



Council Meeting Agenda

Monday 2 August 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

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

Welcome and Acknowledgement of Country

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

We acknowledge we are meeting on the Traditional Lands of the 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.

Affirmation Statement

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

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1 Reading of the Reconciliation Statement

2 Reading of Statement of Commitment

3 Introductions of Councillors and Executive Staff

4 Apologies

5 Confirmation of the Minutes of the Previous Meeting

5.1 Minutes of the Council Meeting held on 19 July 2021 and Minutes of the Confidential Meeting held on 19 July 2021

Officer Recommendation

That the Minutes of the Meeting of the Stonnington City Council held on 19 July 2021 and Minutes of the Confidential Meeting of the Stonnington City Council held on 19 July 2021 be confirmed as an accurate record of the proceedings.

6 Disclosure of Conflicts of Interest

7 Questions to the Council From the Community

8 Business

8.1 Planning Application 0117/21 - 13A Rose Street, Armadale

Coordinator Statutory Planning: Phillip Gul
Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a planning application for use of the land as a food and drink premises (café) in a Neighbourhood Residential Zone and associated reduction in the car parking requirement at 13A Rose Street, Armadale.

Abstract

Proposal

The proposal seeks to use the land as a food and drink premises (cafe). Details of the proposed food and drink premises (café) is as follows:

- The proposed hours of operation are between 6:30am and 4:00pm.
- The proposed maximum number of patrons is 15 patrons, all internally.
- A maximum of 4 staff may be on the site at any one time during operation.
- There is no speakers or live music proposed.
- No on site car parking will be provided.

Officer Recommendation Summary

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

- The proposed use is appropriate in this locale.
- The proposal, subject to conditions, which include a reduction in the hours, will ensure there is no unreasonable amenity impacts on the surrounding properties.
- The proposed use will not result in unacceptable traffic and parking impacts.

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

- Use of the site as a food and drink premises (refer to assessment).
- Amenity impacts on the adjoining properties (refer to assessment).
- Car parking and traffic (refer to assessment).

Officer's response

The proposal seeks use of the land as a food and drink premises (café) in a Neighbourhood Residential Zone and associated reduction in the car parking requirement.

The proposed use of the land as a small scale food and drink premises (café) is considered to appropriately respond to the surrounding area. Subject to conditions including a restriction of the hours, the proposed use will not result in any unreasonable amenity impacts to the surrounding residential area.

The proposed traffic impact is also considered acceptable, given the small size of the café and location of the site within close proximity to public transport.

Executive Summary

Applicant:	Rubin Winograd Mecone
Ward:	South
Zone:	Neighbourhood Residential Zone- Schedule 2
Overlay:	Special Building Overlay- Schedule 1 Heritage Overlay- Schedule 130
Neighbourhood Precinct:	Garden Suburban 1
Date Lodged:	22 February 2021
Statutory Days: (as at Council Meeting date)	81
Trigger for Referral to Council:	Seven objections or more and Cr call up
Number of Objections:	17 objections from 11 properties
Consultative Meeting:	Yes – held on 22 June 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 Eden Bradenburg and are known as File No. 117/21, Drawing labelled as 'Floor Plan' and Council date stamped 23 April 2021.

Key features of the proposal are:

- Use of the site as a food and drink premises (café)
 - The proposal seeks to use the land as a food and drink premises (café).
 - The proposed hours of operation are between 6:30am and 4:00pm.
 - The proposed maximum number of patrons is 15 patrons, all internally.
 - A maximum of 4 staff may be on the site at any one time during operation.
 - There is no speakers or live music proposed.
 - No on site car parking will be provided.
- Car Parking
 - A reduction in three car parking spaces is required for the proposed use.

Site and Surrounds

The site is located on the corner of Rose Street and Clendon Road. The site and surrounds have the following significant characteristics:

- The site is an irregular shape, with a primary frontage of 8.53 metres to Rose Street, a secondary frontage of 14.8 metres to Clendon Road and a rear frontage of 15.5 metres to Watson Street at the rear.
- The site is occupied by a dwelling at the rear and a vacant space at the front. This planning application proposes to use the vacant space at the front of the site as a food and drink premises (café).
- The vacant space has previously been occupied by a florist (shop) and newsagent.
- The dwelling on the site is located at the rear of the vacant space and at first floor.
- The site is located within the Armadale Precinct (Heritage Overlay 130). The subject building is a B graded Edwardian shopfront and dwelling. The surrounding area is significant for its streetscapes of late nineteenth and early twentieth century development.
- The site is located 45 metres to the east of the Beatty Avenue Commercial Precinct.
- To the north is Watson Street, a narrow street which provides access to the residential properties on Watson Street and rear access to the properties on Beatty Avenue and Rose Street.
- Directly to the east of the subject site is Clendon Road. A bus stop is also located directly to the east of the site on Clendon Road.
- Rose Street is located to the south of the subject site. Rose Street is a two-way residential street with parking on both sides.
- To the west of the subject site is the dwelling at 13 Rose Street. The dwelling is a B graded single storey dwelling.
- More broadly, the site is well serviced by train, tram and bus services and is located approximately 45 metres to the east of the Beatty Avenue Commercial precinct.

Previous Planning Application/s

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

- Planning Permit No. 190/18 was issued on 24 April 2019 for the subject site. The Planning Permit allows for 'Part demolition, extension to a dwelling and shop on a lot under 500sqm in a Neighbourhood Residential Zone, Heritage Overlay and Special Building Overlay'.

- The buildings and works approved under this planning permit have been completed.

The Title

The site is described on Certificate of Title Volume 04623 Folio 493 / Plan of Subdivision 1874 and no covenants or easements affect the land.

Planning Controls

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

Zone

Clause 32.09- Neighbourhood Residential Zone- Schedule 2

Pursuant to Clause 32.09-2 a permit is required to use the land for a food and drink premises (café).

Overlay

Clause 43.01- Heritage Overlay – Schedule 130

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. There are no demolition or buildings and works proposed as part of this application, therefore a planning permit is not required.

Clause 44.05 – Special Building Overlay – Schedule 1

Pursuant to Clause 44.05-1, a permit is required to construct a building or construct or carry out works. There are no buildings and works proposed as part of this application, therefore a planning permit is not required.

Particular Provisions

Clause 52.06 - Car Parking

Clause 52.06 applies to a new use. A new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land. A permit is required to reduce (including reduce to zero) the requirement to provide the number of car parking spaces required under this clause.

The subject site is situated in a Principal Public Transport Network Area and therefore, Clause 52.06 requires parking requirements to be calculated using column B of the table in Clause 52.06. In this instance, the car parking requirement for a food and drink premises is calculated as 3.5 spaces per 100sqm of leasable floor area. The venue has approximately 104 square metres of leasable floor area, and therefore three (3) car spaces will be required (rounded down to the nearest whole number).

No car parking spaces are provided on site. Therefore, a planning permit is required for a reduction in the car parking requirement.

Relevant Planning Policies

Clause 17	Economic Development
Clause 17.02-1S	Business
Clause 18	Transport
Clause 21.04	Economic Development
Clause 32.09	Neighbourhood Residential Zone
Clause 52.06	Car Parking
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 three signs on the site. The public notification of the application has been completed satisfactorily.

The site is located in South Ward and objections from 11 different properties have been received and can be summarised as follows.

- Amenity impacts associated with the hours and noise.
- Commercial use in a Residential area.
- Traffic and car parking.
- Waste.
- Should the application be approved, they may also seek permission for a liquor licence.

A Consultative Meeting was held on 22 June 2021. The meeting was attended by Councillors Sehr and Scott, representatives of the applicant, the owner of the proposed food and drink premises (café), objectors and a Council Planning Officer. The meeting did not result in any changes to the proposal.

Referrals

Transport

Councils Transport Department reviewed the advertised material and provided the following comments:

- The proposed development includes no on-site parking spaces which represents a shortfall of 3 parking spaces from the requirements of the Planning Scheme.
- The application states that the existing/previous use of this property was a retail property of approximately 100m² with no on-site parking. This results in a historical shortfall of 3 parking spaces.
- As the historical shortfall matches the shortfall of the proposed development, the proposal is broadly acceptable.
- The applicant should consider if it is possible to incorporate on-site parking for at least the staff, as there is little unrestricted parking nearby for workers.
- The traffic impact of this change of use, considering the small size of the café and that the previous use was broadly similar, is anticipated to be negligible.

Planning Officer Response: As noted above, Councils Transport Department has made comment that the applicant should consider if it is possible to incorporate on-site parking for staff. Due to the constrained size of the subject site, this is not possible. As only 4 staff are proposed at any one time and it is anticipated that some of the staff will use public transport, the shortfall is acceptable.

Key Issues and Discussion

Strategic Justification

A number of provisions from the State Section of the Planning Scheme are relevant to the policy setting for assessment of this application. These include commentary about Economic Development (Clause 17) and Transport (Clause 18). At the State Policy level, these policy objectives require planning to anticipate and respond to the needs of existing and future communities. This is to be achieved through the provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Specific State policy recognises out-of-centre development at Clause 17

(Economic Development). This includes strategies to ensure that out of centre proposals are only considered where the proposed use or development is of net benefit to the community in the region served by the proposal or provides small-scale shopping opportunities that meet the needs of local residents and workers in convenient locations (Clause 17.01-2S).

Councils Local Planning Policy at Clause 21.04-4 (Commercial and Community uses in Residential Zones) seeks to ensure that “non-residential uses do not have an adverse impact on the amenity of the surrounding residential area through noise, hours of operation, traffic or parking associated with the use”.

Councils Local Policy at Clause 21.04-4 (Commercial and Community Uses in Residential Zones) also seeks to maximize the synergies of locating non-residential uses close to activity centres, public transport and other related uses.

In this context, it is considered that there is State and Local policy support for a food and drink premises (café) in this location, subject to the amenity impacts to the residential area.

Use of the site as food and drink premises (café)

The Neighbourhood Residential Zone at Clause 32.09 contemplates a limited range of non-residential uses that serve the local community needs in appropriate locations.

Pursuant to Clause 32.09-13 (Neighbourhood Residential Zone), relevant decision guidelines in relation to non-residential use and development, require applications to consider the following:

- Whether the use or development is compatible with residential use
- Whether the use generally serves local community needs.
- The scale and intensity of the use and development.
- The provision of car and bicycle parking and associated accessways.
- Any proposed loading and refuse collection facilities
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

The proposed food and drink premises (café) seeks to operate between 6:30am and 4:00pm with 15 patrons.

The site is located on a residential street, approximately 45 metres from the Beatty Avenue Commercial Precinct. The site is also located within 100 metres to the Toorak Train Station and within close proximity to the tram on Malvern Road. The site aligns with policy direction that seeks to locate non-residential uses close to activity centres, public transport and other related uses.

Some objectors are concerned that the proposed use is commercial in nature and therefore incompatible with the residential nature of this neighbourhood. Food and drink premises are a well-established and compatible use within and surrounding residential areas. In addition, it is considered that the proposed food and drink premises (café) will serve local community needs as it is located close to public transport, is small in scale and will serve customer from the local area.

The objections received have also raised concerns with regard to noise from the premises to the residential properties surrounding the site. It is acknowledged that given the location of the site and its proximity to residential properties, the times proposed may generate a level of noise that would be a disturbance to nearby residential properties. A reduction of the proposed hours to 8:00 am on a weekday and 8:30am for the commencement of use on a weekend is considered reasonable and a condition will be included to this effect. The reduction in the starting times is reasonable as the subject site is located next door to a

dwelling at 13 Rose Street and is also surrounded by dwellings on Rose Street, Watson Street and Clendon Road.

The applicant has confirmed that there will be no speakers or live music to the premises; this will ensure that noise to residential properties is minimised. Permit conditions will also require that no speakers, live or amplified music will be played in the premises.

There is a wide footpath in front of the food and drink premises. To ensure that patrons do not congregate in front of the site, a permit condition will require that patrons must not at any time congregate at the front of the premises on Rose Street and Clendon Road.

