



# Council Meeting Agenda

**Monday 18 October 2021 at 7 PM**

**Virtual Meeting via Zoom, Virtual Meeting  
via Zoom**

## **Information for the Community**

### **Welcome**

Welcome to a City of Stonnington Council meeting.

The Council has adopted Governance Rules in accordance with the Local Government Act 2020 which determine the way in which the Council will make decisions.

### **About this meeting**

The agenda lists all the items to be considered by the Council. Each report is written by a Council Officer and outlines the purpose of the report, relevant information and a recommendation for the Council. The Council will consider the report and either accept, reject or make amendments to the recommendation. Council decisions are adopted if they receive a majority vote from the Councillors present at the meeting.

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

Council meetings are generally held at the Malvern Banquet Hall, corner High Street and Glenferrie Road (entry via Glenferrie Road via the door closest to the Malvern Police Station). The Malvern Banquet Hall is accessible to all. Accessible toilets are also available. If you require translation, interpreting services or a hearing loop, please contact the Council's Civic Support Officer on 03 8290 1331 to make appropriate arrangements before the meeting.

To ensure that people in the Hall can follow proceedings, the meeting agenda, recommendations and proposed alternate recommendations are displayed on screen.

### **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 the Council website after the meeting (usually within 48 hours). Live captioning is occurring during the meeting. Only Councillors and Council Officers are visible. People in the public gallery will not be filmed, but if you speak, you will be recorded.

### **Governance Matters**

This Council Meeting is conducted in accordance with the Local Government Act 2020 and the City of Stonnington Governance Rules 2020.

### **Recording of Council Meetings**

In accordance with the Governance Rules 2020 clause 67 meetings of the Council will be audio recorded and made available for public access, with the exception of matters identified as confidential items in the agenda.

### **Disclosure of Conflict of Interest**

In accordance with the Local Government Act 2020, a Councillor must declare any Conflict of Interest pursuant to Section 130 of the Act in any items on the Agenda.

At the time indicated in the agenda, a Councillor with a conflict of interest in any item on the agenda must indicate they have a conflict of interest by clearly stating"

- The item for which they have a conflict of interest;
- Whether their conflict of interest is general or material; and
- The circumstances that give rise to the conflict of interest.

Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor must indicate to the meeting the existence of the conflict of interest and leave the meeting.

**Behavior at meetings**

Members of the public present at the meeting must remain silent during the proceedings other than when specifically invited to address the meeting.

The Chair may remove a person from the meeting for interjecting or offensive gesture after being asked to desist, and the Chair may cause the removal of any object or material that is deemed by the Chair to be objectionable or disrespectful.

The Chair may call a break in the meeting for either a short time, or to resume another day if the behavior at the Council table or in the gallery is significantly disrupting the Meeting.

Your cooperation would be appreciated.

**Mayor, Deputy Mayor and Councillors, Stonnington City Council**

## Attendees

|                      |  |
|----------------------|--|
| <b>Chair</b>         | <b>Cr Kate Hely (Mayor)</b>  |
| <b>Councillors</b>   | <b>Cr Melina Sehr (Deputy Mayor)</b><br><b>Cr Nicki Batagol</b><br><b>Cr Marcia Griffin</b><br><b>Cr Jami Klisaris</b><br><b>Cr Matthew Koce</b><br><b>Cr Alexander Lew</b><br><b>Cr Polly Morgan</b><br><b>Cr Mike Scott</b>  |
| <b>In attendance</b> | <b>Jacqui Weatherill, Chief Executive Officer</b><br><b>Annaliese Battista, Director Planning &amp; Place</b><br><b>Cath Harrod, Director Community &amp; Wellbeing</b><br><b>Rick Kwasek, Director Environment &amp; Infrastructure</b><br><b>Greg Curcio, Director Customer &amp; Technology</b> |

### Statement of Reconciliation

The Chair will open the meeting and recite the following Acknowledgement of Country.

We acknowledge we are meeting on the Traditional Lands of the East Kulin Nations and pay our respect to their Elders past, present and emerging.

We extend that respect to all Aboriginal and Torres Strait Islander Peoples.

### Statement of Commitment

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.

# Council Meeting Agenda Monday 18 October 2021 Order of Business

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- 1 Reading of the Reconciliation Statement
- 2 Reading of Statement of Commitment
- 3 Apologies
- 4 Introductions of Councillors & Executive Staff
- 5 Confirmation of the Minutes of the previous meeting
- 5.1 Minutes of the Council Meeting held on 4 October 2021

#### Officer Recommendation

*That the Minutes of the Meeting of the Stonnington City Council held on 4 October 2021 be confirmed as an accurate record of the proceedings.*

- 6 Disclosure of Conflicts of Interest
- 7 Questions From the Community
- 8 Business

## 8.1 Planning Application 0750/19 - 6 Lomond Terrace, Malvern East

**Manager Statutory Planning: Alex Kastaniotis**  
**Director Planning & Place: Annaliese Battista**

#### Purpose of Report

For Council to consider a planning application for the construction of a multi-dwelling development in a Neighbourhood Residential Zone at 6 Lomond Terrace, Malvern East.

#### Abstract

##### Proposal

The proposal seeks to construct two double-storey dwellings on the site, each comprising four bedrooms with a double (two car space) garage.

##### 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 proposed development is consistent with the objectives of State and Local Planning Policy.

- The development represents an appropriate design response to the preferred neighbourhood character of the area.
- The proposal provides for a satisfactory landscape response that will contribute positively to the landscape character of the area.
- The significant tree on the site will be retained and protected, ensuring that it continues to add value to the neighbourhood.
- The development will not unreasonably impact upon adjoining residential amenity as determined by compliance with ResCode (Clause 55) Objectives.
- The development will provide for an acceptable level of internal amenity.
- Sufficient car parking is provided in accordance with the Stonnington Planning Scheme and the development will not result in unreasonable traffic and parking impacts.

### Issues

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

- Neighbourhood character and retention of a significant tree (refer to Built Form assessment).
- Amenity impacts on the adjoining properties (refer to Side and Rear Setbacks assessment).

### Officer's response

The proposal seeks to construct two double-storey dwellings on the site.

The site is located within an “incremental change area” in an area where low-scale medium density development is encouraged. It is well located in terms of access to open space areas, shopping facilities and public transport.

The proposal appropriately responds to the surrounding context and the preferred character of the area and is supported by Council’s Urban Designer.

The proposal meets all of the Objectives of Clause 55 and provides a high level of internal amenity without compromising the amenity of neighbouring properties.

### Executive Summary

|   |                                  |
|---|----------------------------------|
| Applicant:                                      | Sherry Chen<br>Westurban Group   |
| Ward:   | East                             |
| Zone:   | Neighbourhood Residential Zone   |
| Overlay:  | Nil                              |
| Neighbourhood Precinct:                         | Garden Suburban 5                |
| Date Lodged:                                    | 16 September 2019                |
| Statutory Days:<br>(as at Council Meeting date) | 59                               |
| Trigger for Referral to Council:                | Number of Objections             |
| Cultural Heritage Plan                          | No                               |
| Number of Objections:                           | 19 objections from 15 properties |
| Consultative Meeting:                           | Yes – held on 25 August 2020     |



|                        |                                      |
|------------------------|--------------------------------------|
| Officer Recommendation | Notice of Decision to Grant a Permit |
|------------------------|--------------------------------------|

## Background

### The Proposal

The plans that form part of the basis of Council's consideration were prepared by WestUrban and are known as Drawing No.s: TP1 to TP3 and Council date stamped 16 September 2019, Drawing No.s: TP5 to TP11 and Council date stamped 24 July 2021, and the Landscape Plan Council date stamped 24 July 2021.

Key features of the proposal are:

- Demolition of the existing dwelling and outbuildings on the land (no permit required).
- Construction of two two-storey detached dwellings designed to sit one behind the other. Each dwelling has open plan living arrangements with access to a north-facing secluded private open space area, a sitting room and a bedroom on the ground level, and three bedrooms and retreat on the first floor level.
- Unit 1 fronts Lomond Terrace and has direct pedestrian access from this street. Pedestrian access to Unit 2 is via the shared driveway.
- Each dwelling has a two-space garage. The garages and adjoining accessways have been designed to accommodate a B89 and B99 vehicle each.
- Site coverage of approximately 39.2% is achieved
- The dwellings will have a maximum overall building height of 9.461 metres.
- The development adopts a contemporary built form response with roof forms angled to respond to the slope of the land, and materials comprising a mix of render finish, with sections of exposed brick and cladding. Roofing will be metal deck.

It is noted that the 24 July 2021 plans considered in this report supersede the originally submitted plans, date stamped 28 January 2020 and subsequent revised plans, date stamped 11 June 2020. The following key changes were made:

- A reduction of the development from three to two dwellings.
- Providing physical separation between the dwellings to minimize visual bulk.
- Adapting the building design to better respond to the site topography.
- A change in the building footprint to accommodate opportunities for canopy vegetation, particularly at the rear of the site.
- A change to the vehicle crossing location and design to create a sweeping rather than straight driveway, providing articulations and accommodating additional landscaping opportunities.

### Site and Surrounds

The site is located on the eastern side of Lomond Terrace. The site has the following significant characteristics:

- The site is irregular in shape with a frontage to Lomond Terrace of 23.79 metres, a depth of 56.72 metres (north boundary) and 46.20 metres (south boundary), and a land area of approximately 1,098.1 square metres.
- The site is located opposite the Malvern Valley Public Golf Course, is approximately 945 metres west of Warrigal Road, and is to the north of Holmesglen Institute of TAFE and the railway corridor. Alamein Railway Station is approximately 860 metres to the north and Holmesglen Railway Station approximately 900 metres to the east.
- It is noted that this pocket of Malvern East bounded by the golf course to the west, the railway line to the south and Gardiners Creek (and the golf course) to the north has a

single access road (The Boulevard) onto Warrigal Road. There is no other vehicle access out from the properties in this neighbourhood.

- The site is occupied by a part single and part two-storey dwelling (garage below part of the dwelling) with a driveway along its southern boundary. An outbuilding (noted as a garage on the survey plan but appears to be habitable) is located immediately behind the dwelling constructed on or close to the southern boundary.
- The site has a number of retaining walls to accommodate the steep slope, with the land rising by approximately 5.4m from the front boundary to the rear.
- A large gum tree is located within the site frontage (north-west corner of the site) and is identified as a Spotted Gum *Corymbia maculata* within the Arboricultural Report submitted with the application. This tree is approximately 30 metres in height with a canopy width of 24 metres, and has been assessed as being in good health with good structure and form, with a long life expectancy and a high retention value.
- There is a low (approximately 0.3 metres high) brick front fence/retaining wall.

Development within the immediate vicinity of the site comprises a well-established residential development of predominantly single-storey with some two-storey examples.

Key feature of the surrounding sites are as follows:

- To the north of the site is 8 Lomond Terrace which is occupied three two-storey dwellings. This site has three vehicle crossings. Unit 3 immediately adjoins the subject site. This dwelling is setback 1.1 metres from the common boundary and has two garages on the ground level. A balcony fronting Lomond Terrace is located on the first floor, and a secluded private open space area is to the rear of the site.
- To the west of the site is Lomond Terrace and the East Malvern Golf Course.
- To the south of the site is 4 Lomond Terrace which is occupied by a two-storey dwelling which is positioned at an angle on the site. This site is on the corner of Argyll Street. Vehicle access is provided from Lomond Terrace to an open undercroft parking area on the ground level.
- To the east of the site is 1 Argyll Street which is developed with a single-storey dwelling, with a double garage located within the dwelling frontage. The secluded private open space area of this dwelling adjoins the north-east corner of the subject site.

### Previous Planning Application/s

A search of Council records indicates there are no relevant planning applications on the subject or the adjoining sites.

### The Title

The site is described on Certificate of Title Volume 7126 Folio 180 as Lot 410 on Plan of Subdivision 010296 and is affected by Covenant 2095508.

Covenant 2095508 affects the land as follows:

- The Covenant states that no excavation, carrying away or removal of earth, clay, stone, gravel or sand is to occur from the site except for the purpose of excavating for the foundations of any buildings to be erected on the land, and
- The Covenant states that the land must not be used for the manufacture or winning of bricks, tiles or potteryware.

The proposal is not at odds with the restrictions of the covenant.

A 3.05 metre wide drainage and sewerage easement runs along the northern boundary of the site, and a 1.83 metre wide drainage and sewerage easement runs along the eastern (rear) boundary of the site. No construction is proposed within the easements.

### Planning Controls

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

#### *Zone*

Clause 32.09 – Neighbourhood Residential Zone – Schedule 2

Pursuant to Clause 32.09-6 a permit is required to construct two or more dwellings on a lot. A permit is also required to construct a front fence that exceeds 1.5 metres. No fence is proposed.

Pursuant to Clause 32.09-4 an application to construct or extend a dwelling or residential building on a lot with a lot size greater than 650 square metres must provide a minimum garden area equal to 35% of the lot size. Garden area of 45.5% is provided.

Pursuant to Clause 32.09-10 a building must not be constructed for use as a dwelling or a residential building that exceeds 9 metres in height and must contain no more than two-storeys at any point. A building may exceed the maximum building height by up to 1 metre if the slope of the natural ground level, measured at any cross section of the site of the building wider than 8 metres, is greater than 2.5 degrees. A 10 metre maximum height applies to the site. The proposal complies with these requirements.

A development must meet the all the Objectives of Clause 55 and should meet all the Standards of this clause. Schedule 2 (Garden River and Garden Suburban Precincts) modifies the following requirements:

- Site Coverage (Standard B8) – Basements should not exceed 75% of the site area.
- Landscaping (Standard B13) – In addition to the requirements of B13, at least one canopy tree should be planted on the site.
- Side and Rear Setbacks (Standard B17) – 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.
- Walls on boundaries (Standard B18) - Walls should not be located on side boundaries for a distance of 5m behind the front façade of the building fronting the street.

#### *Particular Provisions*

##### Clause 52.06 - Car Parking

Pursuant to Table 1 at Clause 52.06-5, one car parking space is required for each one or two bedroom dwelling and two car parking spaces to each three or more bedroom dwelling. The proposal generates a requirement for four car parking spaces (two spaces per dwelling). Four spaces are provided on site, meeting the requirement. The design standards at Clause 52.06-9 are also applicable to the assessment of this application and will be discussed below.

### Relevant Planning Policies

Clause 11 – Settlement

Clause 15 – Built Environment and Heritage

Clause 16.01 – Residential Development

Clause 21.03 – Vision

Clause 21.06 – Built Environment and Heritage  
Clause 21.08 – Infrastructure  
Clause 22.05 – Environmentally Sustainable Development Policy  
Clause 22.18 – Water Sensitive Urban Design Policy  
Clause 22.23 – Neighbourhood Character Policy

### Advertising

The application for the construction of three dwellings (original proposal) 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 one sign on the site. The public notification was completed satisfactorily.

The site is located in East Ward and objections from seventeen different properties were received. The objections are summarised as follows:

- Overdevelopment, a maximum of two dwellings should be permitted.
- Exceeds the maximum height limit. The dwellings are too large and will appear taller than two-storeys from the street.
- The dwelling design and materials and finishes are out of character with the neighbourhood, will be bulky with inadequate articulation and space between the dwellings.
- Fails to comply with Garden Suburban 5 Precinct requirements.
- Will set a precedent for similar development.
- Will exacerbate existing drainage and flooding problems.
- Loss of on-street car parking, inadequate resident car parking provided and there is no visitor parking.
- Increased traffic will put additional pressure on the intersection of Warrigal Road and The Boulevard which is the only exit from the estate.
- Noise from residents.
- Overlooking from windows and balconies.
- Overshadowing.
- Loss of views.
- Canopy trees are too close to the common boundary and will overhang and intrude into airspace, potentially causing damage including root damage to adjoining property and impact on daylight.
- The significant tree should be retained.
- New residents will have poor amenity.
- Rubbish storage facilities are not provided.

A Consultative Meeting was held on 25 August 2020. The meeting was attended by Councillors Klisaris and former Councillors Atwell and Davis, representatives of the applicant, objectors and a Council planning officer. The meeting resulted in changes to the plans. The changes made were as follows:

- Revision of the development from three dwellings to two dwellings, providing physical separation at ground and first floor levels between the dwellings, reducing the site coverage and removing all built form from the boundaries.

The revised application was submitted to Council on 10 March 2021. This application was re-advertised to owners and occupiers of adjoining land and to all objectors of the original scheme. One sign was also displayed on the site. No additional objections were received to the re-advertised plans.

### Referrals

### *Urban Design*

- The application has been considerably improved with the reduction of the scope of the development to two dwellings.
- The revised roof forms now appropriately acknowledge the topography of the site.
- Subject to a satisfactory landscape plan, the proposal could be supported.

Planner response: The revision from three to two dwellings and the accompanying design changes have resulted in a more appropriate development both in terms of neighbourhood character and site response. In terms of providing satisfactory landscaping, the significant Spotted Gum *Corymbia maculate* located in the north-west corner of the lot will be retained and protected and three new canopy trees will be planted on the site, one within the frontage setback and two at the rear of the site. The additional trees, along with the landscaping proposed through the site, will provide a good landscape response. Council's Arborist has supported the landscape plan.

### *Transport & Parking*

- The traffic impact of this development, given the small number of parking spaces provided on-site, is anticipated to be negligible.
- Minimum headroom clearance of 2.1m to each garage when the garage door is in an open position must be clearly shown.
- Sight distance triangles are provided but the plans show a tree within one of the areas. The tree would need to be pruned back so that there is no foliage from the ground to a 2m height.
- The garages provide the required minimum internal clearances and garage door width, and the accessway and garage floor gradients are as required to meet the standards.
- A swept path assessment of a B85 and B99 vehicle accessing each garage has been provided as required. It still appears that movements in and out of the Unit 2 garage require the vehicle to swing into the landscaped area to the south of the porch. The driveway should be adjusted to accommodate this.
- Relocation of the vehicle crossing will require the applicant to remove the existing crossing including the adjoining footpath, nature strip, kerb and channel etc and reconstruct these to Council requirements at the cost of the owner at the time of the change to the property.

Planner response: Conditions of approval will require the minimum headroom clearance to be shown on the plans, reconstruction of the nature strip at the applicant's cost, new trees be positioned outside of the sight distance triangles and other vegetation to be below 0.9 metres in height, and adjustment to the driveway to the garage of Unit 2 to respond to the swept path turning area.

### *Open Space & Environment*

- No objection to the proposed crossover location.
- The landscape plan is suitable for approval.
- The tree report is a good basis to form a Tree Management Plan tailored for the protection of the significant tree within this proposal.
- A tree protection bond of \$70,455 is required.

In addition, include the following conditions:

- Protection fencing must be afforded to the *Tristaniopsis laurina* (Kanooka) street tree at this location prior to construction works occurring. Fencing must comply with Section 4 of AS 4970 and form a 2m x 2m protection zone around the tree.

- No vehicular or pedestrian access, trenching or soil excavation is to occur within the tree protection zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the tree protection zone.

Planner response: Conditions of approval will require a Tree Management Plan for the protection of the significant Spotted Gum and the payment of a tree protection bond of \$70,455. The two conditions will also be included on the approval.

#### *Liveability & Compliance*

- No objection to the crossing. The splays must be 1.3 metres and straight on each side.

Planner response: A condition of approval will require that the crossover splays must be 1.3 metres wide and straight on each side of the driveway.

#### *Asset Management & Planning*

- The existing surface/ground levels within the easements must be retained at current levels.
- Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development and design for the driveway must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity based system. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.
- There will be significant additional stormwater runoff generated by the development and there are known drainage problems and flooding downstream of the property. The applicant must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the stand-alone detention system, the owner may provide stormwater tanks that are in total 4,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.

Planner response: Conditions of approval will reflect the above requirements.

## **Key Issues and Discussion**

### **Strategic context**

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

The Municipal Strategic Statement (MSS) recognises the need for increased densities across the municipality and identifies locations where specific outcomes are encouraged (Clause 21.03). Council's Local Policy on the location of residential development at Clause 21.05-2 seeks to maintain a clear distinction between the type of development outcomes sought in locations for higher density development and the lower density residential



hinterland. The subject site is identified as being within an “incremental change area” in which medium density development (up to 2-3 storeys) is encouraged.

The purpose of the Neighbourhood Residential Zone is to implement the Municipal Planning Strategy and the Planning Policy Framework, to recognise areas of predominantly single and double-storey residential development, and to manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.

The site is located opposite parkland, is approximately 900 metres north of Chadstone and approximately 850 metres west of a shopping area on Warrigal Road and the adjoining Holmesglen Railway Station. Warrigal Road also has a number of bus services. The proposed two-dwelling development will result in a modest increase in density which is appropriate within this residential neighbourhood of Malvern East. It is in line with policy expectations for this area, and the development will contribute to the mix and diversity of housing available within the neighbourhood.

Overall, the proposal responds adequately to the State and Local planning policy objectives for increased density and infill development, subject to an appropriate design response and landscape outcome.

The provisions of the Neighbourhood Residential Zone require that the proposal be assessed against the objectives and standards of Clause 55 and any modified standards specified in the schedule to the zone. A full assessment against the applicable objectives and standards has been carried out and the development achieves a high level of compliance, with the following notable matters highlighted and discussed.

#### Built Form

The application has been assessed against Clause 55 and the key areas for discussion are as follows:

##### *Neighbourhood Character*

Standard B1 calls for a design response that is appropriate to the neighbourhood character and features of the site. Council’s Neighbourhood Character Policy (Clause 22.23) sets out preferred character and design guidelines for residential development.

*The subject site is located in the Garden Suburban 5 Precinct which is defined as comprising ‘spacious and leafy streetscapes with Interwar or Post-war era and new buildings set in established garden surrounds. Generous, regular front and side setbacks provide space around buildings and allow for canopy trees. New buildings or additions offer innovative and contemporary design responses, while complementing the key aspects of building form, scale and design detail of the older dwellings in the precinct. Open frontages, or low front fences retain views to gardens and buildings from the street.’*

The proposed development appropriately responds to the preferred character and design objectives for the Garden Suburban 5 Precinct for the following reasons:

- Lomond Terrace and surrounding streets comprise predominantly single-storey dwellings but with some double-storey construction. The dwellings immediately to the north of the site at 8 Lomond Terrace are two-storey dwellings, as is the dwelling to the south at 4 Lomond Terrace. The proposed two-storey dwellings are in keeping with this character. The proposed dwellings have provided appropriate setbacks, articulation and space for landscaping which incorporates the significant tree on the subject site and space for three additional canopy trees. The design has responded to the significant tree on the adjoining site at 4 Lomond Terrace, with measures to ensure

its protection. The development is considered to respectfully respond to the neighbourhood and will not dominate the street.

- The proposed contemporary design response will integrate well with the character of the area. The built form has a different architectural style to the older housing stock in the area but is respectful in its design approach, and there are a number of newer developments in the neighbourhood. The development predominantly uses a render finish, with sections of exposed brick and cladding. Roofing will be metal deck/Colorbond. Furthermore, the development is also considered reflective of other modern infill developments within the Malvern East area and is not at odds with other contemporary design responses.
- The dwellings are designed to sit one behind the other and are detached, reflecting the predominantly detached character of dwellings in the neighbourhood.
- Site coverage of approximately 39.2% is achieved, reflecting the low site coverage of development in the neighbourhood.
- The proposed setbacks of the development provide appropriate space for planting, particularly in the front and rear setbacks. This is considered in keeping with the landscaping on the lots in the surrounding area and will provide meaningful landscaping commensurate with the scale of the development.
- The car parking for both dwellings will be accessed via a single vehicle crossing and will be located centrally within the site, with a double-space garage provided for each dwelling. The vehicle accommodation will not be visible from the street.
- No front fence is proposed.

Overall, the proposed development is considered to be a site responsive design that will sit comfortably within the Lomond Terrace streetscape and reflects the preferred and prevailing character of the area.

