



Council Meeting Agenda

Monday 28 June 2021 at 7 PM

**Malvern Banquet Hall, Malvern Town Hall
Corner Glenferrie Road & High Street Malvern**

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

Agenda

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	Chief Executive Officer Jacqui Weatherill
	Executive Staff
	Annaliese Battista – Director Planning & Place Cath Harrod – Director Community & Well being 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 that we are meeting on the traditional land of the Boonwurrung and Wurundjeri people and offer our respects to the elders past and present. We recognise and respect the cultural heritage of this land.

Affirmation Statement

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

Ordinary Council Meeting Agenda Monday 28 June 2021 Order of Business

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1 Reading of the Reconciliation Statement and Affirmation Statement

2 Introductions

3 Apologies

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

4.1 Minutes of the Council Meetings held on 17 May 2021 and 7 June 2021

Officer Recommendation

That the Minutes of the Ordinary Meeting of the Stonnington City Council held on 17 May 2021 and 7 June 2021 and Minutes of the Confidential Meeting of the Stonnington City Council held on 7 June 2021 be confirmed as an accurate record of the proceedings.

5 Disclosure by Councillors of conflicts of interest

6 Questions to the Council from Members of the Public

7 Correspondence (only if related to Council business)

8 Questions to Council Officers from Councillors

9 Tabling of Petitions and Joint Letters

10 Notices of Motion

Nil.

11 Reports of Committees Informal Meetings of Councillors

12 Reports by Delegates

13 Urgent Business

14 Business

14.1 Community Vision and Council Plan

Manager Strategy & Performance: Mathew Burke

Director Planning & Place: Annaliese Battista

Linkage to Council Plan

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

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

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

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

Purpose of Report

To approve the Stonnington Community Vision 2040. To provide the timeline to finalise and adopt the Stonnington Council Plan 2021-25 including relevant community, Councillor and Officer engagement points.

Officer Recommendation

That Council:

- 1. APPROVE the Stonnington Community Vision 2040.**
- 2. ENDORSE the Aspirations Framework as Council's strategic direction and objectives for the purpose of the Stonnington Council Plan 2021-25.**
- 3. NOTE the timeline to finalise and adopt the Stonnington Council Plan 2021-25.**

Executive Summary

The City of Stonnington is developing a Community Vision 2040 and Council Plan 2021-25.

These documents form the apex of Stonnington's integrated planning framework and will provide direction for Council's subsequent plans, strategies and actions.

The Shaping Stonnington community engagement program was launched in September 2020 with the aims of completing Stonnington's Community Vision 2040 and informing development of Stonnington's Council Plan 2021-25.

Background

Community Vision 2040

The Local Government Act 2020 (LGA2020) requires Council to develop a Community Vision, created with its community in accordance with deliberative engagement practices.

The scope must be at least a 10-year period, with the City of Stonnington determining that it would embark on a Community Vision 2040.

Since September 2020, Council has undertaken an extensive engagement program - Shaping Stonnington - to reach a wide range of community members. A demographically representative People's Panel was convened and met online on 14 and 20 March 2021 to learn about and discuss challenges facing our city, discuss these challenges with each other, and draft a Community Vision and supporting Principles (refer **Attachment 1**). This was presented to Councillors at briefing on 12 April 2021.

Council Plan 2021-25

Since November 2020, Council Officers commenced a series of targeted workshops and other engagement points with Councillors (refer **Attachment 3 – Box 1**) designed to identify their aspirations over three horizons. This culminated in the development of the Aspirations Framework, representing a working structure and foundation to the Council Plan (refer **Attachment 2**). The Aspirations Framework is also reflected in the structure of the 2021-22 Council Budget.

Key Issues and Discussion

Community Vision 2040

Development of the Community Vision has been completed in accordance with the requirements of the LGA2020 and followed an extensive deliberative engagement process.

Council Plan 2021-25

The LGA 2020 requires the Council Plan to include strategic directions, strategic objectives, strategies, initiatives and indicators.

- a. **Attachment 2** provides an overview of each element of the Council Plan and highlights how the Aspirations Framework fulfills the direction and objective elements.
- b. An analysis has been undertaken to ensure alignment between the Community Vision and Aspirations Framework (i.e. the strategic directions and objectives elements) (**Attachment 4**).

The LGA2020 requires the Council Plan be adopted by 31 October 2021. **Attachment 3** presents a timeline of the finalisation and adoption of the Council Plan. Councillor, Executive and workforce engagement points continue to occur until July 2021 to finalise the strategies, initiatives and indicators which will underpin the Council Plan. Key touchpoints include:

- a. Councillor Workshop #1 (1 June 2021) - confirmation of direction and strategy identification (**Att 3; Item 7**).
- b. Staff Engagement (June/July 2021) – online workshops and feedback based on Councillor steering from Workshop #1 (**Att 3; Items 8, 11**).
- c. Councillor engagement and updates (June/July 2021) – online updates on staff engagement and requests for additional Councillor insights (**Att 3; Item 9**).
- d. Councillor Workshop #2 (24 July 2021) – Council Plan finalisation and development of aligned advisory committees and portfolios (**Att 3; Item 12**).