The proposed café is a small scale café and proposes 15 patrons and 4 staff at any one time. The proposed number of patrons and staff is acceptable given the patron and staff numbers are not considered excessive for a café of this size.

The proposal is to be located within a building that while zoned Neighbourhood Residential Zone was clearly constructed for non-residential purposes. Therefore, there is a level of expectation that a non-residential use may be located within the building. The small scale food and drink premises (café) proposed with 15 persons is considered an appropriate fit for the building.

Given the small scale of the proposed food and drink premises (café), the use is not anticipated to result in any adverse effects on the surrounding residential properties. The conditions proposed on the permit will ensure the food and drink premises (café) does not commence operation until 8:00am on weekday and 8:30pm on a weekend. Overall, it is considered the proposed hours and amenity impacts can all be adequately regulated and managed through permit conditions.

Car Parking and Traffic

Pursuant to Clause 52.06-5, a food and drink premises is required to provide 3.5 car parking spaces to each 100 square metres of leasable floor area. The proposed development features 103 square metres of leasable floor area, requiring three (3) car parking spaces (rounded down to the nearest whole number). As no on site car parking will be required, a reduction in the car parking requirements is required.

With regards to the parking shortfall, it is considered that the reduction of three (3) spaces will not cause undue parking impacts. This is due to a number of factors, including that the proposed food and drink premises (café) will either: be utilised by local residents who can use alternative means of transport, including walking to the site. Alternatively, the site will be utilised by people who will make alternative arrangements to address the parking restrictions already in place within the surrounding area. For those who are not captured within these two categories, the submitted Traffic Impact Assessment (TIA) details that a minimum of seven (7) on-street car parking spaces are available on a Tuesday between 7:30am and 9:30am. The TIA also details that a minimum of twenty-nine (29) on-street car parking spaces are available on a Saturday between 11:30am and 1:30pm, which will adequately cater for the shortfall of three (3) car parking spaces.

Further, the car parking dispensation is acceptable given the policy support for applications of this nature within close proximity of a Neighbourhood activity centre and public transport, including Toorak Train Station and multiple Tram Routes. Given the extensive public transport options, the proposed reduction in car parking can be considered acceptable.

Council's Transport and Parking Department noted that the applicant should consider if it is possible to incorporate on-site parking for at least the staff. Due to the small size of the subject site, this is not possible. However, as only four (4) staff are proposed on site at any

one time and it is anticipated that some of the staff will use public transport or alternative modes of transport, the car parking arrangement is acceptable.

In terms of bicycle parking, no bicycle spaces are proposed however no spaces are required by the Planning Scheme.

Overall, the arrangements concerning traffic and parking are considered to be satisfactory.

Waste

Council's Local Law states that private waste collections must only occur between the hours of 7:00am and 10:00pm Monday-Saturday and between the hours of 9:00am and 10:00pm on Sunday and Public Holidays. The waste collection and deliveries to the site must at all times be carried out in accordance with Council's Local Laws and this is included as a condition of the permit.

A condition requiring a Waste Management Plan will be included on the permit to ensure collection of waste will be conducted in an acceptable manner.

Objections

- Should the application be approved, they may also seek permission for a liquor licence.

The assessment of this application is limited to the use of the land as a food and drink premises (café) and a reduction in car parking. A liquor licence is not proposed. Issues surrounding future use of the land do not form part of the planning consideration.

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. 0117/21 - 13A Rose Street, Armadale [8.1.1 - 2 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 117/21 for the land located at 13A Rose Street, Armadale under the Stonnington Planning Scheme for use of the land as a food and drink premises (café) in a Neighbourhood Residential Zone and associated reduction in the car parking requirement subject to the following conditions:

1. ***Before the commencement of the use, 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 Council date stamped 23 April 2021 but modified to show:***

- a) ***Any changes as required by the Waste Management Plan in accordance with Condition 13.***

All to the satisfaction of the Responsible Authority.

2. ***The plans endorsed to accompany the permit must not be amended without the written consent of the Responsible Authority.***
3. ***A maximum number of 15 patrons and 4 staff may be housed on the premises at any one time to the satisfaction of the Responsible Authority.***
4. ***The food and drink premises(caf ) may operate only between the hours of:***
 - ***Monday to Friday between 8:00am and 4:00pm***
 - ***Saturday and Sunday between 8:30am and 4:00pm***
5. ***No speakers, live or amplified music may be provided within the food and drink premises hereby approved to the satisfaction of the Responsible Authority.***
6. ***Prior to the commencement of use, the applicant must display a sign at the exit of the premises advising patrons to respect the amenity of adjacent residential areas and to leave in a quiet and orderly manner, to the satisfaction of the Responsible Authority.***
7. ***Patrons must not at any time congregate in front of the food and drink premises (caf ) on Rose Street and/ or Clendon Road.***
8. ***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 include:***
 - a) ***Dimensions of waste areas.***
 - b) ***The location of bin storage on site.***
 - c) ***The number of bins to be provided.***
 - d) ***Method of waste and recyclables collection.***
 - e) ***Hours of waste and recyclables collection.***
 - f) ***Method of presentation of bins for waste collection.***

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

9. ***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.***
10. ***All loading and unloading of goods must be undertaken in accordance with Council's Local Laws.***
11. ***Adequate provision must be made for the storage and collection of wastes and recyclables within the site prior to the commencement of use or occupation of the building. This area must be appropriately graded, drained and screened from public view to the satisfaction of the Responsible Authority.***

12. **All mechanical equipment installed including, but not limited to air-conditioning, kitchen exhausts and refrigeration units shall be designed, installed and commissioned to comply with SEPP N-1.**
13. **Noise emanating from the subject land must not exceed the permissible noise levels when determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels from the food and drink premises are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.**
14. **The use and development must be managed so that the amenity of the area is not detrimentally affected through the:**
 - a) **Transport of materials, goods or commodities to or from the land.**
 - b) **Appearance of any building, works or materials.**
 - c) **Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.**
15. **This permit will expire if one of the following circumstances applies:**
 - a) **The use is not commenced within two years from the date of this permit.**
 - b) **The use is discontinued for a period of two years or more.**

In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the periods referred to if a request is made in writing within the prescribed timeframes, where the use allowed by the permit has not yet started.

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 permit does not give any authority to occupy the footpath for trading without prior approval from Council's Local Laws department. A permit must be obtained for footpath trading and it must accord with the relevant Footpath Trading Code.**
- C. **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:**
 - a) **Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and**
 - b) **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 0889/20 - 55 Claremont Street & adjoining road reserve, South Yarra

Coordinator Statutory Planning: Phillip Gul
Director Planning & Place: Annaliese Battista

Purpose of Report

To consider a planning permit application for use and development of the land for an office building and a reduction in the standard car parking requirement in an Activity Centre Zone and Land Subject to Inundation Overlay for the land located at 55 Claremont Street, South Yarra.

Abstract

Proposal

The applicant seeks to redevelop the site with a 19-storey office building, with ground level food and drink premises and associated on-site podium car parking for 18 vehicles. The proposal includes a monetary contribution of \$818,165, which will significantly fund the upgrade works proposed by Council in the east-west section of Claremont Street.

Officer Recommendation Summary

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

- The proposed office use will positively contribute to the local activity centre context and diversify the local land use mix.
- The proposed building height is supported by the context of the site, it presents acceptable outcomes for the streetscape and neighbouring amenity and is supported by a significant community benefit in the form of contribution towards local streetscape upgrades.
- The building is well designed and will positively influence the local environment.
- The building has been sensitively designed so as to not unreasonably impact upon the amenity experienced within any existing residential interface.
- Matters regarding car parking and traffic are adequately resolved.

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

- Building height and massing (refer to Building Massing and Design assessment);
- Amenity impacts on the adjoining properties (refer to External Amenity);
- Internal design (refer to Internal Provisions assessment);
- Car parking and traffic matters (refer to Transport assessment).

Officer's response

The permit applicant proposes to redevelop a site within the Forrest Hill Precinct of the Chapel Street Activity Centre, with a new office building.

The height of the building (at 68.15 metres to the parapet) exceeds the discretionary building height set down in the Activity Centre Zone (of 50m) although is considered to achieve the Height and Massing Requirement of ACZ in that it demonstrates a significant community benefit, and it meets the broader objectives, requirements and guidelines of this policy.

The building is well designed and supported by Council's Urban Designer. It sensitively manages its relationship to existing, abutting residential properties in a manner which will not unreasonably compromise amenity.

The application seeks a car parking waiver which is supported since low car parking numbers are always sought in Forrest Hill which has excellent access to public transport and an already heavily utilised traffic network.

Executive Summary

Applicant:	Claremont 55 Pty Ltd C/- SJB Planning
Ward:	North
Zone:	Activity Centre Zone – Schedule 1
Overlay:	Environmental Audit Overlay Land Subject to Inundation Overlay
Neighbourhood Precinct:	Forrest Hill
Date Lodged:	19 October 2020
Statutory Days: (as at Council Meeting date)	64
Trigger for Referral to Council:	More than seven objectors and development of four or more storeys
VCAT Hearing Date	N/A
Cultural Heritage Plan	No
Number of Objections:	17
Consultative Meeting:	Yes held on 1 July 2021
Officer Recommendation	Notice of Decision to Grant a Permit

Background

The Proposal

The plans that form the basis of Council's consideration are the plans prepared by SJB Architects with Council's date stamp of 26 May 2021. The plans are filed under Job No. 21501, Drawing No's: SD02_01 – SD30_07.

Key features of the proposal include:

- Construction of a new commercial building over 19 levels.
- The building has a maximum height of 68.15 metres to the parapet plus 2.7 metres to the top of the roof services.
- The building rises to 19 levels directly from Claremont Street, meaning the building is not composed in podium / tower arrangement. Rather the façade is broken up into three horizontal segments, by way of materials and proportional differences in the framing.
- The ground floor level comprises a Food and Drink Premises (of 70sqm) and office lobby, with a car lift and building services located towards the rear.

- The ground floor level is elevated above the footpath and accessible by pedestrians from a series of external steps from Claremont Street. There is also an access lift available.
- Vehicular access to the car lift is provided from the laneway to the west of the site and there is space for at least two cars to prop inside the site adjacent to the laneway.
- The ground floor also accommodates a bin enclosure and separate room providing 10 bicycle parking racks. An additional six bicycle parking spaces for visitors are located adjoining the laneway.
- At the first floor there is an office tenancy (76sqm) facing Claremont Street and 'end of trip' facilities comprising 52 lockers and eight change / shower rooms (including one DDA compliant room). There is also a large central space labelled 'substation'.
- Levels 2-3 are used for car parking (assessable from the car lift). A total of 18 car parking spaces are provided. There are also a further 34 bicycle parking spaces within these levels.
- Levels 4-13 comprise office space and these floor plates essentially take up the whole site outside of a splay in the southwest corner opposite existing windows at 18 Yarra Street.
- From Level 14 the southwest corner of the building is increasingly set back. In addition, a minimum 2.25 metres south setback is provided. Terraces are proposed within the setback area orientated towards the south.
- The proposal includes a monetary contribution of \$818,165 for the purpose of funding the upgrade works proposed by Council in the east-west section of Claremont Street.

Site and Surrounds

The site is located on the south side of Claremont Street, approximately 43 metres east of Yarra Street, South Yarra. The site has a frontage to Claremont Street of 16.39 metres, and a total site area of 431sqm. To the west, the site abuts an unnamed laneway which extends south off Claremont Street for approximately 100 metres.

The site is currently paved and used for car parking, which is accessed from a crossover from Claremont Street. Cyclone wire fencing exists along the west and north boundaries. The site was formerly developed with a two-storey commercial building.

The site is located within a high-density part of the Chapel Street Activity Centre, known as Forrest Hill. Forrest Hill has been largely redeveloped over the last two decades and includes numerous tower-style developments most of which are residential. Broadly, existing development in Claremont Street is between 40-60 metres in height, while taller forms (mostly 70-80 metres) are located in Yarra Street. West of Yarra Street is the South Yarra Railway Station. The railway line marks the edge of the Activity Centre.