#### *Street Setback*

To the north of the site is a two-storey dwelling at 3/8 Lomond Terrace which is setback approximately 6.9 metres from Lomond Terrace, and next to this are two attached double-storey dwellings at 1 & 2/8 Lomond Terrace which have a frontage setback of 6.55 metres. 4 Lomond Terrace to the south has a frontage setback of 9.492 metres. The average between the immediate two adjoining dwellings is 8.021 metres. The proposed street setback of Unit 1 is 8 metres at the closet point, with the average setback exceeding 10 metres given the angled site frontage. This minor variation will be indiscernible and is supported.

#### *Building Height*

As outlined above, the proposed height and number of storeys complies with the mandatory provisions under the Neighbourhood Residential Zone. The development will be two-storeys; this is consistent with development on adjoining sites within the vicinity and the character of the area. The permitted building height on the site is 10 metres (given the slope of the land), and a maximum overall building height of 9.461 metres is proposed. Compliance with the maximum permitted building height is clearly demonstrated on both the west and east elevations drawings on plan TP08.

#### *Site Coverage and Permeability*

No basement is proposed and the site coverage at ground level will be approximately 40%. This complies with the permitted maximum site coverage of 60%. The proposed site coverage is consistent with the site coverage of dwellings on surrounding lots.

The proposed permeability is approximately 47%, complying with Standard B9 which requires 20%. This high rate is assisted with the use of permeable paving for most of the



driveway, introduced to minimise impact on the adjoining significant tree located within 4 Lomond Terrace.

The extent of the site coverage and good permeability allows for the establishment of in-ground landscaping and will assist to reduce the impact of increased stormwater run-off on the drainage system; thus, the relevant objectives are considered to be met.

#### *Landscaping*

Council's MSS and various local policies emphasise the provision of high-quality landscaping. Furthermore, Clause 22.23 (Neighbourhood Character Policy) seeks 'to maintain and strengthen the garden settings of buildings and the tree canopy of the neighbourhood'. The policy further encourages a design response to *'include canopy trees and shrubs in landscape plans. Retain established or mature trees where possible and provide for the planting of new canopy trees. Include planting around the perimeter of the site to strengthen the garden setting.'*

The proposed development will retain and protect the significant tree *Corymbia malculata* Spotted Gum located in the north-west corner of the lot, which is approximately 30 metres in height with a canopy width of 24 metres. The development design and detail has also responded to the significant *Eucalyptus scoparia* Wallangara White Gum tree on the adjoining site at 4 Lomond Terrace so that impacts are appropriately addressed to protect the tree's long term health. This tree is 18 metres high and has a canopy width of 18 metres. Encroachment of the Tree Protection Zone of 5.5% will occur – this is under the 10% limit allowed and is acceptable. In addition, the section of the new driveway which will adjoin the tree will be constructed of permeable material and the arborist reports notes that it will be constructed above natural ground level. A note will be required on the plans as a condition of approval to state that the driveway within the Tree Protection Zone of this tree is constructed above natural ground level.

- Three additional canopy trees will be planted on the site as follows:
- One Red Box *Eucalyptus* (15 metre height with 8 metre canopy width at maturity) within the dwelling frontage just north of the driveway; and
- Two Froznan Pear trees (10 metre height with 4 metre canopy width at maturity) at the rear of the site, one each in the north-east and south-east of the site and outside of the easements so that the trees are positioned at least 1.83 metres from the rear boundary and at least 3.05 metres from the northern boundary.

The siting and layout of the proposed development allows for sufficient planting opportunities in and around the development. The canopy trees and the additional landscaping as set out in the landscape plan, will achieve the neighbourhood character objective of strengthening the garden settings of the dwellings and the tree canopy of the neighbourhood.

As noted by Council's Arborist, the submitted tree report is a good basis to form a Tree Management Plan tailored for the protection of the significant tree on the subject site. A tree protection bond of \$70,455 will be required for the protection of the *Corymbia malculata* Spotted Gum.

The proposed landscaping response will respect and enhance the existing landscaped character of the neighbourhood as required by Standard B13.

#### *Access and Parking Location*

Vehicle access to the two double-space garages is proposed via a relocated driveway from Lomond Terrace. The location and design of the proposed access arrangement is convenient and appropriate for the site and meets the requirements of Standard B14 and

B15. Specific requirements identified by Council's Transport & Parking Engineer will be addressed as conditions of approval.

### Amenity Impacts

#### *Side and Rear Setbacks*

The development has been sited to respect the neighbourhood character and limit the amenity impacts on the adjoining properties as required by Clause 55.04-1. Schedule 2 to the zone varies the side setback standard requirements and seeks new buildings to be setback a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary for a minimum length of 5 metres behind the front façade. The development meets this requirement.

Standard B17 is used to assess the appropriateness of the remaining side and rear boundary setbacks.

The development proposes ground floor setbacks from the northern boundary of minimum 4.05 metres for Unit 1. The maximum wall height will be 5 metres, requiring a setback of 1.42 metres. This exceeds the requirements at the ground level. The first floor setback will be minimum 4.75 metres. Overall wall heights at the highest point above natural ground level will be 7.403 metres (the section containing bedroom 4 and the WIR). The required setback is 2.493 metres for first floor. This exceeds the requirements.

With regard to Unit 2, ground floor setbacks from the northern boundary will be minimum 3.81 metres. The maximum wall height will be 5.055 metres, requiring a setback of 1.44 metres. This exceeds the requirements at the ground level. The first floor setback will be 4.823 metres. The overall wall height at the highest point above natural ground level will be 7.316 metres (the section containing bedroom 3 and the ensuite). The required setback is 2.405 metres. The proposal exceeds the requirement.

Unit 3 has setbacks from the rear (eastern) boundary of minimum 2.5 metres on the ground level. The maximum wall height will be 3.664 metres, requiring a setback of 1.02 metres. This exceeds the requirements at the ground level. The first floor setback will be minimum 4.881 metres, with a maximum overall wall height of 7.623 metres. The required setback for the first floor is 2.713 metres. The proposal exceeds the requirement.

Unit 1 proposes setbacks from the southern boundary of 5.32 metres on the ground level. The maximum wall height will be 5.563 metres, requiring a setback of 1.59 metres. This exceeds the requirements at the ground level. The first floor setback will be minimum 6.419 metres on the first floor level. With a maximum wall height of 8.533 metres above natural ground level, a minimum setback of 3.623 metres is required. The proposal exceeds the requirement.

Unit 2 proposes a setback from the southern boundary of 2 metres on the ground level. The maximum wall height will be approximately 5.36 metres, requiring a setback of 1.528 metres. This exceeds the requirements at the ground level. A setback of 3 metres is proposed on the first floor level. With a maximum wall height of 7.864 metres above natural ground level at the eastern section, a minimum setback of 2.954 metres is required, and this complies with the requirement. The western section of this wall, however, has a greater height from ground level as the land steps down in this location due to the existence of a retaining wall (this can be seen on the site survey plan that forms part of the application). The height of this part of the wall is approximately 8.3 metres, requiring a setback of 3.39 metres – a 3 metre setback is provided. It is noted that only a small section of this wall (approximately 1 metre wide) does not comply with the standard due to this site condition. A variation is supported for this given that there would be no unreasonable amenity impact resulting from the variation on the

adjoining dwelling. The secluded private open space area of this adjoining dwelling is in excess of 200 square metres in area and, as noted below, shadowing impacts from the proposed development would not be excessive. Given the size of the open space area, the variation will not present as a bulky or visually intrusive building. The variation to this standard is supported.

#### *Walls on Boundaries*

No walls are proposed along any boundaries.

#### *Daylight to existing windows and North facing windows*

Given the proposed siting of the development, there will be no impact on any existing habitable room windows (some of which are north-facing) of the adjoining dwelling at 4 Lomond Terrace. These windows are more than 10 metres from the proposed dwellings and this is in excess of the requirements of both Standard B19 Daylight to existing windows and Standard B20 North-facing windows.

#### *Overshadowing*

The submitted overshadowing diagrams indicate that the proposal results in areas of additional overshadowing to 6 Lomond Terrace from mid-morning. Standard B21 states that 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. The secluded private open space area of 6 Lomond Terrace is in excess of 200 square metres in area, and the standard is comfortably achieved. It is noted that no objections have been received from this property.

The shadow diagrams show additional shadows at 3pm to the side setback area of the dwelling at 1 Argyll Street to the rear of the site. The shadow would not be cast over any windows at this time. The laundry door of the dwelling opens out onto this setback area, and the windows of two bathrooms look out onto this space. A window of a bedroom faces the side setback area but this window is not where the shadows would be cast (also there is a second window to this bedroom which faces north to the private open space area of the dwelling). No shadows would be cast onto the secluded private open space area of this dwelling. Overshadowing impacts to 1 Argyll St complies with Standard B21.

#### *Overlooking*

The development has generally been designed to comply with Standard B22 to limit views into neighbouring habitable room windows and secluded private open spaces to the adjoining lots, with some additional screening required to some windows.

The plans note the construction of a new 1.8 metre high fence along the southern and eastern boundaries of the site, and a number of overlooking diagrams have been included on plan TP10 to demonstrate that views will be restricted by the new fence. The construction of a common boundary fence requires the approval of both site owners, and there is no certainty that this will be agreed to and no certainty as to when the new fence will be constructed. It is appropriate in all cases where compliance with Standard B22 relies on the construction of a new boundary fence, that a condition of approval requires that the plans be amended to demonstrate that either the existing boundary fence provides the required screening or that other appropriate screening in compliance with Standard B22 be provided to the windows.

North-facing habitable room windows of both dwellings on the ground floor level will be screened by the existing boundary fence. A window to the ensuite of Unit 1 on this elevation

shows the use of obscure glazing. On the first floor level, Unit 1 provides a high-sill window (sill height of 1.7 metres above floor level) to bedroom 4. A second window to Unit 1 on this elevation (bedroom 2) is approximately 10 metres from the common boundary and is not required to be screened. A window to the first-floor retreat of Unit 2 is located approximately 8.9 metres from the northern boundary – privacy protection is required within 9 metres of a window. It is noted that the existing 2.2 metre high boundary fence will adequately screen any potential views of the adjoining secluded private open space area to the north within 9 metres of the window. To the east, the viewing cone of this same window extends into a larger section of the secluded private open space of 1 Argyll Street. It is anticipated that any boundary fence would adequately screen views into this area, however, a condition of approval will require that this be clearly demonstrated, or screening will be required to this window.

With regard to the eastern elevation of the development, the boundary fence will screen the ground level windows of the kitchen and living room. The sitting room window of Unit 2 is located opposite non-habitable room windows (bathrooms and laundry) of 1 Argyll Street, and no screening is required as this complies with Standard B22, which requires a minimum offset of 1.5 metres from the edge of one habitable room window to the edge of another. The closest habitable room window of the adjoining dwelling is offset approximately 1.7 metres from the edge of the sitting room window. No screening measure is required for this window. The east-facing window to the first floor bathroom of this dwelling will have obscure glazing. Views into the adjoining secluded private open space area from the window to bedroom 3 may be possible - Overlooking Diagram OV1 on TP10 demonstrates that views will be restricted by the new fence. As noted above, a condition of approval will require that the plans to be amended to demonstrate that either the existing boundary fence provides the required screening or that other appropriate screening in compliance with Standard B22 be provided to the windows.

Views from the south-facing bedroom 2 window of Unit 2 may be possible into the secluded private open space area of 4 Lomond Terrace. Overlooking Diagram OV4 on TP10 demonstrates that views will be restricted by the proposed fence. A condition of approval as set out above will be required to ensure that appropriate screening in compliance with Standard B22 be provided to this window. The two south-facing first-floor bathroom windows of Unit 1 will have obscure glass. The first-floor window to the retreat is unscreened – window provides views onto the open space area within the dwelling frontage of 4 Lomond Terrace. This open space area is unfenced and clearly visible from the public realm. Screening of this window would not be required. The applicant has nevertheless provided Overlooking Diagram OV5 on TP10 to demonstrate that views will be restricted by the proposed fence. No condition for privacy screening will be required in this instance.

With regard to east and west facing windows looking into the site (ie the internal elevations of the dwellings), no screening is required for the east-facing bedroom 4 window of Unit 1 on the east internal elevation as the viewing cone does not extend outside of the site. The two west-facing windows to bedroom 4 of Unit 2 will potentially overlook into the adjoining site – the southern-most window is provided with a privacy fin which restricts all views to the adjoining site. Overlooking Diagram OV3 on TP10 indicates that views from the second window to this room will be restricted by the proposed boundary fence. As noted above, a condition of approval will require that the plans to be amended to demonstrate that either the existing boundary fence provides the required screening or that other appropriate screening in compliance with Standard B22 be provided to the windows.

### On-Site Amenity

#### *Access and dwelling entry*

The pedestrian entry to Unit 1 will be directly from Lomond Terrace and is considered identifiable and accessible. An entry porch for shelter is provided.

Access to Unit 2 will be via the driveway which is shared with Unit 1. The dwelling entry and porch of Unit 2 will be clearly visible from a distance once entering the driveway, given that the entry porch is not hidden behind any building or structure. This will provide a sense of safety and security for residents and visitors.

Given the slope of the land, both entries have steps. Given the space available, it would be possible for the ground level of the dwellings to be made accessible to people with limited mobility.

#### *Internal amenity*

The proposal is considered to provide a reasonable level of internal amenity. All proposed new habitable room windows are provided with adequate daylight, and both open plan living spaces on the ground level are oriented to the north. It is noted that these windows were increased in size to respond to concerns with regard to natural daylight to the large open plan spaces. The second living space for each dwellings on the ground level looks out onto private open space areas of that dwelling. Fixed and operable external shading devices have been provided to windows.

There will be minor internal views into the adjoining secluded private open space area on the subject site, but the proposal complies with Standard B23 Internal views which requires protection to at least 50% of the secluded private open space of a dwelling within the same development.

Both dwellings have access to north-facing private open space areas adjoining their open plan living/dining areas on the ground level. The dwellings will have adequate areas of private open space as follows:

Unit 1 - Total private open space area of approximately 285 square metres, of which approximately 95 square meters is secluded private open space.

Unit 2 – Total private open space area of approximately 158 square metres, most of which is secluded private open space.

Unit 1 has designated storage of 6 cubic metres within its garage (outside of the required clearance for the carparking area) in compliance with Standard B30. There is no designated storage area for Unit 2, and a condition of approval will require that this be shown.

Bin storage for each dwelling is noted on the plans (to the north of the master bedroom for Unit 1 and to the south of the sitting room for Unit 2). The location of mailboxes is shown on the plans – for Unit 1 this will be beside their pedestrian path and for Unit 2 within the landscaped area to the south of the driveway at the front of the site. There is a note to state that this letterbox will be less than 0.9 metres in height to protect view lines for vehicles existing the site.

#### **Car Parking and Traffic**

##### *Traffic*

Council's Transport & Parking have advised that, given the small number of parking spaces provided on the site, the traffic impact of this development is anticipated to be negligible.

##### *Car Parking*

As outlined above, the statutory car parking requirement of four spaces can be provided on the site in the form a two-space garage per dwelling.

##### *Car Parking Design*



As outlined above, the car parking has generally been designed in accordance with the applicable design standards at Clause 52.06. The outstanding issues can be resolved via conditions if a permit is issued.

### Sustainable Design Assessment

A Sustainable Design Assessment (SDA) is required for the proposal in accordance with Council's Environmentally Sustainable Development Policy at Clause 22.05. A detailed SDA was submitted with the application, including a BESS assessment, which achieves a score of 53%. This meets the best practice requirement of 50% and is satisfactory. The development achieves a pass in the four key performance categories of Water, Energy, Stormwater and IEQ. All key ESD initiatives have been annotated on the plans. The SDA was not updated to reflect the items contained/noted on the plans as being completed - a condition will require that this is amended accordingly.

A Water Sensitive Urban Design Response was included within the SDA. The report indicates the development achieves a STORM rating of 100% which is achieved by the provision of rainwater tanks with a total capacity of 8,000L. A 3,000L tank is proposed to Unit 1 and 5,000L for Unit 2, and are located within the private open space areas of each dwelling. It is noted that the tanks are not marked as being connected to toilets for flushing, and this will be required as a condition of approval. In addition, a note on the STORM report states that one additional bedroom per dwelling was added to reflect that the rainwater tanks will be connected to the laundries – a permit condition will require that this also be included on the plans. A cross-section detail and manufacturer's specifications are required to be provided for the permeable driveway.

Subject to these conditions, the requirements of Clause 22.18 are considered to be met.

### Objections

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

- Every application is required to be considered on its merits, taking into account the applicable planning policy framework, the site context and locality, and potential amenity impacts. There is potential for every development to change the nature of an area, but a development cannot be refused because it may set a precedent for similar development.
- Council's Infrastructure Engineer has no objection to the proposed development and has recommended a number of conditions to ensure that drainage is effectively managed.
- Noise generated by residents within the development will be residential in nature and would not unreasonably impact on the amenity of adjoining residents.
- Two car spaces per dwelling are provided on the site which meets the planning scheme requirements. No visitor car parking is required for the development. There will be no loss of on-street car parking.
- Loss of views is not a relevant planning consideration in this application and cannot form part of the assessment.
- There is concern that canopy trees are proposed close to the common boundary. As noted in this report, a 3.05-metre wide drainage and sewerage easement runs along the northern boundary of the site, and a 1.83-metre wide drainage and sewerage easement runs along the eastern (rear) boundary of the site. All canopy trees are located outside of these easements, providing a reasonable buffer to mitigate these

concerns. The provision of canopy trees on this site is a clearly stated objective of the neighbourhood character policy and is strongly supported.

## 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. 0750/19 - 6 Lomond Terrace, Malvern East [8.1.1 - 10 pages]

## Officer Recommendation

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 750/19 for the land located at 6 Lomond Terrace, Malvern East under the Stonnington Planning Scheme for the construction of a multi-dwelling development in the Neighbourhood Residential Zone subject to the following conditions:***

1. ***Before the commencement of the development, 1 copy of plans drawn to scale and fully dimensioned must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans prepared by WestUrban, Drawing No's. TP5 to TP11 and Council date stamped 24 July 2021, and the Landscape Plan Council date stamped 24 July 2021 but modified to show:***
  - a) ***Compliance with the requirements of Standard B22 either by the existing boundary fence or by another appropriate screening measure for the following windows:***
    - ***Bedroom 3 of Unit 2***
    - ***Bedroom 2 of Unit 2***
    - ***Bedroom 4 of Unit 2***
    - ***Retreat of Unit 2 looking into 1 Argyll Street.***
  - b) ***A minimum headroom clearance of 2.1 metres provided to each garage when the garage door is in an open position.***
  - c) ***New trees positioned outside of the sight distance triangle areas and other vegetation within this area to be below 0.9 metres in height.***
  - d) ***Adjustment to the driveway in front of the garage of Unit 2 to respond to the swept path turning area.***
  - e) ***The crossover splays to be 1.3 metres wide and straight on each side of the driveway.***
  - f) ***A roof plan.***

- g) A storage area for Unit 2 which complies with the requirements of Standard B30.**
- h) A note to state that the driveway within the Tree Protection Zone of the significant Eucalyptus scoparia Wallangara White Gum tree on the adjoining site at 4 Lomond Terrace will be constructed above natural ground level.**
- i) A note to state that the rainwater tanks are connected to all toilets for flushing and laundries for reuse.**
- j) Details of the stormwater treatment measure chosen to meet the requirements of Condition 6 (either the use of a stand-alone stormwater detention system or additional stormwater tank capacity).**
- k) A cross-section detail and manufacturer's specifications for the permeable paving to be used for the driveway.**
- l) The Sustainable Design Assessment updated to reflect that the items contained/noted on the plans as set out within the document have being completed.**

**All to the satisfaction of the Responsible Authority.**

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
- 3. Prior to occupation of the building or commencement of use, any existing vehicular crossing made redundant by the building and works hereby permitted must be broken out and re-instated as standard footpath and kerb and channel at the permit holders cost to the approval and satisfaction of the Responsible Authority.**
- 4. The existing surface/ground levels within the easements on the land must be retained at current levels.**
- 5. Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development and design for the driveway must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity based system. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.**
- 6. The applicant must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the stand-alone detention system, the owner may provide stormwater tanks that are in total 4,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets and must be to the satisfaction of the Responsible Authority.**
- 7. Before the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.**



8. ***All existing vegetation shown on the endorsed plans to be retained must be suitably and clearly identified before any development (including demolition and excavation) starts on the site and that vegetation must not be removed, destroyed or lopped without the written consent of the Responsible Authority.***
9. ***Concurrent with the endorsement of development plans a tree management plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the tree management plan will form part of this permit and all works must be done in accordance with the tree management plan (AS 4970)***

***The tree management plan must detail measures to protect and ensure the viability of *Corymbia maculate* (Spotted Gum) located within the site frontage and the *Tristanopsis laurina* (Kanooka) street tree.***

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

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

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

10. ***Before the development (including excavation and demolition) starts, a tree protection fence must be erected around the *Corymbia maculate* (Spotted Gum). Fencing is to be compliant with Section 4 of AS 4970. Signage identifying the need for approval from Council's Parks Unit for any root cutting (prior to it occurring) must also be displayed on the fence.***
11. ***Prior to the endorsement of plans and prior to any development commencing on the site (including demolition and excavation whether or not a planning permit is required), the owner/ developer must enter into a Deed with the Responsible Authority and provide it with a bank guarantee of \$70,455 + GST as security against a failure to protect the health of the *Corymbia maculate* (Spotted Gum) tree to be retained. The applicant must meet all costs associated with drafting and execution of the Deed, including those incurred by the responsible authority. Once a period of 12 months has lapsed following the completion of all works at the site the Responsible Authority may discharge the bank guarantee upon the written request of the obligor. At that time, the Responsible Authority will inspect the tree(s) and, provided they have not been detrimentally affected, the bank guarantee will be discharged.***
12. ***Concurrent with the endorsement of plans or prior to the commencement of any works at the site (including demolition and excavation whether or not a planning***

*permit is required), whichever occurs sooner, a letter of engagement must be provided to the Responsible Authority from the project arborist selected to oversee all relevant tree protection works. The project arborist must be an appropriately experienced and qualified professional (minimum Cert IV or equivalent in experience).*

13. *The project arborist must maintain a log book detailing all site visits. The log book must be made available to the Responsible Authority within 24 hours of any request.*
14. *Prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), the project arborist must advise the Responsible Authority in writing that the Tree Protection Fences have been installed to their satisfaction.*
15. *Protection fencing must be afforded to the *Tristaniopsis laurina* (Kanooka) street tree prior to construction works occurring. Fencing must comply with Section 4 of AS 4970 and form a 2m x 2m protection zone around the tree.*
16. *No vehicular or pedestrian access, trenching or soil excavation is to occur within the tree protection zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the tree protection zone.*
17. *The permit holder / developer must advise Council in writing that a Certificate of Occupancy has been issued in respect to the development and that the 12 month establishment period has commenced.*
18. *The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.*
19. *This permit will expire if one of the following circumstances applies:*
  - a. *The development is not started within two years of the date of this permit.*
  - b. *The development is not completed within four years of the date of this permit.*

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

#### **NOTES**

- A. *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.*
- B. *Nothing in this permit hereby issued shall be construed to allow the removal of, damage to or pruning of a significant tree (including the roots) without the further written approval of Council.*

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

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

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

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

- C. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.**
- D. Council has adopted a zero tolerance approach in respect to the failure to implement the vegetation related requirements of Planning Permits and endorsed documentation. Any failure to fully adhere to these requirements will be cause for prosecution. This is the first and only warning which will be issued.**
- E. 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.**

## 8.2 Planning Application 0150/21 - 105 Finch Street, Malvern East

**Manager Statutory Planning: Alex Kastaniotis**

**Director Planning & Place: Annaliese Battista**

### Purpose of Report

For Council to consider a planning application for full demolition and construction of a new dwelling in a Heritage Overlay at 105 Finch Street, Malvern East.

