to cumulative impact.

Amenity Impacts

In *Zerbe v City of Doncaster and Templestowe* (1984) 2 PABR 101, it was stated that:

Amenity is an elusive but invaluable concept in town planning. The amenity of a neighbourhood is a complex of many attributes. It goes much further than mere "pleasantness" and "agreeableness". In town planning terms, it embraces all the features, benefits and advantages inhering in the environment in question.

Amenity has also been equated with the planning objective at Section 4(1)(c) of the *Planning Environment Act 1987*, that is "to secure a pleasant, efficient and safe working, living and recreational environment".

In assessing the amenity impacts of the amendment, the following is noted:

The policy and the overall context

As discussed above, the policy, the context and established mixed uses in the surrounds support the inclusion of a licensed restaurant at the subject site. To ensure the proposed use and associated liquor licence operated as presented in the proposal, the following conditions are recommended:

- The predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises to the satisfaction of the Responsible Authority.
- Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time, to the satisfaction of the Responsible Authority.

The proposed hours of restaurant

The current Permit allows the restaurant to be operated between 7.00am and 7.00pm from Monday to Sunday. In this amendment, it is proposed to extend the closing time by two (2) hours, resulting in hours from 7.00am to 9.00pm. The proposed hours are well within the recommended time range by Council's Community and Health Planner and is considered acceptable.

The proposed liquor licence

The amendment involves the use of the land for the sale and consumption of liquor whereby alcohol is to be served in conjunction with the consumption of food. The site is located on an arterial road and within close proximity to a Principal Activity Centre (Prahran, South Yarra and Windsor) where a number of licensed premises already exist. Commercial Road also features a number of non-residential uses, examples of which include the service station and a convenience restaurant to the west of the site, the café directly to the south at 12 Commercial Road and the licensed tavern approximately 80 metres to the south-east of the site at 30 Commercial Road. Given the context, the proposed Restaurant and Café Liquor Licence is not at odds with other uses in the surrounding area. It is considered that the

inclusion of sale and consumption of liquor will not affect the viability of the precinct, but rather, complement the mix of existing uses.

Furthermore, the proposed licensed premises is predominantly oriented toward the front of the site which faces Commercial Road. The bulk of the seating area and pedestrian traffic associated with the use will be from Commercial Road, rather than impacting upon the residential area along Affleck Street.

With regards to the licensed hours, the amendment seeks to serve liquor between 7.00am and 9.00pm. These hours will not unreasonably affect the amenity of the area.

Additionally, as discussed above, the licensed hours are within the limits recommended under Clause 21.10 (Licensed Premises Policy), which specify hours to be no later than 11pm for premises adjacent to a residential zone/use.

The proposed number of patrons

The existing Permit allows a maximum of 50 patrons with no specification of internal and external limits. In this amendment, it is proposed to increase the number of patrons from 50 to 65 including 40 in the front courtyard and 25 inside the building. This is considered acceptable considering that:

- The proposal meets the patron capacity requirement as regulated by the *Victorian Commission of Gambling and Liquor Regulation*.
- As discussed above, the bulk of the seating area and pedestrian traffic associated with the licensed restaurant will be from Commercial Road. As such, it will not result in any direct impact upon residential area along Affleck Street.
- With regard to the residential properties, as the amendment now seeks to cease business operation by 9.00pm and increase the patron number by fifteen (15), the scale is considered moderate in nature. As such, the amendment will protect the evening amenity of the surrounding area and will not cause material detriment including excessive alcohol consumption and undue disturbance such as noise and inappropriate behaviour.

Overall

In light of the above, the amendment will not result in any unreasonable amenity impact.

Noise

As the site is located on an arterial road and within close proximity to other commercial uses, the proposed noise in association with a licensed restaurant is unlikely to create highly noticeable additional noise in the area. More specifically, the following is noted:

The nature of the business

As discussed above, a licensed restaurant is considered a low risk entertainment use and will not generate unreasonable noise given its nature. The proposed hours of operation and service of liquor comply with Council's Licensed Premises Policy. In the absence of any proposal that contemplates late night trading, the proposal as a whole will not create unreasonable noise impacts on the surrounds.

Front courtyard seating arrangement

The application proposes to cater for a maximum of 40 patrons in the front courtyard. The courtyard has a direct interface with Commercial Road, which is an arterial road and carries four lanes of traffic. In the context of the high traffic volume, and as the operation will cease by 9.00pm, the proposed amendment will not create unreasonable noise impacts on the

surrounding residential properties. In addition, to ensure that no unreasonable noise emanates from the front courtyard, the following condition is recommended:

- Speakers must not be located externally of the building at any time, to the satisfaction of the Responsible Authority.