Land immediately adjoining the site is described below:

North	On the opposite site of Claremont Street (north of the site) is land owned and used in association with Melbourne High School. The immediate interface includes a parking and access area, sporting pavilions and an oval.
South	To the south, the site abuts 47 Claremont Street. This property is developed with a 15-storey building plus communal roof deck. The maximum height of the building is 51.38 metres. The lower five levels of the building are built hard up against the laneway, with upper levels recessed from the laneway by at least 3 metres.

	<p>Inside the building there are no habitable room windows facing the site. There are west facing balconies above the podium, however these spaces have solid walls along their northern edges.</p> <p>A roof top deck is located on the western half of the building's roof space. It includes a covered BBQ area, landscaping and open recreation areas.</p>
East	<p>To the east, the site abuts two properties: 49 and 51 Claremont Street. These properties are currently developed with two, two-storey commercial buildings.</p> <p>On 26 March 2021, Planning Permit 248/20, was granted at the direction of VCAT following an agreement reached at a Compulsory Conference. This permit allows the redevelopment of 49 and 51 Claremont Street with an 18 level (plus roof garden) building containing office floor space (and a food and drink premises at ground floor level). The approved building has a maximum height of 63.77 metres (plus plant and equipment) and it is built hard up against the common boundary with the site. At the ground floor, the car park entry / exit immediately abuts the site.</p> <p>As part of this adjoining development, the permit applicant agreed to fund streetscape improvements in Claremont Street in the order of \$835,000, as a means of demonstrating a significant community benefit deriving from the proposal. The agreed amount is equal to Council's estimated, increased value of the land deriving from developing above the 50 metres height control set down in ACZ1.</p>
West	<p>West of the site, across the laneway, there are two sites: 18 Yarra Street and 19 Yarra Street.</p> <p>18 Yarra Street is to the south of No. 19 and is developed with a building of 26 levels plus a roof deck (the building is approximately 78 metres tall to the parapet). The building is used for dwellings. At the rear (east), the building is setback 3.25 metres from the laneway, above a five-level podium. There are some habitable room windows orientated towards the east, although the primary aspect for all dwellings within this building is to the north. This layout has been achieved as a consequence of the developer of No. 18 purchasing the air rights above No. 19 Yarra Street. 19 Yarra Street is developed with a three-storey apartment building and the sale of these rights prevent development above the existing building height.</p> <p>The existing building at 19 Yarra Street is built hard up against the laneway separating it from the subject site and it has a series of east facing windows.</p>

Previous Planning Application/s

On 17 September 2015, Council issued Planning Permit 1087/14, which allows a multi-dwelling development at the subject site. The permit remains current and allows works to commence up until to 17 September 2021.

The approved building has a height of 50m to the parapet. The approved form adopts a curving profile to the north and west; the latter to achieve a 9 metre separation from the existing windows at 19 Yarra Street.

Condition 9 of the permit requires the permit holder to make a Development Contribution to Council in accordance with the Forrest Hill Precinct Development Contribution Plan (March 2010) (plus any GST and Price Index applicable at the time of payment).

The Title

The site is identified as Lots 1 & 2 on Title Plan 218686J (Volume 05224 Folio 641). No covenants or easements affect the land.

Planning Controls

Clause 37.08 – Activity Centre Zone – Schedule 1 (Chapel Street Activity Centre)

Pursuant to Clause 37.08-2 (Table of Uses) land uses are detailed in Schedule 1. In this case, the proposed uses of Office requires a planning permit since its ground floor frontage exceeds 2m. The proposed Food and Drink Premises does not require a planning permit.

Pursuant to Clause 37.08-5 (Buildings and Works) a permit is required to construct a building or construct or carry out works.

Pursuant to Clause 37.08-6 (Design and Development) a schedule to the zone may include design and development requirements. A permit may be granted to construct a building or construct or carry out works which is not in accordance with any design and development requirement.

The relevant design and development requirements in this case are listed below.

- The site has a preferred maximum height of 50 metres as per the Forrest Hill Built Form Requirements. This height applies to all properties with an address to Claremont Street. Properties facing Yarra Street have a preferred maximum height of 76 metres.
- The site has a preferred maximum street wall height of 12 metres.
- The following Building Adaptability Requirements apply:
Provide a minimum 4.0 metres floor to floor height at ground floor.
Provide a minimum 3.8 metres floor to floor height at first floor of a building.
- The Open Space and Landscaping Requirement is to:
Provide generously sized, accessible, useable and well-designed communal open space areas in developments comprising ten or more dwellings or more than 1,000 square metres of office.

Clause 44.04 Land Subject to Inundation Overlay

Pursuant to Clause 44.04-2 a permit is required to construct a building or to construct or carry out works. In this case, the relevant flood plain manager is Melbourne Water.

Melbourne Water supports this proposal subject to permit conditions (refer referral section below).

Clause 45.03 Environmental Audit Overlay

The requirements of this overlay do not apply to the subject application, since a sensitive use is not proposed at the site.

Clause 52.06 Car Parking

Clause 52.06 states that before a new use commences, the number of car parking spaces required under Clause 52.06-5 must be provided. A summary of the requirements of Clause 52.06-5 is provided in the table below.

Usage	Number/Area	Rate	Required Spaces
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Office	4,390m ²	3 spaces to each 100m ² of leasable floor area	131
Food and Drink Premises	70m ²	3.5 spaces to each 100m ² of leasable floor area	2
Total spaces required			133

The application plans show 18 car parking spaces and therefore the permit applicant seeks a reduction in the requirements of Clause 52.06.

Clause 52.34 Bicycle Parking

The following table provides an assessment of the requirements of Clause 52.34.

Usage	Number/Area	Rate	Required Spaces
Office	4,390m ²	1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm	15
Office Visitor	4,390m ²	1 to each 1000sqm of net floor area if the net floor area exceeds 1000sqm	4
Total spaces required			19

The proposal includes 50 bicycle parking space and therefore meets the requirements of this clause. Bicycle facilities above ground level are accessed via the largest of the three pedestrian lifts provided (and the access lift up from Claremont Street, if required). This lift has a length of 2 metres, thus being longer than a bike.

There are also seven shower facilities proposed within the bicycle parking area. Based on the number of spaces provided, this is in excess of the requirements in the Planning Scheme. No permit is required under Clause 52.34.

Relevant Planning Policies

The following clauses of the Planning Scheme are particularly relevant to this application:

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.01 Structure of MSS
- Clause 21.02 Overview
- Clause 21.03 Vision
- Clause 21.04 Economic Development
- Clause 21.06 Built Environment and Heritage
- Clause 21.08 Infrastructure
- Clause 22.05 Environmentally Sustainable Development
- Clause 22.18 Stormwater Management (Water Sensitive Urban Design)

Advertising

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* (the Act) by sending notices to adjoining owners and occupiers and by placing two signs on site. Public notification of the application has been completed in accordance with the Act.

Council has received 17 objections, which can be summarised as follows:

- The size and scale of the building do not align with existing buildings.
- Excessive building height – which will contribute to local ‘building canyon’ effect.
- Setback required to laneway, as provided by other buildings.
- Unreasonable daylight impacts on adjacent properties owing to inadequate setbacks.
- Loss of views and sunlight to existing dwellings.
- Impacts on privacy for existing residents.
- Overshadowing of rooftop terrace at 45 and 47 Claremont Street.
- Unreasonable wind impacts – wind tunnel impacts already present.
- The use is not appropriate to the area.
- The proposal does not result in any benefit to the local community.
- The precinct is becoming incrementally less liveable.
- Excessive number of pedestrians already in the area.
- The local road network is over capacity and additional traffic will exacerbate existing issues of congestion, safety and maintenance (including in the lane adjoining the site).
- Inadequate local facilities to accommodate more people – including green space.
- Inadequate car parking to meet the likely demand.
- Excessive existing construction noise in the area.

Following advertising the application was formally amended by way of Section 57A of the Planning and Environment Act. Modifications made at this stage include the following:

- Increase the proposed setback immediately opposite the windows at 18 Yarra Street at Levels 4-16.
- Contraction of the building to ensure there is no built form outside the title boundaries.

These changes reduce the volume of the building and are not deemed to result in material detriment. Consequently, the amended plans have not been re-advertised.

A Consultative Meeting was held on 1 July 2021. The meeting was attended by Councillors Hely and Griffin, representatives of the applicant, objectors and a Council Planning Officer.

The meeting did not result in any further changes to the plans.

Referrals

External Referral

Melbourne Water

Melbourne Water, pursuant to Section 52 of the Planning and Environment Act 1987, does not object to the proposal, subject to the following conditions:

1. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD) and must be amended as follows:
 - a) Finished floor levels of the Visitor Bike parking area and Room for Bike Racks must be shown at a level no lower than 4.2 metres to AHD.

2. Finished floor level of all ground floor areas inc lift lobbies and stair entries must be set no lower than 4.80 metres to Australian Height Datum (AHD) which is 600mm above the applicable 1% ARI flood level of 4.20 metres to AHD.
3. No habitable areas must be shown at levels lower than 4.80 metres to AHD.
4. All electrical installations within the building must be set no lower than 4.80 metres to AHD which is 600mm above the applicable 1% ARI flood level of 4.20 metres to AHD.
5. Finished floor levels of the Visitor Bike parking area and Room for Bike Racks must be shown at a level no lower than 4.2 metres to AHD.
6. Bin Store is permitted to be located at a lower level, however no lower than indicated on plans submitted.
7. Entrance to the proposed Car Lift (which services upper floor parking) must be maintained no lower than as shown on submitted plans with electrical/mechanical components of the Car Lift set at or above 4.8 metres to AHD. Note: Lift electronics and controls set at levels lower than 4.8 metres to AHD must be safeguarded against flood damage which must be encapsulated by the manufacturer. (Submersible)
8. Car Lift must be programmed to rest at a level no lower than 4.2 metres to AHD at the 1% AEP flood event.
9. Prior to the issue of a Certificate of Occupancy, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirement.

Internal Referrals

Urban Design

Streetscape activation

Considering that the Northern half of Claremont Street is subject to inundation, streetscape activation is extremely difficult to achieve. The LSIO requires that the 'ground floor' level is to be set at a minimum level of 4.8 metres AHD; and this represents a height of approximately 1.85 metres above the footpath.

A broad set of steps, and a disabled lift, provides access to the lobby from the street level. This is a reasonable design response to street-level activation given the extreme practical limitations imposed by the LSIO.

Form and scale

The 19-storey tower form is undercut along the laneway edge to provide for vehicular access; and is also cut back on the South side at the upper levels to limit overshadowing of the roof-top open space of the adjoining apartment building to the South.

The scale of the proposed building exceeds the ACZ preferred maximum height of 50m for the sub-precinct. The height of the building is approximately 68.5 metres above the footpath level to the roof parapet.

The subject site is one of only four sites that, collectively, form the Northern edge of the Forrest Hill precinct.

These sites comprise the completed apartment buildings at No. 50 Claremont Street and No. 18 Yarra Street; the adjoining site at No. 49 & 51 Claremont Street (a current application);

and the subject site. These four sites all possess unobstructed views to the north over the High School Oval.

The proposed height exceedance represents approximately 2-storeys above the roof of No. 50 Claremont Street; and approximately 3-storeys below the parapet of No. 18 Yarra Street.

Height exceedance

The proposal exceeds the preferred maximum building height specified by Schedule 1 to the Activity Centre Zone. Schedule 1 to the Zone specifies:

The preferred maximum building height may be exceeded in some circumstances if:–

- *It can be demonstrated that a significant community benefit can be achieved; and*
- *It continues to meet the objectives, requirements and guidelines in relation to visual impact and overshadowing with increased upper level setbacks.*

Further details are required as to the nature and scope of the significant community benefit that is being proposed to justify the additional building height.