### Abstract

#### Proposal

The proposal seeks to demolish the existing ungraded building in full and construct a double-storey dwelling. The new dwelling comprises seven (7) bedrooms plus a study and two (2) car spaces in a garage.

#### 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 proposed demolition and construction of a new dwelling is consistent with the objectives of the Heritage Policy.
- The proposed demolition and construction of a new dwelling will not adversely affect the significance of the heritage place and precinct.
- The proposed dwelling adopts a form, scale and use of materials consistent with and complimentary to other heritage dwellings within the heritage precinct.

#### Issues

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

- Adverse impact on heritage buildings and streetscape (refer to Heritage Assessment);
- Building height and massing (refer to Heritage and Built Form Assessment); and,
- Materials and design (refer to Heritage and Built Form Assessment).

#### Officer's response

- The existing dwelling is a modern building constructed in 1987, is ungraded and does not contribute to the heritage significance of the *Gascoigne Estate Heritage Precinct (HO133)*. Subject to the construction of a suitable replacement building, the Heritage Policy pursuant to Clause 22.04-4.1 of the Stonnington Planning Scheme supports the demolition of ungraded buildings.
- The proposed dwelling will provide for a respectful addition to the heritage streetscape that incorporates key design features and materials that are typically associated with heritage buildings within the *Gascoigne Estate Heritage Precinct (HO133)*. The incorporation of both traditional and modern design elements and materials will be undertaken in a respectful manner that references with replicating heritage buildings in the precinct and yet is clearly identifiable as a modern building. The modern elements of the building will be located primarily to the rear of the dwelling ensuring that they are not visually prominent.
- The proposed height and massing of the proposed dwelling is consistent with other heritage dwellings within the *Gascoigne Estate Heritage Precinct (HO133)*. The

design will not result in any appearance of visual bulk with the provision of setbacks from Finch Street and side boundaries, maximum building height and site coverage complimentary to those of surrounding dwellings.

### Executive Summary

|   |   |
|---|---|
| Applicant:                                      | Isobell Vescovi<br>SJB Planning                 |
| Ward:   | East  |
| Zone:   | Neighbourhood Residential Zone – Schedule 2     |
| Overlay:  | Heritage Overlay - HO133                        |
| Neighbourhood Precinct:                         | Garden Suburban 1                               |
| Date Lodged:                                    | 03 March 2021                                   |
| Statutory Days:<br>(as at Council Meeting date) | 98  |
| Trigger for Referral to Council:                | More than seven (7) objections                  |
| Cultural Heritage Plan                          | No  |
| Number of Objections:                           | Eleven (11) objections from nine (9) properties |
| Consultative Meeting:                           | Yes – held on 7 September 2021                  |
| Officer Recommendation                          | Notice of Decision to Grant a Planning Permit   |

### Background

#### The Proposal

The plans that form part of the basis of Council's consideration were prepared by Inform Design and are known as Job No. 1395, Drawing No's.: 01-11 (Total of sixteen (16) pages) and Council date stamped 15 June 2021.

Key features of the proposal are:

- Demolition of the existing two-storey dwelling. The proposed demolition is for the entire structure including the attached garage and verandah.
- Demolition of the pergolas located to the north and west of the dwelling.
- Demolition of the existing front fence.
- Demolition of various landscaping features including plantings, paving and garden beds.
- Construction of a two-storey dwelling. The dwelling incorporates a hipped tiled roof for the eastern section of the dwelling with a maximum height of 8.564 metres and a flat metal clad roof for the western section of the dwelling with a maximum height of 7.35 metres. The front façade of the dwelling will be set back 8.9 metres from the eastern boundary of the site. The dwelling will provide for a floor area of 323.48 square metres at ground floor level 228 square metres at upper floor level.
- The ground floor of the dwelling includes a double car garage, guest bedroom and the living, lounge, laundry and kitchen areas.
- The first floor of the dwelling includes 6 bedrooms with associated ensuites.

- The external walls of the dwelling are constructed from second-hand red brick and metal cladding finished in Monument with the hipped roof constructed from 'Slate' tiles and the flat roof from metal cladding finished in Monument.
- Construction of decking and pergola to the west of the dwelling. The decking is exempt from the requirement for a planning permit under the planning scheme.
- Construction of a brick and aluminum palisade front fence with a maximum height of 1.52 metres above ground level.
- Addition of new landscaping elements including paving, garden beds, seating, BBQ and the planting of five (5) canopy trees.

### Site and Surrounds

The site is located on the western side of Finch Street. The site has the following significant characteristics:

- The site is rectangular in shape with a frontage to Finch Street of 20.12 metres, a maximum depth of 40.84 metres and a land area of 821.7 square metres
- The site is located 141 metres to the south of the junction of Finch Street and Wattletree Road and 250 metres to the north of the junction of Finch Street and Central Park Road in Malvern East.
- The site is occupied by a modern two-storey dwelling constructed in 1987.
- The front fence located on the eastern boundary of the site is constructed from timber pickets with a maximum height of 1.8 metres.
- The site is located within the *Gascoigne Estate Heritage Precinct (HO133)*. The site is ungraded and is not contributory to the heritage precinct.
- Development within the immediate vicinity of the site comprises residential development. Detached single dwellings on a lot are the most commonly observed form of development and a key feature of the heritage precinct. The use of red face brick for external walls and terracotta tiles for roofs are the most commonly observed materials for dwellings on Finch Street.
- The planting of mature Plane Trees along both sides of Finch Street contribute significantly to the appearance and character of the streetscape and heritage precinct.

Key features of surrounding sites are as follows:

- To the immediate north of the site is No. 107 Finch Street. A detached two-storey Federation villa with a non-original rear extension occupies the site. The site has a B heritage grading.
- To the immediate west of the site are No's. 26 and 28 Anderson Street. No. 26 Anderson Street is occupied by a single storey dwelling. No. 28 Anderson Street is occupied by a single storey dwelling with non-original rear extension. Neither site is associated with a heritage overlay.
- To the immediate south of the site are No's. 103 and 103A Finch Street. A Federation villa with a C heritage grading previously occupied the two sites. The Federation villa was demolished and a two-storey residential building comprising two attached dwellings was constructed as authorised under Planning Permit No. 457/98.
- To the immediate east of the site is Finch Street. On the eastern side of Finch Street parallel to the site is No. 120 Finch Street. A two-storey Federation villa occupies the site. The site has a C heritage grading.

### Previous Planning Application/s

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



- Planning Permit No. 702/11 issued on 21 September 2011 for construction of a swimming pool on a lot in a Heritage Overlay at the subject site. The permit is current and relates to the swimming pool adjacent the western boundary of the site. The swimming pool is to be retained as part of the proposal under consideration.

#### The Title

The site is described on Certificate of Title Volume 09673 Folio 381 as Lot 1 on Title Plan 106833X (formerly known as part of Lot 26 on Plans of Subdivision 000855). No covenants or easements affect the land.

#### Planning Controls

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

##### *Zone*

Clause 32.09 – Neighbourhood Residential Zone – Schedule 2

Pursuant to Clause 32.09-5 a permit is required to construct or extend one dwelling on a lot less than 500 square metres. The lot has a land area greater than 500 square metres and therefore a permit is not required to construct one dwelling at the site.

##### *Overlay*

Clause 43.01 – Heritage Overlay – HO133

Pursuant to Clause 43.01-1 a permit is required to:

- Demolish or remove a building.
- Construct a building or construct or carry out works, including:
  - A fence, if the fence is visible from a street (other than a lane) or public park.
  - A pergola or verandah, including an open-sided pergola or verandah to a dwelling with a finished floor level not more than 800mm above ground level and a maximum building height of 3 metres above ground level.
  - A deck, including a deck to a dwelling with a finished floor level not more than 800mm above ground level, if the deck is visible from a street (other than a lane) or public park. The deck is located at the rear of the dwelling and will not be visible from a street or public park. Therefore, a permit is not required.

##### *Particular Provisions*

Clause 52.06 - Car Parking

The proposal provides for two (2) on-site car parking spaces meeting the required number of car parking spaces for a five-bedroom dwelling pursuant to Clause 52.06-5 (Table 1, Column B) of the Stonnington Planning Scheme.

#### Relevant Planning Policies

Clause 21.06 – Built Environment and Heritage

Clause 22.04 – Heritage Policy

Clause 22.18 – Water Sensitive Urban Design Policy

Clause 22.19 – Reference Documents (including the City of Stonnington Heritage Design Guidelines 2017)

Clause 43.01 – Heritage Overlay

Clause 65 – Decision Guidelines

#### Advertising

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land (and

by placing one (1) sign on the site). The public notification of the application has been completed satisfactorily.

The site is located in East Ward and objections from eight (8) different properties have been received. The objections can be summarised as follows:

- The proposal seeks the demolition of a heritage building rather than the building's restoration and renovation.
- The proposed dwelling will have an adverse impact on the heritage streetscape.
- The location, bulk, form and appearance of the proposed dwelling is inconsistent with the character and appearance of adjacent heritage buildings.
- The proposed dwelling does not respond to the size and dimensions of the allotment and the density of original or early developments within the precinct.
- The upper level of the proposed dwelling is not visually recessive and is inconsistent with the scale, preferred height and setbacks, and heritage significance of the other heritage buildings in the precinct.
- The proposed dwelling will present significant visual bulk from oblique viewpoints from the footpath on the opposite side of the street or laneways.
- The proposed materials are inconsistent with those of the other heritage dwellings within the precinct.
- The proposal will have an adverse effect on surrounding amenity.
- The proposal will have an adverse impact on on-street parking.
- The proposal will have an adverse impact on trees located on neighbouring properties.

A Consultative Meeting was held on 7 September 2021. The meeting was attended by Councillors Klisaris and Morgan, representatives of the applicant, objectors and a Council planning officer. The meeting did not result in any changes to the plans.

## Referrals

### Heritage

- The proposal is supported.
- The use of second-hand red brick for sections of the external facade is considered acceptable.
- The roof and trims should be as light a grey as possible.

Planners Note: Following receipt of the above referral advice, the applicant proposed the use of "slate" tiles for the tiled section of the roof.

Additional referral comments based on correspondence with the applicant regarding the materials and finishes associated with the roof were received on 2 June 2021 and stated as follows:

- The proposed use of "Slate" roof tiles is supported.

### Infrastructure

- The information provided demonstrates that the property has an outfall drain however; details of the drain's capacity and condition remain unclear.
- Accordingly, the following conditions are required:
  - The owner must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the stand-alone detention system, the owner may provide stormwater tanks



- that are in total 2,500 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.
- A report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared in accordance with all 'recommendations' and requirements in that report prior to a building permit being issued. Protection of the building must be provided from a 1 in 100 A.R.I. event as required by the Building Regulations and all drainage must be by means of a gravity based system and not pumped.

#### Transport and Parking

- The garage meets the requirements of the Planning Scheme and is considered satisfactory.
- The traffic generated by the proposal is unlikely to unreasonably impact existing road network conditions.
- Although not required by the Planning Scheme, the applicant should provide sight triangles and update the plans to show the dimensions of the garage and gradients of the parking area and access way.
- The existing vehicle crossing is to be retained. The existing vehicle crossing is considered satisfactory however upgrading the vehicle crossing in-line with the Vehicle Crossing Policy should be considered.

Planners Note: The provision of sight triangles and gradients of the parking area and access way are not assessed under as part of the planning permit. The plans provide sufficient information and detail to determine the dimensions of the garage.

#### Crossovers

- The vehicle crossing is existing and complies with the Vehicle Crossing Policy, as the proposal does not include no change to the crossover proposed.
- It is recommended that the crossover be reconstructed to Council Standard.

Planners Note: The proposal does not include any changes to the existing crossover and any recommendation is a matter for the applicant to consider. Maintaining the existing crossover does not have any bearing on the assessment of the application.

#### Parks

- The significant *Eucalyptus nichollii* (Narrow Leaved Peppermint) within the front setback shown as removed has been rejected for removal following a recent Local Law application (TRIM – 21/48017). The retention will require an amendment to the landscape plan.
- The following permit conditions are required:
  - Protection fencing must be afforded to the two *Platanus x acerifolia* (London Plane) street trees at this location prior to construction works occurring. Fencing must comply with Section 4 of AS 4970 and form a 2m x 2m protection zone around the tree.
  - No vehicular or pedestrian access, trenching or soil excavation is to occur within the tree protection zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the tree protection zone.

Planner Note: A revised landscape plan showing the retention of the *Eucalyptus nichollii* (Narrow Leaved Peppermint) was included as part of the amended plans submitted to Council on 15 June 2021.

Additional referral comments based on the amended landscape plan were received on 7 July 2021 and stated as follows:

- The landscape plan is suitable for approval.

## Key Issues and Discussion

### Heritage

Given the only permit requirements relate to the Heritage Overlay, the focus of the assessment is limited to the impact of the proposal with regard to heritage.

### Demolition

The proposal includes the full demolition of the existing “ungraded” dwelling on the subject site. The proposal also includes the demolition of the front fence, pergolas and various landscaping features including paving and garden beds.

Pursuant to Clause 22.04-4.1 of the Stonnington Planning Scheme, the Heritage Policy states the following in regards to demolition of ungraded buildings:

- *Support demolition of ungraded buildings with an appropriate replacement building design (consistent with the provisions of Clause 22.04-4.5).*

Furthermore, Council’s *Heritage Guidelines (2017)* state that:

- *Full and partial demolition of ungraded places is supported.*

With consideration to the above policy, the proposed demolition is considered appropriate for the following reasons:

- The existing dwelling, constructed in 1987, is an ungraded dwelling that does not contribute to the heritage significance of the *Gascoigne Estate Heritage Precinct (HO133)*. Both the Heritage Policy and *Council’s Heritage Guidelines (2017)*, subject to the provision of an appropriate replacement building, support the demolition of ungraded dwellings.
- The new dwelling, as will be discussed in further detail below, provides an appropriate development for both the site within an individual context and as part of the wider the *Gascoigne Estate Heritage Precinct (HO133)*.
- The existing front fence is a non-original feature of the site and the demolition of the fence will have no adverse impact on the heritage significance of the site and *Gascoigne Estate Heritage Precinct (HO133)* more broadly. The proposed replacement fence, as will be discussed in further detail below, provides for a fence design and height that is more appropriate to the heritage streetscape.
- The two pergolas, located to the west and north of the dwelling respectively, are non-original features and do not contribute to the heritage significance of the site and wider heritage precinct. Their demolition will have no adverse impact on the heritage significance of the site and wider heritage precinct.

### New buildings

Pursuant to Clause 22.04-4.5 of the Stonnington Planning Scheme, it is policy to:

- *Ensure that new buildings:*
  - *Are readily identifiable as new buildings while respecting and having minimal impact on the significance of the heritage place.*
  - *Retain vistas and viewlines to significant places.*

- *Ensure that new buildings complement adjacent significant or contributory places and the prevailing character of the precinct with regard to:*
  - *Height, street wall height, scale, mass, setbacks, orientation, roof forms, fenestration and general form.*
  - *Relationships between solids and voids and the form and arrangement of window and door openings.*
  - *Materials, detailing, finishes and colour schemes.*
- *Discourage new built form in front of the primary building volume of significant or contributory places.*

The Scheme further stipulates that in residential areas, it is policy to:

- *Ensure that new dwellings complement significant and contributory buildings in the precinct in respect to:*
  - *Building orientation.*
  - *Height, scale, setbacks and building spacing.*
  - *Ground and first floor proportions.*
  - *Roof pitch and form.*
  - *Windows and wall openings.*
  - *Verandahs.*
  - *Front and side fence alignment and height.*

Furthermore, Council's *Heritage Guidelines (2017)* state that new buildings should:

- *Complement the heritage significance of the place.*
- *Retain the visual prominence of significant places in the street and views to significant places.*
- *Adopt the scale, massing, setbacks and general form of adjoining significant and contributory places in the precinct.*
- *Meet the preferred outcomes for building orientation, front and side setbacks and spacing consistent with the pattern established by existing significant and contributory buildings in the street/s.*
- *Respond to the size and dimensions of the allotment and the density of original or early development within the place.*
- *Include upper levels which are:*
  - *Visually recessive.*
  - *Consistent with the scale and heritage significance of the adjoining significant and contributory places.*
  - *Consistent with the preferred height or setbacks in a schedule to a zone or overlay.*
- *Present minimal visual bulk from oblique view points from the footpath on the opposite side of the street/s or laneways. For corner sites, be consistent with the setbacks of buildings on both streets.*
- *Adopt an understated, modern interpretation of the historic form which is discernable from the heritage built form of the precinct without providing a strong visual contrast.*
- *Include architectural elements which complement existing local buildings without reproducing their historic detailing.*
- *Complement the relationship between solids and voids and the form and arrangement of window and door openings of adjoining significant and contributory heritage places.*

With consideration of the referral comments received from Council's Heritage Advisor and of the above policy, the proposed new dwellings is considered acceptable for the following reasons:

- The dwelling will adopt a two-storey design orientated towards Finch Street along an east-west axis. The design is consistent with scale and orientation of other dwellings observed on Finch Street. These properties include No's. 103/103A, 105 and 120 Finch Street that are of a two-storey design that adopt an east-west orientation.
- The design of the dwelling will incorporate a combination of both traditional and contemporary design elements. Key design features include the extensive use of second-hand red face brick for the external walls and 'slate' tiles for the hipped roof of the eastern section of the dwelling fronting onto the Finch Street. These features reflect traditional design elements observed in other buildings in the heritage precinct. Modern design elements will also be incorporated into the building including the provision of two balconies as part of the eastern facing section of the hipped roof and a flat roof metal clad upper level to the west of the hipped roof. These elements will be incorporated into the dwelling in a manner whereby they will appear as subservient to the elements of the dwelling that more directly reference the heritage character of other buildings in the heritage precinct. The respectful combination of both traditional and modern design will result in a dwelling that presents as an understated, modern interpretation of the historic form that is both discernible as a modern building while being respectful of the heritage built form of the precinct.
- The dwelling will incorporate second-hand red face brick into the external walls. The use of red face brick will result in the visual appearance of the dwelling reflecting the use of red brick as the primary material used in heritage buildings for external walls on Finch Street. The use of metal cladding finished in Monument for the first floor external walls, which are primarily associated with the eastern section of the dwelling, will generally not be visible from oblique views from Finch Street. Consequently, these sections of the dwelling will have no adverse impact on the heritage significance of adjacent properties and the associated heritage precinct.
- The dwelling will incorporate a hipped tiled roof for the front section of the dwelling with a metal cladding flat roof proposed to the rear, of the dwelling. Hipped or pitched roofs are a common design feature of heritage buildings on Finch Street. The proposed use of a hipped roof will ensure the dwelling presents to Finch Street in manner that is both consistent and complimentary to heritage dwellings on the street. The metal cladding flat roof will be associated with sections of the dwelling that will generally not be visible from Finch Street. Consequently, the flat metal clad roofed section of the dwelling will have no adverse impact on the heritage significance of adjacent properties and the associated heritage precinct.
- The use of both traditional and contemporary materials in the dwelling, and their respective concentration towards the eastern and western sections of the dwelling, will ensure that the dwelling is simultaneously complementary to heritage dwellings on Finch Street while being readily identifiable as a modern building.
- The front façade of the dwelling will be set back from Finch Street by a distance of 8.9 metres. This setback equals the average setback of the dwellings immediately to the north and south of the site, No's. 103/103A and 107 Finch Street, that provide for an 8.1 metre and 9.7 metre setback respectively.
- With the exception of the garage that is to be built on the southern boundary, the ground floor of the dwelling will be setback a minimum of 1 metre from the northern boundary and a minimum of 2 metres from the southern boundary. These setbacks are generally consistent with the setbacks of other dwellings in the street and will retain and reinforce the existing rhythm and spacing of dwellings on Finch Street. The upper level of the dwelling will be setback further from the side boundaries than the ground

floor providing for a tiered design approach that reduces any appearance of visual bulk associated with the building ensuring the upper level appears as visually recessive.

- The proposed setback, scale and height of the dwelling will ensure that it does not obscure vistas and viewlines to significant buildings within the heritage precinct.
- The proposed front fence, to be constructed from a combination of face brick and aluminium palisades to a maximum height of 1.52 metres, will provide for an improved heritage outcome compared with the existing 1.8 metre high front fence.
- The proposed pergolas to the west and east of the dwelling will be incorporated into the built form of the dwelling and present as a natural extension of the built form. The pergolas will have no adverse impact on the heritage significance of the dwelling and wider heritage precinct.

### Garden Area Requirements

Pursuant to Clause 32.09-4 of the Stonnington Planning Scheme, an application to construct or extend a dwelling or residential building on a lot above 650 square metres must provide a minimum garden area comprising 35% of the lot size. With a lot size of 821.7 square metres, the garden area must provide for a minimum of 287.595 square metres. The proposal will provide for a garden area of 508 square metres, or 61.82% of the lot. The proposal complies with the requirement of Clause 32.09-4 of the Stonnington Planning Scheme.

### Maximum Building Height

Pursuant to Clause 32.09-10 of the Stonnington Planning Scheme a building must not be constructed for use as a dwelling or a residential building that exceeds 9 metres in height and must contain no more than two storeys at any point. The proposed additions will provide for a maximum height of 8.35 metres above ground level and two storeys at any one point. The maximum height of the dwelling will be less than the maximum height of the two dwellings immediately to the south and north of the site, No's. 103/103A and 107 Finch Street. The proposal complies with the requirements of Clause 32.09-10 of the Stonnington Planning Scheme.

### Water Sensitive Urban Design

Pursuant to Clause 22.18 of the Stonnington Planning Scheme, a Water Sensitive Urban Design Response is required for new buildings. A STORM Rating Report has been submitted as part of the application and is Council date stamped 15 June 2021. The proposal achieves a STORM Rating of 100% through the installation of a 5,900 Litre rainwater tank and a 6,600 Litre rainwater tank. The amended plans Council date stamped 15 June 2021 show the 5,900 Litre rainwater tank located north of the living room and the 6,600 Litre rainwater tank located south of the meals room. The proposed location of the rainwater tanks would not be visible from the street and would have no adverse effect on the heritage significance of the building or streetscape. The amended plans indicate that the rainwater tanks will be connected to the proposed water closets and irrigation systems. Furthermore, a roof plan indicating the collection areas of the rainwater tanks has been submitted as part of the amended plans Council date stamped 15 June 2021.

### Objections

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

- *The proposed dwelling does not respond to the size and dimensions of the allotment and the density of original or early developments within the precinct.*

The scale of the proposed dwelling, which adopts a two-storey built form with a maximum height of 8.564 metres and a site coverage of 41.63% of the lot size, is consistent with the scale and density of other heritage dwellings located within the *Gascoigne Estate Heritage Precinct (HO133)* on similar sized allotments.

- *The upper level of the proposed dwelling is not visually recessive and is inconsistent with the scale, preferred height and setbacks, and heritage significance of the other heritage buildings in the precinct.*

With the exception of the two balconies incorporated into the east facing section of the hipped roof, the upper level will be set into and behind the hipped roof. The hipped roof will restrict views to the majority of the upper level from the streetscape and thereby ensure that the upper level presents as a visually recessive element of the dwelling. The proposed maximum height of the dwelling, at 8.564 metres, is less than the maximum height of the adjacent properties at No. 103/103A and 107 Finch Street with the flat roof section of the dwelling reaching a maximum height of 7.35 metres. The upper level will be set back from the site's boundaries at a distance greater than the ground floor adding to the sense of the upper level being visually recessive. The upper level of the proposed dwelling is consistent with other heritage buildings in the precinct and for the above stated reasons will have no adverse impact on the heritage significance of other buildings in the precinct.

- *The proposal will have an adverse effect on surrounding amenity.*

The proposal was not assessed against the requirements of Clause 54 (ResCode- One dwelling on a lot). Amenity impacts will be assessed as part of any future application for a building permit.