Noise and Amenity Action Plan

The applicant also provided a *Noise and Amenity Action Plan* for Council's assessment. A condition is recommended to update this plan to reflect the current proposal.

Furthermore, the following conditions, contained in the existing Permit, will continue to prevent potential noise impacts:

- Noise emanating from the subject land must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels from the plant and equipment area are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.
- The provision of music and entertainment on the premises must be limited to background music or entertainment by performers using non-amplified instruments unless with the written consent of the Responsible Authority.

Overall

In light of the above, the proposal will not result in unreasonable noise impact subject to conditions.

Waste

The amendment is not expected to result in any adverse amenity impacts with relation to waste collection. The existing Permit contains the requirement for a *Waste Management Plan*. As outlined in the currently endorsed *Waste Management Plan*, due consideration and management of commercial waste is provided. In this amendment, no changes to existing waste management are proposed, and all waste generated will be stored within the designated bin room which will be cleaned and maintained by the licensee. As such, the currently endorsed *Waste Management Plan* is considered sufficient.

Furthermore, the following existing permit conditions will remain unchanged and continue to form part of the officer's recommendation so as to minimise potential amenity impacts arising from waste management:

- Bottles and rubbish must not be removed from inside the building between the hours of 9.00pm and 8.00am the following day.
- 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.

To further address any potential impact from waste management, the following new condition is recommended:

- Staff of the restaurant hereby permitted are to conduct a litter patrol daily to ensure the site remains tidy and well presented to the satisfaction of the Responsible Authority.

Car parking

In the current approval, one (1) car parking space is provided for staff and no onsite car parking spaces are provided for patrons. In this amendment, the onsite car parking

arrangement remains unchanged. As discussed above, the amendment does not involve any changes to the floor area and Clause 52.06 (Car parking) is not further triggered. As a reduction in the car parking requirement has been approved under the existing Permit, this cannot be opposed.

In addition, the amendment is not expected to generate unreasonable traffic impact for the following reasons:

- It is proposed to increase the patron number from 50 to 65. The increased scale is moderate and will not unreasonably increase the existing traffic volume.
- Council's Local Planning Policy at Clause 22.05 (Environmental Sustainable Development) seeks to ensure that the built environment is designed to promote the use of walking, cycling and public transport, and to minimise car dependency. The current car parking arrangement is considered responsive to the policy and consistent with other uses in a predominantly commercialised street.
- As outlined above, in terms of the location, the subject site is situated in a commercialised area, where numerous public transport options, including trains, trams and buses, are conveniently accessible. For instance, trams run along Commercial Road, buses operate along Punt Road, and Prahran and Windsor Railway Stations are located in the vicinity. Given the convenient access to public transport, the premises will be well serviced by public transport.
- Off street car parking and other public parking space are available in this area including timed car parking during daylight hours and less restricted car parking during evenings and weekends.

Installation of business identification signage

The amendment proposes to install one (1) internally illuminated business identification sign that is located under the existing awning facing the intersection of Commercial Road and Affleck Street. As shown on the advertised South Elevation and Perspectives, the proposed dimensions are acceptable and the proposed sign will not result in any unreasonable visual impact on the streetscapes. Furthermore, with regard to illumination effect, as commented by *The Head, Transport for Victoria*, the proposed signage is supported subject to conditions. The recommended conditions will be included to form part of the decision.

Objections

The following objections have not been addressed in the body of this report, but are addressed below for completeness:

- *No consultation with the Body Corporate was initiated by the applicant, and the proposed external licensed space encroaching the walkway which is part of the Common Property.*

Consultation with the Body Corporate is not part of the planning consideration as it is not regulated or required by the *Planning and Environment Act 1987* or the Planning Scheme.

The assessed Redline Plan has been updated to exclude all areas that are identified as Common Property on the Certificate of Title. It is evident that the proposed licensed areas are within the legal title boundary of the subject tenancy as defined by the Certificate of Title.

- *The proposed number of patrons is excessive and does not meet the Covid19 social distancing requirement.*

As discussed above, the proposed number of patrons is considered acceptable as the proposed increase by 15 patrons is considered moderate in scale and appropriate to its physical context.

The Covid-19 social distancing requirement is enforced by *Department of Health and Human Services Victoria* (DHHS). These restrictions are stipulated in response to the Covid-19 pandemic and remain applicable until further notice by DHHS.