If the significant community benefit relates to public realm works / streetscape upgrades, an indicative plan should be provided to enable the scope and value of these works to be assessed; and whether this is commensurate with the extent of building uplift that is being sought.

Design

The design expression comprises a brick-clad tower with decorative brick detailing to the openings and columns. This is an elegant design response for this key location in Forrest Hill.

Transport & Parking

Parking Supply

The supply of parking at the site is supported.

Traffic

The level of traffic generated by this development is not expected to impact the surrounding road network, particularly due to the spread of movements during the peak hours and the low number of spaces provided on space. This is part of the intention of allowing lower parking provision in this area.

Access

The modifications to vehicle crossings must be shown on the plans.

Urban and Landscape Projects are currently preparing plans for streetscape works in Claremont Street. In this section, the width of the road is to be reduced to a minimum of 3m. As such, it is unclear if this would impact access into the waiting area or the car lift.

The laneway located to the west of the site is proposed to be extended by 3 metres to allow vehicles to access the car lift and to allow queue internally on private property whilst still allowing vehicles to pass within the laneway. Based on the service time of the lift and the numbers expected; the waiting area with 3 spaces proposed is considered satisfactory in managing the proposed queues as it provides an extra space than that required. This is supported.

Car Parking Layout

- The minimum headroom at the opening of the car lift must be confirmed.

- The convex mirror at the car lift entry / exit point must be wholly contained within the site.
- A bollard must be installed within the shared zone of the accessible car space.
- The car lift technical specifications must be provided and must match the dimensions on the plans.
- The queuing spaces outside the car lift should be line marked.
- It should be confirmed that space is available in the parking levels for a vehicle to wait and for a vehicle to safely exit the lift.

Bicycle Parking

- It would be preferred if additional bicycle parking was provided, notwithstanding compliance with the numbers specified by Clause 52.34.
- At least 20% of the bicycle parking spaces must be located at ground floor level.
- The Ned Kelly rails separated by 500mm must be staggered in height.

Waste

Waste collection requires the private waste contractor to prop in the laneway, which is not supported. Waste collection should occur within the site without impacting the road network.

Waste Management

A comprehensive Waste Management Plan accompanied this proposal. Aside from the issue detailed below, this document responded well to the waste management challenges presented in the plans I viewed

Issues with the Waste Management Plan and/or the plans requiring addressing are:

- Bin store can only be accessed via stairwell or walking via laneway. Exiting the property and walking along the laneway to dispose of their wastes is unacceptable; access to waste disposal must be from within the confines of the property boundaries. In addition the use of a trolley to navigate stairs is not practical.

I believe any Planning Permit issued for this development must include a clause specifically requiring the submission and approval of a Waste Management Plan. Once a Planning Permit has been issued for the development, a Waste Management Plan similar to that previewed here but amended to address the issue raised above should be submitted for approval.

Environmental Sustainable Design

Council's ESD Officer has revised the proposal and advised that the proposed development could provide an acceptable outcome from an ESD perspective provided that details in the report and on plans are consistent and further supporting evidence is provided for the ESD initiatives claimed.

A condition is included in the recommendation seeking to resolve these outstanding issues.

Infrastructure

Infrastructure have no concerns with the finished levels subject to the Claremont Street footpath levels and the existing levels of the abutting ROW not being altered.

They have requested the following conditions be placed on any approval issued:

- 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. *(Please do not state drainage design to satisfaction of Council, that is the responsibility of the relevant building surveyor to check and approve in accordance with the report and 'recommendations' for the legal point of discharge).*

- Prior to an 'Occupancy Permit' being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks and detention (if applicable) to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for the subdivision.
- The development levels must match the existing Claremont Street footpath levels, and the levels of the right-of-way. These existing levels must not be altered in any way at the property line.
- All redundant vehicular crossing must be removed and the footpath, and kerb reinstated at the owners cost to the satisfaction of Council.

Key Issues and Discussion

The permit applicant proposes to redevelop what is one of the few remaining lots in the Claremont / Yarra Street area of Forrest Hill. More specifically, the site and its immediate neighbour at 49-51 Claremont Street, will 'fill in' the north elevation of this part of the Forrest Hill Precinct. The proposed building therefore occupies a highly prominent edge location and its open interface to the north is unlikely to change in the foreseeable future.

The site's north elevation is flanked in perpetuity by the lower forms at 56-58 Claremont Street and 19 Yarra Street (to the east and west respectively), where air rights have been sold to their southern neighbours. Behind this primary row of buildings, the topography of Claremont Street and Yarra Street rises to the south, although in this backdrop there remains an evident step down from west to east. This step is owing to the 76 metres height control operating in Yarra Street and the lower 50 metres control operating in Claremont Street.

The proposed development is a commercial building comprised of a Food and Drink Premises at the ground floor, with Office above. The Food and Drink component does not require a planning permit. The office use requires a permit due to its frontage at ground floor level exceeding 2 metres.

An office use is considered to be an appropriate inclusion in this location, which is dominated by residential dwellings. While Council is more recently seeing more non-residential applications in the Chapel Street Activity Centre, given the relatively early development of most of the Claremont / Yarra area, it is still heavily weighted towards residential land uses. An office building at the site (along with the recent approval of an office building at 49-51 Claremont Street) will positively diversify the local land use mix, which is one of the key objectives for the Forrest Hill Precinct (*'To achieve a vibrant, higher density, true mixed-use precinct'*).

Given the building is proposed to accommodate a relatively large area of office floor space, the site frontage given over to this use is necessary to provide an adequate entrance, lobby

and sense of professional address. The office and the food and beverage premises will share the steps up into the building, which are necessitated by Melbourne Water's flood mitigation requirements. The entry arrangements include both DDA access and a fire escape. Three lifts are provided to services the upper levels of building, which comprises car parking at Levels 2 and 3 and offices at Levels 4-18. Building services and an office are located at Level 1. Vehicular access to the building relies upon the laneway adjoining the site's western boundary and a turntable and car lift arrangement is provided at the rear of the site.

The components of the building are assessed in detail below.

Building Height / Significant Community Benefit

As noted already, the subject site has preferred maximum height of 50 metres pursuant to ACZ1. The proposed building has a height of 68.15 metres to the parapet plus 2.7 metres to the top of the roof services. It is around 30% higher therefore than the preferred maximum.

ACZ1 allows the height of a building to exceed the preferred maximum building heights where the building otherwise achieves an acceptable design outcome and where it can be demonstrated that a significant community benefit is achieved.

It is noted that the proposed building height is comparable to the building which Council recently approved at 49-51 Claremont Street, to the east of the site, has a parapet height of 63.77 metres (plus plant and equipment). It is also still discernably below the heights of buildings within Yarra Street, where a 'step up' has always been sought. Council's Urban Design has also supported the proposal subject to the demonstration of significant community benefit.

Council's support for the proposal at 49-51 Claremont Street was predicated on an appropriate design response and the permit applicant's agreement to fund streetscape improvements in Claremont Street to the order of \$835,000, as a means of demonstrating a 'significant community benefit'. The contribution was deemed to be 'significant' since it was equal to the increased value of the land resulting from the higher development yield.

In the subject application, the permit applicant has offered a contribution of \$818,165 towards the Claremont Street streetscape improvements proposed by Council in the Forrest Hill Masterplan. This figure is equal to Council's calculation of the value of the floor space located above the 50 metre preferred height limit (which amounts to 1,240sqm).

The permit applicant has specified that the offer exclusively applies to the funding of works in the east-west section of Claremont Street. This is considered to be a reasonable request, so that the applicant has some surety that the funding will be used locally (and be of some benefit) to the subject site.

The permit applicant has also asked for a 'reverse obligation' clause, whereby Council returns the funding if the works are not completed within five years of the subject building being completed. This is not considered to be a reasonable request since the timing for the streetscape works is contingent on variables outside Council's control, in particular, the timing of other development in the area. There is no value in Council completing the works within a prescribed timeframe, only to have to then repeatedly repair surfaces damaged by local construction (and construction vehicles). Such an inclusion also removes any certainty that the project will deliver a long-term community benefit, particularly given the life of the subject building will be far longer than five years. Moreover, given Council is agreeable to using the funding only for streetscape works in the specified location, to some extent it does not matter when the works are completed, they will certainly be to the benefit of the building's then occupants.

A condition of permit is recommended which requires the execution of a Section 173 Agreement, requiring the relevant contribution and obliging that it be used only for streetscape upgrades within the east-west section of Claremont Street. On the basis that the remaining built form qualities of the proposal are acceptable (as detailed further below), this figure is considered to contribute a 'significant community benefit'. This agreed contribution must be set down in the permit and required through the execution of a Section 173 Agreement.

In respect to building height therefore, it is concluded that the proposal meets the Height and Massing Requirement of ACZ1 and is acceptable.

Building Massing and Design

The proposed building does not adopt the preferred approach to building massing sought by ACZ1, which is a podium / tower typology. Instead, the building rises directly up from Claremont Street, and the street wall is emphasized through the architectural treatment of the exterior. There are several specific contextual characteristics of the site that supports the proposed approach in this case. Firstly, while the building approved at 49-51 Claremont Street has a setback to the north-south leg of Claremont Street, it does not have an upper-level setback from its east-west leg (immediately adjoining the site). Secondly, the land opposite the site (in Melbourne High) is unlikely to be redeveloped with high density buildings in the foreseeable future, meaning that there will not be a potential 'canyon' effect to consider in this streetscape. The experience from the footpath in the east-west leg of Claremont Street will likely always benefit from the open, landscaped interface to the north and this reduces the impacts of tall buildings on its south side.

The means of articulating the street wall is subtle, but adequate to break up the form of the tower, which will present as three horizontal segments. There is not considered to be a need to require a set back tower in this case.

The relationship of the building to Claremont Street is affected by the need to elevate the ground floor plane for flood management reasons, although views to and from the footpath/ ground floor can still easily be gained. The approach to the street wall is considered to be acceptable and has been supported by Council's Urban Designer.

The provision of car parking and building services within the podium (rather than in a basement) is generally not accepted although in this case is necessitated by the site's flood constraints. It is noted that other nearby buildings have been permitted to provide a similar response. In this case, including a small office to screen the non-active uses at Level 1 ensures that there is still an active relationship to the street. These arrangements are acceptable.

The building is generally constructed to the title boundaries, outside of progressive setbacks around the south and south west corner. These setbacks have been applied in response to amenity expectations within adjacent properties. The implications of the building for these neighbours are discussed under External Amenity below.

The proposition of presenting a blank wall adjoining 49-51 Claremont Street is appropriate as it allows both neighbours to build to their capacity. The approved building at 49-51 Claremont Street adopts a similar approach. The proposed building would sit one storey higher than this eastern neighbour and thereby cast shadow across its approved rooftop late in the day. The impacts are confined to the afternoon and the space receives good morning and midday solar access. The shadowing impacts are not considered to be unreasonable in this instance.

The exterior massing and design of the building does not therefore present issues in terms of urban design matters. As agreed by Council's Urban Designer the building is architecturally competent and the design detailing is appropriate to this location.

External Amenity

The proposed building has a relationship to existing dwellings across the laneway at 18 and 19 Yarra Street, as well as immediately to the south at 47 Claremont Street. These interfaces are considered below.

19 Yarra Street

The building at this site is three-storeys in height and built to fully abut its interface with the laneway that separates it from the subject site. The building has a series of windows orientated towards the site and these windows will be separated from the office tower by the width of the laneway (3.047 metres).

The dwellings within this adjoining apartment building appear to be all configured in a north-south alignment, with a frontage to the north, including a balcony. The dwellings in the middle of the floorplate only receive daylight from the north. The dwellings abutting the laneway, however, have a secondary light source to the east which will be affected by the proposal.