- *The proposed location of plant and equipment will effect surrounding amenity.*

The proposed plant and equipment is to be located to either the side of the dwelling or contained internally within the dwelling and will not adversely affect the heritage significance of the site or streetscape. The proposed locations will be assessed as part of any future application for a building permit against any relevant building regulations.

- *The proposal will have an adverse impact on trees located on neighbouring properties.*

The proposal has been assessed by Council's Arborist who has required the inclusion of permit conditions to ensure significant trees located at the road reserve are protected throughout the construction phase of the proposal. Council's Arborist did not raise any concern in relation to any significant trees located on adjacent properties.

- *The proposed tree plantings will block sunlight to adjacent properties.*

The proposed planting schedule indicates that all large canopy trees would be located to the north of the dwelling with nine (9) Compact Lily Pilly trees planted along the southern boundary. With a maintained height of 3.5 metres, these trees will not unreasonably block sunlight to adjacent properties.

## **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. 0150/21 - 105 Finch Street, Malvern East [8.2.1 - 39 pages]

### Officer Recommendation

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 150/21 for the land located at 105 Finch Street Malvern East under the Stonnington Planning Scheme for full demolition and construction of a new dwelling in a Heritage Overlay subject to the following conditions:***

1. ***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.***
2. ***Protection fencing must be afforded to the two Platanus x acerifolia (London Plane) street trees at this location prior to construction works occurring. Fencing must comply with Section 4 of AS 4970 and form a 2m x 2m protection zone around the tree.***
3. ***No vehicular or pedestrian access, trenching or soil excavation is to occur within the tree protection zone without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the tree protection zone to the satisfaction of the Responsible Authority.***
4. ***The owner must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the stand-alone detention system, the owner may provide stormwater tanks that are in total 2,500 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets to the satisfaction of the Responsible Authority***
5. ***A report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared in accordance with all 'recommendations' and requirements in that report prior to a building permit being issued. Protection of the building must be provided from a 1 in 100 A.R.I. event as required by the Building Regulations and all drainage must be by means of a gravity based system and not pumped.***
6. ***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.***
7. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
8. ***This permit will expire if one of the following circumstances applies:***
  - a) ***The development is not started within two years of the date of this permit.***
  - b) ***The development is not completed within four years of the date of this permit.***

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

**Notes**

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

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

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

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

- D. 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.**
- E. This permit application was not assessed against the provisions of Clause 54 – One Dwelling on a Lot (ResCode) of the Stonnington Planning Scheme. As such, it is the responsibility of the applicant/owner to appoint a Registered Building Surveyor to determine compliance of the endorsed plans associated with the issue of this Planning Permit against Part 5 of the Building Regulations 2018. Non-compliance with any Regulation under Part 5 will require the report and consent from Council’s Building and Local Law Services Department.**
- 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.**



## 8.3 Planning Application 0199/21 - 1405 Dandenong Road, Malvern East

**Manager Statutory Planning: Alex Kastaniotis**

**Director Planning & Place: Annaliese Battista**

### Purpose of Report

For Council to consider a planning application for construction of a multi dwelling development in a Residential Growth Zone and to create or alter access to a Road Zone, Category 1 at 1405 Dandenong Road, Malvern East.

### Abstract

#### Proposal

The application proposes to construct a three-storey building (part four-storey due to a section of the basement being elevated above 1.2 metres) to contain 10 apartments (7 x two bedroom and 3 x three bedroom) with vehicle access from Dandenong Road to a basement garage containing 13 resident car spaces and 1 visitor car space.

#### 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 proposed development is consistent with the objectives of State and Local Planning Policy.
- The development is appropriately located to accommodate a medium density development. The site is located on a main road and within walking distance of Chadstone Shopping Centre, a Principal Activity Centre, which provides access to a range of amenities and services.
- The proposal provides for a satisfactory landscape response that will contribute to the landscape character of the area.
- The development will not unreasonably impact upon adjoining residential amenity.
- The development will provide for an appropriate level of internal amenity.
- Sufficient car parking is provided in accordance with the Stonnington Planning Scheme and the development will not result in unreasonable traffic and parking impacts.

#### Issues

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

- Building height, scale and massing (refer to Neighbourhood Character and Built Form assessment);
- Amenity impacts on the adjoining properties (refer to Amenity Impacts assessment);
- Internal amenity within the development (refer to Internal Amenity and Environmentally Sustainable Design assessment) and;
- Car parking and traffic impacts (refer to Car Parking and Traffic assessment).

#### Officer's response

The proposal seeks to construct a three-storey building (part four-storey due to a section of the basement being elevated above 1.2 metres) to contain 10 apartments (7 x two bedroom and 3 x three bedroom). The subject site has attributes which makes it suited to being

redeveloped for higher density housing. It is located in the Residential Growth Zone, fronting an arterial road in a Road Zone Category 1 and in an established 'substantial change area', where a high proportion of medium and high density housing already exists and where medium and high density housing are directed to. It is an appropriate location for higher density housing, as is evident by the existing approval for the site.

The proposal is considered to appropriately respond to the surrounding context and the preferred character of the area.

The proposal meets all of the Objectives of Clause 55 and provides an acceptable level of internal amenity without compromising the amenity of neighbouring properties. The proposal also achieves a satisfactory environmentally sustainable design response.

The proposal provides adequate car parking and access arrangements.

### Executive Summary

|   |                                      |
|---|--------------------------------------|
| Applicant:                                      | John Henry<br>John Henry Architects  |
| Ward:   | East                                 |
| Zone:   | Residential Growth Zone – Schedule 1 |
| Overlay:  | Nil                                  |
| Neighbourhood Precinct:                         | Garden Suburban 5                    |
| Date Lodged:                                    | 22 March 2021                        |
| Statutory Days:<br>(as at Council Meeting date) | 69                                   |
| Trigger for Referral to Council:                | 4 storeys                            |
| Number of Objections:                           | 3                                    |
| Consultative Meeting:                           | No                                   |
| Officer Recommendation                          | Notice of Decision to Grant a Permit |

### Background

Planning Permit 302/13 was issued under delegation on 4 June 2014 and allows for a multi-dwelling development, altered access to a road in a Road Zone Category 1 and a reduction in the standard car parking requirement at 1405 Dandenong Road, Malvern East (the site). More specifically, the permit allowed for the construction of an apartment building containing 10 dwellings (7 x two bedroom and 3 x three bedroom), over a basement containing 14 car parking spaces. Plans were endorsed under the permit on 28 August 2014.

On 13 July 2018 Council approved an extension to the time in which to complete the development. The approval required the development to be completed by 4 June 2019.

On 21 November 2018, Council approved a series of changes to the plans pursuant to Section 72. Approved amendments included raising of levels across the site, the provision of architectural screens across the building exterior, adoption of varied colours and finishes and the extension of the apartment 10 balcony.

Development has commenced on the site and the basement, ground floor slab, and the lift shafts have been constructed. Given a request to further extend the permit was not received

within the prescribed timeframe and construction of the development has not been completed this permit has expired.

It should be noted that the proposal as per the subject application is similar to that approved under the previous permit.

### The Proposal

The plans that form part of the basis of Council's consideration were prepared by John Henry Architects and are known as Drawing No's PA101 Council date stamped 27 April 2021, PA000, PA100, PA102, PA205-PA207, PA400, PA500, PA501 Council date stamped 7 May 2021 and PA103, PA200-PA204, PA401-PA403 and PA900 Council date stamped 13 July 2021.

Key features of the proposal are:

- Construction of a three-storey building containing ten (10) apartments (7 x two bedroom and 3 x three bedroom apartments). Since the basement projects more than 1.2 metres above natural ground level, the building is technically referred to as four-storeys.
- A basement level car park is proposed below the building to provide 14 car spaces (13 resident spaces and 1 visitor space) to be accessed from Dandenong Road (service lane).
- A total of 10 resident bicycle spaces and 2 visitor bicycle spaces are proposed within the basement.
- The existing vehicle crossing on Dandenong Road (service lane) will be extended further north.
- The building is proposed to be setback from all boundaries (except for a small section of wall on the southern boundary) and will have a maximum height of 11.6 metres.
- The main pedestrian entry is accessed from the southern side of the building and provides access to two entry lobbies with lift and stairwell access for the apartments above.
- Each apartment is provided with a balcony ranging between 9 square metres and 51 square metres in size.
- The development is to be a contemporary flat roof building finished in rendered fibrecement sheeting in varying shades of brown and bronze frosted glass.
- The front fence is to be a 1.1 metre high clear glass balustrade.
- The development achieves a site coverage of 58.6% and permeability of 31%.
- The subject site does not contain any existing vegetation. Landscaping is proposed to the front and rear of the building and within planter boxes located along the northern boundary.

As noted above, the proposal is similar to that approved under the previous expired permit (Permit No. 302/13). There has been no change to the building height or setbacks. The main changes from the previous approval are as follows:

- Removal of the external architectural screens. The original approval did not feature this screen. This screen was approved via an amendment to the permit and provided the dual purpose of an architectural feature and privacy screening.
- Revert balcony balustrades back to frosted glass (rather than perforated metal screens).
- Revised external cladding colours from dark grey and black cladding to varying shades of brown cladding.

For clarity throughout this assessment, the front elevation facing Dandenong Road will be known as the west elevation as depicted on the application plans.

### Site and Surrounds

The site is located on the north-east side of Dandenong Road, Malvern East, approximately 300 metres south-east of the Chadstone Shopping Centre. Specifically, the site fronts the service road which extends along the north-east side of Dandenong Road in this location.

The site has the following significant characteristics:

- A rectangular shape with a street frontage of 20.32 metres and a depth of 45.7 metres.
- An overall site area of approximately 875 square metres.
- A fall towards the north of approximately 1 metre.
- A drainage easement along the full width of the rear boundary.

The property has been partially developed in accordance with the previous expired permit (Planning Permit No.302/13) and the basement, ground floor slab and the lift shafts are already built.

The area surrounding the subject site is residential and consists of a variety of housing types (i.e. houses, apartments, units). The site immediately abuts the following properties:

- 1 Arcade Avenue abuts the south-eastern portion of the site's rear boundary. The two-storey detached dwelling at this property is situated towards its frontage and for the most part the immediate interface to the site is to an area of private and secluded open space.
- 36 Woodlands Grove shares the remainder of the site's rear boundary. This property is developed with a double-storey brick residence, which is located approximately 19 metres from the common boundary with the site. The intervening area is used as private and secluded open space.
- To the south-east of the site, at 1407-1409 Dandenong Road, there is a large contemporary double-storey residential building, comprising 7 dwellings. A single crossover provides access to a basement car park. Dwellings are orientated to the side boundaries with private open space located on the north and west side of the building. The development is largely setback 3.4 metres from its north-west boundary (i.e. the common boundary with the subject site). A communal open space area has been incorporated to the rear (north-east) providing a setback of 7 metres to the rear boundary.
- To the north-west of the site is 1403 Dandenong Road, a large double storey brick apartment building containing 10 dwellings. The building is setback 1.9 metres from its south-east boundary and there are habitable room windows with an outlook to the south (towards the site).

### Previous Planning Applications

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

- Planning Permit 1204/05 was issued on 9 May 2006 and allowed for a multi-dwelling development at the site. More specifically, the permit allowed for the construction of a two-storey apartment building containing seven dwellings, over a basement car park with 10 parking spaces. This permit has expired.
- Planning Permit 302/13 was issued under delegation by Council on 4 June 2014 and allows for a multi-dwelling development, altered access to a road in a Road Zone Category 1 and a reduction in the standard car parking requirement at the subject site. More specifically the permit allowed for the construction of an apartment building

containing 10 dwellings (7 x two bedroom and 3 x three bedroom), over a basement containing 14 car parking spaces. As outlined above, construction on the site has commenced in accordance with this permit, however this permit has since expired.

### The Title

The site is described on Certificate of Title Volume 07198 Folio 596 Lot 65 on Plan of Subdivision 006609. A drainage easement runs along the rear boundary of the site. There are no restrictive covenants on the title.

### Planning Controls

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

#### Zone

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

Pursuant to Clause 32.07-5, a permit is required for the construction of two or more dwellings on a lot. A development up to four-storeys must meet the requirements of Clause 55.

Pursuant to Clause 32.07-9, a building must not be constructed for use as a dwelling or residential building that exceeds the maximum height specified in a schedule to this zone. If no maximum building height is specified in a schedule to this zone, the building height should not exceed 13.5 metres. No maximum building height is specified in Schedule 1 to the Residential Growth Zone. The application proposes an 11.6m high building, complying with the 13.5m discretionary building height control.

Schedule 1 to the Residential Growth Zone includes the following variation to Clause 55:

- Standard B8 (Site Coverage) - Basements should not exceed 75% of the site area.

#### Overlay

The site is not affected by any overlays.

#### Particular Provisions

##### *Clause 52.06 – Car Parking*

Pursuant to Table 1 at Clause 52.06-5, one car parking space is required to each one or two-bedroom dwelling and two car parking spaces are required to each three or more bedroom dwelling.

The development, comprising 7 x two bedroom and 3 x three bedroom dwellings, generates a statutory car parking requirement of 13 resident car spaces. The subject site is located within the Principal Public Transport Network (PPTN) area and therefore no visitor car parking is required to be provided on site.

The development provides 13 resident car spaces with a basement level of car parking, which meets the requirements of Clause 52.06. One visitor car space is also proposed within the basement, exceeding the visitor car parking requirements.

##### *Clause 52.29 – Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road*

Pursuant to Clause 52.29, a permit is required to create or alter access to a road in a Road Zone, Category 1. An application to create or alter access to a road declared as an arterial road under the *Road Management Act 2004* must be referred to the Roads Corporation

under Section 55 of the Act. The Department of Transport (formerly known as VicRoads) is a determining referral authority.

#### *Clause 52.34 – Bicycle Facilities*

Pursuant to Clause 52.34, bicycle parking is to be provided at the following rates:

Resident spaces: In developments of four or more storeys, 1 to each 5 dwellings

Visitor spaces: In developments of four or more storeys, 1 to each 10 dwellings

As this development is technically four storeys due to the basement projection, the development generates a requirement for 3 spaces (2 resident spaces and 1 visitor space). The proposal provides 10 resident spaces and 2 visitor spaces in the basement car park, which exceeds the statutory requirements of Clause 52.34.

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

Clause 55 applies to an application to construct a development of four storeys or less, excluding a basement. A development must meet all of the objectives of this clause and should meet all of the standards of this clause.

#### Relevant Planning Policies

Clause 15 – Built Environment and Heritage

Clause 16 – Housing

Clause 18 – Transport

Clause 21.03 – Vision

Clause 21.05 – Housing

Clause 21.06 – Built Environment and Heritage

Clause 22.05 – Environmentally Sustainable Development Policy

Clause 22.18 – Stormwater Management (Water Sensitive Urban Design) Policy

Clause 22.23 – Neighbourhood Character Policy

Clause 53.18 – Stormwater Management in Urban Development

Clause 55 – Two or more dwellings on a lot (ResCode)

#### Advertising

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

The site is located in East Ward and objections from three (3) different properties have been received. The objections are summarised as follows:

- Loss of sunlight and daylight;
- Proposal conflicts with BCA (Building Code of Australia) Health and Amenity requirements;
- Overlooking.

#### Referrals

##### *Urban Design*

- This is an application for a new planning permit for a development whose previous permit has expired.
- I have no concerns with the proposed changes to the external screening and colour scheme.
- The Landscape Plan should remain as previously approved.

Planner Note: The landscape plan submitted with the proposal is the same as that previously endorsed under Permit No.302/13.

#### *Parks*

- Landscape plan is satisfactory.
- No objection to the crossover. The street tree is no longer present at this location.

Planner Note: A street tree is depicted south-west of the crossover on the drawings submitted. This tree was removed by Council and has not been present in this location for a number of years. As such, a condition of permit will require deletion of this street tree as depicted on the plans.

#### *Environmentally Sustainable Design*

- All outstanding ESD and WSUD issues have been addressed by the applicant.
- The proposed development provides an acceptable outcome from an ESD/WSUD perspective.

#### *Infrastructure*

- Conditions are required relating to a report for the legal point of discharge, ensuring that protection of the building is provided from a 1 in 100 A.R.I. rainfall event, requirement for a stormwater detention system, requirement that the existing footpath levels must not be lowered or altered and all development must be clear of the rear easement with existing surface levels maintained.

#### *Transport and Parking*

- The additional traffic generated by the proposed development will not significantly impact upon the existing traffic conditions in the area.
- The plan shows one visitor parking space within the basement. As the site is within the Principal Public Transport Network area, there are no statutory requirements for on-site visitor parking. Notwithstanding, the site is close to Chadstone Shopping Centre and subject to high on-street parking occupancy nearby, especially during peak shopping days. There are no objections to the inclusion of a visitor car space within the site, and in fact this is recommended and strongly supported.
- The applicant should note that as the number of dwellings at the site is proposed to be increased by more than one, future occupants at the site would not be eligible to apply for residential parking permits.
- The requirement for 50% permeability within the sight distance triangle cannot be applied in instances where large objects are to be placed. Plans are to ensure a homogenous 50% permeability within the southern splay area.
- The offset of the columns in the basement are to be confirmed to be positioned in accordance with Clause 52.06-9 the Planning Scheme.
- The applicant is to confirm that a 1.8 metre bicycle parking envelope can be provided, while maintaining a 1.5 metre access aisle to the bicycles spaces, as per the Australian Standards.
- The plans show a splay of 800mm and 1.3m, with a hatched area in between. It is unclear to what this refers. Splays of 1.3m are to be provided.
- The four apartments at the rear are only accessible via stairs. The applicant may wish to consider making all apartments wheelchair accessible.
- The plan shows a toilet within the basement. It is understood that this is a shared facility, rather than for a specific dwelling. There are no objections to this arrangement.



Planner Note: With regards to consideration being made for wheelchair accessibility for the four rear apartments, while this would be ideal, it is noted that the basement, the ground floor slab, and the lift shafts are already built and changes cannot be made to the lifts and to basement (as these are structural). The remaining six apartments are provided a lift from the basement level. A ramp is provided from street level into the front lobby making it easily accessible for those with limited mobility.

The remaining requirements can be addressed via conditions.

#### *Waste*

- The comprehensive Waste Management Plan that accompanied this proposal responded well to the waste management challenges presented in the plans.

#### *Department of Transport (DoT)*

The Head, Transport for Victoria has considered this application and does not object if the permit is subject to the following note to be included on any approved permit:

- The proposed development requires works within the road reserve. Separate approval under the *Road Management Act 2004* for this activity is required from the Head, Transport for Victoria. Please contact the Department of Transport (Roads) prior to commencing any works.

### **Key Issues and Discussion**

#### *Strategic Justification*

The site is located within a robust context, facing an arterial main road. It is subject to the Residential Growth Zone (RGZ), and it is within the context of multi-storey, multi-dwelling development in Dandenong Road.

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

- *To provide housing at increased densities in buildings up to and including four storey buildings*
- *To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres*
- *To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential area; and*
- *To ensure residential development achieves design objectives specified in a schedule to this zone.*

The State Planning Policy Framework encourages higher density residential development on sites within established urban areas close to activity centres, employment corridors and public transport. Specifically, Clause 16 of the Stonnington Planning Scheme relates to housing and encourages diversity of housing; improved housing choice; affordable housing; and well located housing in relation to activity centres, employment and public transport.

In addition, Council's Municipal Strategic Statement (Clause 21.05-2) refers to the concept of change areas for residential growth and references 'substantial change', 'incremental change' and 'minimal change' areas as a key reference. 'Substantial change' areas are defined as land with immediate abuttal to a main road containing a tram or priority bus route, as well as land in, beside or opposite Activity Centres or in a Mixed Use Zone as a freestanding development.

The subject site has attributes which makes it suited to being redeveloped for higher density housing. The site is located within a substantial change area given Dandenong Road in this location is identified as a Tram / Bus Priority Route within the Strategic Framework Plan provided at Clause 21.03 (Vision). It is located in the Residential Growth Zone, fronting an arterial road in a Road Zone Category 1 and in an established 'substantial change area', where a high proportion of medium and high density housing already exists and where medium and high density housing are directed to. It is an appropriate location for higher density housing, as is evident by the previous approval for the site.

While the Neighbourhood Character Policy does not specifically require buildings within the Residential Growth Zone to respond to the scale of the streetscape, the predominant three-storey built form is similar in height to a number of existing and approved buildings along Dandenong Road.

The site is also well serviced by physical and social infrastructure and is located within approximately 300 metres walking distance of Chadstone Shopping Centre, a Principal Activity Centre, which provides access to a range of amenities and services including public transport (buses).

There is State and Local Policy support for the redevelopment and residential intensification of the subject site. The proposal is consistent with state and local policies in that it provides for residential development that represents a more efficient residential use of the site in an existing residential area and improves housing choice. The site will be able to take advantage of public transport links and a number of community services and facilities in close proximity to the subject site including, the Chadstone Shopping Centre.

Given the subject site is located within a substantial change area, the typical expectations for site coverage, built form and landscaping of residential land should be balanced against the policy direction seeking intensification of development and density.

### Neighbourhood Character

Unlike the General Residential Zone or the Neighbourhood Residential Zone, the objectives of the Residential Growth Zone make no specific reference of seeking to respect the existing neighbourhood character. Notwithstanding, neighbourhood character is still a relevant consideration referenced in various objectives in Clause 55 and the local policies.

Pursuant to Clause 22.23 (Neighbourhood Character) the site is part of the Garden Suburban 5 Precinct, where the following Statement of Preferred Neighbourhood Character applies:

*The Garden Suburban 5 (GS5) precinct is defined by spacious and leafy streetscapes with Interwar or Post-war era and new buildings set in established garden surrounds. Generous, regular front and side setbacks provide space around buildings and allow for canopy trees. New buildings or additions offer innovative and contemporary design responses, while complementing the key aspects of building form, scale and design detail of the older dwellings in the precinct. Open frontages, or low front fences retain views to gardens and buildings from the street. Areas within a Residential Growth or Mixed Use Zone or within a substantial change area will accommodate more development with a more compact setting but with space for canopy trees and other vegetation and high quality, responsive design.*

As acknowledged by the description above, RGZ areas will see more of a *compact* development setting as a consequence of the higher development aspirations for these areas, as compared to the more spacious and leafy streetscapes evident in the local residential hinterland. Under the policy, areas within the Residential Growth Zone do not

need to reflect the scale of built form within the streetscape, but rather any upper levels should be designed to minimise the impact on any adjoining residential property.

It is considered the proposal responds positively to the design objectives and guidelines for the Garden Suburban 5 precinct for the following reasons:

- The overall building height is 11.6 metres. This height falls comfortably within the discretionary building height requirement and can be absorbed within this context of mixed and fairly substantial building forms. The proposal fits in with the character of the area which includes a number of examples of multi-unit developments, with examples seen on both adjoining sites (1407-1409 and 1403 Dandenong Road) as well as at 1399-1401 Dandenong Road where a five-storey multi-dwelling development is currently under construction.
- The proposed second floor is to be setback approximately 10 metres from the street and rear title boundaries. Given the setbacks proposed, the development will provide a suitable transition to the double-storey buildings abutting the subject site.
- The proposed variety of materials including cement renders of varying colours and bronze glazing provide a high level of articulation and offers an innovative and contemporary design response that will positively contribute to the range of building styles and finishes present in this context.
- The siting of the development including the basement setbacks enables a suitable landscape response incorporating a number of canopy trees and lower level vegetation around the perimeter of the site to complement the garden character of the precinct and soften the built form.
- Car parking will be fully concealed within the basement level which ensures that it is not visually dominant to the streetscape.
- A low 1.1 metre high glass balustrade will act as a front fence that will retain views to the proposed planting within the front setback.