A Draft of the Council Plan is anticipated in early August 2021. This will be submitted to Council for endorsement ahead of three weeks of public exhibition alongside the Long-Term Financial Plan in mid-August 2021. Council will widely promote this opportunity for community feedback. Adoption of the Council Plan 2021-25 is proposed at the Council Meeting of 4 October 2021.

Conclusion

The Community Vision has been developed in accordance with legislative requirements and is now submitted for adoption.

The Aspirations Framework has been developed through extensive engagement with Councillors and forms the basis of our Council Plan's strategic directions and objectives. Council endorsement is sought to progress and finalise the development of the Council Plan through identified touchpoints.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

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

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Environmental Implications

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

Stakeholder Consultation

Development of the Community Vision was in accordance with rigorous community engagement activities and in accordance with Council's deliberative engagement practices under the Shaping Stonnington Program. There will be further opportunity for the community to be engaged through the public exhibition of the Council Plan during August 2021.

Human Rights Consideration

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

Attachments

1. Attachment 1 - Stonnington Community Vision 2040 [14.1.1 - 11 pages]
2. Attachment 2 - Aspirations Framework to Council Plan [14.1.2 - 2 pages]
3. Attachment 3 - Community Vision and Council Plan Timeline [14.1.3 - 1 page]
4. Attachment 4 - Community Vision and Council Plan (Aspirations Framework) alignment analysis [14.1.4 - 1 page]

14.2 2021/22 Budget Submissions

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 note the formal submissions received by Council in respect of Council's draft Budget 2021/22.

To note all submissions have been considered and proposed adjustments to the draft Budget 2021/22 will be presented for formal adoption on Monday 28 June 2021.

Officer Recommendation

- 1. That the Council NOTE the submissions received and Council Officer responses.**
- 2. That the Council NOTE the proposed budget adjustments developed by Council Officers have been based on the submissions received.**
- 3. That the Council NOTE that all persons who made submissions will receive a written response to their submission.**

Executive Summary

Council received 207 submissions in relation to the proposed 2021/22 Budget, 85 of these submissions were received via the Stonnington Residents and Ratepayers Association.

The feedback on our proposed budget for 2021/22 addressed a number of themes including, Rates, capital works (particularly the East Malvern Tennis Club) and Climate Emergency. A total of 14 submitters requested to be heard in relation to their submission and 11 submitters made a presentation to Council.

All submissions have been considered in depth and Management developed a number of alternative budget recommendations for further consideration by Council.

Adjustments to the draft Budget 2021/22 will be considered for formal adoption on Monday 28 June 2021.

Background

The Local Government Act 2020 provides that a Council must:

- Prepare and adopt a budget for each financial year - Section 94 (1);

- Provide a description of services and initiatives and a statement as to how these will contribute to achieving the strategic objectives specified in the Council Plan, major initiatives and any other details required by the regulations - Section 94 (2);
- Comply with the rate cap set by general order which has been set at 1.5% for the 2021-22 financial year - Section 94 (3).

Noting the Council resolved to undertake community consultation in line with the Local Government Act 1989 which provides that Council must:

- Give public notice of a proposed budget and make it available for public inspection for at least 28 days – Section 129;
- Adopt the budget following consideration of public comments, and submit a copy to the Minister within 28 days - Section 130 (3-4);

On Monday 19 April 2021, Council considered the proposed 2021/22 Budget and resolved to give public notice of its preparation, as required by Section 129 of the Local Government Act 1989.

Council also resolved that any submissions received be considered by a Committee of all Councillors to be held at 6.00pm on Monday 7 June 2021. Any person has the right to make a submission on the proposed 2021/22 Budget under Section 223 of the Local Government Act 1989.

Public notice of the statutory consultation period was provided on Council's website, and by advertisement in The Age newspaper. The proposed 2021/22 Budget was available for viewing from Tuesday, 20 April 2021 to Thursday, 20 May 2021 at Council's Service Centre, Council libraries, on Council's website and on the Connect Stonnington Engagement Portal.

The 2021/22 Budget has been prepared with a focus on responsible financial management and in accordance with the Local Government Act 2020 and Accounting Standards.

Key Issues and Discussion

In total 207 submissions were received on the proposed 2021/22 Budget, copies of all submissions and management responses are included in **Attachment 1**.

Of the total submissions received, 14 of the submitters requested to speak to their submissions and 11 submitters made a presentation to Council.

Each of the submitters will receive a response in writing post the adoption of the Budget 2021-22.

Submissions heard Monday 7 June 2021:

1. Mr Ralph Muir-Morris

Mr Muir-Morris would like Council to re-consider the funding allocation for East Malvern Tennis Club and commence this facility renewal in 2021-22.

Management Response

Council notes the poor condition of the asset and propose bringing the budget forward with design to be undertaken in 2021/22 and construction in the following two financial years. Completion anticipated by June 2024.

2. Mr Christopher Woods

Mr Woods would like Council to re-consider the funding allocation for East Malvern Tennis Club and commence this facility renewal in 2021-22.

Management Response

Council notes the poor condition of the asset and propose bringing the budget forward with design to be undertaken in 2021/22 and construction in the following two financial years. Completion anticipated by June 2024.

3. Ms Debra Bolic

Ms Bolic would like Council to re-consider the funding allocation for East Malvern Tennis Club and commence this facility renewal in 2021-22.