ACZ1 does not require a setback at the site adjoining the laneway although it (and other clauses of the Planning Scheme) requires that the impacts of new development on existing dwellings be considered. In this case, it is important that the east is not the primary orientation for dwellings within 19 Yarra Street. It is also relevant that the existing windows are sited immediately on the boundary in a high-density context, meaning their amenity is wholly gained by external conditions. It would be considered unreasonable to require a setback at the site to protect these windows, particularly where significant change would be required to have any discernible impact. It is also noted that the building approved at the subject site pursuant to Permit 1087/14, in part, fully abuts the side laneway opposite these windows. The difference between the approved and proposed building height in terms of daylight access within the adjacent dwellings would be negligible.

It appears that the office building has obscure glazing for windows immediately opposite the existing windows at 19 Yarra Street (i.e. at Levels 1-4), although this is not clear from the West Elevation. This matter should be clarified as a condition of approval.

Otherwise, the relationship of the building to 19 Yarra Street is considered to be acceptable in this context.

18 Yarra Street

At 18 Yarra Street there is a series of habitable room windows orientated east and setback 3.25 metres from the rear laneway at all levels above the podium.

Within this building it is evident that living rooms have a primary aspect to the north, although also have east facing windows, which would sit immediately opposite the rear of the proposed building. To respond to this condition, proposed Level 4 and above is setback 3.1 metres immediately opposite these existing windows in order to achieve a minimum separation of 8.92 metres. The setback proposed from the laneway is the same as the west setback of the building at 47 Claremont Street at Level 4 and above, meaning that the proposed interface conditions will be the same as those which were accepted in this case.

While the Interface Setback Requirement of ACZ1 does not apply in the subject application, the Interface Setback Guidelines do apply. The Guidelines seek to provide '*appropriate separation between buildings for:*

- *The provision of equitable development opportunities and privacy of habitable room windows and balconies;*
- *The protection of view lines;*
- *Daylight;*
- *Solar access;*
- *Natural ventilation;*
- *Space for recreational activities; and*
- *Outlook from within buildings'.*

These outcomes need to be tempered somewhat in consideration of the high density context within which the site is located as well as other approvals allowing development near title boundaries in Forrest Hill.

Taking account of the above, it is considered that the proposed building provides for a fair and reasonable building separation and that the existing dwellings at 18 Yarra Street will not be excessively impacted.

The separation is also considered to adequately mitigate overlooking opportunities, being only minutely (and inconsequentially) short of the 9 metre separation required in a wholly residential context (the setback is 8.92 metres). Viewing to the west from the site is also somewhat tempered by the external fins on the building. Privacy impacts are therefore considered to be adequately managed.

47 Claremont Street

47 Claremont Street is the subject site's immediate southern neighbour, although its internal layout makes the dwellings within this building relatively insensitive to development at the site.

The existing building at 47 Claremont Street has no habitable room windows orientated towards the site. There are some habitable room windows orientated into a central light court within this property however these windows have either elevated sills or opaque glass to a height of 1.7 metres (to prevent internal views). The light court only slightly overlaps the subject site. The orientation and siting of these windows limits any daylight impacts deriving from the proposal.

The only potential opportunity to view into these windows is from the southeast edge of the proposed terrace at Level 14. From here it is likely possible to view down into some of the windows facing the light court at 47 Claremont Street. This matter can be clarified and resolved by a condition of permit.

Any impacts upon the windows servicing the lobby spaces within 47 Claremont Street at each level are not considered to be problematic given these are transitional, shared spaces where high levels of privacy is not required.

The west facing private balconies at 47 Claremont Street have a solid wall along their north boundary, and so will not be notably affected by the proposed building, or by the terraces which are located within the southwest corner of the subject site at upper levels.

These proposed terraces and the south facing office windows will however, be able to overlook the roof terrace at No. 47. This is not considered to be unreasonable though, since this is a communal (rather than private, secluded) space. The roof terrace can be accessed

by all of the occupants of the 58 dwellings within the building and it is already overlooked by the building at 18 Yarra Street and the approved building at 17 Yarra Street. In any event, the instances where new windows are within 9 metres of the roof terrace are relatively limited, and often transitional spaces rather than a place where an office worker will spend a prolonged amount of time. The proposed balcony spaces for the offices are also not likely to be heavily used, meaning they will also not provide a significant cause for overlooking. The opportunities for views into the terrace at 47 Claremont Street are not considered to be unreasonable and it is therefore acceptable that privacy screening is not provided at this interface (outside of the Level 14 terrace as described above).

In terms of overshadowing, it is noted that within a high-density context such as this, shadowing of balcony spaces (including private balcony spaces) must be relatively tolerated. The Planning Scheme does not provide a directly applicable standard against which to assess the shadowing impacts in cases such as this. Nonetheless, it must still be noted that the existing rooftop at 47 Claremont Street currently receives good solar access and this will be affected by the proposal.

The proposed building has made efforts to incrementally setback the building where it has an interface to this existing outdoor area. As a consequence the proposed shadowing is more limited than it would otherwise be in the afternoon.

The terrace at 47 Claremont Street has a total area of 158sqm (including an undercover BBQ area and planter boxes). The permit applicant has submitted shadow diagrams at the equinox and these generally show the following:

- 9am – There is fairly limited overshadowing along the northern edge of the deck, most shadow at this time is cast by existing structures on the roof of 45 Claremont Street.
- 10am – The proposed building shadows an additional 18% of the deck, although existing structures on the roof create a roughly equivalent degree of shadow and there is still some usable spaces available.
- 11am and 12 noon – There is effectively no useable space available which has direct solar access on the terrace.
- From 1pm, solar opportunities begin to open up again and it is estimated that it would not be until around 4pm that all solar access is lost again as a consequence of existing buildings in Yarra Street.

While it is acknowledged that the proposed building has a notable impact on existing solar access to the existing roof terrace, there are still opportunities to gain direct sunlight. The roof terrace is unlikely to be used in large numbers at any one time, meaning a resident is likely to be able to find a space free from shadow to use, if they chose to, at most hours of the day. Given the high-density context of the site, on balance the impact is considered to be expected and acceptable. Moreover, the alternative, which would significantly reduce building height at the site is not preferred, given the proposal presents a well conceived, architectural impression as it stands and a desirable land use in this context.

Internal Provision

The layout of the proposed office building appears generally well conceived. The entry and access arrangements are discussed above and raise no issues. The floor plates are relatively small and likely to suit a range of small business operators, in what is likely to be a highly desirable location. Staff amenities are provided on each floor and at the upper levels outdoor terraces are provided.

It is noted that the ground floor food and drink premise is not provided with toilet facilities however, this matter is outside the scope of town planning and not a matter addressed by

the Planning Scheme. Once a tenant is identified, a building permit will be required to fit out the tenancy and at that stage amenities suited to that use and particular tenant will be provided. What that requirement will be is unknown at this stage – in the same way the kitchen fit out / size / location is unknown.

ACZ1 provides two design requirements relevant to this proposal. The first is building adaptability, which seeks to ensure adequate floor to floor clearances to provide for a range of uses in the future. The proposal adheres with the requirement to have a 4 metre ground floor clearance although falls short of the required 3.8 metre clearance at first floor level (3.4 metres is proposed). Level 1 of the building includes a substation, car lift, switch room and the end of trip facilities in addition to a small office. The large areas given over to services means that the space is already not readily convertible to an alternative use. Nonetheless, the siting of services at this level (rather than at ground floor level) is preferred and moreover, the purpose of the building adaptability requirement is principally to facilitate commercial development. Given the building is a commercial one, it is clearly already suitable for this use. The variation is therefore considered to be acceptable.

ACZ1 also includes an open space and landscaping requirement, applicable to office developments of more than 1,000sqm. It seeks '*generously sized, accessible, useable and well-designed communal open space areas*'. Four of the floor levels have terrace attached to them, and the shared top level of the building has a north facing terrace of 41sqm. The terraces are proposed to have integrated landscaping and the application was accompanied by a landscaping concept prepared by Aspect Studios. The landscaping plans should form part of the endorsed documentation to ensure implementation of the concept. The proposal is considered to adequately meet this requirement.

In terms of ESD, Council's ESD officer has generally supported the proposal subject to the resolution of some relatively minor matters which form recommended permit conditions.

In terms of waste collection, Council's Waste Coordinator has identified that accessing the bin store is somewhat inconvenient, with users having to either use the internal steps or having to exit the building and walk around and down the laneway to access the waste room. There is also the option of using the car lift though, for large loads. Given the office use, the building will be serviced and those accessing the bin room will be aware of this constraint. The bin room cannot readily be moved either, since steps will be required somewhere to get down to grade for collection. While the arrangements are not ideal, given the constraints of the site presented by the flood levels and given the option of using the car lift, they are considered to be acceptable.

In terms of collection, propping in the laneway is not preferred, although relevantly the car lift queuing spaces could be used where available. These spaces are most likely to be free outside of the morning peak. A condition of permit should prohibit waste collection during these hours. Council's Waste Coordinator has also suggested the following:

- All waste streams should be collected on the same day
- No more than one collection vehicle for each waste stream should service the development per day
- Laneway collection must not obstruct access by other users. Avoidance of collections during traffic peak times.
- Require a spotter (one of the Control Measures mentioned in the submitted WMP)

With these conditions, the waste collection arrangements are considered to be acceptable.

Transport Matters

The proposed building provides a low ratio of car parking in terms of the provisions of the Planning Scheme, and this is supported in this context. As identified by objectors, traffic is highly congested in this area and providing only a small amount of car parking is the best means of reducing the impact of new development. The site's excellent access to public transport further supports the low car parking numbers proposed.

The 18 car parking spaces at the site will be allocated to the office, meaning no space are proposed for the Food and Drink Premises. This is acceptable given the small size of the tenancy, and the likelihood that it would only service people already in the area (rather than being a destination in its own right).

Staff of the Food and Drink Premises and office workers can conveniently catch public transport to the site or utilise the on site bicycle parking. If staff members wanted to drive to work (and they were not allocated an on site space) there are private paid parking options in the area. The highly restricted availability of on street parking is unsuited to all day parking, and staff of the building will be aware of this. The car parking provision is considered to be acceptable.

On site vehicular parking is provided at upper levels and accessed via the side laneway. A setback area is provided inside the west boundary of the site to allow for cars accessing the site to prop if they need to wait for the car lift. These arrangements have been found to be broadly appropriate to Council's Transport Department subject to some type of pavement delineation / signage to designate the public and private areas (this could have been resolved by a permit condition). The plans have been reviewed from Council's Urban and Landscape Department (who are coordinating the Forrest Hill Masterplan works) and no issues have been raised in respect to the arrangements for access.

It is agreed with Council's Transport Engineers that it would be preferred if additional bicycle parking was provided however, the proposal meets the requirement of Clause 52.34 and there is not ready space available for this purpose. Furthermore, Council's ESD Officer has not raised this matter is a particular issue. On this basis, the supply of bicycle parking is considered to be acceptable.

It is noted that one of Melbourne Water's conditions require that the visitor bicycle parking be elevated. This change is not shown on the current application plans and the permit applicant has advised that various options for achieving this modification are being explored. Melbourne Water's conditions must be met as part of Condition 1 of the permit. A further condition should require that at least 20% of the bicycle parking spaces required by Clause 52.34 be retained at ground floor level.

The car parking layout is also found to be generally acceptable by the Transport Department subject to some minor modifications which can be resolved by permit conditions.

Objections

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

- In terms of wind impacts attributable to the development, the application was accompanied by an Environmental Wind Assessment prepared by MEL Consultants. The Assessment finds that the proposal will increase the wind conditions along the east-west strip of Claremont Street, although the conditions would still not exceed the relevant criterion for 'walking comfort' (noting there are no outdoor seating spaces in this area which would obligate a higher criterion). This criterion has been adopted by the report author in this case since the terraces were elective (rather than essential)

spaces. The findings of the Environmental Wind Assessment are considered to be acceptable.

- It is acknowledged that the Claremont / Yarra area has been subject to extensive construction activity for a prolonged period of time. Most of the sites have now been developed though, meaning that this activity is nearing an end. Construction is an inevitable component of the urban transformation which Council intended for this area and is not a legitimate means of preventing such development. The manner in which that the development takes place is governed by the Building Regulations and is outside the realm of town planning.