Overall, it is considered that the design adequately responds to the site and local context as well as the existing, emerging and preferred character as identified in Neighbourhood Character Policy. The proposed building is of a high architectural quality and will sit comfortably within the existing and emerging streetscape, whilst minimising adverse impacts on surrounding residential properties.

### Built Form

The application has been assessed against the objectives and standards of Clause 55 – Two or more dwellings on a lot (ResCode). A full assessment against the applicable requirements of Clause 55 has been undertaken and demonstrates that the development achieves a high level of compliance, with the following notable standards highlighted and discussed.

#### *Street Setback*

The standard recommends a street setback that equates to the average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the same street or 9 metres, whichever is the lesser.

The building is proposed to be setback between 7-7.3 metres at the ground and first floor facades which then increases to between 9.7-10 metres at the second floor.

The property to the south is setback 5.8 metres, while a street setback of 7.6 metres is evident to the north. This equates to an average setback of 6.7 metres. The setbacks as proposed will exceed the 6.7 metres which is considered to be positive outcome as a greater

recess achieves a better transition in the scale of the building at three-storeys in height. The street setback will ensure that the building generally aligns with the property to the north when viewed on oblique angles.

The setback also allows for canopy tree planting within the front setback that will contribute to the landscape character of the area.

### *Building Height*

Schedule 1 to the Residential Growth Zone does not include a specific height control, meaning that the default, discretionary building height control of 13.5m applies. Generally, this equates to a four-storey building, which is the height that is referenced in the Purpose to the zone. The proposal is essentially a three-storey building, although the basement level is partly elevated above 1.2 metres, which means that for the purpose of the Planning Scheme it constitutes a four level building.

The development proposes a maximum height of 11.6 metres measured from natural ground level to the top of the parapet and therefore complies with the preferred height limit stipulated in the header clause of the Residential Growth Zone. The building will present at approximately 10.8 metres to Dandenong Road.

The predominate three-storey scale of the development is compatible with the main road location and is not dissimilar to other existing and approved medium density housing developments along this section of Dandenong Road as described above.

### *Site Coverage and Permeability*

Schedule 1 of the Residential Growth Zone varies ResCode and states that a basement should not exceed 75% of a site's area. The proposed basement footprint equates to site coverage of 70% in compliance with the varied requirement. Above ground, the proposed site coverage of the building is 58.6% in compliance with the 60% permitted by the standard.

ResCode seeks at least 20% of the site to be of permeable surfaces and the application proposes approximately 31%, thereby exceeding the minimum requirement.

### *Landscaping*

Clause 22.23 (Neighbourhood Character Policy) seeks 'to maintain and strengthen the garden settings of buildings and the tree canopy of the neighbourhood'. The policy further encourages a design response which '*includes planting around the perimeter of the site to strengthen the garden setting*' and to '*setback basements from all property boundaries to allow for in-ground planting*'. The policy also defines canopy tree as '*a tree at least 5m in height with a canopy spread of at least 6m at maturity*'.

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

The proposal offers a meaningful landscape response which is respectful of the landscape character of the neighbourhood. The building setbacks above and below ground allow for a generous amount of vegetation to be incorporated into the overall landscape design.

The provisions of Standard B38 (Deep Soil Areas and Canopy Trees) requires development on a site with an area of 750-1000 square metres to provide 5% of the site area with a minimum dimension of 3 metres for deep soil planting and to provide one small tree per 30 square metres of deep soil. The site has an area of 875 square metres and therefore a total deep soil area of 43.75 square metres is required as well as the planting of 3 small canopy trees. The overall landscape response respects the character of the area with 10.5% of the

site (92 square metres) set aside for deep soil planting with a minimum dimension of 3 metres.

Provision is made for 19 canopy trees. These are Eucalyptus Eumundi (Eumundi Quandong) canopy trees reaching a mature height of 8m located within the front setback and along the rear and northern site boundaries. Provision is also made for additional screen planting along the rear boundary in the form of 10 Eucalyptus pauciflora (Eucalyptus Little Snowman) reaching a height of 2 metres as well as additional lower level vegetation throughout the site, all of which will assist to soften the visual impact of the development and integrate the building into the neighbourhood. The proposed landscaping will provide a safe, functional and attractive environment for future residents.

The landscape response exceeds the deep soil and canopy tree cover as required in the standard. As such, it is considered the objective of Standard B38 is met.

As noted above, a street tree is depicted south-west of the crossover on the drawings submitted. This tree was removed by Council and has not been present in this location for a number of years. As such, a condition of permit will require deletion of the street tree as depicted on the plans.

#### *Access and Parking Location*

The existing single crossover that currently exists on Dandenong Road (service lane) is to be extended further north to provide a double width crossover and facilitate access to the basement car park. The access way occupies 30% of the site's frontage, which complies with the recommended maximum of 33% as specified by Standard B14.

The location and design of the proposed crossover is supported by the Department of Transport and Council's Transport and Parking Unit and the Parks Unit. The proposed crossover is acceptable.

Each floor will have direct access to the basement car park internally via stairs, and a lift for the majority of the apartments to cater for those with limited mobility.

#### *Amenity Impacts*

##### *Side and Rear Setbacks*

###### *'Northern Interface'*

Setbacks to the north are no less than 3.4 metres at ground and first floor levels where the wall heights extend to between 7.2-7.9 metres in height. Under the recommendations of the Standard B17 (Side and Rear Setbacks), a wall of 7.9 metres should be setback 2.99 metres. Therefore, the ground and first floor comply with the requirements of the standard. The balconies at ground and first floors also comply with the standard, being setback 1.4 metres at ground floor (1 metre setback required based on balustrade height of 2.8 metres) and being setback a minimum of 2.2 metres at first floor (1.75 metre setback required based on 6.1 metre balustrade height).

The second floor level is proposed to be setback between 3.44-7.29 metres. The standard recommends a setback of between 5.69-6.29 metres based on varying wall heights between 10.6 -11.2 metres. The kitchen of apartment 10 and living area of apartment 9 encroach into the setback requirements by approximately 0.65 metres (based on a wall height of 11.1 metres). The bedrooms and bathroom of apartment 9 encroach into the setback requirements by 1.39-1.69 metres (based on a wall height of 10.6-10.9 metres). The balcony of apartment 9 also encroaches 0.9 metres into the setback requirements (4.49 metre setback required based on balustrade height of 9.4 metres and 3.5 metre setback provided).

The main area of non-compliance relates to the kitchen of apartment 9 which is setback 3.44 metres and encroaches 2.65 metres into the standard requirements (setback of 6.09 metres required based on 11 metre wall height).

The building to the north at 1403 Dandenong Road is developed with an apartment building which is setback 1.9 metres from the common boundary. While there are parts of the wall that do not comply with Standard B17, this is considered to be reasonable and the proposed setbacks provide an acceptable separation from the adjoining property and are more generous on the whole than those present at 1403 Dandenong Road.

It is considered the variation to the northern side setbacks can be supported in this local context, where substantial changes and more intensive developments are directed to. The northern facade is articulated by colour, façade detailing and architectural features designed to fragment the mass of the building. Furthermore, the recessed upper floor levels throughout the building also reduces the perceived height of the building from the adjoining property. The submitted landscape concept plan also shows the planting of 10 canopy trees along the northern setback, which will help soften the impact of the built form to the neighbouring property.

It should also be noted that the daylight to the existing windows on the adjoining property will not be unreasonably impacted as is discussed further below.

Furthermore, the Residential Growth zoning of the land and the long-term strategic intent for the site and surrounding area will inevitably result in change to the form, scale and height of development on the subject site and in the surrounding area.

#### ‘Eastern Interface’

The critical interface to the east zoned General Residential Zone maintains compliance with the requirements of Standard B17 inclusive of the proposed balconies. The development provides staggered setbacks towards the east (rear) with setbacks proposed to vary between 7 and 10.7 metres with a maximum wall height of 11.6 metres. The standard recommends that a wall of this height be setback 6.69 metres. Therefore, the setbacks comfortably comply. The balcony at the second floor also comfortably complies with the Standard being setback a minimum of 7.4 metres (setback of 5.09 metres required based on a balustrade height of 10 metres).

The rear elevation is well articulated with a recessed built form and the use of a variety of building materials/colours provides visual interest when viewed from the neighbouring properties to the east.

The landscaping response provided along the eastern boundary allows for deep soil planting along the entire eastern site boundary that will help to soften the visual impact of the proposal from the rear yards of the adjoining dwellings. Once mature, they will provide filtered views of the proposal. Therefore, it is considered the proposed building mass will allow for an appropriate sense of transition to the lower scale residential area behind.

#### ‘Southern Interface’

To the south, setbacks vary at ground floor level between 1.65 and 3.4 metres. The wall of the building does not sit parallel with the title boundary and as such the setbacks are reduced to the rear where the title boundary tapers in. Nonetheless, the setbacks at ground floor comply with the requirements of Standard B17.

At the first floor level setbacks between 2.1 and 3.3 metres are proposed for a wall of between 7.5 and 8.2 metres in height (due to the slope in the land). The standard recommends a setback of 2.59 metres for a wall of 7.5 metres and 3.29 metres for a wall of



8.2 metres in height. The southern facades of apartments 7 and 8 encroach into the setback requirements of the standard by between 0.2-0.62 metres (based on wall heights varying between 7.7-8.2 metres). The stairwell is proposed to be setback 2.12 metres and also encroaches into the setback requirements by approximately 0.97 metres (based on a wall height of 8 metres).

At the second floor the building is setback between 3.69 metres and 5.65 metres from the side boundary with a wall height of between 10.9 metres (towards the front) and 11.5 metres (towards the rear). The standard recommends setbacks between 5.99-6.59 metres. The Master Bedroom ensuite of apartment 10 encroaches into the setback requirements by approximately 2.29 metres. Due to the slope of the land and irregular property boundary, the wall then encroaches into the setback requirements between 1 metre (where the wall is highest towards the rear to the living room of apartment 10) and between 1.1- 2.4 metres for the bedrooms of apartment 10. The balustrade of the balcony to apartment 10 also encroaches approximately 100mm into the setback requirements.

It is considered the variation to the southern side setbacks can be supported. The wall will be well articulated through the use of variable setbacks and a mix of materials and finishes. The windows have been screened to limit overlooking and the bulk of the building is not considered to result in unreasonable overshadowing impacts as is discussed further below. The separation between the building and the habitable room windows of the neighbouring dwellings is also sufficient to meet Standard B19 (Daylight to Existing Windows).

The increased setbacks to the levels above is an appropriate response to the development potential of the adjacent site and the elevation has a staggered profile and does not present in a single plane.

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

In a location earmarked for substantial change, with a zoning that has a purpose of providing for increased residential densities in buildings of up to and including four-storeys, the proposed setbacks are acceptable.

#### *Walls on Boundaries*

The development proposes one new wall on the southern boundary forming part of the rear lobby entry. The wall is to have an average height of 3.3 metres and a length of approximately 2.9 metres. Under the recommendations of Standard B18, a new wall should not exceed an average height of 3.2 metres and the allowable length of boundary construction is 19 metres (based on a boundary length of 45.73 metres). The length of the wall comfortably complies with the Standard, however the height of the wall fails to comply with the standard by 0.1 metres. This minor non-compliance is considered acceptable. The impact of 0.1 metres of additional wall height will not be discernible to the adjacent property. Furthermore, only a very small portion of boundary wall construction is proposed for this development (i.e. for a length of 2.9 metres noting the Standard allows a length up to 19 metres). Therefore, on balance, the wall as proposed is considered to be acceptable as it will not have an unreasonable amenity impact on the adjoining property.

#### *Daylight to Existing Windows*

‘Southern Interface’



To the south are habitable room windows located at 1407-1409 Dandenong Road that have outlook toward the subject site and the proposal comfortably complies within the requirements of Standard B19 (Daylight to existing windows) along this interface. The proposed building has maximum wall heights of 4.9 metres at ground floor, 8.2 metres at first floor and 11.5 metres at second floor, requiring a minimum wall to window setback of 2.45 metres, 4.1 metres and 5.75 metres at ground, first and second floors respectively.

The proposal is setback from the adjacent habitable room windows by a minimum of 5.3 metres at the ground floor, 6 metres at the first floor level and 7.8 metres at the second floor level. Therefore, the wall and setbacks to the south exceed the requirements of the Standard.

#### 'Northern Interface'

To the north are habitable room windows located at 1403 Dandenong Road that have outlook toward the subject site.

To the north, the wall is setback a minimum of 3.34 metres from the neighbouring habitable room windows at the ground, first and second floor level.

The height of the wall varies between 10.6 and 11.2 metres at the highest point, which would require window to wall setbacks of between 5.3 - 5.6 metres.

The majority of the building achieves compliance with this standard with the exception of a small incursion around apartment 9 at the second floor. Given the building is proposed to be 11.1 metres tall in this location, Standard B19 would require a 5.5 metre setback to the adjacent windows. The setback to these windows at this location is 5.44 metres. Given the degree of non-compliance is minor this is considered to be acceptable.

#### *North-facing windows objective*

There are numerous north facing habitable room windows on the adjoining property at 1407-1409 Dandenong Road. However, all of these windows are located more than 3 metres from the boundary. Therefore the Standard is not triggered.

#### *Overshadowing*

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

The orientation of the site means that the only secluded private open space affected by additional shadow is the dwellings to the south at 1407-1409 Dandenong Road.

The shadow diagrams provided by the applicant demonstrate that there will be additional overshadowing to three of the ground floor neighbouring courtyards between 12pm and 3pm. Two of the neighbouring first floor balconies will also be in shadow between 1pm and 3pm.

Due to the orientation of the dwellings at 1407-1409 Dandenong Road (to the side boundaries), it is inevitable that some overshadowing is likely to occur in the afternoon. This is a consequence of higher density development and it is generally accepted that amenity impacts are more likely to occur for existing developments that have extended within close proximity of side boundaries, particularly when adjoining sites are vacant and then seek to be developed in a similar manner.

At present the residences at 1407-1409 Dandenong Road benefits from the subject site being vacant. It cannot be expected that this level of amenity will be maintained, particularly in an area experiencing growth. Therefore, while overshadowing of private open space is undesirable, the impact in this instance is not considered to be unreasonable. Between 9am and 1 pm the adjoining residences will largely be unaffected by the subject development and will receive ample sunlight. Between 2pm and 3pm, the amount of solar access will be reduced. This is likely to occur with any development on this land due to the orientation of the lot and the proximity and extent of private open space along the north-west boundary of 1407-1409 Dandenong Road. Furthermore, it is also noted that these areas are already affected by shadow cast by vegetation growing within the neighbouring property.

On balance, it is considered that the new development will not significantly overshadow existing secluded private open space throughout the day and considering the properties are within the Residential Growth Zone, it is considered that the degree of additional shadowing is acceptable.

#### *Overlooking*

Standard B22 specifies that any new windows or balconies with an outlook to a sensitive interface within a horizontal distance of 9 metres (measured at ground level) to be screened to a height of 1.7 metres above finished floor level.

At ground floor, the balconies located opposite the habitable room windows along the north and east are proposed with 1.7 metre high bronze frosted glass with no more than 25% transparency. Habitable room windows along the south either have a sill height of 1.7 metres above finished floor level or are provided with obscure glazing to a height of 1.7 metres above finished floor level.

At the first and second floors, all habitable room windows along the north, east and south either have a sill height of 1.7 metres above finished floor level or are provided with obscure glazing to a height of 1.7 metres above finished floor level. The balconies along the south, north and east are proposed with 1.7 metre high bronze frosted glass with no more than 25% transparency. This is with the exception of the northern and southern sides of the west facing balconies to apartments 5 and 9.

There is an inconsistency on the plans where the first floor plan notes a 1.7 metre high frosted screen along the northern side of the apartment 5 balcony, however the northern elevation shows a 1 metre high screen. A permit condition will require the northern elevation to be updated to reflect the 1.7 metre high screen as depicted on the first floor plan. It is noted that the southern side of this balcony is located further than 9 metres from the neighbouring secluded private open space and therefore is not required to be screened.

The second floor plan shows 1.1 metre high frosted glass screening to the northern and southern sides of the west facing balcony to apartment 9. The sides of this balcony are located opposite habitable room windows and secluded private open space of the neighbouring properties. It is unclear if there will be direct views from this balcony into the neighbouring properties and as such, it is recommended that this balcony must be either screened or it be demonstrated that there are limited views in order to comply with Standard B22 (Overlooking) as a condition of approval.

It is recommended a condition of permit should be imposed which ensures that the part of the windows with obscure glazing is fixed.

Furthermore, some screening to the balconies on the elevations have not been dimensioned. A permit condition will also require that the height of all screening to balconies to be dimensioned on the elevation plans.

Regarding internal views, it is assumed that the sides of the balconies between the apartments will also be screened in accordance with the standard. However, this detail has not been shown on the floor plans. As such, a permit condition will require the height of the internal balcony screens to be notated on the floor plans in accordance with Standard B22.

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

### Internal Amenity

The building proposes two main entry lobbies accessed directly from Dandenong Road via a pedestrian path along the southern side of the building. The pedestrian path is easily accessible and clearly visible from the street. The path leads to lobbies which provide a good level of safety and amenity for future occupants of the building.

The common hallways and stair areas are provided with at least one source of natural daylight. Overall, the building entry and internal circulation area satisfy the objectives of Standard B42 (Building entry and circulation objectives).

The new dwellings will be provided with a good level of internal amenity. The apartments have been designed to achieve energy efficient dwellings. Each proposed apartment will be of a reasonable size ranging between 68-107 square metres. Each apartment will have direct access to natural light and ventilation.

Standard B41 (Accessibility objective) seeks to ensure the design of dwellings meet the needs of people with limited mobility. A ramp is provided from street level into the front lobby making it easily accessible for those with limited mobility. Six of the apartments are provided a lift from the basement level. While it would be ideal for the remaining four apartments to be provided lift access, this is not a requirement of the Planning Scheme. It is also noted that the basement, the ground floor slab, and the lift shafts are already built and changes cannot be made to the lifts and to the basement.

In terms of internal apartment layouts, four dwellings (40%) are designed to be accessible to people with limited mobility and include adaptable bathrooms. Five dwellings (or 50%) is required for compliance with the Standard. While it is noted the development falls short of compliance by one dwelling, officers have reviewed the plans and have found that in order to comply with this standard, this will have flow on effects on the size of bedrooms and will also result in setbacks of the building encroaching closer to the neighbouring properties. This would ultimately result in a poor internal amenity outcome while also further impacting on the amenity of the neighbouring properties as a result of reduced building setbacks. Therefore on balance, the proposed layouts are an appropriate outcome. Furthermore, the non-compliance is considered reasonable when considering that the applicant has elected to retain the building footprint as previously approved under the expired permit and that building works have commenced which places constraints on adapting the internal apartment layouts from that previously approved.

The apartments will be provided with ample internal storage areas including walk-in-robos, wardrobes and built in cupboards within each dwelling as well as external storage of between 8.1-10 cubic metres to each apartment, at the basement level. The internal storage areas within apartments vary between 9.71-16.26 cubic metres per dwelling and exceed the requirements as required in Standard B44 (Storage objective).

All apartments will receive adequate access to daylight to all habitable rooms. The apartments each have a functional layout with well-proportioned, open-plan living spaces and bedrooms. The majority of living areas meet the dimensional requirements in Standard B46 and are functional in size. It is noted that these apartments are also provided with large

dining areas and therefore the dwellings will provide functional areas that meet the needs of residents.

All single aspect habitable rooms have a floor to ceiling height of 2.7 metres and a room depth that comfortably complies with the numeric requirements of Standard B47 (Room depth objective). All bedrooms and living areas are provided with direct daylight access with no reliance on borrowed light or 'saddleback' windows.

All apartments are provided areas of private open space in the form of a balcony with direct access from a living room. Standard B43 (Private open space above ground floor objective) requires balconies of at least 8 square metres and 2 metres in width for a one or two-bedroom dwelling or 12 square metres and 2.4 metres in width for a 3 bedroom dwelling. Each apartment is provided with a balcony with a minimum dimension and size in accordance with the Standard, with the exception of apartments 8 and 9. Apartment 8 falls marginally short in area by 0.5sqm. The balcony to Apartment 9 meets the size requirements however falls 300mm short of the width requirements. It is however noted that apartment 9 is provided with a secondary 15 square metre west facing balcony. As such, it is considered the proposed private open space areas of the apartments are adequate to meet the recreation and service needs of future residents. Furthermore, the orientation of the site allows for a substantial amount of northern exposure to the balconies.

The floor plan layout will ensure natural cross-ventilation can be achieved to more than half of the dwellings (80%), with only 40% required for compliance with the applicable standard.

Overall, it is considered the development provides an acceptable level of internal amenity for future residents.

### Car Parking and Traffic

The application attracts an on-site car parking requirement of 13 spaces for residents, being one space for each two bedroom dwelling and two spaces for each 3 bedroom dwelling. As previously indicated, there is no requirement for visitor car parking as the subject site is located within the Principal Public Transport Network area. The proposal meets the resident car parking requirements with a total of 13 spaces and exceeds the visitor car parking requirements through the provision of 1 visitor space.

Council's Transport and Parking Unit have reviewed the provision of parking and the layout and access arrangements of the basement level and are supportive of the proposal. While there is no statutory requirement to provide visitor car parking, given the site is close to Chadstone Shopping Centre and subject to high on-street parking occupancy nearby, the inclusion of one visitor car space within the site is strongly supported.

It is noted there is an inaccuracy on the basement plan. While one visitor car space has been shown (at the bottom of the basement ramp) and 13 resident car spaces are shown allocated to each apartment, the basement plan includes a notation stating '10 spaces for Units and 4 spaces for visitor carpark'. As such, a permit condition will require this notation to be updated to reflect the correct allocation of parking (being 13 resident spaces and 1 visitor space).

Council's Transport and Parking Unit have assessed the proposed bicycle parking provision and layout and confirm that it is compliant with the requirements of Clause 52.34 subject to additional dimensions being included on the plans. The Sustainable Management Plan submitted confirms that a total of 10 bicycle spaces are provided for residents and two bicycle spaces are provided for visitors which exceeds the statutory requirements. The plans however do not specify the allocation of bicycle spaces to visitors. As such, a permit condition will require the plans to confirm this detail.

In terms of traffic generation, the development will not result in any adverse traffic impact to the nearby streets, the surrounding area and local road network.

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

### Sustainable Design Assessment

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

The development proposes several ESD commitments including a 3kW rooftop solar panel system; a rainwater harvesting system for toilet flushing; water efficient fixtures and appliances; high performance glazing; environmentally preferable internal finishes; carbon monoxide sensors in the basement carpark and bicycle parking for all residents and visitors.

The SMP includes a Water Sensitive Urban Design (WSUD) response which indicates that the development achieves a STORM rating of 111%. This is achieved by the provision of a two x 5,000L (total of 10,000L) rainwater tanks that will be connected to toilets to the rear of the site.

Council's ESD officer is satisfied that the proposal adequately responds to environmentally sustainable development design standards. The development will meet the objectives of the Local policies at Clause 22.05 (ESD) and 22.18 (WSUD) of the Planning Scheme.

### Objections

- Proposal conflicts with BCA (Building Code of Australia) Health and Amenity requirements;

The objector has referenced a building code requirement: *Clause 2.4.4 - Objective to safeguard occupants from injury, illness or loss of amenity due to (i) isolation from natural light (ii) lack of adequate lighting.*

This application is not required to be assessed under the building regulations but rather the Stonnington Planning Scheme provisions. Nonetheless, the planning provisions require developments of this nature to be assessed against the provisions of Clause 55 (Rescode) which includes Standard B19 of Clause 55.04-3 (Daylight to existing windows) and Standard B21 of Clause 55.04-5 (Overshadowing).

As discussed in detail above, the proposal complies with the objectives of Standard B19 and Standard B21.