However, in assessing the planning merits of this application, the relevant legislation is the *Liquor Control Reform Act 1998* which sets a maximum patron capacity based on a ratio of 0.75 square metres per person. As discussed above, the proposed patron numbers both internally and externally meet the requirement.

Conclusion

It is recommended that the proposal be supported for the reasons as outlined at the Officer Recommendation Summary above (refer to the Abstract).

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. 973/14 - 5 Commercial Road, South Yarra [14.2.1 - 15 pages]

Officer Recommendation

Note: Change to preamble and new conditions indicated in dark blue font

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Section 72 Planning Permit No: 973/14 for the land located at 5 Commercial Road, South Yarra under the Stonnington Planning Scheme for Alterations and additions to the existing building, Restaurant and Café Liquor Licence in association with part use of the land as a Food and drink premises (Restaurant) and installation of business identification signage in a Residential Growth Zone, waiver of loading bay requirement and reduction in the car parking requirement subject to the following conditions:

1. ***The plans endorsed to accompany the permit must not be amended without the written consent of the Responsible Authority.***
2. ***Within 60 days of the endorsement of the development 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 and three copies must be provided. The landscape plan must show:***
 - a) ***A survey (including botanical names) of all existing vegetation to be retained and/or removed***
 - b) ***Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary***

- c) *Details of surface finishes of pathways and driveways*
 - d) *A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant*
3. *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.*
4. *Within 60 days of the endorsement of the development plans, the applicant must provide a Water Sensitive Urban Design Response addressing the Application Requirements of the Water Sensitive Urban Design Policy to the satisfaction of the Responsible Authority. All proposed treatments included within the Water Sensitive Urban Design Response must also be indicated on the plans. The Water Sensitive Urban Design Response must:*
- a) *Ensure terraces are not connected to rainwater tanks without suitable treatment*
 - b) *Ensure all site impermeable areas are included within the STORM tool assessment*
 - c) *Provide a site plan confirming areas considered permeable and impermeable for purposes of STORM tool*
5. *The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.*
6. *Within 60 days of the endorsement of the development plans, a Sustainable Design Assessment (SDA) must be submitted to and approved by the Responsible Authority. Upon approval the SDA will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SDA to the satisfaction of the Responsible Authority. The report must be similar to the Sustainable Design Assessment, prepared by EnergyLab, Council date stamped 28 November 2014 but revised to include:*
- a) *Explicitly identify commitment to 70% by mass construction phase waste reuse and recycling target and identify responsible party for implementation.*
 - b) *Revise proposed content of Building User Guide to more accurately reflect proposed systems and measures for project as well as typical industry guides such as Green Star.*
- All works must be undertaken in accordance with the endorsed Sustainability Design Assessment to the satisfaction of the Responsible Authority. No alterations to the Sustainable Design Assessment may occur without written consent of the Responsible Authority.*
7. *Concurrent with the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be similar to the Waste Management Plan prepared by Wastech Services Pty Ltd, dated 30 October 2014 and must include:*
- a) *Dimensions of waste areas*

- b) The number of bins to be provided**
- c) Method of waste and recyclables collection**
- d) Hours of waste and recyclables collection NB. These should correspond with our Local Laws**
- e) Method of presentation of bins for waste collection**
- f) Strategies for how the generation of waste and recyclables from the development will be minimized**

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.

- 8. A maximum number of 65 patrons may be catered for in the Restaurant, including 25 inside the building and 40 in the front courtyard at anyone time to the satisfaction of the Responsible Authority.**
- 9. The use hereby permitted must only operate between the hours of 7:00am and 9:00pm, Monday to Sunday to the satisfaction of the Responsible Authority.**
- 10. Without the prior written consent of the Responsible Authority, the sale and consumption of liquor shall only occur within the licensed area between the hours of 7.00am and 9.00pm to the satisfaction of the Responsible Authority.**
- 11. The predominant activity carried out at all times on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises to the satisfaction of the Responsible Authority.**
- 12. Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time, to the satisfaction of the Responsible Authority.**
- 13. Before the commencement of the liquor licence hereby approved, an updated Noise and Amenity Action Plan must be submitted to and approved by the Responsible Authority. The plan must be generally in accordance with the plan advertised in September 2020 but modified to show:**
 - a) Any changes required by Condition 8**
 - b) Any changes required by Condition 9**
 - c) Any changes required by Condition 10**
 - d) Any other measures to be undertaken to ensure minimal impacts from the licensed premises.**

All to the satisfaction of the Responsible Authority.

The approved Noise and Amenity Action Plan will form part of the permit and the use must operate in accordance with it to the satisfaction of the Responsible Authority.