Management Response

Council notes the poor condition of the asset and propose bringing the budget forward with design to be undertaken in 2021/22 and construction in the following two financial years. Completion anticipated by June 2024.

4. Mr Dale Martin

Mr Martin supports Council's implementation of a full rate increase as essential for community growth. Mr Martin provides examples of a number of opportunities for Council to consider including:

- waste service levy based primarily from the landfill bin sizing
- paid parking and seeking to increase other fees and charges
- electric vehicle charging stations and a focus on low or zero emissions vehicles only within Councils vehicle replacements program
- increase in cycling infrastructure
- single-use plastics strategy and improvement to recycling
- greater focus on climate emergency response and renewable energy

Management Response

Council acknowledges support of a full rate increase.

Council is seeking to develop a best value program in the 2021/22 year which will seek to drive greater efficiency and effectiveness across the organisation over the short and longer-term through a series of Service Reviews. The program will initially focus on service areas of high value-cost-risk and which are expected to produce significant financial/operational benefit from the implementation of change recommendations. These reviews will incorporate fees and charges.

Council is currently seeking community feedback on its first ever draft Climate Emergency Action Plan (until 4 July). Following this, a final plan will be taken to Council for adoption in August/September.

The draft budget includes \$600k over the next 10 years to install EV charging stations in Council car parks, with \$80k allocated for 2021/22. Electric vehicle charging stations have been installed at Prahran Square and Council is developing an electric vehicle charging policy to outline its approach to supporting and implementing charging infrastructure in the city.

Council's light fleet currently includes 22 hybrid vehicles and 3 electric vehicles and Council continues to explore opportunities to purchase low emission vehicles.

Council's Waste Education Officer (1.0FTE) is currently developing a Single Use Plastics Policy to support both Council and the community to transition away from single use plastics.

5. Mr William Rivera

Mr Rivera would like Council to consider new and updated outdoor equipment for the disabled, elderly and woman in fitness specifically in the Orrong Romanis Reserve and Toorak Park area.

No presentation made.

Management Response

Council is currently implementing a project to install new dynamic fitness equipment at Orrong Romanis Reserve.

This equipment is suitable for people of all ages and abilities and similar to equipment recently installed at Central Park, which has been very received and utilised by the community. Works are scheduled to be delivered in June / July 2021.

Council expects to undertake further fitness equipment installations at Orrong Romanis Reserve in the next 6 months and would welcome any specific feedback on preferred equipment.

6. Mr John Gilbert

Mr Gilbert of Precision Group (Pran Central) objects to Council's proposed rate increase and would like Council to re-consider the short-term parking rate for Prahran Square to support the retailers.

Management Response

Council's proposal to lift parking fees at Prahran Square normalises fees across our Car Parks within Stonnington. Council has proposed reverting back to the \$1/2hr parking at Prahran Square until 1 January 2022 to further support local Traders.

This year's proposed budget has been incredibly challenging to create. We face existing and future financial losses caused by COVID, and are required to balance this with the delivery of our critical services and financial wellbeing of our businesses, residents and ratepayers.

The State Government's rate cap has continued to create financial pressure, with Council's total revenue from rates capped at a 1.5 per cent increase for the 2021-22 financial year. The cap includes changes in valuation and property growth, which mean that councils do not receive any windfall gains from these movements in the new financial year. Council notes that the valuations of Pran Central may decrease by up to 50% as a result of the COVID impact on the shopping centre, therefore Pran Central Traders may experience a rate reduction.

Council initiated a waiver in 2020-21 for the 2 per cent rate cap for that year in recognition of the impact of COVID on the community. The ability to sustain these waivers into the future in a fiscal environment where the impact of COVID on Council's revenue (estimated at \$13m over the next four years) is and will continue to be significant while also meeting the demand for community services, increases in inflation/contract costs, addressing climate change and the level of asset investment required to meet the community's needs would not be achievable.

The State Government's rate cap poses financial challenges for Council as costs often increase at a higher rate than the cap and the additional costs of meeting our obligations of the community recovery effort. Despite the financial challenge this poses, Council is determined to ensure public value and that services are delivered safely and effectively while working within current and future caps.

As part of the development of the 2021-22 Budget, a number of rate modelling scenarios were presented to Councillors. A number of these models included the impact of rate cuts.

This highlighted the compounding and detrimental impacts rate cuts have on Council's ability to fund the operating and capital works programs both now and into the future. Foregoing a rate rise in 2021-22 or making rate cuts results in anywhere between \$21 million to \$135

million in lost rates revenue over 10 years. Absorbing these types of reductions would mean that Council would have to re-consider significant new facilities or any major upgrades over the next 10 years including the proposed multipurpose indoor sports facility including netball and basketball, upgrades to our heritage Prahran Town Hall, upgrades to Prahran Aquatics and intended investments in the Chapel Street Precinct.

Council recognises these are very challenging times for us all as the outcomes and changes resulting from the COVID pandemic continue to develop. To meet these challenges for those experiencing difficulties in our community, Council is continuing to provide support and relief to ratepayers through a range of measures including extended deferment options, payment plans and interest waivers to individuals, eligible businesses and landlords. In addition, Council continues to provide further support to community organisations and traders via various grants and other targeted programs.