### 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. 0199/21 - 1405 Dandenong Road, Malvern East [8.3.1 - 21 pages]

### Officer Recommendation

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 199/21 for the land located at 1405 Dandenong Road, Malvern East under the Stonnington Planning Scheme for construction of a multi dwelling development in a Residential Growth Zone and to create or alter access to a Road Zone, Category 1 subject to the following conditions:***

1. ***Before the commencement of the development, one (1) electronic copy of plans drawn to scale and fully dimensioned must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans advertised in July 2021 (prepared by John Henry Architects) but modified to show:***
  - a) ***The northern elevation with a 1.7 metre high screen along the northern side of the apartment 5 balcony as depicted on the first floor plan.***
  - b) ***The northern and southern sides of the west facing balcony to apartment 9 must be either screened or it be demonstrated through a section diagram to be in accordance with Standard B22 at Clause 55.04-6. Direct lines of view to the neighbouring secluded private open space and habitable room windows must be measured to 1.7 metres above natural ground level.***
  - c) ***Elevations to include a notation that the part of the windows proposed with obscure glazing will be 'fixed'.***
  - d) ***Elevations to dimension the height of all screening proposed to the balconies.***
  - e) ***The height of the internal balcony screens to apartments 2, 3, 4, 6 and 7 to be notated on the floor plans and to be in accordance with Standard B22 at Clause 55.04-6.***
  - f) ***Visibility splay area south of the driveway notated to comply with Design Standard 1 in Clause 52.06-9 of the Stonnington Planning Scheme.***
  - g) ***Deletion of the south-west street tree from the floor plans.***
  - h) ***The offset of the columns in the basement confirmed to be positioned in accordance with Clause 52.06-9 the Planning Scheme.***
  - i) ***Basement plan to confirm a 1.8m bicycle parking envelope can be provided, while maintaining a 1.5m access aisle to the bicycles spaces, as per the Australian Standards.***
  - j) ***Splays of 1.3m provided either side of the vehicle crossing and deletion of the hatched areas within the splays.***
  - k) ***Basement Plan to confirm the allocation of 2 visitor bicycle spaces.***
  - l) ***Car parking notation on basement plan updated to reflect the correct allocation of car parking (i.e. 13 resident spaces and 1 visitor space).***

***To the satisfaction of the Responsible Authority.***

2. ***The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.***
3. ***Prior to the commencement of the use of the building approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.***
4. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
5. ***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 generally in accordance with the Waste Management Plan prepared by Leigh Design Council date stamped 9 April 2021.***

***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 endorsed WMP, to the satisfaction of the Responsible Authority.***

6. ***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.***
7. ***Concurrent with the endorsement of any plans pursuant to Condition 1 a landscape plan, to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must be generally in accordance with the plans prepared by John Henry Architects Drawings PA-102 Council date stamped 7 May 2021 and PA-103 Council date stamped 13 July 2021, but modified to show:***
  - a) ***Deletion of the south-west street tree.***
8. ***Before the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***
9. ***Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required by Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.***
10. ***Prior to the occupation of the building, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.***



11. ***Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.***
12. ***All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.***
13. ***All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority. Ventilation systems must be designed and installed in accordance with the relevant Australian Standards.***
14. ***Prior to the commencement of the development hereby approved, the permit holder must obtain approval from Council's Building and Local Laws Department to construct or modify any vehicle crossover/s providing access to the subject site. The issue of a planning permit does not provide approval for vehicular crossovers which are outside of the title boundary.***
15. ***The owner must at their cost provide a stormwater detention system to control the discharge from the site to no greater than the existing pre-development discharge based on a 1 in 10 storm (ARI) to the satisfaction of Council.***
16. ***Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity-based system and not pumped, with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.***
17. ***Prior to an 'Occupancy Permit' being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks and detention system, to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for the subdivision.***
18. ***The existing footpath levels must not be lowered or altered in any way at the property line (to facilitate the basement ramp).***
19. ***All development must be clear of the rear easement and existing surface levels must not be changed.***
20. ***This permit will expire if one of the following circumstances applies:***
  - a) ***The development is not started within two years of the date of this permit.***
  - b) ***The development is not completed within four years of the date of this permit.***

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

**NOTES:**

**Department of Transport Note**

- A. The proposed development requires works within the road reserve. Separate approval under the Road Management Act 2004 for this activity is required from the Head, Transport for Victoria. Please contact the Department of Transport (Roads) prior to commencing any works.**

**End Department of Transport Note**

- 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. 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.**
- 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.**

## 8.4 Report and Consent for 18 Embling Road, Malvern

**Manager Liveability & Compliance: Madeleine Grove**  
**Director Planning & Place: Annaliese Battista**

### 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 the relevant information to consider an application for report and consent under the *Building Regulations 2018* to site a garage along on the eastern side boundary with a setback of 3.62 metres from the front street alignment (i.e. to encroach within the prescribed minimum front and side setback distances) pursuant to regulations 74 and 79; and front fence height pursuant to regulation 89.

### Officer Recommendation

***That Council REFUSE the application to reduce the setback of the garage from the front street alignment at 18 Embling Road, Malvern pursuant to regulation 74 of the Building Regulations 2018.***

### Executive Summary

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|   |  |
|---|--|
| <b>Proposal:</b>                        | The report and consent of Council is sought to vary front and side boundary setback requirements under the Building Regulations 2018 for a proposed garage. The proposed setback for consideration is 0-840mm from the east side boundary and 3.62 metres from the front street alignment pursuant to regulations 74 and 79. In addition consent is sought under regulation 89, for the 2.3 metre high front fence to exceed the maximum regulatory height in Embling Road by 800mm. |
| <b>Applicant:</b>                       | Naomi Graham of Eric Sette Architects  |
| <b>Ward:</b>                            | South  |
| <b>Date lodged:</b>                     | 25 May 2021  |
| <b>Trigger for referral to Council:</b> | Councillor Call Up   |

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### Background

1. The subject land is located on the south side of Embling Road, approximately 204m east of Glenferrie Road and has an approximate area of 682m<sup>2</sup>. The site is rectangular in shape, slopes towards Embling Road and is located within the *Garden Suburban 3* neighbourhood precinct and zoned *Neighbourhood Residential Zone – Schedule 2 (NRZ2)* under the Stonnington Planning Scheme. No Planning Overlays affect the site.

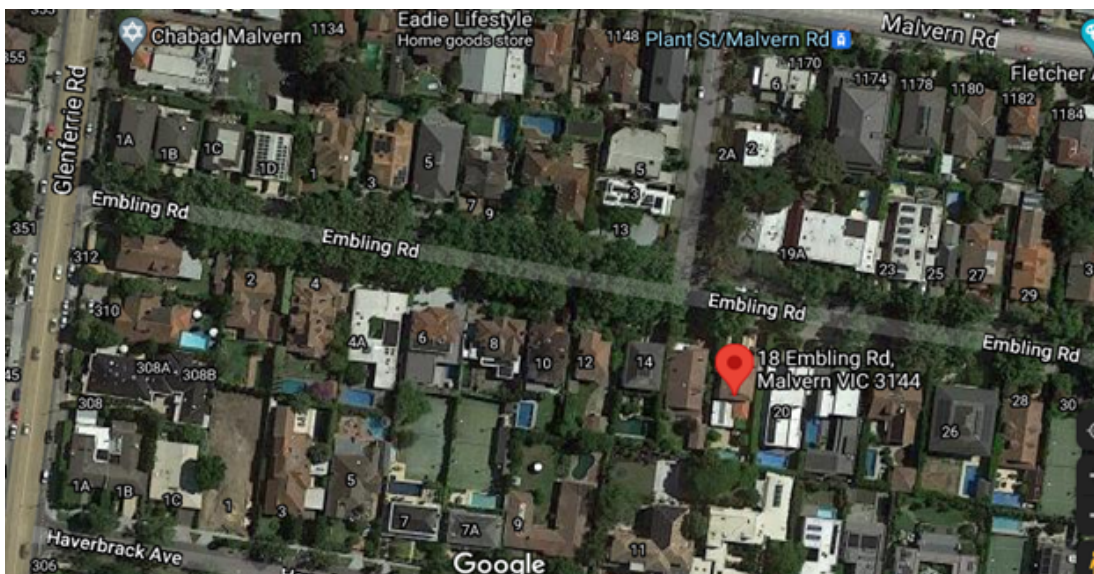


Figure 1: Subject Site (obtained from Google Maps).

2. The proposal is for alterations to an existing carport and front fence and construction of a garage on the subject allotment. A copy of the relevant documents are at **Attachments 1 to 4**. A further plan provided to Councillors ahead of the Council consideration of this item is at **Attachment 5**.
3. Council received the application for report and consent by Eric Sette Architects for the following matters under the *Building Regulations 2018*:

**Minimum Street Setback pursuant to regulation 74**

- a. To permit the proposed garage with a setback of 3.62 metres from the front street alignment (Embling Road), in lieu of the minimum required setback distance of 9 metres.

**Side and rear setbacks pursuant to regulation 79**

- a. To permit the 480mm wide recessed portion of the garage wall to be setback 840mm from the eastern allotment (side) boundary, in lieu of the required setback distance of 1 metre.
- b. To permit the garage wall to be sited on the eastern allotment (side) boundary in lieu of the minimum setback requirements under standard A10 and B17 of the NRZ2. Standard A10 and B17 of the NRZ2 requires new buildings (including basements) for a distance of at least 5 metres behind the front facade of the building fronting the street, to be set back at least 2 metres from one side boundary and 1 metre from the other side boundary up to 3.6 metres in height.

**Front Fence Height pursuant to reg. 89**

- a. To partly demolish and reconstruct the existing 2.3-metre-high front fence located within 3 metres of the front street alignment (Embling Road), in lieu of the regulatory height of 1.5 metres.

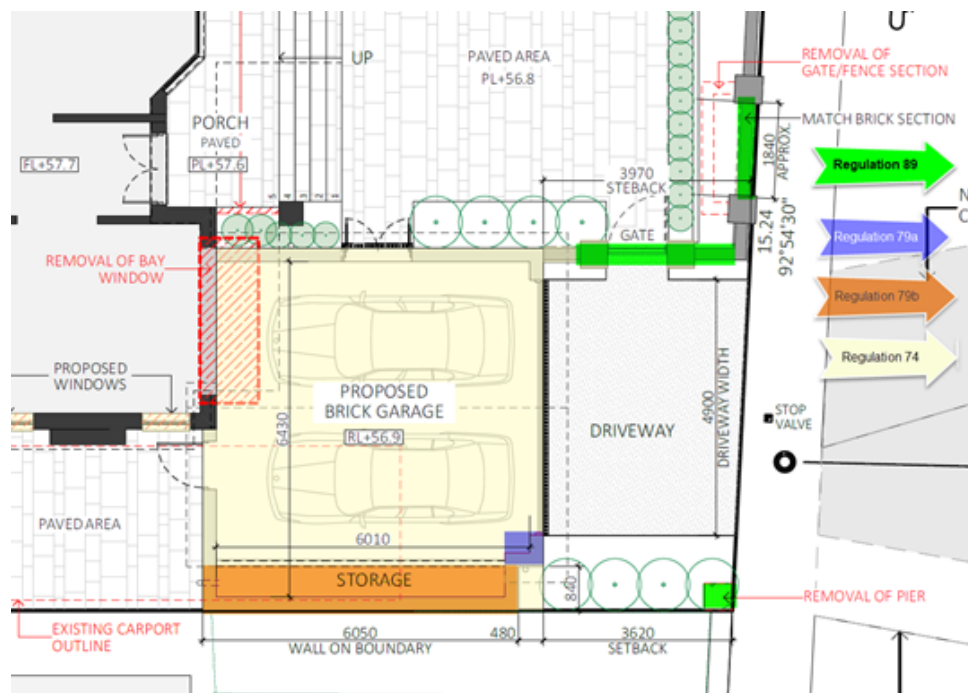


Figure 2: The matters requiring report & consent to the building permit application.

### Key Issues and Discussion

4. Part 5 of the Building Regulations adopts 'ResCode' siting measures for domestic allotments not dealt with under the Planning Scheme (typically for allotment sizes greater than 500 square metres). These can be varied or dispensed with by Council under a 'report and consent' process. The Municipal Building Surveyor (MBS) has delegated authority from Council to carry out this function.
5. The proposal is to alter the existing carport along the eastern allotment (side) boundary set back 6.4 metres from the front street alignment and construct a new double garage sited along the eastern allotment (side) boundary, forward of the existing dwelling, with a setback of 3.62 metres from the street frontage (Embling Road). The proposed 3.62 metre setback is in lieu of the required minimum setback of 9 metres pursuant to regulation 74.
6. This report will focus on the primary matter for deliberation which relates to regulation 74 of the Building Regulations, which provides that a setback facing a front street must be *'the average distance of the setback of the front walls of existing building on the adjoining allotment facing the same street, or 9m, whichever is the lesser'*.
7. The Regulations do not define what is meant by a *front street* for the purposes of reg. 74, however the (former) Building Commission published a practice note (No.47) in June 2006 which advises *"the term 'front street' is determined in the context of the subject allotment and the proposed dwelling. The term 'front wall' refers to the wall that presents as the 'architectural frontage'"*.
8. In the case of 18 Embling Road, the 'front walls' associated with the existing dwellings on the nearby allotments at 16 Embling Road (to the west) and 20 Embling Road (to the east) are both set back 9.6 metres from the front street (alignment). The minimum 'as-of-right' setback distance for new buildings at 18 Embling Road is 9 metres from the street frontage.

### Decision Criteria



9. Designs not meeting the measures set in the Building Regulations may be considered by the reporting authority (Council) pursuant to Clause 4A of Schedule 2 of the Building Act. Pursuant to Section 188A of the Building Act the reporting authority must have regard to any relevant Minister's Guideline (the Guideline) and must refuse to give its consent if the application does not comply with any matter set out in the Guideline.
10. The Guideline sets out the considerations to be applied to the design and siting of single dwellings under the building regulations where a reporting authority is considering an application for report and consent for a variation to the standards. The relevant Guideline for '**Minimum Street Setback**' reads as follows:

**Objective**

*To ensure that the setbacks of buildings from a street respect the existing or preferred character of the neighbourhood and make efficient use of the site.*

**Decision Guidelines**

*The reporting authority may give its consent where a single dwelling, other than a fence, does not comply with regulation 74 of the Building Regulations 2018, if –*

- a. the setback will be more appropriate taking into account the prevailing setback within the street; or*
  - b. the setback will be more appropriate taking into account the preferred character of the area, where it has been identified in the relevant planning scheme; or*
  - c. the siting of the building is constrained by the shape and or dimensions of the allotment; or*
  - d. the siting of the building is constrained by the slope of the allotment or other conditions on the allotment; or*
  - e. there is a need to decrease the setback to maximise solar access to habitable room windows and or private open space; or*
  - f. the setback will be more appropriate taking into account the desire or need to retain vegetation on the allotment; and*
  - g. the setback is consistent with a building envelope that has been approved under a planning scheme or planning permit and or included in an agreement under section 173 of the Planning and Environment Act 1987; and*
  - h. the setback will not result in a disruption of the streetscape; and*
  - i. the setback is consistent with any relevant neighbourhood character objective, policy or statement set out in the relevant planning scheme.*
11. Where the preferred neighbourhood character '**Garden Suburban 3 (GS3) Precinct**' reads as follows:

**Statement of preferred neighbourhood character**

*The Garden Suburban 3 (GS3) precinct comprises spacious and leafy streetscapes with Victorian, Edwardian, Interwar or Post-war era and new buildings set in established garden surrounds. Generous, regular front and side setbacks provide space around buildings and allow for canopy trees. New buildings or additions offer innovative and contemporary design responses while complementing the key aspects of building form, one-two storey scale and design detail of the older dwellings in the precinct. Low or permeable front fences retain views to gardens and buildings from the*



*street. Areas within a Residential Growth or Mixed Use Zone or within a substantial change area will accommodate more development with a more compact setting but with space for canopy trees and other vegetation and high quality, responsive design.*

**Design guidelines**

*The preferred character is to be achieved by the following design guidelines\*:*

| Design objectives   | Design responses   | Avoid  |
|---|--|--|
| <i>To prevent the loss of front garden space and the dominance of car parking structures.</i> | Car parking structures should be setback behind of the front facade of the dwelling fronting the street.<br><br>Hard paving for car parking should be minimised and permeable surfaces used for hard paving. | Additional crossovers.<br><br>Car parking structures in the front setback area.<br><br>Visually dominant car parking structures.<br><br>Excessive areas of paving and driveways. |

**Consideration**

12. The 4.58 metre high garage sited on the eastern allotment (side) boundary is proposed to be set back from the front street alignment at a distance of 3.62 metres. The proposed setback exceeds the 9.0 metre front setback requirement of regulation 74(4)(a), by 5.38 metres.
13. On 14 January 2021, the applicant sought pre-application advice from Council with relation to this matter. It was unclear whether the advice was for building work at 11 or 18 Embling Road, as the email made references to both properties. Despite the ambiguity in information provided, on 15 January 2021, Council provided general advice (see below) noting these comments are relayed as a guide only and a full assessment would be undertaken upon receipt of an application. However, the applicant has chosen to ignore Council's advice.

*When considering an application for reduced setback from the street, Council only take into consideration the prevailing setback of nearby buildings on the same street (i.e. setbacks in Bride Street would not be considered). From an initial look at the nearby streetscape, the majority of buildings are set back a minimum 5m from the street. The garage at 10 Embling Road appears to be the only example set back 3m and does not set a precedent. Unless there are other nearby examples of buildings setback 3m from the street (not including corner allotments) the proposal is unlikely to be supported. A minimum setback of 4m - 5m is more likely to be approved.*

14. A Council officer inspected the site, surrounding area and the streetscape from Embling Road. It was noted that whilst there were examples of existing buildings (carports and garages) constructed on the side boundary within 5 metres of the front facade of the existing dwelling with which they were associated, the majority of buildings were set back greater than the setback distance to the proposed garage at 18 Embling Road (refer to Table 1 below).

**Table 1** – Result from the inspection to measure the front setback along Embling Road, Malvern.

| Street No.                          | Approximate Setback from Embling Road   |
|-------------------------------------|---|
| <b>1B, 1C &amp; 1D Embling Road</b> | 6.4-6.5 metre setback to the front wall of the garages set in line with front facade of the existing dwelling |

|                        |   |
|------------------------|---|
| <b>4 Embling Road</b>  | 7.9 metre setback to existing dwelling, there is a carport on side boundary sited behind the front facade of the existing dwelling                                  |
| <b>4A Embling Road</b> | 8.0 metre setback to the front wall of the existing garage on the side boundary sited forward of the front facade of the existing dwelling                          |
| <b>6 Embling Road</b>  | 7.7 metre setback to the front wall of the garage on the side boundary sited forward of the front facade of the existing dwelling                                   |
| <b>10 Embling Road</b> | 3.064 metre setback to the carport on the side boundary sited forward of the front facade of the existing dwelling  |
| <b>25 Embling Road</b> | 7.2 metre setback to the front wall of the existing dwelling (note an existing roller door forms part of the front fence however is not associated with a building) |
| <b>29 Embling Road</b> | 6.9 metre setback to the front wall of the existing dwelling  |
| <b>33 Embling Road</b> | 7.6 metre setback to the front wall of the existing dwelling  |
| <b>34 Embling Road</b> | 6.5 metre setback to the front wall of the existing garage  |
| <b>35 Embling Road</b> | 5.5 metre setback to the front wall of the existing garage  |
| <b>37 Embling Road</b> | 6.6 metre setback to the front wall of the existing dwelling  |
| <b>36 Embling Road</b> | 5.5 metre setback to the front wall of the existing garage  |

\*\*\*Remainder of buildings in Embling Road either complied with the regulatory requirements, were sited on corner allotments, formed part of a planning permit development requiring subdivision or the buildings architectural frontage did not front Embling Road.

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15. Factors considered when determining whether to vary the prescribed setback for the proposed garage at 18 Embling Road, Malvern when deciding this application included:
- Will the proposed setback be more appropriate taking into account the prevailing setback within the street;
  - Will the proposed setback be more appropriate taking into account the preferred character of the area under the Garden Suburban 3 (GS3) Precinct;
  - Is the siting of the proposed garage constrained by existing conditions on the allotment; and
  - Will the proposed setback result in a disruption of the streetscape.
16. Consequently, Council Officers advised the applicant the reduced setback of the proposed garage from the street frontage would not respect the existing or preferred character of the neighbourhood, as it would not be appropriate taking into account the prevailing setback of existing buildings within the street. The proposed setback distance would result in a disruption of the streetscape and set precedence for new buildings in Embling Road to seek dispensation for a reduced setback of 3-4 meters from the street frontage.
17. The main argument made by the architect of 18 Embling Road was that other developments in the area have been allowed to be constructed within the setback they regard as comparable to theirs. Examples referred to included 10 Embling Road (a carport), 25 Embling Road (roller door) and 4A Embling Road (garage set back 8.0 metres from front street alignment).

18. This application was considered on its merits using the Minister's Guidelines and taking account the circumstances of the streetscape and site constraints. Council should note the minimum front street setback is calculated using the average setback distance to the front walls of the existing buildings (dwellings or garages) on adjoining allotments facing the same street. Carports on adjoining allotments are not considered when determining the front setback due to not having front walls.
19. Council advised the applicant that an amended proposal with a carport (not garage) set back a minimum of 5 metres from the front street alignment may be considered, however the applicant has exercised their power to have the matter determined by Council.

### **Governance Compliance**

#### Policy Implications

20. There are no policy implications associated with this report.

#### Financial and Resource Implications

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

#### Conflicts of Interest Disclosure

22. 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

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

#### Environmental Implications

24. There are no environmental implications relevant to this report.

#### Community Consultation

25. There was no requirement for community consultation.

#### Human Rights Consideration

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

### **Attachments**

1. Architectural Drawings - 18 Embling Street Malvern [8.4.1 - 4 pages]
2. 3D Renderings of Proposed Garage - 18 Embling Street Malvern [8.4.2 - 1 page]
3. Aerial Images from Nearmaps updated [8.4.3 - 1 page]
4. Marked up plan showing regulatory matters requiring Council Consent [8.4.4 - 1 page]
5. Plan provided to Crs - Concept Garage Addition Plan - Revision A [8.4.5 - 1 page]

## 8.5 Council Plan 2021-25 (Future Stonnington) and Annual Plan 2021-22 for approval

**Manager City Strategy & Performance: Mathew Burke**

**Director Planning & Place: Annaliese Battista**

### Linkage to Council Plan

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

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

**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

To present the Council Plan 2021-25 (Future Stonnington) and supporting Annual Plan 2021-22 for adoption.

### Officer Recommendation

**That Council:**

- 1. APPROVE the Council Plan 2021-25 (Future Stonnington) (Attachment 1).**
- 2. NOTE the community submissions received during public exhibition of the Council Plan 2021-25 and subsequent action taken (refer Confidential Attachment 2).**
- 3. APPROVE the Annual Plan 2021-22 (Attachment 3) to support year one implementation of the Council Plan 2021-25.**
- 4. NOTE the intention to submit the Council Plan 2021-25 (Future Stonnington) to the Minister for Local Government by 31 October 2021.**

### Executive Summary

- The Council Plan 2021-25 (Council Plan) was endorsed for public exhibition with the Long-Term Financial Plan, from 17 August – 10 September 2021.
- Twenty-three submissions were received on the Council Plan. Feedback was largely operational in nature and therefore considered through the preparation of the Annual Plan 2021-22 (Annual Plan), with no changes proposed to the Council Plan.
- The Annual Plan outlines the specific activities to be undertaken by Council this financial year to implement the Council Plan and has been prepared by Officers in alignment with the 2021-22 Budget (**Attachment 3**).
- The Council Plan and supporting Annual Plan are now presented to Council for adoption.