- 14. Staff of the restaurant hereby permitted are to conduct a litter patrol daily to ensure the site remains tidy and well presented to the satisfaction of the Responsible Authority.**
- 15. Speakers must not be located externally of the building at any time, to the satisfaction of the Responsible Authority.**

The Head, Transport for Victoria Conditions

16. ***During the operation of the sign, the following maximum average luminance and Threshold Increment values must not be exceeded:***

<i>Lighting condition</i>	<i>Max average luminance (cd/m²)</i>	<i>Max %</i>	<i>Adaptation Luminance</i>
<i>Full sun on face of signage</i>	<i>No limit</i>	<i>-</i>	<i>-</i>
<i>Daytime luminance</i>	<i>6000</i>	<i>-</i>	<i>-</i>
<i>Morning and evening twilight, and overcast weather</i>	<i>700</i>	<i>-</i>	<i>-</i>
<i>Night time</i>	<i>150</i>	<i>20%</i>	<i>0.25</i>

17. ***The signs must not be reflective, flashing or contain moving/animated images.***

End of The Head, Transport for Victoria Conditions

18. ***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.***
19. ***Bottles and rubbish must not be removed from within the premises between the hours of 11.00pm and 7:00am the following day.***
20. ***Noise emanating from the subject land must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.***
21. ***The provision of music and entertainment on the premises must be limited to background music or entertainment by performers using non-amplified instruments unless with the written consent of the Responsible Authority.***
22. ***All plant and equipment (including air-conditioning units) shall be located or screened so as not to be visible from any of the surrounding footpaths and adjoining properties (including from above) 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.***
23. ***The use and development must be managed so that the amenity of the area is not detrimentally affected through the:***
- a) ***Transport of materials, goods or commodities to or from the land***
 - b) ***Appearance of any building, works or materials***
 - c) ***Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil***
 - d) ***Presence of vermin***
 - e) ***Or in any other way***

24. ***All loading and unloading of goods must be undertaken in accordance with Council's Local Laws.***
25. ***Prior to the occupation of the building/ commencement of use, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.***
26. ***External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.***
27. ***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 that report prior to a building permit being issued. The drainage must be constructed in accordance with the Engineer's design.***
28. ***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 reinstated as standard footpath and kerb and channel at the permit holders cost to the approval and satisfaction of the Responsible Authority.***
29. ***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.***
 - c) ***The use is not commenced within five years of the date of this permit.***
 - d) ***The use is discontinued for a period of two years or more.***

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. ***This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Health Act/Food Act registration without prior approval from the Councils Health Services.***
- 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. ***Background music level, in relation to premises, means a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voices to a substantial level.***
- E. ***The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".***

- F. 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.**

14.3 Mount Street Precinct Masterplan, Update on detail design documentation and community consultation

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.

- L3** Balance the competing demands of maintaining residential amenity and population growth through appropriate planning.

Purpose of Report

To provide Council with an update on the stakeholder engagement process undertaken on the *Mount Street Precinct Masterplan Pedestrian Link* and to seek endorsement of the concept plans prior to proceeding with detailed designs.

Officer Recommendation

That Council ENDORSE the designs for the Mount Street Precinct Masterplan Pedestrian Link (per Attachments 1 and 2) in order to proceed with detailed designs, acknowledging that the design process will take into consideration the community feedback per Attachment 3.

Executive summary

The Mount Area Masterplan, in Prahran was endorsed by Council in 2019. Following this endorsement, concept designs were developed for the pedestrian link which ultimately will provide a series of connected pocket parks and shared streets running east- west through the precinct, providing spaces for people to stop, rest, and interact within the local community and business. Once implemented, the link will provide a series of safe and inviting open spaces that reflect the local character with high-quality materials, lighting, greenery, public art and wayfinding elements. The link will also provide more space for on street dining, trade and local events.

This report provides a summary of community feedback on these designs and seeks endorsement to proceed with detailed designs for implementation in forthcoming years.

Background

The Mount Street Precinct, located in Prahran (bordered by King, Bangs, High and Chapel Streets) is undergoing a transformation from single storey light industrial buildings to mixed use commercial, residential and office developments. The continued built form transition, compounded by the area's increasing population is impacting on the demand, quality and availability of open space within the precinct.