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. 0889/20 - 55 Claremont Street & adjoining road reserve, South Yarra [8.2.1 - 28 pages]

Officer Recommendation

That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 889/20 for the land located at 55 Claremont Street and adjoining road reserve, South Yarra under the Stonnington Planning Scheme for use and development of the land for an office building and reduction in the standard car parking requirement in an Activity Centre Zone and Land Subject to Inundation Overlay subject to the following conditions:

1. ***Before the commencement of the development, 1 copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans prepared by SJB Architects and submitted to Council (and date stamped by Council) on 26 May 2021 but modified to show:***
 - a) ***Items required by Melbourne Water as set out in Condition 11-19.***
 - b) ***Details of surface treatment in the privately owned part of the vehicular accessway, which should distinguish it from the publicly owned laneway.***
 - c) ***Notations on the West Elevation to confirm that windows at Levels 1-4 are finished with obscure glazing to a minimum height of 1.7m.***
 - d) ***A sightline detail from the Level 14 terrace showing opportunities for overlooking into windows facing the central light court at 47 Claremont Street. If views are available into these windows, the relevant area of the terrace is to be screened to a height of 1.7m (to a maximum transparency of 25%)***

- e) **All changes to existing vehicular crossovers at the site.**
 - f) **The minimum headroom in the car lift.**
 - g) **The convex mirror at the car lift entry / exit point wholly within the subject site.**
 - h) **Car lift technical specifications to match the dimensions shown on the plans.**
 - i) **Line marking within vehicular queueing area, which is to avoid, as much as possible, obstructing the visitor bike parking area..**
 - j) **Confirmation that space is available in the parking levels for a vehicle to wait and for a vehicle to safely exit the lift.**
 - k) **The Ned Kelly bicycle rails staggered in height.**
 - l) **A notation confirming 80% of fire system test water is to be recycled and its intended re-use.**
 - m) **A notation on the roof plan detailing the total capacity of the on-site renewable energy generation system.**
 - n) **A notation confirming the rainwater tank is to be connected to all toilets and used for irrigation.**
 - o) **A notation confirming they are to drain to the rainwater tank.**
 - p) **Proposed means of access to the rainwater tank for maintenance**
 - q) **A notation is to be included on the plans confirming 53 lockers are provided within the End-Of-Trip facility.**
 - r) **At least one car parking space is to be dedicated to electric vehicles and is to be provided with charging infrastructure (i.e. an actual charging station).**
 - s) **Designation of recycling and general rubbish bins.**
 - t) **A notation on the roof plan confirming the roof is to be finished in a material with a low solar reflectance index (SRI) > 64.**
 - u) **At least 20% of the bicycle parking spaces required by Clause 52.34 are to be provided at ground floor level.**
 - v) **Any changes required by conditions 3 (Sustainable Management Plan), 5 (Green Travel Plan), 6 (Landscape Plans) and 9 (Waste Management Plan).**
2. **The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
3. **Concurrent with the endorsement of any plans pursuant to Condition 1 a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must be generally in accordance with the Sustainability Management Plan prepared by Stantec (Revision 2 dated 24 November 2020) but modified include the following:**

- a) **Identification of carpark ventilation. If Carbon Monoxide (CO) monitoring is provided an annotation must be included on the plans required under Condition 1.**
 - b) **Daylight modelling confirming the commitment that at least 40% of the floor areas achieves a Daylight Factor of 2%. Daylight modelling is to include the following:**
 - i. **All modelling assumptions and all external structures/features (such as overhead roofs, balconies, fences, screening, window shrouds or adjoining buildings) which may impact daylight access,**
 - ii. **The reflectance values used for the floors, walls, ceilings, external walls, ground and neighbouring buildings,**
 - iii. **Sky conditions,**
 - iv. **Visual Light Transmission (VLT) for all glazing modelled,**
 - v. **3D views to indicate that all shading devices and adjoining buildings have been modelled,**
 - vi. **The daylight contour plots are to be superimposed over the architectural plans for clarity and to ensure the areas have been modelled correctly,**
 - vii. **The ceiling height(s) used for the daylight model is to be noted,**
 - viii. **A tabulated results of spaces assessed, including the room name/number, percentage of the floor area meeting the daylight criteria,**
 - c) **A section through the north facing glazing demonstrating the proposed shading strategies to the northern façade are adequate to ensure that north windows are shaded from late October to late February where at midday the sun's altitude is 630. Any alterations required to shading are to be shown on the plans required by Condition 1.**
 - d) **A water balance calculation / report to ensure that the daily water demand of 400L entered into STORM is appropriate**
 - e) **Further information as to the calculation and justification associated with the Green Star credit claimed for 18B.2 Rainwater Reuse.**
 - f) **A brief statement outlining construction measures to prevent litter, sediments and pollution entering the stormwater system. The statement should include the types of measures required to be implemented on site (such as adoption of 'Keeping our stormwater clean' guide by Melbourne Water and typical measures suggested).**
 - g) **A brief statement outlining operational and maintenance measures to check the effective operation of all systems is to be provided.**
 - h) **Under credit 23.1 Ecological Value, 1.5 points have been claimed therefore an 'Ecological Value Calculator' in support of the credit claimed under 23.1 Ecological Value is to be provided as per the Green Star criteria.**
4. **Prior to the occupation of the development approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the**

Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.

5. **Prior to the commencement of any buildings or works, a Green Travel Plan must be submitted to and approved by the Responsible Authority. When approved, the Green Travel plan will be endorsed to form part of the permit. The development must operate in accordance with the Green Travel Plan. The Green Travel Plan must include actions and recommendations designed to reduce the use of cars and increase the use of alternative travel methods to the satisfaction of the Responsible Authority. The Green Travel Plan must be generally in accordance with the Green Travel Plan prepared by Traffix Group (dated November 2020 Issue No. D) but amended as follows:**
 - a) **To reflect a minimum of one car parking space dedicated to electric vehicles and provided with charging infrastructure (i.e. an actual charging station).**
6. **Before the development starts, landscape plans 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 plans will be endorsed and will then form part of the permit. The landscape plans must be drawn to scale with dimensions. The landscape plans must be in accordance with the Town Planning Report prepared by Aspect Studios (Issue P1 dated 12 October 2020) but modified to show:**
 - a) **Changes to ensure consistency with the documentation required under Condition 1.**
 - b) **A notation that the irrigation system is to be connected to the rainwater tanks and will not be connected to a potable water supply.**
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. **Upon submission of plans to be endorsed in association with condition 1, the Applicant is to provide to Council's GIS department a digital 3D model of the development site (to Council's specification).**
9. **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 (dated 2 October 2020) but updated to include:**
 - a) **Waste collection will only occur outside the morning traffic peak.**
 - b) **All waste streams should be collected on the same day**
 - c) **No more than one collection vehicle for each waste stream should service the development per day**
 - d) **Laneway collection must not obstruct access by other users. Avoidance of collections during traffic peak times.**

e) A trained spotter will be present to assist to manoeuvring at all times.

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

10. Prior to the occupation of the building, the owner of the land must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987 to covenant that it will:

a) Pay a monetary contribution to Council prior to the commencement of the development, capped at a total value of \$818,165, to fund the streetscape and public realm works in the east-west section of Claremont Street in front of the site in exchange for the agreed building height.

b) The monetary contribution may only be used by Council to fund the streetscape works referenced in Condition 10.a).

The agreement must be registered with the Registrar of Titles in accordance with section 181 of the Planning and Environment Act 1987 and will run with the land, including any common property that may be created as part of the subdivision of the land. All costs (including legal costs) associated with the preparation and review of the agreement and registration of the agreement on the Certificate of Title for the land must be paid by the owner.

Start Melbourne Water Conditions

11. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with ground and floor levels to Australian Height Datum (AHD) and must be amended as follows:

a) Finished floor levels of the Visitor Bike parking area and Room for Bike Racks must be shown at a level no lower than 4.2 metres to AHD.

12. Finished floor level of all ground floor areas inc lift lobbies and stair entries must be set no lower than 4.80 metres to Australian Height Datum (AHD) which is 600mm above the applicable 1% ARI flood level of 4.20 metres to AHD.

13. No habitable areas must be shown at levels lower than 4.80 metres to AHD.

14. All electrical installations within the building must be set no lower than 4.80 metres to AHD which is 600mm above the applicable 1% ARI flood level of 4.20 metres to AHD.

15. Finished floor levels of the Visitor Bike parking area and Room for Bike Racks must be shown at a level no lower than 4.2 metres to AHD.

16. Bin Store is permitted to be located at a lower level, however no lower than indicated on plans submitted.

17. Entrance to the proposed Car Lift (which services upper floor parking) must be maintained no lower than as shown on submitted plans with electrical/mechanical components of the Car Lift set at or above 4.8 metres to AHD. Note: Lift electronics and controls set at levels lower than 4.8 metres to AHD must be safeguarded against flood damage which must be encapsulated by the manufacturer. (Submersible)

18. ***Car Lift must be programmed to rest at a level no lower than 4.2 metres to AHD at the 1% AEP flood event.***
19. ***Prior to the issue of a Certificate of Occupancy, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.***

End Melbourne Water Conditions

20. ***Any poles, service pits or other structures/features on the footpath required to be relocated to facilitate the development must be done so at the cost of the applicant and subject to the relevant authority's consent.***
21. ***All utility services to the subject land and buildings approved as part of this permit must be provided underground to the satisfaction of the Responsible Authority by completion of the development.***
22. ***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.***
23. ***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.***
24. ***Prior to an 'Occupancy Permit' being issued, a suitably qualified Engineer must carry out a detailed inspection of the completed stormwater drainage system and associated works including all water storage tanks and detention (if applicable) to ensure that all works have been constructed in accordance with the approved design and the relevant planning permit conditions. Certification of the completed drainage from the Engineer must be provided to Council prior to a 'Statement of Compliance' being issued for the subdivision.***
25. ***All redundant vehicular crossing must be removed and the footpath, and kerb reinstated at the owners cost to the satisfaction of Council.***
26. ***The development levels must match the existing Claremont Street footpath levels, and the levels of the right-of-way. These existing levels must not be altered in any way at the property line.***
27. ***Prior to occupation, access for persons with disabilities must be provided in compliance with the Disability Discrimination Act 1992 and such access must be maintained at all times the building is occupied or in use.***
28. ***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.***
29. ***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.

- 30. This permit will expire if one of the following circumstances applies:**
- a) The development is not started within two years of the date of this permit.**
 - b) The development is not completed within four years of the date of this permit.**
 - c) The use is not commenced within five years of the date of this permit.**
 - d) The use is discontinued for a period of two years or more.**

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

NOTES:

- A. This permit 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. 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 VCAT Quarterly Report - Q2 (April to June 2021)

Coordinator Statutory Planning: Phillip Gul

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 inform Councillors of the planning decisions relevant to the City of Stonnington issued by the Victorian Civil and Administrative Tribunal (VCAT) in the April-June Quarter, 2021.

Officer Recommendation

That Council RECEIVE and NOTE the VCAT Quarterly Report - Q2 (April to June 2021).

Background

1. Council has acknowledged that it is important to review and understand how decisions at VCAT are made and the implications of these decisions. As a result, this report is prepared outlining decisions issued by VCAT in the second quarter of 2021.

VCAT Decision Terminology

2. The following list of VCAT Terminology is provided to assist Councillors in understanding this report and accompanying spreadsheet.

Terminology	Definition
Set aside	VCAT has overturned Council's decision to either issue or refuse a permit.
Affirmed	VCAT supports Council's decision to either issue or refuse a permit.
Varied	VCAT is largely supportive of Council's decision to issue a permit, but has either removed conditions or imposed additional conditions on that permit.
Struck out	The appeal has been thrown out and will not be heard.
Withdrawn	The person who lodged the appeal has decided not to pursue it and has withdrawn the appeal.
Outcome by consent	An agreement was reached prior to a hearing where all parties were satisfied with the outcome and agreed to a permit issuing, subject to agreed changes.