### Background

5. To meet our requirements under the Local Government Act 2020, Council has prepared a long-term Community Vision 2040 (Community Vision) and Council Plan, incorporated into a single document – Future Stonnington. A designed version is included as **Attachment 1**.
6. The Community Vision was approved by Council on 28 June 2021, following after its presentation by the Shaping Stonnington People’s Panel.
7. The Council Plan, developed in response to the Community Vision, was approved by Council for public exhibition on 16 August 2021.

## Key Issues and Discussion

### Community Feedback on Council Plan

8. The main themes of feedback were active transport, environment and climate, design, and inclusion. There was also some feedback around the lack of action (‘how’) within the Council Plan itself, however this level of detail has been included within the Annual Plan.
9. Given most feedback was operational in nature, no changes are proposed to the Council Plan as exhibited. Rather, the feedback has either been reflected in the Annual Plan, is already being addressed through implementation of specific department strategies or has been provided to relevant service areas to consider as part of operations.

### Council Plan implementation, including Annual Plan

10. Implementation of the Council Plan will now be a priority. A program of work will be developed to:
  - a. launch Future Stonnington internally and externally, including through the development of a highlights / summary companion document;
  - b. ensure alignment across the organisation in terms of existing and proposed strategies, service and business planning; and
  - c. further mature performance reporting and management, including finalisation of strategic indicators.
11. One key element of implementation is the Annual Plan. There remains some desired maturity uplift our Annual Planning which will occur over subsequent years, including increased alignment with the budgetary cycle, inclusion of scope and milestones, and leveraging project management office (PMO) information for scoping and reporting.
12. The Annual Plan has been prepared in alignment with this year’s budget activities and in consultation with key managers and executive members. It follows a similar style to previous years and outlines the actions to be delivered this financial year against the Council Plan’s strategic objectives. Each action will be supported by a scoping document, whether an existing project plan or light touch single page summary, to assist in our maturity uplift and provide a baseline against which to report progress.

## Governance Compliance

### Policy Implications

13. There are no policy implications associated with this report.

### Financial and Resource Implications

14. The Community Vision and Council Plan will inform the Financial Plan and Budget, which will have long-term financial and resource implications for Council. These will be addressed in each of these documents.

#### Conflicts of Interest Disclosure

15. 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

16. The longer-term impact of COVID-19 on our community and operations is still uncertain and continues to impact Council's service delivery and capacity. Due to this environment, Council recognises the need to be dynamic in the implementation and delivery of the Council Plan and Annual Plan. While Council's long term strategic goals will endure, relevant prioritisation and sequencing of actions and timeframes will need to be reviewed periodically, including at the six-month mark of the Annual Plan.

#### Environmental Implications

17. Both the Community Vision and Council Plan include strong environmental considerations including Principles 2 and 5 of the Community Vision, the Climate Leadership operating principle within the Council Plan, and the Sustainability and Climate Action strategic objective within the Council Plan.

#### Community Consultation

|                            |   |
|----------------------------|---|
| <b>Purpose</b>             | <ul style="list-style-type: none"> <li>• <b>Shaping Stonnington:</b> An extensive engagement program – Shaping Stonnington – was undertaken from September 2020 to May 2021 to develop the Community Vision 2040 and inform the development of the Council Plan 2021-25.</li> <li>• <b>Public exhibition:</b> Community feedback via public exhibition on the Council Plan occurred 17 August - 10 September 2021.</li> </ul> |
| <b>IAP2 Goal</b>           | Collaborate (Shaping Stonnington)<br>Consult (Public exhibition)  |
| <b>Exhibition period</b>   | See 'Method' below  |
| <b>Method</b>              | <ul style="list-style-type: none"> <li>• Shaping Stonnington: <ul style="list-style-type: none"> <li>○ Wider engagement: September 2020 - February 2021</li> <li>○ Deliberative Engagement via People's Panel: March - May 2021</li> </ul> </li> <li>• Public exhibition: 17 August - 10 September 2021</li> </ul>  |
| <b>Reach</b>               | <ul style="list-style-type: none"> <li>• Wider engagement: Approximately 20,000 touchpoints across letters, social media, online workshops, surveys and face-to-face intercepts.</li> <li>• Deliberative engagement: Statistically representative panel of 32 community members.</li> <li>• Public exhibition: The Age advertisement, social media campaign. Twenty-three pieces of feedback received.</li> </ul>             |
| <b>Summary of feedback</b> | <ul style="list-style-type: none"> <li>• All feedback collected during the wider engagement phase was consolidated and provided to the People's Panel for consideration when developing the Community Vision.</li> </ul>  |



|               |   |
|---------------|---|
|               | <ul style="list-style-type: none"><li>• The Community Vision was developed by the People’s Panel and adopted by Council unedited. This is included in the Future Stonnington document (<b>Attachment 1</b>).</li><li>• An overview of submissions received through public exhibition, and subsequent action taken, is provided in <b>Attachment 2</b>.</li></ul>                |
| <b>Impact</b> | <p>At the collaborate level, Council partnered with our community to incorporate advice and recommendations into the Community Vision to the maximum extent possible. The Community Vision as drafted was adopted by Council.</p> <p>At the consult level, feedback received has been considered in the Annual Plan, sub-strategies and for consideration by service areas.</p> |

### Human Rights Consideration

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

### Attachments

1. Future Stonnington [8.5.1 - 64 pages]
2. CONFIDENTIAL REDACTED - Community feedback submissions [8.5.2 - 7 pages]
3. Annual Plan 2021-22 [8.5.3 - 24 pages]

## 8.6 Financial Plan 2021-2031

**Chief Financial Officer: Julia Gallace**

### 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 present the Financial Plan 2021-31, a new requirement under the Victorian Local Government Act 2020, for approval.

### Officer Recommendation

**That Council:**

- 1. APPROVE the Financial Plan 2021-31 (refer Attachment 1).**
- 2. NOTE the four community submissions received during public exhibition of the Financial Plan 2021-31 and subsequent Management responses (Attachment 2).**
- 3. NOTE the intention to submit the Financial Plan 2021-31 to the Minister for Local Government by 31 October 2021.**

### Executive Summary

- The Local Government Act 2020 (the Act) requires each Council to prepare a Financial Plan covering a minimum period of 10 years following each Council election. The 10-Year Financial Plan covers the period 2021-22 to 2030-31.
- The Financial Plan has been prepared in accordance with the Local Government Act 2020, the Council is required to prepare and adopt a 10-year financial plan by 31 October following each Council election.
- The Financial Plan is designed to ensure prudent, effective and efficient financial management of the organisation. The plan underpins the sound financial management of Council's operations by providing key financial assumptions to deliver on the aspirations of the Council Plan and to achieve the Community Vision. The long-term outlook for Council seeks to increase operating surpluses to maintain and improve services and infrastructure as well as deliver projects and services that are valued by our community.
- The Financial Plan 2021-31 was endorsed for public exhibition with the Council Plan, from 17 August – 10 September 2021.

8. Four submissions were received on the Financial Plan 2021-31. Feedback was largely operational in nature, with no changes proposed to the Financial Plan.
9. The longer-term impact of COVID on our community and on our operations is still uncertain with restrictions continuing to impact Council's services and impacting Council's operational budgets. As such we recognise Council's proposed financial direction for future years may require changes and will be reviewed, consulted, and updated annually.
10. The Financial Plan is now presented to Council for adoption.

## Background

11. The Local Government Act 2020 (section 91) requires Councils to develop, adopt and keep in force a Financial Plan which spans at least 10 years and ensures Council complies with sound financial management principles and plan for long-term sustainability (section 101).
12. This is a new requirement of the Local Government Act and the Financial Plan must be adopted by Councils by 31 October 2021.
13. The Financial Plan effectively takes the assumptions and budget parameters that have been applied to the 2021-22 budget (which covers a 4 year period) and extends these out into years 5-10 to give a longer term view of Council's financial viability and outcomes.
14. Each year the 10-Year Financial Plan is reviewed and updated to reflect the current circumstances of Council and will be adopted as part of the annual budget process.
15. It is important to note that the Financial Plan is a decision-making tool and is not intended to be a document that specifically indicates what services or funds should be allocated; rather it identifies Council's current and projected financial capacity to deliver the Council Plan. It provides a mechanism to inform the Stonnington community of the long-term viability and financial health of Council to deliver quality services, facilities, and the renewal and enhancement of infrastructure.
16. Under the Local Government Act 2020, and in accordance with Council's newly adopted Community Engagement Policy, Council will be required to prepare the Finance Plan in accordance with its deliberative engagement practices in future years.

## Key Issues and Discussion

### Community Feedback on Financial Plan

17. Four submissions were received on the Financial Plan 2021-31. Feedback was largely operational in nature relating to our rate base and how individual changes in property valuation does affect rates payable. There was also feedback relating to Council's capital renewal and upgrade allocations.

18. All feedback was considered and a subsequent Management response provided, with no changes proposed to the Financial Plan refer to **Attachment 2**.

#### Financial Plan assumptions

19. To ensure Council has the capacity to work towards the achievement of the Stonnington Community Vision 2040, a Financial Plan has been prepared to guide the financial resources of Council over the next 10 years refer to **Attachment 1**.
20. The key assumptions used as part of the development of the 2021-22 Budget form the basis for the development of the 10 Year Financial Plan and include economic and industry factors.
21. The Financial Plan seeks to maintain and improve services and infrastructure as well as deliver projects and services that are valued by our community. This will need to be done within the constraints of the State Government imposed rate cap on Council's revenue, which has no regard for the significant loss of revenue (estimated total net loss of \$28.1 million over years 2019-20 and 2020-21) due to COVID-19. Council is also supporting additional demands placed upon Council by our growing population and redirecting resources into COVID-19 recovery support.
22. City of Stonnington's Financial Plan displays a financially sustainable Council, with improving financial sustainability year on year to enable Council to respond to financial challenges now and into the future and as we rebuild our community from the impacts of COVID-19. The City of Stonnington will however need to continue to be responsive to the city's changing needs and adhere to the State Government directions in relation to the management of COVID-19 and which may impact our financial assumptions.
23. The Financial Plan highlights the prudent use of borrowings and how this will be repaid over the next 10 Years and outlines Council's cash management over the longer-term to support service delivery requirements and asset works.
24. The Financial Plan also details performance measures to approved targets over 10 Years. Council achieves all performance measures apart from internal financing in the medium-term. This internal finance ratio excludes borrowings and evaluates the % of operating cash from that year covering net capital cash outgoings. Council intends to rely on debt funding to support the capital program in the medium-term due to the financial losses experienced from COVID-19.
25. Each year the 10-Year Financial Plan will be reviewed and updated to reflect the current circumstances of Council and will be adopted as part of the annual budget process.

#### Governance Compliance

##### Policy Implications

26. There are no policy implications associated with this report.

### Financial and Resource Implications

27. The Community Vision and Council Plan will inform the Financial Plan and Budget, which will have long term financial and resource implications for Council. These will be addressed in each of these documents.

### Conflicts of Interest Disclosure

28. 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

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

### Environmental Implications

30. Both the Community Vision and Council Plan include strong environmental considerations, including Principles 2 and 5 of the Community Vision, the Climate Leadership operating principle within the Council Plan, and the Sustainability and Climate Action strategic objective within the Council Plan. The Community Vision and Council Plan will inform the Financial Plan.

### Community Consultation

31. A summary of community consultation is included below:

|                            |  |
|----------------------------|--|
| <b>Purpose</b>             | An extensive engagement program – Shaping Stonnington – was undertaken from September 2020 to May 2021 to develop the Community Vision 2040 and inform the development of the Council Plan 2021-25. The Community Vision and Council Plan will inform the Financial Plan.<br>Community feedback via public exhibition on the Financial Plan is now being sought. |
| <b>IAP2 Goal</b>           | Collaborate  |
| <b>Exhibition period</b>   | See ‘Method’ below   |
| <b>Method</b>              | <b>Community Vision and Council Plan</b><br>Wider Engagement: September 2020 - February 2021<br>Deliberative Engagement via People’s Panel: March - May 2021<br><b>Budget</b><br>Public Exhibition: April 2021 to May 2021<br><b>Financial Plan and Council Plan</b><br>Public Exhibition: 17 August - 7 September 2021  |
| <b>Reach</b>               | Wider engagement: Approximately 20,000 touchpoints across letters, social media, online workshops, surveys and face-to-face intercepts.  |
| <b>Summary of feedback</b> | Any feedback received during Public Exhibition will be summarized and presented to Council.  |
| <b>Impact</b>              | At the collaborate level, Council partnered with our community to incorporate advice and recommendations into the Community Vision to the maximum extent possible. The Community Vision as drafted was adopted by Council. The community’s concerns, priorities and  |

|  |  |
|--|--|
|  | <p>aspirations from the engagement program are reflected in the Council Plan and Financial Plan.</p> <p>An overview of submissions received through public exhibition, and subsequent Management response, is provided in <b>Attachment 2</b>.</p> |
|--|--|

### Human Rights Consideration

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

### Attachments

1. Financial Plan- Stonnington Final [8.6.1 - 32 pages]
2. Financial Plan - Submissions [8.6.2 - 1 page]



## 8.7 Health and Wellbeing Plan 2021 - 2025

**Manager Aged, Diversity & Community Planning: Liz Daley**  
**Director Community & Wellbeing: Cath Harrod**

### Linkage to Council Plan

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

- C1** Enhance community health and wellbeing outcomes through quality service delivery and strategic partnerships.

### Purpose of Report

To present the Stonnington Health and Wellbeing Plan 2021–2025 for adoption, following public exhibition and seek approval to submit to the Victorian Government - Department of Health.

### Officer Recommendation

**That Council:**

- 1. APPROVE the Stonnington Health and Wellbeing Plan 2021-2025 (refer Attachment 1); and**
- 2. NOTE the approved Health and Wellbeing Plan 2021-2025 will be submitted to the Victorian Government - Department of Health, in compliance with Council's statutory requirements (Public Health and Wellbeing Act 2008).**

### Executive Summary

1. Council is required to develop a Health and Wellbeing Plan 2021-2025 by 24 October 2021.
2. Consultation on the draft Plan occurred from 7 September to 28 September 2021.
3. Council received six submissions resulting in changes made to produce the final Plan (refer **Attachment 1**).

### Background

4. Council has a significant role, including statutory responsibilities, for improving the health and wellbeing of people who live, work, study and visit in the municipality.
5. The *Public Health and Wellbeing Act 2008* requires Councils to prepare a health and wellbeing plan every four years, within 12 months of a Council election.
6. While Council is responsible for preparing the Plan, improving health outcomes requires a collective and sustained effort from all levels of government, non-government organisations, businesses, health professionals, communities, families and individuals.

7. The Stonnington Health and Wellbeing Plan (SHWBP) 2021-2025 is due for submission to the Department of Health by 24 October 2021.

### Key Issues and Discussion

8. The SHWBP (refer **Attachment 1**) outlines the vision and priorities for protecting, improving, and promoting the health and wellbeing of our community over the next four years.
9. The Plan has three overarching priority areas for delivering improved health and wellbeing outcomes for the community (1) Healthy and Well, (2) Safe and Respectful and (3) Connected and Supportive.
10. Underpinning the Plan is a strong emphasis on achieving health equity across the lifespan and across communities that are experiencing poorer health and wellbeing.
11. Community consultation inviting community to view the draft Plan and provide feedback occurred from 7 September to 28 September 2021.
12. Council received six submissions for consideration including:
  - a. Greater emphasis on gender and health literacy throughout the Plan.
  - b. Acknowledge environmental factors influencing food security, nutrition and physical activity.
  - c. Data cited requires comparison data (this is included in the municipal scan and will be uploaded to the Council website).
  - d. Include details on implementation of the Plan for transparency.
13. The Plan has been adjusted to include feedback with specific detailed information to be included in implementation Action Plans. The Plan is included in **Attachment 1** and submission detail and responses in **Attachment 2**.

### Governance Compliance

#### Policy Implications

14. The *Public Health and Wellbeing Act 2008* requires Councils to prepare a municipal public health and wellbeing plan every four years, within 12 months of each Council election.
15. The Plan must be consistent with the Council Plan, Municipal Strategic Statement and have regard to the *Climate Change Act*.

#### Financial and Resource Implications

16. Implementation of the Plan is funded through Council's annual budget. Funding is also sought from the state and federal governments and agencies such as VicHealth.
17. Council also provides community grants to local agencies that deliver activities that meet the objectives of both the Council Plan and the Health and Wellbeing Plan.

### Conflicts of Interest Disclosure

18. 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

19. Council is legislatively required to develop a municipal public health and wellbeing plan every four years (24 October 2021).

#### Environmental Implications

20. Section 17 of the *Climate Change Act* requires councils to have regard to climate change in preparation of their municipal public health and wellbeing plans.

#### Community Consultation

|                          |   |
|--------------------------|---|
| <b>Purpose</b>           | <ul style="list-style-type: none"> <li>• <u>Phase 1</u> consultation (Feb-Apr) sought to understand the priority needs to inform the development of the Draft Plan.</li> <li>• <u>Phase 2</u> consultation (Sept) will seek to confirm the final Plan.</li> </ul>   |
| <b>IAP2 Goal</b>         | <ul style="list-style-type: none"> <li>• Involve</li> </ul>   |
| <b>Exhibition period</b> | <ul style="list-style-type: none"> <li>• Phase 1: February to April 2021</li> <li>• Phase 2: September 2021</li> </ul>  |
| <b>Method</b>            | <p>Phase 1 (Complete)</p> <ul style="list-style-type: none"> <li>• Promotion via social media posts, Stonnington News article, Website news, Connect Stonnington (survey and ideas board), e-newsletters and emails to local agencies.</li> <li>• Health and Wellbeing Reference Group meetings (Feb – July)</li> <li>• Roundtable discussions and targeted conversations</li> <li>• Health and Wellbeing Survey (online and face-to-face)</li> </ul> <p>Phase 2 (Complete)</p> <ul style="list-style-type: none"> <li>• Draft Plan and feedback form on Connect Stonnington</li> <li>• Promotion via Council websites, social media, Stonnington News, e-newsletters and through Click and Collect in Libraries</li> <li>• Direct email and distribution via the Reference Group, Access and Inclusion and the Southern Melbourne Primary Care Partnership E-Bulletin</li> <li>• On hold message and Customer Service TV screen</li> </ul> |
| <b>Reach</b>             | <p>Phase 1 reach:</p> <ul style="list-style-type: none"> <li>• 6 Reference Group meetings (24 members)</li> <li>• 4 Roundtable discussions (48 participants)</li> <li>• 5 targeted workshops (77 participants)</li> <li>• 636 Connect Stonnington views (42 Surveys)</li> <li>• Stonnington News article (65,000 copies)</li> </ul> <p>Phase 2 reach:</p> <ul style="list-style-type: none"> <li>• 114 Connect Stonnington visits</li> <li>• Email distribution to 24 Reference Group members</li> </ul>  |

|                            |  |
|----------------------------|--|
|                            | <ul style="list-style-type: none"><li>• Email distribution to over 20 Access and Inclusion members</li><li>• SMPCP E-Bulletin to 457 subscribers</li></ul>   |
| <b>Summary of feedback</b> | Phase 1 <ul style="list-style-type: none"><li>• Fact Sheets</li><li>• Health and Wellbeing Survey Summary report</li><li>• Insights Summary report</li></ul> |
| <b>Impact</b>              | Phase 1 – informed the priorities of the Health and Wellbeing Plan<br>Phase 2 – informed the final Plan and priorities for the next four years.              |

### Human Rights Consideration

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

### Attachments

1. Final - Stonnington Health and Wellbeing Plan [8.7.1 - 21 pages]
2. Engagement Feedback Summary Sept 21 [8.7.2 - 7 pages]

## 8.8 Out-of-Round Arts and Culture Grant Applications 2021/22

**Manager Event, Arts & Culture: Alison Leach**  
**Director Community & Wellbeing: Cath Harrod**

### Linkage to Council Plan

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

- C1** Enhance community health and wellbeing outcomes through quality service delivery and strategic partnerships.
- C2** Strengthen Council's commitment to support our diverse and inclusive communities.

**Economy:** A City that will grow its premier status as a vibrant, innovative and creative business community.

- EC4** Promote Stonnington's premier precincts, employment clusters and cultural assets as hubs for shopping, hospitality, entertainment and culture.

### Purpose of Report

To seek Council endorsement for the assessment panel recommendation for two out-of-round Arts and Culture Grants received for 2021/22 funding.

#### **That Council:**

- 1. APPROVE the allocation of \$30,000 from the Arts and Culture Grants pool of 2021/22 funds for the out-of-round application as recommended by the Arts and Culture Grants assessment panel for funding as shown in Attachment 1.**
- 2. APPROVE an additional budget allocation of \$15,514.50 as part of budget reprioritisations identified through the Mid-Year Budget Review process.**

### Executive Summary

1. On 19 July 2021, Council endorsed the allocation of \$425,514.50 from the Arts and Culture Grants pool of funds for 2021/22 to 26 applicants, as recommended by the Arts and Culture Grants assessment panel. Council also endorsed the remaining balance of \$14,485.50 be made available for any out-of-round grant applications.
2. Council has received two out-of-round applications from unsuccessful applicants within the 2021/22 grant round.

### Background

3. Applications for Arts and Culture Grants opened on 16 February 2021 and closed on 22 April 2021. Council received a total of 56 applications for financial and in-kind support with requests totalling just over \$1 million.
4. The panel of assessors recommended funding for a total of 26 applications across a diverse range of artforms. Unsuccessful applicants are eligible to reapply as an out-of-round applicant.
5. Two out-of-round applications from unsuccessful applicants within the 2021/22 grant round have been received.

6. The panel of assessors was reconvened to complete assessments for the two out-of-round grant applications received. Assessments were made against the stated assessment criteria within the grant guidelines and applications were rated and ranked in relation to the category.

### Key Issues and Discussion

7. The panel of assessors has recommended full funding for one out-of-round application.
8. The recommended applicant has requested \$30,000 of financial support.
9. Each application has been assessed against the following criteria by the grant assessment panel and checked for any outstanding acquittal requirements on previous grants.
10. In addition to the assessment criteria below, a key consideration for the panel was the continued impact of COVID-19 in Victoria and the potential impact on revenue and social interaction, as well as the contribution to community and economic recovery.

### Assessment Criteria

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

### Governance Compliance

#### Policy Implications



11. There are no policy implications associated with this report.

#### Financial and Resource Implications

12. The recommended out-of-round grant application requires \$30,000 of financial support. There is \$14,485.50 remaining in the Arts and Culture grant pool of funds.

13. On this basis the report recommends that the additional budget of \$15,514.50 required to fully fund the successful out-of-round grant application can be accommodated through budget reprioritisations identified as part of the Mid-Year Budget Review process to offset the over allocation.

14. Endorsed applicants are required to enter into a sponsorship agreement as per the Arts and Culture Grant Guidelines that clearly outline the requirements of the grant recipient including payment structure, acquittal requirements and the return of any unspent funds should the project not be able to proceed within 2021/22.

#### Conflicts of Interest Disclosure

15. 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

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

#### Environmental Implications

17. There are no environmental implications relevant to this report.

#### Community Consultation

|                  |  |
|------------------|--|
| <b>Purpose</b>   | Council will notify applicants of the outcome of their application. Council will advertise all successful projects.  |
| <b>IAP2 Goal</b> | Inform.  |
| <b>Method</b>    | All applicants will be notified of the outcome of their application in writing once endorsed by Council.<br>Successful applicants will be provided with a confirmation letter and accompanying sponsorship agreement documentation.<br>Unsuccessful applicants will be notified in writing and offered an opportunity to receive feedback on their application.<br>Arts and Culture Grant recipients (and their projects) will be announced on Council's website and in a media release. All arts and cultural grant projects will be promoted across Council's communication avenues including What's On Stonnington and Stonnington News. Projects taking place within Chapel Off Chapel will also be promoted across Chapel's communication channels. |
| <b>Reach</b>     | What's On and Stonnington News readership. Chapel Off Chapel social media audience.  |

#### Human Rights Consideration

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

#### Attachments

1. Arts and Culture Grant Out Of Round Recommendations 2021 22 Public [8.8.1 - 2 pages]

## 8.9 Community Grants Program 2021/22 - Quick Response Grants

**Manager Aged, Diversity & Community Planning: Liz Daley**

**Director Community & Wellbeing: Cath Harrod**

### Linkage to Council Plan

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

- C1** Enhance community health and wellbeing outcomes through quality service delivery and strategic partnerships.
- C2** Strengthen Council's commitment to support our diverse and inclusive communities.
- C7** Support local community organisations with equitable access to facilities, training and resources.