In order to improve the character and amenity of the precinct, Council's *Chapel reVision Neighbourhood Framework Plan* identified the development and implementation of a Masterplan for the Mount Street Precinct. Page 43 of the framework plan identified the following objectives:

- *Investigate a new east - west pedestrian link as public open space or publicly accessible open space to enhance pedestrian connections between Clifton Street and Bendigo Street, either as part of future developments or via land acquisitions;*
- *New links/ lanes, expanded footpaths and pedestrian spaces to create an opportunity for public open space in locations such as Anchor Place and Bendigo, Bangs, Regent and Clifton Streets;*
- *Investigate the opportunity to create a new public pocket park on the car park at 19 Cecil Place; and*
- *Provide a tree lined footpath along the eastern side of Bangs Street.*

Development of the *Mount Street Precinct Masterplan* (refer **Attachment 1**) responded to these objectives with the subsequent stakeholder engagement processes identifying four key objectives for the precinct:

- ***Identity***; *creating a strong identity for the precinct with a consistent palette of materials. Creating new authentic spaces*
- ***Integrated public realm***; *embrace external positive characteristics and adjoining existing mature landscapes to provide cohesion & connection with individual spaces*
- ***Activated***; *establish a new standard of public realm quality where the site meets the surrounding city context- active street level as comfortable and safe ‘people spaces’ for all hours*
- ***Creative***; *use and build on public art and place activation and programming to build community ownership*

The Masterplan identified opportunities to improve the public amenity within the precinct by creating safer, more attractive and green streets with new lighting, wider footpaths and street trees. The Masterplan also proposed a central east-west pedestrian link facilitated by the strategic purchase of various properties over time. This link is designed to create a range of new open space which will facilitate active and passive recreation. In order to facilitate this link, Council has acquired properties 18, 20 and 22 Regent Street and properties 23 & 25 Mount Street, Prahran.

The Masterplan also proposed widening footpaths and undergrounding powerlines on all streets to improve pedestrian amenity and allow space for trees, public furniture, lighting and on- street dining and trade. The result of these public realm improvements has been a general reduction of on-street carparking by 25% across the precinct, with the majority of this loss within the proposed shared zones.

Previous Community Consultation

Several rounds of community consultation were undertaken to develop the masterplan. Feedback was sought from stakeholders through a series of on street and on-line surveys, targeted meetings onsite and digital workshops. A social and commercial impact study was also commissioned to gain an understanding of the impacts these designs would have towards the local community. The masterplan and associated stakeholder engagement summaries were reported to and supported by Council at the following stages:

- Summary of initial consultation feedback - September 2018
- Draft Mount Street Masterplan and consultation summary - May 2019
- Final Masterplan and consultation summary- November 2019

Key Issues and Discussion

Following adoption of the Masterplan, concept designs were developed for the pedestrian link component of this document (refer **Attachment 2**). These designs identified the materiality of each space and proposed an array of amenities and feature, including; lighting, pavements, public art and planting pallets. Each new space was designed to be flexible to host local events, facilitate active and passive recreation, encourage social interactions and improve the local retail and dining economy. Key components of the design development report are described below:

Shared pedestrian zones

Shared pedestrian zones are proposed midway along Regent Street, Mount Street, Clifton Street and the full extent of Anchor Place. Each of these spaces connect to an adjoining pocket park, which once implemented will create the continuous connection through the precinct. The shared zones will have raised thresholds, high-quality pavements, pedestrian projection bollards, public furniture, trees and lighting. These elements will slow vehicle movement through each street and create safer, more pedestrian friendly and activated environments for local communities. In order to ensure a safe pedestrian environment, each individual shared zone will be designed to align with *the Department of Transport's* shared zone design requirements, which includes protection bollards, appropriate signage, enforced slower vehicle speed of 20Km/h, unobstructed view lines and a variety of surface material changes to indicate a change in traffic condition. These designs will ultimately be required to be reviewed and approved by *the Department of Transport*.

'The Catwalk' path

'The Catwalk' path is the main path connecting through each of the four pocket parks from Anchor Park through to Bangs Street Park. It is designed to create a slow walking environment with consistent materiality to improve wayfinding and create an identifiable local character. This path will be well-lit with appropriate signage and wayfinding elements.

Pocket Parks

The four new parks that connect the pedestrian link will provide opportunity to relax and socialise. Each park has a balanced amount of lawn, trees, garden beds, furniture and public art as well as specific amenities to cater for various user groups. Together these parks will provide a network of opportunities for residents to socialise and will generally improve the health and well-being of the local community. Further detail on the individual parks is included in the attached design report.

Recent Community Consultation

The fourth round of community consultation took place in September 2020 when the community was invited to view and provide comment on the draft designs for *Mount Street Precinct Masterplan Pedestrian Link*. A series of postcards, signs and social media platforms were used to promote the consultation with community members able to provide feedback via an online workshop and survey.