7. Mr Justin O'Donnell - Chapel Street Precinct Association (CSPA)

CSPA is vehemently against the proposed rate rise and against the increase of parking costs at Prahran Square.

Management Response

Council's proposal to lift parking fees at Prahran Square normalises fees across our Car Parks within Stonnington. Council has proposed reverting back to the \$1/2hr parking at Prahran Square until 1 January 2022 to further support local Traders.

This year's proposed budget has been incredibly challenging to create. We face existing and future financial losses caused by COVID, and are required to balance this with the delivery of our critical services and financial wellbeing of our businesses, residents and ratepayers.

The State Government's rate cap has continued to create financial pressure, with Council's total revenue from rates capped at a 1.5 per cent increase for the 2021-22 financial year. The cap includes changes in valuation and property growth, which mean that councils do not receive any windfall gains from these movements in the new financial year.

If Council does not apply the rate cap to the uniform rate, this will have a flow on impact to an increase to all Special Rates within the Council.

Council initiated a waiver in 2020-21 for the 2 per cent rate cap for that year in recognition of the impact of COVID on the community. The ability to sustain these waivers into the future in a fiscal environment where the impact of COVID on Council's revenue (estimated at \$13m over the next four years) is and will continue to be significant while also meet the demand for community services, increases in inflation/contract costs, addressing climate change and the level of asset investment required to meet the communities needs would not be achievable.

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As part of the development of the 2021-22 Budget, a number of rate modelling scenarios were presented to Councillors. A number of these models included the impact of rate cuts. This highlighted the compounding and detrimental impacts rate cuts have on Council's ability

to fund the operating and capital works programs both now and into the future. Foregoing a rate rise in 2021-22 or making rate cuts results in anywhere between \$21 million to \$135 million in lost rates revenue over 10 years. Absorbing these types of reductions would mean that Council would have to re-consider significant new facilities or any major upgrades over the next 10 years including the proposed multipurpose indoor sports facility including netball and basketball, upgrades to our heritage Prahran Town Hall, upgrades to Prahran Aquatics and intended investments in the Chapel Street Precinct.

Council recognises these are very challenging times for us all as the outcomes and changes resulting from the COVID pandemic continue to develop. To meet these challenges for those experiencing difficulties in our community, Council is continuing to provide support and relief to ratepayers through a range of measures including extended deferment options, payment plans and interest waivers to individuals, eligible businesses and landlords. In addition, Council continues to provide further support to community organisations and traders via various grants and other targeted programs.

8. Mr Mike Harrison-Lamond

Mr Harrison-Lamond would like Council to consider a fairer and more equitable distribution of arts funding right across Stonnington.

Management Response

The City of Stonnington offers a multilayered approach to support and investment in our creative community through the annual Arts and Cultural Grants, subsidised rental of a number of building assets, a range of community activations showcased across municipalities and the premier performing arts venue Chapel Off Chapel. Arts & Culture Grants are available to incorporated not-for-profit organisations and auspiced individuals. Council does not provide infrastructure support for buildings it does not own.

Chapel Off Chapel is Council run and a significant portion of costs are attributed to its heritage building and associated depreciation. Chapel Off Chapel plays an important economic role by attracting tourism, supporting the creative sector and generating revenue for surrounding businesses. Council strives for improvements and efficiencies in its creative investment while maintaining high quality activation, excellent service and specialist facilities that build Stonnington's reputation as a creative city.

9. Mr Vijay Rao

Mr Rao would like Council to look for efficiencies rather than increase rates.

No presentation made.

Management Response

Council is seeking to develop a best value program in the 2021/22 year which will seek to drive greater efficiency and effectiveness across the organisation over the short and longer-term through a series of Service Reviews. The program will initially focus on service areas of high value-cost-risk and which are expected to produce significant financial/operational benefit from the implementation of change recommendations. These reviews will incorporate fees and charges.

10. Ms Ilona Komesaroff

Ms Komesaroff objects to Council's proposed rate increase and would like to see creative approaches and solutions that would make Stonnington a stand-out leading Council.

Management Response

The State Government's rate cap poses financial challenges for Council as costs often increase at a higher rate than the cap and the additional costs of meeting our obligations of the community recovery effort. Despite the financial challenge this poses, Council is determined to ensure public value and that services are delivered safely and effectively while working within current and future caps.

Council is seeking to develop a best value program in the 2021/22 year which will seek to drive greater efficiency and effectiveness across the organisation over the short and longer-term through a series of Service Reviews. The program will initially focus on service areas of high value-cost-risk and which are expected to produce significant financial/operational benefit from the implementation of change recommendations. These reviews will incorporate fees and charges.

11. Mr Phil Williamson

Mr Williamson on behalf of the Prahran Cricket Club would like Council to re-consider the funding allocation for Toorak Pavilion and ground redevelopment and commence this facility renewal in 2021-22.

No presentation made.

Management Response

Council acknowledges support of a full rate increase.

Council has proposed to bring this budget forward to align with the timing requirements of \$3 million state government funding recently announced for Charles Lux Pavilion. Report drafted for 28 June Council meeting.