### Purpose of Report

To seek Council endorsement for recommendations regarding applications received as part of the Quick Response Grant.

### Officer Recommendation

**That Council:**

- 1. APPROVE the recommendations for Quick Response Grants funding as shown in Attachment 1.**
- 2. NOTE Quick Response Grants will remain open until funds are fully expended.**

### Executive Summary

1. A review of the Community Grants program introduced the new category "Quick Response" grants for out of cycle applications.
- 2.
3. Quick Response Grants opened on 20 July 2021 and will remain open until funds are exhausted.
4. Four (4) applications have been received with one recommended for part funding (see **Attachment 1**).

### Background

5. A review of the Community Grants Program in 2020 resulted in the introduction of changes, including the new "Quick Response" grant for out of cycle applications.
6. Quick Response Grants were approved by Council (7 June 2021) to open on 20 July 2021 until funds are exhausted.
7. A cross-Council panel of officers assessed grants against the stated assessment criteria within the Grant Guidelines. Grant recommendations are based on information supplied in the application and support material.

## Key Issues and Discussion

8. Quick Response Grants Guidelines support the following activities:
  - unforeseen events or urgent issues posing a risk to existing community groups, programs or events
  - an unexpected initiative that needs Council's support and benefits a community group and/or the wider Stonnington community
  - groups requiring small assistance to get a new project running or host a small community activity
  - groups that have missed out on annual grants due to circumstances beyond their control (e.g. incapacity of the person in charge of grants application due to illness).
9. Applications recommended for no support generally fall into the following categories:
  - application activity did not meet a criterion for support
  - program was not specific to Stonnington residents
  - Funding sought to offset an existing cost.
10. Applications were assessed by a panel comprising Manager Aged, Diversity and Community Planning; Community Planning Coordinator; Manager Events, Arts and Culture; Coordinator Sustainable Environment and Community Development Officer.

## Governance Compliance

### Policy Implications

11. The Quick Response Grant program is guided by the Community Grants Policy 2021-2022, endorsed by Council on 7 June 2021.

### Financial and Resource Implications

12. Quick Response Grants are funded through the remaining Community Grants budget following the annual program (\$13,224.30).

### Conflicts of Interest Disclosure

13. Members of the panel have declared no conflict of interest regarding the applications considered during the assessment process.

### Legal / Risk Implications

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

### Environmental Implications

15. There are no environmental implications relevant to this report.

## Community Consultation

|                  |  |
|------------------|--|
| <b>Purpose</b>   | To provide information to eligible community groups and organisations on the opening and closing dates for applications to all community grants, including quick response grants |
| <b>IAP2 Goal</b> | Inform   |

|                            |  |
|----------------------------|--|
| <b>Exhibition period</b>   | Opened 20 July 2021 and will close once funds exhausted  |
| <b>Method</b>              | SmartyGrants database notification (9 June 2021) and reminder emails (17 June 2021) provided the full range of grants information (including quick response).<br>Internal email sent to Council Officers (23 July 2021) notifying of quick response grants and requesting information be shared with networks<br>Information on Community Grants program posted on the Council website (10 June 2021) and frequently asked question uploaded (20 June 2021)<br>Information on the Community Grants program placed in the Stonnington News (Winter edition) |
| <b>Reach</b>               | 278 individuals received an email notification via the SmartyGrants system (Note that some organisations have more than one contact listed)<br>31 Council Officers received an email with information about the Quick Response Grant on 23 July 2020 requesting to share with their networks.<br>Information is included on the Stonnington City Council website and program promoted in the Stonnington News (Winter edition)   |
| <b>Summary of feedback</b> | Appreciation of a process for grants support outside of the regular funding cycle.   |
| <b>Impact</b>              | Broader support for community organisations and groups with flexibility to apply for unforeseen circumstances. The impact is increased transparency and understanding of process for out of cycle support for funding.   |

#### Human Rights Consideration

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

#### Attachments

1. Quick Response Grants 30 September 2021 [8.9.1 - 1 page]

## 8.10 Headspace - Proposed Lease at Northbrook, Malvern

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

### Linkage to Council Plan

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

- C1** Enhance community health and wellbeing outcomes through quality service delivery and strategic partnerships.

### Purpose of Report

To seek Council endorsement to lease part of Northbrook, 1257 High Street, Malvern for a Headspace service.

### Officer Recommendation

**That Council:**

- 1. NOTE the outcome of the public notice and community consultation of its Intention to Lease part of the Northbrook building at 1257 High Street, Malvern for provision of a Headspace service.**
- 2. APPROVE the CEO to execute a lease to Access Health and Community based on an initial 3-year term with two further 3-year options for space at Northbrook, 1257 High Street, Malvern, subject to planning approval being granted for a change of use.**

### Executive Summary

1. Council has undertaken a public notice process consistent with the obligations of S115 of the Local Government 2020, to seek feedback from the community on its intention to lease part of the Northbrook Building at 1257 High Street, Malvern.
2. Notice was served via advertisement in the Herald Sun newspaper, direct mail to adjoining residents and on the Council's community engagement webpage Connect Stonnington.
3. Two (2) responses were received, one in support and one which raised concerns.
4. The concerns related primarily to car parking, an issue which is not relevant to the Intention to Lease process but is addressed through the concurrent planning application which is under consideration through a separate process.
5. Council officers recommend that Council endorse the lease for finalisation and execution by the CEO.

### Background



6. Mental Health is an increasingly concerning health risk to the community, particularly amongst young people with 1 in 4 people aged 16 – 24 experiencing some form of mental illness every year, and three-quarters of all mental illness manifesting in people under the age of 25. The provision of a Headspace service in Stonnington is therefore a welcomed enhancement to the provision of health and wellbeing support services and provides an excellent opportunity to develop a partnership approach with Council's Youth Services team.
7. In late 2020, Access HC was announced as the successful tenderer to provide a Headspace service in Stonnington. The geographical parameters set by Headspace National required the location of the new service to be within the Federal seat of Higgins, in the suburb of Glen Iris and within the municipal boundary of Stonnington.
8. Officers worked closely with Access HC to identify a facility that may be suitable to house the new Headspace service. Whilst located outside of their original geographical zone, the potential use of space at Northbrook, 1257 High Street, Malvern (at the rear of the History Centre) emerged as a viable option and has subsequently been supported by Headspace National.

### Key Issues and Discussion

9. Council officers undertook a public notice process, consistent with the requirements of S115 of the Local Government Act 2020, of its Intention to Lease part of the Northbrook building for the provision of a Headspace service.
10. Notice was published in the Herald Sun, a letter was sent by direct mail to 15 properties adjoining Northbrook and feedback was sought via the Stonnington Connect webpage.
11. The public notice period concluded on 21 September with two (2) submissions received.
12. One submission was received via the Connect Stonnington webpage. This submission was in support of the lease.
13. One submission was received via email from the resident of an adjoining property. This submission raised three concerns. These concerns and officers' assessment are summarised in the table below. A full copy of the email submission is attached as a confidential attachment.

| <b>Concern</b>   | <b>Officers' response</b>  |
|--|--|
| Damaged fence on the property boundary between Northbrook and submitters property. | Not relevant to the Intention to Lease.<br>Officers will follow up on the maintenance  |
| Concerns over negative impact on weekday car parking availability                  | Not relevant to the Intention to Lease.<br>Car parking demand and provision is a consideration of the planning permit application which is running concurrent to the Intention to Lease process. |

|                                |   |
|--------------------------------|---|
|                                | A traffic management plan has been submitted as part of that application. |
| Heritage Listing / car parking | Not relevant to the Intention to Lease.                                   |

14. Access Health and Community have lodged a planning permit application with Council that is required to rezone the building for Medical Use in order to enable the provision of primary health care services.

15. At the time of preparing this report the planning permit application was being finalised.

16. Based on the feedback received through the public notice process, Council officers recommend that the lease of floorspace at Northbrook be executed by the CEO, subject to the approval permit for change of use required to enable primary health services to be delivered at the site.

### Governance Compliance

#### Policy Implications

17. This leasing process has been undertaken consistent with Council Policy.

#### Financial and Resource Implications

18. The commencing rental for this lease is \$27,000 per annum, which is a discounted rate

19. Access Health and Community is responsible for the modification / fit-out costs required to make the leased space fit-for-purpose.

#### Conflicts of Interest Disclosure

20. 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

21. This process has been undertaken consistent with the requirements of S115 of the Local Government Act 2020.

#### Environmental Implications

22. There are no environmental implications relevant to this report.

#### Community Consultation

|                          |  |
|--------------------------|--|
| <b>Purpose</b>           | To make the community aware of Council's Intention to Lease part of Northbrook for the purposes of a Headspace Service and invite feedback pursuant to S115 of the Local Government Act 2020.              |
| <b>IAP2 Goal</b>         | To Inform and consult.   |
| <b>Exhibition period</b> | 8 September - 21 September 2021.   |
| <b>Method</b>            | <ul style="list-style-type: none"> <li>- Public Notice in the Herald Sun</li> <li>- Letters mailed to adjacent property owners, consistent with the notification scope of the planning process.</li> </ul> |

|                            |  |
|----------------------------|--|
|                            | - Information of the proposed lease placed on the Connect Stonnington website  |
| <b>Reach</b>               | The Connect Stonnington page received 88 views from 40 visitors.<br>Letters sent to 15 adjoining properties<br>Herald Sun print and on-line circulation reach<br>In total 2 submissions were received.<br>One formal submission was lodged via the Connect Stonnington page and one via email. |
| <b>Summary of feedback</b> | One submission in support of the use of Northbrook, commenting that the location is accessible to clients.<br>One submission raising concerns about several issues, primarily car parking.   |
| <b>Impact</b>              | Based upon the two submissions received, Council officers are of the view that the lease should be executed for the provision of a Headspace Service at Northbrook.  |

#### Human Rights Consideration

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

#### Attachments

1. CONFIDENTIAL REDACTED - Headspace Lease Report Attachment 1 [8.10.1 - 2 pages]

## 8.11 Contract No. T22026 - Como Park Oval Redevelopment

**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.

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

### **Purpose of Report**

To seek approval to award Contract No. T22026 Como Park Oval Redevelopment to Turfcare and Hire Pty Ltd ABN 85 092 183 876

### **Officer Recommendation**

**That Council:**

- 1. AWARD Contract No. T22026 Como Park Oval Redevelopment to Turfcare and Hire Pty Ltd ABN 85 092 183 876 for civil and landscaping works to the value of \$1,422,855.55 excluding GST (\$1,565,141.11 including GST).**
- 2. APPROVE the contingency, provisional and project management cost to the amount of \$122,946.66 excluding GST (\$135,241.33 including GST)**
- 3. AUTHORISE the Chief Executive Officer to execute the contract agreements with the above contractor.**
- 4. NOTE that expenditure under this contract is in accordance with Council's Budget for Financial Year 2021/22.**

### **Executive Summary**

- Please note that confidential information is contained in Attachment A: Councillor Procurement Briefing Paper, Attachment B: Evaluation Matrix and Attachment C: Probity Auditors Report, as circulated in the confidential section of the agenda attachments, in accordance with Section 66 (2) (a) of the Local Government Act 2020, as the information relates to contractual matters and premature disclosure of the information could be prejudicial to the interests of Council or other persons.
- This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making. If discussion of the confidential information in the attachments to this report is required for Council to make a decision, this item will be deferred to the confidential section of the agenda.

|                             |  |
|-----------------------------|--|
| <b>Contract No.</b>         | T22026   |
| <b>Contract Name:</b>       | Como Park Oval Redevelopment   |
| <b>Contract Supervisor:</b> | John Okoli, Project Manager – Construction;<br>Project Management & Delivery |

### **Background**

- Como Park Oval is a heavily utilized ground, hosting year-round training and matches for cricket in summer and Australian Rules Football in winter. The ground has been identified for a number of years as requiring reconstruction in order to provide a suitably safe, high quality and sustainable playing surface for Australian Rules Football and cricket.

4. The ground suffers from poor drainage and the irrigation system is in poor condition, resulting in uneven watering and patchy grass coverage. Coupled with the current cool season grass species, the surface requires excessive water to maintain sufficient and even coverage which is environmentally unsustainable.
5. The current ground configuration for cricket, with 2 pitches overlapping one another is somewhat unique and has raised safety concerns. Prior to, and during the 2019-2020 cricket season, council officers worked closely with South Yarra Cricket Club, Mercantile Cricket Association, Cricket Victoria and Cricket Australia to review and assess the nature of player safety risks arising from the small, overlapping cricket grounds with boundaries as short as 30m in some areas.
6. The project area for this stage is subject to a heritage overlay, the project design has been approved and a letter of advice exempting the project from either a Cultural Heritage Management Plan or a Preliminary Aboriginal Heritage Test has been secured.
7. Works are scheduled to commence in October and be completed in May.

### Key Issues and Discussion

|  |                   |
|--|-------------------|
| <b>Advertisement Date:</b>             | 28 August 2021    |
| <b>Procurement Method:</b>             | Public Tender     |
| <b>Documents released via:</b>         | VendorPanel       |
| <b>Closing Date:</b>                   | 20 September 2021 |
| <b>Number of Submissions received:</b> | Six               |

8. Tenders were assessed against the Evaluation Criteria listed in the Tender Application by an Evaluation Panel and support by an independent probity auditor and an independent environmental consultant. Refer to the attached confidential Evaluation Report for:
  - a. Tenders Received
  - b. Tender Evaluation Panel Members
  - c. Tender Submission Pricing
  - d. Price Clarifications
  - e. Tender Conformance/ Compliance Assessment
  - f. Pricing Basis for Evaluation
  - g. Evaluation Matrix
  - h. Evaluation Panel Recommendation and Commentary
  - i. Contract Departures
  - j. Referee and Financial Due Diligence Checks
9. Turfcare and Hire Pty Ltd was assessed by the Tender Evaluation Panel as the preferred supplier, offering the best value to Council based on capability, resourcing, quality, reliability and price competitiveness.

### Governance Compliance

#### Policy Implications

10. There are no policy implications associated with this report.

#### Financial and Resource Implications

11. The estimated total annual expenditure under this contract is identified in the attached confidential Evaluation Report.

12. The expenditure forecast for this contract is in the table below;

| <b>Expenditure Forecast</b>                  |                       |
|--|-----------------------|
| Contract Scheduled Amount                    | \$1,422,855.55        |
| Contract Provisional Amount                  | \$15,100.00           |
| Total Contract Amount (excl GST)             | \$1,437,955.55        |
| Project Management & Contingency (7.5%)      | \$107,846.66          |
| <b>Total Forecast Expenditure (excl GST)</b> | <b>\$1,545,802.21</b> |

13. Funding is provided from Capital budget **X0255** in which there is a total budget of **\$1,400,000** (ex GST) for **FY 2021/22**

14. It is anticipated that the budget shortfall of \$145,802.21 will be funded from savings in X9803 Menzies Reserve and X9920 Orrong Road which are scheduled for completion in November and December and have a remaining budget of \$327,422 and \$385,430 respectively.

#### Conflicts of Interest Disclosure

15. 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

16. If the Contractor cannot commence works on site by the end of October then the project cannot go ahead this financial year. This is because the grass will be planted too late in the season, and the risk of it dying is almost certain.

#### Environmental Implications

17. The contractor is to adhere to all environmental management measures throughout the duration of the project. This will be monitored by Council's appointed project supervisor.

#### Community Consultation

|                  |  |
|------------------|--|
| <b>Purpose</b>   | <p>Prior to, and during the 2019-2020 cricket season Council officers worked closely with South Yarra Cricket Club, Mercantile Cricket Association, Cricket Victoria and Cricket Australia to review and assess the nature of the ground which was deemed a risk by all parties.</p> <p>Initial design concepts were prepared in consultation with the clubs and there was engagement to seek customer feedback to help shape the design for Como Park Redevelopment.</p> <p>Notifications were sent out and signs put up around the park to inform the community and park users of the upcoming construction works.</p> |
| <b>IAP2 Goal</b> | Community and stakeholder participation to inform design development to meet customer needs.   |



|                            |   |
|----------------------------|---|
| <b>Method</b>              | <ul style="list-style-type: none"> <li>• Workshops with sports clubs</li> <li>• Notification letters mailed to 1730 residents.</li> <li>• Work notification signposts installed at six locations within the park.</li> <li>• Signpost advising park users of alternative dog off-leash parks installed at six locations within the park.</li> <li>• A second batch of notification letters will be mailed to 1720 local resident one week prior to project commencement.</li> </ul> |
| <b>Reach</b>               | Social media, Connect Stonnington page, information sessions held in the park, online survey.   |
| <b>Summary of feedback</b> | The feedback received from club and stakeholder consultation was supportive of the design   |
| <b>Impact</b>              | The cricket clubs will be displaced for one season. Other park users will not be able to use the oval for during construction.  |

18. Other stakeholder consultation included the South Yarra Cricket Club, Cricket Victoria, park users, nearby residents, Cricket Australia, Old Geelong Football Club, Festivals and Events, Parks, and Recreation, and Heritage Victoria.

#### Human Rights Consideration

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

#### Attachments

1. CONFIDENTIAL REDACTED - T22026 Attachment A Confidential Attachment Councillor Procur [8.11.1 - 4 pages]
2. CONFIDENTIAL REDACTED - T 22026 - Multi Party Evaluation Report [8.11.2 - 12 pages]
3. CONFIDENTIAL REDACTED - T 22026 Tender Probity Certification Como Park [8.11.3 - 3 pages]

## 8.12 Extension of Contract No. T19004 – Provision of Cleaning Services - Municipal Buildings

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

### Linkage to Council Plan

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

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

### Purpose of Report

To seek approval to exercise Council's Option to extend **Contract No. T19004 Provision of Cleaning Services - Municipal Buildings** to **ServiceFM ABN 34 008 073 550** for a further and final two (2) year term.

### Officer Recommendation

**That Council:**

- 1. Extend Contract No. T19004 Provision of Cleaning Services - Municipal Buildings, to ServiceFM, ABN 34 008 073 550 for the cleaning of Council's buildings for a further and final two (2) year term**
- 2. AUTHORISE the Chief Executive Officer to execute the contract agreements with the above contractor.**
- 3. NOTE ServiceFM is the newly rebranded Academy Services and no changes have been made to their ABN 34 008 073 550.**
- 4. NOTE that expenditure under this contract is in accordance with Council's Budget for Financial Year 2021/22 and provisions will be made accordingly for the associated future budget periods for this contract.**

### Executive Summary

- Confidential information is contained in Attachment 1, as circulated in the confidential section of the agenda attachments, in accordance with Section 66 (2) (a) of the Local Government Act 2020, as the information relates to contractual matters and premature disclosure of the information could be prejudicial to the interests of Council or other persons.
- This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making. If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

|                             |  |
|-----------------------------|--|
| <b>Contract No.</b>         | Contract No. T19004                                  |
| <b>Contract Name:</b>       | Provision of Cleaning Services - Municipal Buildings |
| <b>Contract Supervisor:</b> | Coordinator Venues and Community Facilities          |

## Background

3. Contract No. T19004 for the Provision of Cleaning Services of Municipal Buildings was awarded to Academy Services for a period of three (3) years, commencing on 1 March 2019, via CEO Notice Paper dated 8 January 2019. Refer to Attachment 2.
4. The Contract includes the cleaning services to 43 Council buildings/facilities ranging from administration and operational areas, Childcare Centres, Maternal and Child Health Centres, Libraries, sports pavilions and community facilities.
5. Cleaning specifications specific to each building form part of the contract documents.
6. The accepted Contract lump sum price, for the initial 3-year term, is outlined in Confidential Report Attachment 1.
7. In accordance with the conditions of the Contract:  
*The Council may, at its option, extend the operation of this Contract beyond the Initial Contract Term of three (3) years by a further one (1) increment of a two (2) year term, to a maximum contract period of five (5) years from the commencement date.*
8. In April 2021, Academy Services was rebranded to ServiceFM. The Procurement Department reviewed the rebranding and confirmed that a novation was not required.
9. Due to ServiceFM's successful delivery of cleaning services and in accordance with the provision of the Contract, Council officers recommend that Council exercise the option to extend the Contract for the additional one (1) two (2) year term.

## Key Issues and Discussion

10. The Contract was originally approved by the CEO under previous CEO delegation and executing this Contract extension would previously have been approved by the CEO. The proposed contract extensions cumulative spend now exceeds the CEO Delegation and requires Council resolution.
11. Confidential Report Attachment 1 contains the following information:
  - Procurement Process Background
  - Contract Performance
  - Purchase Order Requirements
  - Financial and Resource Commentary

## Governance Compliance

### Policy Implications

12. This report is consistent with Council's Procurement Policy and Procedures.

### Financial and Resource Implications

13. The estimated total annual expenditure under the proposed extension is identified in the attached Confidential Report Attachment 1.
14. The required budget amount is allocated within the adopted Council budget for the 2021/22 financial year.

### Conflicts of Interest Disclosure

15. 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

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

#### Environmental Implications

17. ServiceFM continues to work pro-actively with Council to provide a cleaning service that reduces environmental impacts.

#### Community Consultation

18. There was no requirement for community consultation.

#### Human Rights Consideration

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

#### Attachments

1. CONFIDENTIAL REDACTED - Cleaning Contract No T19004 Confidential Report Attachment 1 [8.12.1 - 4 pages]
2. CONFIDENTIAL REDACTED - CEO Minutes 8 Jan 2019 [8.12.2 - 8 pages]

## 8.13 CEO Employment and Remuneration Policy

Chief People Officer: Jacqui Campbell

### 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

To seek Council approval of the new CEO Employment and Remuneration Policy in accordance with the requirements of the new *Local Government Act 2020*.

### Officer Recommendation

**That Council:**

- 1. APPROVE the Chief Executive Officer Employment and Remuneration Policy (refer Attachment 1); and:**
- 2. NOTE the following inclusion in section 3.2- Mandatory Contract Terms, "A decision on the reappointment of the CEO must be finalised not less than six months prior to the expiry of the CEO contract".**

### Executive Summary

The Chief Executive Officer (CEO) Employment and Remuneration Policy complies with the obligations and requirements set out in section 45 of the *Local Government Act 2020* (the Act).

### Background

1. The CEO Employment and Remuneration Policy is a requirement of the Act and outlines the way in which Council will manage the recruitment and appointment of its Chief Executive Officer.
2. The policy also sets out a process and framework for evaluating performance and setting Chief Executive remuneration and includes mandatory contract terms and conditions.
3. The Council is required to establish the policy on or before 31 December 2021.
4. The draft policy was presented to the Audit and Risk Committee in August 2021 for feedback and input.
5. Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019.

### Key Issues and Discussion

6. A CEO Employment and Remuneration Policy meets the requirements of section 45 of the *Local Government Act 2020*.
7. Following discussion at a recent Council workshop the policy has been revised to:
  - a. Incorporate 360-degree feedback for both the CEO and the Council as part of the performance review process; and
  - b. Fully define the dispute resolution process in the policy rather than refer to the process outlined in the Council Enterprise Bargaining Agreement (EBA).

### **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**

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. CEO Employment and Remuneration Policy 2021 [8.13.1 - 6 pages]



**9 Correspondence**

**10 Tabling of Petitions and Joint Letters**

**11 Notices of Motion**

**12 Reports by Councillors**

**13 Questions to Council Officers**

**14 Urgent Business**

**15 General Business**

**16 Confidential Business**