The online survey was live from 24 August to 21 September and was completed by **53** members of the community. **71%** of respondents were generally supportive of the overall proposal. (Refer Attachment 3 - Mount Street Precinct community engagement report.)

The online workshop was well received with **20** community members attending. The live discussion with designer and Council officers attracted **35** questions from participants, posted live during the session. A response to these questions has been emailed to all participants.

The attached design report has been updated to incorporate the community’s feedback. This will form the basis of the final design phase before construction.

Conclusion

The Mount Street area in Prahran is currently undergoing significant development and is transitioning from an area with predominantly single storey light industrial buildings to mixed use commercial, residential and office buildings. This transition is creating a higher demand for available public space and improved amenity for the growing community.

In response to this a masterplan was developed and endorsed by Council in 2019 to identify opportunities to improve the public realm. A key component of the master plan was a series of shared zones and pocket parks, which together create a pedestrian link through the precinct. Designs for this link were further developed and consulted with relevant stakeholders and form the basis of this report. Detailed Designs for delivery in subsequent years will follow Council’s endorsement of these plans.

Governance Compliance

Policy Implications

Development of the Mount Street Precinct Masterplan has been identified as an objective within the *Chapel reVision Structure Plan*.

Financial and Resource Implications

Delivery of the masterplan includes the following:

- 1- Pedestrian link (Pocket parks and shared Streets)
- 2- Undergrounding powerlines
- 3- Widening of footpath, tree planting, lighting and furniture

The following table provides high level cost estimates for construction of the pedestrian link discussed within this report.

Stage	Cost Estimate
Bangs Street Park, Bang street pedestrian crossing, Mouclif Park- A	\$880,000
Anchor Place	\$1,488,000
Clifton Street Shared zone	\$742,000
Mount Street Shared zone	\$413,000
Regent Street Shared zone	\$728,000
Anchor Park	\$1,166,000
Remo Park and Mountclif Park- B	\$1,030,000
	\$6,447,000

Designs for the remaining areas outside of the east-west link will be brought to council for consideration as they develop. Below is an estimate of indicative costs associated with these works in order to complete the masterplan.

Stage	Under grounding power lines	Widen footpaths, trees, lighting and furniture

Clifton Street	\$800,000	\$850,000
Mount Street	\$1,140,000	\$850,000
Regent Street	\$1,655,000	\$600,000
Cecil place	\$790,000	\$700,000
Bangs Street	\$1,460,000	\$1,000,000
King Street	\$1,580,000	\$850,000
SUB TOTAL	\$7,425,000	\$4,850,000
Anchor Place Carpark relocation (36 spaces)		\$1,600,000

Council have allocated \$4,075,000 (excl GST) within the 10-year capital budget for the delivery of the Mount Street Precinct Masterplan and have also secured significant state government funding towards construction of this project. There are also other funding opportunities to contribute towards delivery of these works, including developer contributions and contributions from Council's open space reserves as appropriate. These will be reported to Council when funding becomes available.

There will be additional ongoing maintenance costs for the pedestrian link, which will be evaluated and included in future operating budgets. The detailed design phase for this project will consider this and where possible look to incorporate a standard materials and furniture palette and readily available sustainable products to minimise additional costs. Environmentally sustainable design outcomes will also seek to be achieved throughout the project in line with adopted policy.

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 August 2020, the community were invited to view and provide comment on the designs for *Mount Street Precinct Masterplan Pedestrian Link*. A series of postcards, signs and social media platforms were used to promote the consultation with community members able to provide feedback via an online workshop and survey.

The community were consulted on these concept designs with over **70%** supporting the overall design.

The Chapel Street Precinct Association were contacted separately and provided the concept design package no comments or feedback were received.

Following the consultation program, the designs were amended to incorporate feedback from the community and are provided with this report.

Human Rights Consideration

This report complies with the Charter of Human Rights & Responsibilities Act 2006.

Attachments

1. Mount Street Area Final Masterplan _2019 [**14.3.1** - 39 pages]
2. Mount St Precinct Design Development Report,2020 [**14.3.2** - 36 pages]
3. Mount St Precinct Community Engagement Report [**14.3.3** - 23 pages]

14.4 Multipurpose Indoor Sport and Recreation Facility Stakeholder Group - Community Representatives

Acting Director Community & Wellbeing: James Rouse

Linkage to Council Plan

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

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

To seek endorsement from Council to appoint community representative members to the Multipurpose Sport and Recreation Facility Stakeholder Reference Group.