Key Issues and Discussion

3. 29 cases were determined by VCAT in the second quarter of 2021, which was higher than the normal range of 20 – 25 cases per quarter.

4. In the second quarter, there were 6 outright wins for Council (20.6%) and 7 losses (24.1%). In addition to the outright wins for Council, 9 positions of consent were reached (31%), these are positive outcomes as Council only consents to the matter being settled if it is satisfied with the resulting outcome. A remaining 5 matters were withdrawn (17.2%) and 2 matters were struck out (3.4%).
5. A significant decision to note is an application for seven-storey office building at 2 Paran Place and 1539 High Street, Glen Iris. The land is zoned Industrial 3 Zone. Council officers refused the application due to the excessive size of the proposal, the inappropriate nature of the office use in an industrial zone and significant concerns about traffic impacts.
6. VCAT found that the proposed use was indeed inconsistent with the zoning of the land and also that the application contained too much car parking.
7. On this basis, the Tribunal affirmed Council's refusal.
8. A second significant decision to note relates to an application for a six-storey mixed use building at 1187 High Street, Armadale. This related to an appeal against Council's failure to determine the application within the prescribed timeframe. Council officers subsequently advised the parties that it would have refused the application on grounds relating to unacceptable traffic impacts on the rear lane, and due to the building exceeding the preferred heights in the Design and Development Overlay Schedule 19.
9. The Tribunal found that the proposal had been carefully considered having regard to the opportunities and constraints associated with the land and its interfaces. They found the six-storey building was acceptable in its High Street setting. They found the relationship with the residential interface to the rear was acceptably managed and there would be no unreasonable amenity impacts to this interface.
10. With regard to traffic, the Tribunal found that the increase in traffic to the lane was acceptable. The Tribunal did not think a reduction in parking was required but did find that a permit condition was required to prohibit the lease of any surplus residential spaces to external persons who are not residents of the associated dwelling.

Governance Compliance

Policy Implications

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

Financial and Resource Implications

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

Conflicts of Interest Disclosure

13. 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

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

16. There was no requirement for community consultation.

Human Rights Consideration

17. 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

Nil

8.4 LGBTIQA+ Advisory Committee - Appointment of Chair

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

Purpose of Report

To seek appointment of a Councillor as Chair of the Stonnington LGBTIQA+ Advisory Committee, as per the Terms of Reference.

Officer Recommendation

That Council APPOINT Cr. _____ to Chair the Stonnington LGBTIQA+ Advisory Committee noting this is an annual appointment.

Executive Summary

1. At the meeting of 15 February 2021, Council unanimously passed a Notice of Motion to establish a Gender and Sexuality Diverse Advisory Committee to Council with Terms of Reference to guide its decisions and activities.
2. Based on advice from key bodies relating to inclusive language; Rainbow Network and Victorian Pride Lobby, the Committee was advertised as the LGBTIQA+ Advisory Committee.
3. The Stonnington LGBTIQA+ Advisory Committee will provide feedback and advice on how to improve life in Stonnington for people who are gender, sex and sexuality diverse and input the development of an Action Plan.

Background

4. The Stonnington LGBTIQA+ Advisory Committee will assist Council to identify and respond to current and emerging issues impacting people who are gender, sex and sexuality diverse who live in, work in or visit Stonnington. The Committee acts as a consultative mechanism providing an opportunity for people who are LGBTIQA+ or allies to guide Council policy and services.
5. The 2020 Stonnington LGBTIQA+ Advisory Committee Terms of Reference (refer **Attachment 1**) requires a Councillor be appointed annually as Chairperson.

Key Issues and Discussion

6. Council's nominated Councillor will be the Chairperson. In the event of the Chairperson being unable to attend a meeting, a delegate will act in their place. Where no Councillor is present, the Committee will appoint a Temporary Chairperson for that meeting.

7. Council may appoint a second Councillor to the Committee.

Governance Compliance

Policy Implications

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

Financial and Resource Implications

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

Conflicts of Interest Disclosure

10. 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

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

Community Consultation

12. There was no requirement for community consultation.

Human Rights Consideration

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

Attachments

1. Terms of Reference [8.4.1 - 3 pages]

8.5 LGBTIQA+ Advisory Committee - Membership Appointment

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

Purpose of Report

To present the nominated Stonnington LGBTIQA+ Advisory Committee applicants to Council for endorsement, as per the Terms of Reference.

Officer Recommendation

That Council:

1. **APPROVE the appointment of the following 10 Stonnington LGBTIQA+ Advisory Committee members:**
 - **Adam Bromage**
 - **Alexandra Taylor**
 - **Brad Farrugia**
 - **Christine Creasey**
 - **Daniel Dorall**
 - **Jeremy Oliver**
 - **Jay Temanu**
 - **Liam Elphick**
 - **Natalya Wren**
 - **Pauline Crameri**
2. **APPROVE the receipt and appointment of late applicant Melanie Jeffries to the Stonnington LGBTIQA+ Advisory Committee.**
3. **NOTE the approval of these applicants will change the membership composition outlined in the Terms of Reference.**
4. **NOTE that one (1) vacancy remains on the Stonnington LGBTIQA+ Advisory Committee, which officers will further advertise and promote through local LGBTIQA+ networks, in the hope of filling in coming months;**

Executive Summary

1. On the 15 February 2021, Council unanimously passed a Notice of Motion to establish a Gender and Sexuality Diverse Advisory Committee with Terms of Reference to guide its decisions and activities.
2. Based on advice from key bodies relating to inclusive language; Rainbow Network and Victorian Pride Lobby, the Committee was advertised as the LGBTIQ+ Advisory Committee.
3. The Stonnington LGBTIQ+ Advisory Committee will provide feedback and advice on how to improve life in Stonnington for people who are gender, sex and sexuality diverse and input the development of an Action Plan.
4. A membership recruitment program ran from 19 May 2021 to 16 June 2021 through direct emails; social media posts; and Stonnington Council website.
5. Endorsement is sought for 11 new applicants, including one late applicant.
6. If Council approves all nominations in this report, there will be one remaining vacancy on the Stonnington LGBTIQ+ Committee with a targeted recruitment campaign planned to fill this over the next three months.

Background

7. The Stonnington LGBTIQ+ Advisory Committee will assist Council to identify and respond to current and emerging issues impacting people who are gender, sex and sexuality diverse who live in, work in or visit Stonnington. The Committee acts as a consultative mechanism providing an opportunity for people who are LGBTIQ+ or allies to guide Council policy and services.
8. The 2020 Stonnington LGBTIQ+ Advisory Committee Terms of Reference (refer **Attachment 1**) requires Council endorsement of Committee members to ensure community representatives will reflect the diversity of the LGBTIQ+ spectrum and community, including people from a variety of life stages and experiences, cultural and religious backgrounds and locations across the municipality.

Key Issues and Discussion

9. Nominations for Committee membership opened 19 May 2021 and closed 11 July 2021. Vacancies were advertised via Council's website, social media posts and targeted emails. Due to the snap lockdown on 27 May the closing date was extended from 9 June to 16 June to provide an extra week of social media promotion and more time for candidates to apply.
10. The Terms of Reference specify 13 members (including Council nominated Councillor as Chair). As this is a new committee, all 12 external positions available on the Stonnington LGBTIQ+ Advisory Committee are vacant.
11. The Stonnington LGBTIQ+ Advisory Committee Terms of Reference state that the committee be comprised of; four representatives from local organisations and networks that support Stonnington's LGBTIQ+ community, four representatives from Stonnington's business community and four LGBTIQ+ community members.
12. Committee members have an initial two-year appointment and may re-apply for a second and third term, not exceeding a total of six years continuous service, before a break of at least one term.
13. Within the open period for nominations, 10 applications were received comprising one business community representative, four local organisation and network representatives,

and five local community member representatives. A late application was received from another local community representative.

14. Council received more applications for local community representatives and less for business community representatives. However, as not all positions have been filled and the applicants represent the diversity sought, all are recommended for approval.
15. The following applicants seek endorsement to join the Stonnington LGBTIQ+ Advisory Committee for the next two years:
 - a. Adam Bromage
 - b. Alexandra Taylor
 - c. Brad Farrugia
 - d. Christine Creasey
 - e. Daniel Dorall
 - f. Jeremy Oliver
 - g. Jay Temanu
 - h. Liam Elphick
 - i. Natalya Wren
 - j. Pauline Crameri
 - k. Melanie Jefferies
16. A recruitment drive will be implemented over the next three months to fill the remaining position. This will include revisiting key agencies; refreshed social media campaign; and promotion via the committee members networks.
17. Appropriate amendments will be made to the terms of reference in line with the Committee makeup.

Governance Compliance

Policy Implications

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

Financial and Resource Implications

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

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

Environmental Implications

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

Stakeholder Consultation

Purpose:	Recruitment of Advisory Committee members
IAP2 Goal:	Inform

Exhibition period	19 May to 16 June 2021
Method:	Social media posts, Council website, discussion with and direct email to 15 agencies (Victoria Police through Southern LGBT Liaison Officer, Rainbow Network, Victorian Pride Lobby, Yellow Kitties, Greek and Gay, Acceptance Melbourne, Positive Living Centre, Monash Queer, Prahran Market Clinic, Thorne Harbour Proud2Play, Zoe Belle Gender Collective, Inclusion Melbourne, Diverse Communities and Social Services Australia, Autism Spectrum Australia, and Transgender Victoria)
Reach:	7 social media posts 200 page views on the LGBTIQ+ Advisory Committee page 30 page views on the Terms of Reference page 11 applications
Summary of feedback:	Refer to Applicant summary attachment.
Impact:	11 applications received for Committee membership.

Human Rights Consideration

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

Attachments

1. Terms of Reference [8.5.1 - 3 pages]

8.6 Contract T21069 - Princes Gardens, Chapel Forecourt and Carpark Works

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.

- L1 Strategically invest in open spaces, sporting fields and community facilities, and optimise use according to community needs.
- L4 Enhance the design outcomes of public spaces, places and buildings.

Purpose of Report

To seek Council approval to award Contract No. T21069 Princes Gardens, Chapel Forecourt and Carpark Works to Citywide Service Solutions Pty Ltd ABN 94 066 960 085.

Officer Recommendation

That Council:

1. **APPROVE Contract No. T21069 Princes Gardens, Chapel Forecourt and Carpark Works, be awarded to Citywide Service Solutions Pty Ltd (ABN 94 066 960 085) for civil and landscaping works for the lump sum price of \$1,599,043.79 (EX GST).**
2. **AUTHORISE the Chief Executive Officer to execute the contract agreements with the above contractor.**
3. **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

1. Confidential information and the evaluation process and outcomes are contained in Attachment A: Councillor Procurement Briefing Paper and Attachment B: Evaluation Matrix, 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.

Contract No.	T21069
Contract Name:	Princes Gardens, Chapel Forecourt and Carpark Works
Contract Supervisor:	Georgina Hagger, Landscape Coordinator

Background

2. Princes Gardens is a significant piece of open space within Prahran that provides for various passive and active recreation and entertainment provisions for the surrounding community and adjacent high-density housing.
3. The Princes Gardens Masterplan was endorsed by Council in 2018 and seeks to improve the safety of the Gardens whilst catering for a wider range of community users. The masterplan responds to existing facilities including the Chapel off Chapel Performing Arts venue, the Princes Close Child Care Centre and Prahran Skate Park. As well as informing and responding to the redevelopment of key sites within the Gardens such as the Prahran Aquatic Centre.
4. Ongoing funding has been endorsed in Council's 10 Year Capital Expenditure Program to deliver the Masterplan in various stages over time from Capital Budget X9698 - *Princes Gardens Masterplan*.
5. Stage 1 was delivered in 2019/20 and addressed safety issues by providing a wider central pathway, an avenue of trees, new park lighting and various furniture elements. The southern areas of the gardens were as delivered in 2020/21 including new pathways, lighting, picnic area and regraded oval.
6. The project area for this stage is subject to a heritage overlay, the project design has been approved and issued a planning permit by Heritage Victoria.