12. Mr Rohan Appleton

Mr Appleton would like Council to re-consider the funding allocation for East Malvern Tennis Club and commence this facility renewal in 2021-22.

Management Response

Council notes the poor condition of the asset and propose bringing the budget forward with design to be undertaken in 2021/22 and construction in the following two financial years. Completion anticipated by June 2024.

13. Ms Beverley Lines

Ms Lines objects to Council's proposed budget and does not support the proposed rate increase. Ms Lines believes extra support should be given to Stonnington businesses and ratepayers and better reflect Community expectations.

Ms Lines encourages Council to review expenditure areas such as:

- employee expenditure
- Health and Wellbeing areas that are losing money for potential outsourcing or increased fees and charges
- cost recovery on planning and permit approvals
- cost recovery on animal management
- private management for Chapel off Chapel
- Prahran Square
- Waste management and climate emergency

Furthermore, Ms Lines would like to see Council improve effective communication to ratepayers.

Management Response

This year's proposed budget has been incredibly challenging to create. We face existing and future financial losses caused by COVID, and are required to balance this with the delivery of our critical services and financial wellbeing of our businesses, residents and ratepayers.

Council continues to work to achieve efficiencies and find savings which is reflected in this year's budget and will be the subject of continual review. We will continue to focus on identifying further savings and efficiencies across our programs and services, as well as operational and staffing costs. We are taking into account factors such as community impact, legal and contractual obligations, and safety and risk issues, as well as prioritising activities that will stimulate the local economy (including a significant capital works program over the next 4 years including over \$80m in 2021-22 alone) and is aimed at promoting the recovery and well-being of our community.

The State Governments rate cap has continued to create financial pressure, with Council's total revenue from rates capped at a 1.5 per cent increase for the 2021-22 financial year. The cap includes changes in valuation and property growth, which mean that councils do not receive any windfall gains from these movements in the new financial year. Council initiated a waiver in 2020-21 for the 2 per cent rate cap for that year in recognition of the impact of COVID on the community. The ability to sustain these waivers into the future in a fiscal environment where the pact of COVID on Council's revenue (estimated at \$13m over the next four years) is and will continue to be significant while also meet the demand for community services, increases in inflation/contract costs, addressing climate change and the level of asset investment required to meet the communities needs would not be achievable.

The State Government's rate cap poses financial challenges for Council as costs often increase at a higher rate than the cap and the additional costs of meeting our obligations of the community recovery effort. Despite the financial challenge this poses, Council is determined to ensure public value and that services are delivered safely and effectively while working within current and future caps.

As part of the development of the 2021-22 Budget, a number of rate modelling scenarios were presented to Councillors. A number of these models included the impact of rate cuts. This highlighted the compounding and detrimental impacts rate cuts have on Council's ability to fund the operating and capital works programs both now and into the future. Foregoing a rate rise in 2021-22 or making rate cuts results

million in lost rates revenue over 10 years. Absorbing these types of reductions would mean that Council would have to re-consider significant new facilities or any major upgrades over the next 10 years including the proposed multipurpose indoor sports facility including netball and basketball, upgrades to our heritage Prahran Town Hall, upgrades to Prahran Aquatics and intended investments in the Chapel Street Precinct.

Council recognises these are very challenging times for us all as the outcomes and changes resulting from the COVID pandemic continue to develop. To meet these challenges for those experiencing difficulties in our community, Council is continuing to provide support and relief to ratepayers through a range of measures including extended deferment options, payment plans and interest waivers to individuals, eligible businesses and landlords. In addition, Council continues to provide further support to community organisations and traders via various grants and other targeted programs.

Council is seeking to develop a best value program in the 2021/22 year which will seek to drive greater efficiency and effectiveness across the organisation over the short and longer-term through a series of Service Reviews. The program will initially focus on service areas of high value-cost-risk and which are expected to produce significant financial/operational benefit from the implementation of change recommendations. These reviews will incorporate fees and charges

Employee costs are budgeted to increase by 6.05% or \$4.32million compared to forecast 2020/21. This increase relates to the following key factors:

- Resuming of all services in 2021/22 (number of casuals staff not included in the 2020/21 budget)*
- The Council's Enterprise Agreement (EA) and provision growth to increase in 2021/22*
- The superannuation guarantee increase from 1 July 2021 by 0.5%*
- Resources related to new service activities which are recovered by revenue*
- Other changes to meet increased service demand*

14. Mr Dean Hurlston - Stonnington Residents and Ratepayers Association

Mr Hurlston acknowledges Council's revenue losses as a result of the Covid-19 pandemic, however objects to Council's proposed rate increase and would like Council to focus on value for money for the Stonnington Community.

Mr Hurlston encourages Council to review expenditure areas such as:

- allocating further funding to essential areas e.g. roads, footpaths, drains*
- defer fleet expenditure*
- capital expenditure that does not deliver new services to the community*
- technology investment*
- employee expenditure*

Furthermore, Mr Hurlston would like to see Council run additional workshops for the community to come and give direct feedback in the budget formation process.

Management Response

This year's proposed budget has been incredibly challenging to create. We face existing and future financial losses caused by COVID, and are required to balance this with the delivery of our critical services and financial wellbeing of our businesses, residents and ratepayers.