Officer Recommendation

That Council:

- 1. APPROVE the appointment of the three (3) Community Representatives to the Multipurpose Sport and Recreation Facility Stakeholder Reference Group, as below:**

East Ward	Marc Gauci
North Ward	Phil Treyvaud
South Ward	Susan Molony

- 2. NOTE that Council Officers will notify the three (3) successful nominees and also write to each of the unsuccessful nominees thanking them for their interest in the Reference Group.**

Executive Summary

An Expression of Interest process has been undertaken and nominations received for the community members of the Stakeholder Reference Group for the Multipurpose Sport and Recreation Facility independent site review.

Upon review by a panel of Councillors, community representatives for the Stakeholder Reference Group have been presented for endorsement.

Background

On 7 December 2020, Council resolved in part, to convene a Stakeholder Reference Group for the Multipurpose Sport and Recreation Facility independent site review.

The membership of this group is to consist of:

- i. The Mayor (North Ward) and two Councillors (East and South Ward)*
- ii. Prahran Netball Association (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)*

At the Council meeting on 21 December 2020, Council resolved that Cr Morgan (East Ward) and Cr Batagol (South Ward) were appointed alongside the Mayor Cr Hely (North Ward) to the Reference Group.

Key Issues and Discussion

An Expression of Interest process was undertaken with the opportunity promoted on Council's website, social media and direct email notification via email to in excess of 700 people who are subscribed to the Indoor Stadium mailing list, with 14 applications received.

Officers reviewed the applications in line with the Terms of Reference and confirmed all 14 applicants to be eligible for consideration.

Council Officers have also conducted a brief online meeting with each prospective representative in order to further gauge their interest and experience.

Councillors met with officers on 19 January 2021 to assess nominations and determine the representative for each of the three wards.

The other members of the Stakeholder Reference Group are:

- Stephen Walter - General Manager Business Development and Infrastructure – Basketball Victoria
- Linda Roland – Prahran Netball Association (Kate Campbell - proxy)

Conclusion

Council has resolved to establish a Stakeholder Reference Group for the Multipurpose Sport and Recreation Facility independent site review. Nominations have been sought from community members through an expression of interest process.

After careful consideration of the nominations and applications received, it is recommended that the appointment of the three (3) representatives named above be endorsed.

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

Appointing a Stakeholder Reference Group for the Multipurpose Sport and Recreation Facility is consistent with Council's Engagement Policy which outlines Council's commitment to best practice engagement as an essential part of good governance and acknowledges the role of stakeholders in achieving the City of Stonnington's vision for the city.

Human Rights Consideration

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

Attachments

Nil

14.5 Mayoral and Councillor Allowances Review

Chief Governance Officer: David Taylor

Linkage to Council Plan

Stewardship: Council will strive for excellence, ensuring that it has the capacity to deliver timely and efficient services to meet community needs and continually improve standards of service delivery.

- S1** The City's capacity to deliver the objectives of the Council Plan is based on our service culture, people, good governance, business systems and technology, asset and risk management and responsible financial planning.

Purpose of Report

The purpose of this report is to commence the review process of Councillor allowances as required under the *Local Government Act 1989*.

Officer Recommendation

RECOMMENDATION

That Council:

- 1. DETERMINE that the Councillor and Mayoral allowances be set for the next four (4) years, subject to any change by the Victorian Independent Remuneration Tribunal, at the highest level of Category Three (3), currently:**

Councillor \$31,444 per annum

Mayoral \$100,434 per annum

plus an amount equivalent to the superannuation guarantee contribution which is currently 9.5%.

- 2. APPROVE that in accordance with section 74(1) of the Local Government Act 1989, advertise the conduct of the public consultation on the proposed allowances and call for submissions under section 223 of the Local Government Act 1989; and**
- 3. DETERMINE that any submissions will be heard by Council on Monday 15 March 2021 at 7.00pm either electronically via zoom or in Council Chamber, Malvern Town Hall, Malvern.**

Executive Summary

The allowance framework under the Local Government Act 1989 continues until the Victorian Independent Remuneration Tribunal makes its first determination under the Local Government Act 2020. The Remuneration Tribunal has not yet been requested to make a determination and when it has, the Tribunal has six months to make a determination from the date requested. Consequently, Local Government Victoria have advised councils to undertake their own review of allowances under section 74 (1) of the Local Government Act 1989.

Background

Councils are required to review allowances by 30 June in the year following a General Election and the allowance level determined remains in effect for the full term of the Council.