Key Issues and Discussion

Advertisement Date:	01/05/2021
Procurement Method:	Public Tender
Documents released via:	VendorPanel
Closing Date:	24/5/2021
Number of Submissions received:	Seven

7. Tenders were assessed against the Evaluation Criteria listed in the Tender Application by an Evaluation Panel. 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

8. Citywide Service Solutions Pty Ltd was assessed by the Tender Evaluation Panel as the preferred supplier, offering the best value to Council based on capability and resourcing, quality and reliability and price competitiveness.

Governance Compliance

Policy Implications

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

Financial and Resource Implications

10. The estimated total annual expenditure under this contract is identified in the attached confidential Evaluation Report.
11. Funding is provided from Capital Budget X9698 Princes Gardens Masterplan in which there is a total budget of 2.3MIL (ex GST) for 2021/2022 FY. The contract is within current budget allocation.

Conflicts of Interest Disclosure

12. 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

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

Environmental Implications

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

Community Consultation

Purpose:	Engagement to seek customer feedback to help shape the Princes Gardens Masterplan. Inform community and park users of the upcoming construction works.
IAP2 Goal:	Community and stakeholder participation to inform design development to meet customer needs.
Exhibition period	Project engagement 16 June – 7 July 2021 Masterplan consultation March 2018
Method:	Postcard mail out to 982 local residents, site signage installed at three locations within the park, Stonnington webpage including concept design and consultation key dates.
Reach:	Social media, Connect Stonnington page, information sessions held in the park, online survey.
Summary of feedback:	Refer consultation summary report.
Impact:	The feedback received from the masterplan consultation was supportive of the design. The project area subject to a Heritage Victoria planning permit has been updated and responds to heritage considerations.

15. Other stakeholder consultation included the Chapel off Chapel Venue, Events, Arts and Culture, Transport and Parking, Strategic Planning, Statutory Planning, Civil Engineering, Arboriculture, Youth Services, Open Space and Environment Asset Managers, Prahran Police, Heritage Victoria.

Human Rights Consideration

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

Attachments

1. CONFIDENTIAL REDACTED - Councillor Procurement Brief [8.6.1 - 3 pages]
2. CONFIDENTIAL REDACTED - Evaluation Matrix [8.6.2 - 11 pages]

8.7 T21009 Sir Robert Menzies Reserve - Retaining Wall Reconstruction - Contract Variation

Manager Project Management & Delivery: Madelyn Eads-Dorsey
Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

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

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

Purpose of Report

To seek approval to vary Contract T21009 Sir Robert Menzies Reserve – Retaining Wall Reconstruction. Council has the authority to approve this contract variation which will result in the contract value exceeding \$1 million.

Officer Recommendation

That Council:

- 1. APPROVE the Variation of Contract No. T21009 – Sir Robert Menzies Reserve – Retaining Wall Reconstruction, for the value of \$ 177,961.05 (ex GST).**
- 2. APPROVE the adjustment of purchase order P120672 for Entracon Civil (ABN 35 118 370 077) for this approved variation**
- 3. 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

1. Please note that confidential information is contained in **Confidential 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.
2. 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 decide, this item will be deferred to the confidential section of the agenda.

Reason for Variation:

3. This Variation is a result of a combination of latent site conditions, some design changes and a Council request to increase the scope of works. The main component of the variation includes an increase in scope to include the landscape improvement works. This provides council with a best value outcome providing the most efficient and cost effective way to deliver the landscape works.

Contract Supervisor	Vincent Pham
Variation Number (how many)	9

Amount of this Variation \$	\$ 177,961.05 (ex GST)
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4. Please refer to **Confidential Attachment 1** which outlines confidential information regarding the evaluation of the:
 - a. Procurement process
 - b. Variations
 - c. Purchase Order requirements
 - d. Financial and resource implications

Governance Compliance

Policy Implications

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

Conflicts of Interest Disclosure

6. 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

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

Environmental Implications

8. The approval of this report would allow Council to improve the landscape and biodiversity of the area along the southern boundary of Sir Robert Menzies Reserve in and around the new retaining wall.

Community Consultation

9. Residents and park users were provided the opportunity to be involved in the consultation process during the development of the landscape works. Residents immediately adjacent to Sir Robert Menzies Reserve were letter dropped. The landscape material was posted on the Council website and signs were placed around the reserve entrances. The feedback received was supportive of the plans, except for one resident who didn't think landscaping the wall was a good use of council funds.

Human Rights Consideration

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

Attachments

1. CONFIDENTIAL REDACTED - Contract Variation T21009 [8.7.1 - 4 pages]

8.8 Document for sealing: Loan Fund Agreement

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

To request that Council resolve to accept and affix of a common seal to a new restatement letter of offer from ANZ for the existing \$20 million loan with ANZ.

Officer Recommendation

That the Council ACCEPT the new restatement letter of offer from ANZ for the existing \$20 million loan and APPROVE the affixing of a common seal to give effect to this resolution.

Executive Summary

1. Council has an existing \$20 million loan with ANZ. As per ANZ's terms and conditions, a new restatement letter of offer is to be issued every 3 years. In order for Council to continue to use this borrowing facility and meet ANZ compliance requirements, it is recommended that Council accept this restated letter of offer and authorise for the affixing of a common seal to give effect to this resolution.

Background

2. Council resolved to borrow \$20 million in the 2018/19 Budget year and to tender this borrowing at the Ordinary Meeting of Council on 29 October 2018. ANZ was successful during the tender process and Council accepted their offer of a \$20 million loan with variable interest only at 90 days Bank Bill Swap Bid Rate (BBSY) plus a margin of 0.57%, renewed annually.
3. As per ANZ's terms and conditions, a new restatement letter of offer is to be issued every 3 years.
4. As per City of Stonnington General Local Law 2018 (No.1) clause 23 (1):

The Common Seal may be affixed to a document for the purpose of giving effect to a decision:

- (a) Made by Council resolution;
- (b) Made by resolution of a Special Committee composed solely of Councillors;
- (c) Made by resolution of a Special Committee under delegation; or
- (d) Made by the Chief Executive Officer under delegation.

Key Issues and Discussion

5. This is an existing borrowing facility made through Council resolution on 29 October 2018. There were no changes of facility terms under the content of this new restatement letter of offer. The focus of this letter of offer is to bring the document up to date with references to Local Government Act 2020 compared to the original letter of offer issued on 10 December 2018 under the effect of Local Government Act 1989.
6. This existing borrowing facility is under a very competitive pricing model that is beneficial to Council. The latest quarterly interest rate for this facility is at 0.6443% for the quarter of 15 June 2021 to 15 September 2021.
7. In order for Council to continue use this existing borrowing facility, it is required by Bank's terms and conditions that Council resolve the acceptance of this restatement of letter of offer by affixation of its common seal.
8. Within Council's long-term financial planning, Council intends to fully repay the \$20 million loan over the next 10 years by financial year 2030-31.

Governance Compliance

Policy Implications

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

Financial and Resource Implications

10. Council currently has no budgeted repayment of this \$20 million borrowing in 2021/22 Budget year. Within Council's long-term financial planning, Council intends to fully repay the \$20 million loan over the next 10 years by financial year 2030-31.

Conflicts of Interest Disclosure

11. 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

12. Section 14 of the Local Government Act 2020 and City of Stonnington General Local Law 2018 (No.1) clause 23 (1) prescribe the use of common seal.

Environmental Implications

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

Community Consultation

14. There was no requirement for community consultation.

Human Rights Consideration

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

Attachments

Nil

8.9 Prahran Market Assistance

Manager Economic & Place Development: Georgie Birch
Director Planning & Place: Annaliese Battista

Linkage to Council Plan

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

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

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

For the Council to approve a 14-day rental waiver for all Prahran Market traders in response to the Market being identified as a COVID-19 Tier 1 exposure site.

Officer Recommendation

That the Council:

- 1. APPROVE a full rental waiver for all Prahran Market traders for a 14-day period (combined cost of \$182,419.79) - offered to all businesses, irrespective of trading status, and not subject to the provision of financial documentation;**
- 2. APPROVE funding the \$182,419.79 from the COVID recovery reserve to provide targeted support to Prahran Market Traders; and**
- 3. OFFER an 'outreach service' to the traders (prioritising those most affected) ensuring they have information on the Victorian Government's COVIDSafe Deep Cleaning Rebate, Pandemic Leave Disaster Payments and the Partners in Wellbeing program which provides businesses one-to-one wellbeing support and free access to financial counsellors and business advisors.**

Executive Summary

1. The Prahran Market was required to close and undertake a deep clean as a result of a COVID-19 positive person attending the site.
2. All staff and customers who were on site at the time of exposure have been required to isolate for a 14-day period.
3. Although the market has reopened, it is currently estimated that only 30% of traders have done so, since many are in quarantine.
4. To support traders through this challenging time, it is proposed that the Council provide a 14-day full rental waiver for all Prahran Market traders (equivalent to the length of the quarantine period) along with an outreach service to connect businesses and employees with financial assistance and support services.

Background

5. On Saturday 17 July 2021, a COVID-19 positive person attended Prahran Market resulting in the market being listed as a Tier 1 exposure site.
6. Anyone who visited the exposure site during the times listed was immediately required to isolate, be tested for COVID-19, and quarantine for 14 days from the date of exposure – this included all staff and customers on site.
7. Prahran Market was forced to close on Thursday 22 July 2021 to undertake a deep clean as a result of identification as an exposure site.

Key Issues and Discussion

8. It is understood that more than 900 primary close contacts are currently quarantining as a result of working at or visiting the Prahran Market on this day.
9. It is estimated that 30% of traders who could reopen, did reopen the following day, however many will face significantly higher overheads.
10. Many market stall holders are owner-operated and would have had most staff on site at the time of exposure (being a Saturday, the market's busiest trading day) requiring staff and their families (as they would have been deemed secondary contacts) to quarantine for 14 days.
11. Many stall holders have had to rely on friends or employ additional staff to provide support coverage during this period. These overheads are in addition to the loss of stock and revenue during the forced closure on the days of trading.
12. Based on prior exposure sites, it is likely Prahran Market will also experience a downturn in visitation in coming weeks with people staying away due to fear of catching COVID-19.
13. A proposed waiver will be offered to all businesses within the Prahran Market space. This will not be subject to the provision of financial documentation and will be irrespective of trading status, as where possible, vibrancy within the market should be maintained and encouraged. It is desirable to remove any stigma and disincentive to reopening.
14. In addition to a 14-day rent waiver, it is proposed to provide an outreach service to all traders ensuring they have information on the Victorian Government's COVIDSafe Deep Cleaning Rebate, Pandemic Leave Disaster Payments, and the Partners in Wellbeing program which provides businesses one-to-one wellbeing support and free access to financial counsellors and business advisors. Further support programs and initiatives could be identified in this space as appropriate. It is intended that this outreach service be offered in a partnership between the Council's Economic Development and Public Health teams.

Governance Compliance

Policy Implications

15. There are no policy implications associated with the report.

Financial and Resource Implications

16. Providing a full rental waiver for all Prahran Market traders for the 14-day period would result in \$182,419.79 in foregone revenue for the Council. It is recommended that the full value of this financial impact is allocated against the COVID recovery reserve of \$1.89

million which was set aside in the 2021-22 Budget to provide targeted community support to rebound from COVID-19.

Conflicts of Interest Disclosure

17. 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

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

Environmental Implications

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

Community Consultation

20. There was no requirement for community consultation.

Human Rights Consideration

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

Attachments

Nil

9 Correspondence

10 Tabling of Petitions and Joint Letters

11 Notices of Motion

Nil.

12 Reports by Councillors

13 Questions to Council Officers

14 Urgent Business

15 General Business

16 Confidential Business

17 Close of Meeting