Council continues to work to achieve efficiencies and find savings which is reflected in this year's budget and will be the subject of continual review. We will continue to focus on identifying further savings and efficiencies across our programs and services, as well as operational and staffing costs. We are taking into account factors such as community impact, legal and contractual obligations, and safety and risk issues, as well as prioritising activities that will stimulate the local economy (including a significant capital works program over the next 4 years including over \$80m in 2021-22 alone) and is aimed at promoting the recovery and well-being of our community.

The State Governments rate cap has continued to create financial pressure, with Council's total revenue from rates capped at a 1.5 per cent increase for the 2021-22 financial year. The cap includes changes in valuation and property growth, which mean that councils do not

receive any windfall gains from these movements in the new financial year. Council initiated a waiver in 2020-21 for the 2 per cent rate cap for that year in recognition of the impact of COVID on the community. The ability to sustain these waivers into the future in an fiscal environment where the pact of COVID on Council's revenue (estimated at \$13m over the next four years) is and will continue to be significant while also meet the demand for community services, increases in inflation/contract costs, addressing climate change and the level of asset investment required to meet the communities needs would not be achievable. The State Government's rate cap poses financial challenges for Council as costs often increase at a higher rate than the cap and the additional costs of meeting our obligations of the community recovery effort. Despite the financial challenge this poses, Council is determined to ensure public value and that services are delivered safely and effectively while working within current and future caps.

As part of the development of the 2021-22 Budget, a number of rate modelling scenarios were presented to Councillors. A number of these models included the impact of rate cuts. This highlighted the compounding and detrimental impacts rate cuts have on Council's ability to fund the operating and capital works programs both now and into the future. Foregoing a rate rise in 2021-22 or making rate cuts results in anywhere between \$21 million to \$135 million in lost rates revenue over 10 years. Absorbing these types of reductions would mean that Council would have to re-consider significant new facilities or any major upgrades over the next 10 years including the proposed multipurpose indoor sports facility including netball and basketball, upgrades to our heritage Prahran Town Hall, upgrades to Prahran Aquatics and intended investments in the Chapel Street Precinct.

Council recognises these are very challenging times for us all as the outcomes and changes resulting from the COVID pandemic continue to develop. To meet these challenges for those experiencing difficulties in our community, Council is continuing to provide support and relief to ratepayers through a range of measures including extended deferment options, payment plans and interest waivers to individuals, eligible businesses and landlords. In addition, Council continues to provide further support to community organisations and traders via various grants and other targeted programs.

Council is seeking to develop a best value program in the 2021/22 year which will seek to drive greater efficiency and effectiveness across the organisation over the short and longer-term through a series of Service Reviews. The program will initially focus on service areas of high value-cost-risk and which are expected to produce significant financial/operational benefit from the implementation of change recommendations. These reviews will incorporate fees and charges.

Employee costs are budgeted to increase by 6.05% or \$4.32million compared to forecast 2020/21. This increase relates to the following key factors:

- Resuming of all services in 2021/22 (number of casuals staff not included in the 2020/21 budget)
- The Council's Enterprise Agreement (EA) and provision growth to increase in 2021/22
- The superannuation guarantee increase from 1 July 2021 by 0.5%
- Resources related to new service activities which are recovered by revenue
- Other changes to meet increased service demand.

City of Stonnington investment in information technology has been below industry averages. Increasing this investment will enable IT to better support business operations to respond to

customer needs and meet the growing demand for digital services, and our obligation to protect our data.

We're operating with legacy systems and processes, and in a decentralised environment. There are key areas we need to address to provide the robust technology framework a modern organisation needs to be able to respond to the needs of its customers, community and employees. This includes technology architecture, network resilience, and business solutions and projects. These are areas that have lacked essential ongoing investment and alignment in effort to date.

Additionally, there are four key benefits areas from our proposed 21/22 investment which will generate long term efficiency:

- *Implementation of an integrated asset management system and improved controls*
- *Implementation Internet of Things (IoT) capabilities – Smart Cities*
- *Realise productivity gains from the implementation of efficient workflow processes and enhanced data capabilities*
- *Gains realised from focused ICT vendor and contract management.*

The investment in information technology is proposed to be funded through our future fund reserve which is an allocation of previous years surpluses to fund strategic acquisitions pertaining to enhanced service delivery for Council.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

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

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Environmental Implications

There are no environmental implications relevant to this report.

Community Consultation

Purpose:	Noting the Council resolved to undertake community consultation in line with the Local Government Act 1989 which provides that Council must: Give public notice of a proposed budget and make it available for public inspection for at least 28 days – Section 129; Adopt the budget following consideration of public comments, and submit a copy to the Minister within 28 days - Section 130 (3-4)
IAP2 Goal:	Consultative engagement
Exhibition period	Tuesday, 20 April 2021 to Thursday, 20 May 2021
Method:	The draft budget 2021/22 was made available via:

	Council's Service Centre, Council libraries, Council's website and Connect Stonnington Engagement Portal and advertised in The Age Newspaper.
Reach:	207 submissions were received on the draft budget 2021/22.
Summary of feedback:	Reference Attachment 1
Impact:	Adjustments to the draft budget 2021/22 will be considered for formal adoption on Monday 28 June 2021.