Section 74(1) of the *Local Government Act 1989* (the Act) requires Councils to “*review and determine the level of Mayoral and the Councillor allowances within the period of six months after a general election or by next 30 June, whichever is later.*”

This review is a public process to determine the allowances that will be payable from the range available for the next four years and any person has a right to make a submission under section 223 of the Act in respect of this review.

Key Issues and Discussion

Councillor allowances are indexed annually under section 73B of the Act.

The Minister for Local Government has conducted this review and determined that, for 2020 – 2021 no adjustment to allowances will be made in respect for all Councils. The Minister had regard to the Victorian Premier’s recent decision determining a zero per cent adjustment to Victorian Public Service executive remuneration for the 2020-2021 financial year.

Payment of allowances cannot exceed more than one month in advance.

In consideration of the rate of allowances, Councils are divided into three categories based on income and population of each Council.

Stonnington is a Category 3 – the highest level and the range for allowances are:

Part A

Mayor	up to \$100,434 per annum
Councillors	\$23,123 - \$31,444 per annum

Part B

Mayoral and Councillor Allowances are also subject to the addition of the equivalent of the superannuation guarantee – currently 9.5%.

To date, Stonnington Council has paid the maximum amount.

The Mayor is not entitled to receive a Councillor allowance if receiving the Mayoral allowance. Further Council does not have to pay an allowance to a Councillor or Mayor who does not want to receive an allowance.

Council must now determine what the limit of the allowances will be for the next four years and then commence the public consultation process, to receive and hear, if requested, any community comment on these limits. Council is then required to take into account any comments made by the public before confirming or changing the limit. Any such changes are effective from the date of the Council resolution.

Submissions are open for a minimum period of 28 days under the Local Government Act 1989.

It is proposed to consult by:

- Advertisements in the public notice section of The Age and Herald Sun newspapers;
- Social media; and
- Public notice on the Council website.

On completion of this advertising, it is anticipated that submitters (if any) who wish to be heard may be heard on Monday 15 March 2021 at the Ordinary Council Meeting.

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

Council is obliged to comply with this process under the various provisions of the *Local Government Act 1989* and *2020*

Stakeholder Consultation

It is intended to consult with the community on this proposal. Under section 223 of the Local Government Act 1989 Council is required to consult over a period of 28 days.

Human Rights Consideration

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

Attachments

Nil

14.6 Councillor Expenses Policy

Chief of Governance: David Taylor

Linkage to Council Plan

Stewardship: Council will strive for excellence, ensuring that it has the capacity to deliver timely and efficient services to meet community needs and continually improve standards of service delivery.

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Purpose of Report

The Councillor Expenses Policy needs to be reviewed within four (4) months of a General Election which was held on 24 October 2020.

Officer Recommendation

That Council APPROVE the Councillor Expenses Policy 2021, refer Attachment 1.

Executive Summary

Section 41 of the *Local Government Act 2020* requires that after an election, the new incoming Council adopt a Councillor Expenses Policy in relation to the reimbursement of out-of-pocket expenses for Councillors and delegated committees.

Background

The Act provides that Councillors and members of delegated committees are entitled to be reimbursed and for bona fide out of pocket expenses incurred while performing their role and are reasonably necessary to perform that role.

This policy supports the principles of transparency and accountability under the Act and ensures that all such expenses are legitimate, justifiable and documented to the satisfaction required to withstand scrutiny and maintain public confidence.

While the Act prescribes the requirement and adoption of the policy, it requires that the policy must:

- Specify procedures in applying for reimbursement and in reimbursing expenses;
- Provide for reimbursement of childcare costs where the provision of childcare is reasonably required for a Councilor or member of a delegated committee to perform their role; and
- Have particular regard to expenses incurred by a Councilor who is a carer in a care relationship.

This policy also supports the requirements of overarching governance principles as a further obligation under the *Local Government Act 2020*.

Minor administrative amendments have been made to the policy and are shown as tracked changes. The Council Auditors are currently completing an audit of Councillor expenses. The review findings have not been completed at the date of this report.

Governance Compliance

Policy Implications

This Policy on adoption, will supersede the Councillor Expense Policy dated 17 August 2020.

Financial and Resource Implications

A financial implication may occur with the broadening of the allowable expenses to be claimed as provided for under the *Act* and as defined under the provisions of this policy.

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

The Councillor Expenses Policy needs to be reviewed within four (4) months of a General Election which was held on 24 October 2020. This report will meet that timeframe obligation.

Stakeholder Consultation

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. 2021 Update Expenses Policy Councillor Briefing Session 17 August 202 [14.6.1 - 23 pages]

15 Confidential Business