Human Rights Consideration

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

Attachments

1. 2021-22 Budget Submissions - Management Responses [14.2.1 - 39 pages]

14.3 Adoption of 2021/22 Budget

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

This report recommends that the Council adopt the 2021/22 Budget in **Attachment 1** (Circulated Separately) and declare the rates for the 2021/22 financial year and that public notice be given of the decision in accordance with the Local Government Act 1989.

Officer Recommendation

That the Council, having given public notice in accordance with Section 129(1) of the Local Government Act 1989, and having received submissions at a meeting of the Council held on 7 June 2021 on the Proposed 2021-2022 Budget, hereby resolves:

- 1. That pursuant to Sections 127, 130 and 223 of the Local Government Act 1989 as amended and Section 94 of the Local Government Act 2020 and having considered submissions relating to the Proposed 2021-2022 Budget ('the Budget') to now adopt the Budget as exhibited with the following amendments resulting from the public submissions and/or recent minor adjustments and notifications/approvals from State Government:***
 - a) Introduction of a new \$1.89 million COVID-19 response/recovery fund to the value of the 2020-21 2% rate waiver in Operating Initiatives projects as outlined in Appendix D of the Budget.***
 - b) Minor changes or amendments to Council and State Government Statutory fees and charges as outlined in Appendix B of the Budget including:***
 - i. Reduction in car park revenue from Prahran Square from reverting back to the \$1/2hr parking until 1 January 2022.***
 - c) Works at East Malvern Tennis Club and Toorak Park/Charles Lux pavilion to be brought forward to 2021-22 as outlined in Appendix C of the Budget***
 - d) Defer a number of capital works projects for 2021-22 until a future budget cycle in recognition of additional carried forward projects from the 2020-21 program as outlined in Appendix C of the Budget.***
 - e) Minor changes or amendments to the operating revenue and expenses as outlined in the Income Statement of the Budget to reflect:***
 - i. Additional spend on urgent maintenance work at East Malvern Tennis Club;***

- i) Schedule of Financial Statements and Statement of Human Resources as outlined in the Budget;**
- j) to declare an amount of \$ 126,541,297 (or such greater amount as is lawfully levied as a consequence of the adoption of the Recommendation) as the amount that Council intends to raise by rates and the annual service charge (excluding interest), which is calculated as follows:**

Uniform Rate raised on the Capital Improved Value (CIV) of land	\$99,303,750
Cultural and recreational land	\$116,897
Amount raised by Garbage Charges	\$24,174,430
Special rates scheme	\$1,946,225
Subtotal	\$125,541,302
Amount to be raised by Supplementary Rates	\$999,995
Total	\$126,541,297

6. Declaration of Rates:

- a) that pursuant to Section 158 of the Act, a uniform rate be declared in respect of the 2021-2022 Financial Year;**
- b) that a percentage of 0.10513 be specified as the percentage of the uniform rate for all rateable land (which percent may alternatively be expressed as 0.0010513 cents in the dollar);**
- c) that in accordance with Section 4 of the Cultural and Recreational Lands Act (CRLA) 1963, Council is required to determine that a charge in lieu of rates identified in the table below in respect to recreational lands having regard to the services provided by the Council in relation to such lands and having regard to the benefit to the community derived from such recreational lands;**
- d) Council has determined the base year for Cultural and Recreational Land properties rate calculation is the 2019/2020 financial year at sixty percent (60%) of the uniform rate of 0.000999 in the dollar of the capital improved value. This percentage has been determined after taking into consideration the ‘services provided’, that include: capital works, environment (parks, gardens, streetscape etc), economic development, events, arts and tourism, planning and amenity; and roads and drains. Council confirms that the benefits provided to the community by use of the properties are health and wellbeing; community connectedness; enhancement of liveability and amenity; and access to cultural and recreational facilities;**
- e) Council deems that the levy/charge to be applied to the subject properties complies with the provisions of the relevant legislation and will be capped at a one and half (1.5%) percentage on the rate/charge levied or would have been levied for the previous financial year;**

- f) *the following properties have been reviewed and it has been determined that they meet the requirements of section 4 of the CRLA, accordingly the following will be charged in lieu of the uniform rate:*

Cultural and Recreational Land Act property schedule 2021/2022			
Owner - ratepayer	Property address	AVPCC	CRLA rates to be levied for 2021/2022
Chadstone Tennis Courts	32A Chadstone Road MALVERN EAST VIC 3145	821 – Outdoor sports	\$1,740.20
East Malvern Tennis Club	15 Moira Street GLEN IRIS VIC 3146	821 – Outdoor sports	\$3,254.80
Hawksburn Tennis Club	12 Bunalbo Avenue SOUTH YARRA VIC 3141	821 – Outdoor sports	\$1,819.05
Kooyong Tennis Centre	489 Glenferrie Road TOORAK VIC 3142	813 – Outdoor sports	\$38,024.40
Kyarra Park Tennis Courts	2-14 Kyarra Road GLEN IRIS VIC 3146	821 – Outdoor sports	\$1,496.60
Malvern Artists Society	1297-1299 High Street MALVERN VIC 3144	841 – Gallery	\$912.55
Malvern Bowling Club	14 Coonil Crescent MALVERN VIC 3144	821 – Outdoor sports	\$4,429.05
Melbourne Bowling Club	136-144 Union Street WINDSOR VIC 3181	813 – Outdoor sports	\$9,017.35
Orrong Park Tennis Courts	613 Orrong Road PRAHRAN VIC 3181	821 – Outdoor sports	\$3,479.90
Royal South Yarra Tennis Club	310 Williams Road North TOORAK VIC 3142	813 – Outdoor sports	\$40,336.30

Toorak Bowling Club	9-13 Mandeville Crescent TOORAK VIC 3142	821 – Outdoor sports	\$8,888.55
Union Street Tennis Courts	43A Union Street ARMADALE VIC 3143	821 – Outdoor sports	\$1,694.30
Power House Rowing Club	164 Alexandra Avenue SOUTH YARRA VIC 3141	851 – Boat sheds	\$1,803.85
	Total Cultural and Recreational Land Rates 2021-2022		\$116,896.90

7. Declaration of Annual Service Charges:

The Council further intends to raise service charges pursuant to Section 162(1) and Section 221 of the LGA 1989 to cover costs for the collection and disposal of refuse and associated materials on the following basis:

- a) **MINIMUM RESIDENTIAL SERVICE CHARGE NO KERBSIDE COLLECTION (ANNUAL COST) property developments with 50 or more units not receiving kerbside garbage, recycling or organics collection service. This charge covers the costs of litter management, street sweeping, public place litter and recycling bins, waste education, hard and bundled green waste services, transfer station costs not covered by gate fees, shared costs of processing recyclables and organics and waste services administration. All community members benefit directly or indirectly from these council activities, so it is appropriate that this is the base rate. An annual service charge on residential properties for waste management being a minimum charge for all properties of \$227.00 in respect of each rateable and non-rateable assessment;**
- b) **MINIMUM COMMERCIAL SERVICE CHARGE NO KERBSIDE COLLECTION (ANNUAL COST) property developments with 50 or more units not receiving kerbside garbage, recycling or organics collection service. This charge covers the costs of litter management, street sweeping, public place litter and recycling bins, waste education, hard and bundled green waste services, transfer station costs not covered by gate fees, shared costs of processing recyclables and organics and waste services administration. All community members benefit directly or indirectly from these council activities, so it is appropriate that this is the base rate. An annual service charge on commercial properties for waste management being a minimum charge for all properties of \$227.00 in respect of each rateable and non-rateable assessment;**
- c) **RESIDENTIAL 120 LITRE GARBAGE + RECYCLING SERVICE (ANNUAL COST) Applying to all premises provided with access to the Waste Collection Services and supplied with a 120-litre garbage receptacle and kerbside commingled recycling. An annual service charge on residential properties for waste management this charge of \$295.00 in respect of each rateable and non-rateable assessment;**
- d) **COMMERCIAL 120 LITRE GARBAGE + RECYCLING SERVICE (ANNUAL COST) Applying to all premises provided with access to the Waste Collection Services and supplied with a 120-litre garbage receptacle and kerbside commingled**

recycling. An annual service charge on residential properties for waste management this charge of \$295.00 in respect of each rateable and non-rateable assessment;

- e) **RESIDENTIAL 240 LITRE GARBAGE + RECYCLING SERVICE (ANNUAL COST)**
Applying to all premises provided with the Waste Collection Services and to be supplied with a 240-litre garbage receptacle and kerbside commingled recycling service. An annual service charge on residential properties for waste management this charge of \$552.00 in respect of each rateable and non-rateable assessment.
- f) **COMMERCIAL 240 LITRE GARBAGE + RECYCLING SERVICE (ANNUAL COST)**
Applying to all premises provided with the Waste Collection Services and to be supplied with a 240-litre garbage receptacle and kerbside commingled recycling service. An annual service charge on commercial properties for waste management this charge of \$552.00 in respect of each rateable and non-rateable assessment;
- g) **RESIDENTIAL SHARED BIN + RECYCLING SERVICE (ANNUAL COST)** **Applying for a land (or part) to have access to the Waste Collection Services and to be supplied with a shared garbage receptacle (120 or 240 litre) for use in an approved shared bin arrangement. An annual service charge on residential properties for waste management this charge of \$289.00 in respect of each rateable and non-rateable assessment;**
- h) **COMMERCIAL SHARED BIN + RECYCLING SERVICE (ANNUAL COST)**
Applying for a land (or part) to have access to the Waste Collection Services and to be supplied with a shared garbage receptacle (120 or 240 litre) for use in an approved shared bin arrangement. An annual service charge on commercial properties for waste management this charge of \$289.00 in respect of each rateable and non-rateable assessment;
- i) **RESIDENTIAL 120 LITRE ORGANICS COLLECTION SERVICE (ANNUAL COST)**
For premises opting to use the 120-litre receptacle kerbside food organics and garden organics collection service. An annual service charge on residential properties for waste management this charge of \$97.90 in respect of each rateable and non-rateable assessment;
- j) **COMMERCIAL 120 LITRE ORGANICS COLLECTION SERVICE (ANNUAL COST)**
For premises opting to use the 120-litre receptacle kerbside food organics and garden organics collection service. An annual service charge on commercial properties for waste management this charge of \$97.90 in respect of each rateable and non-rateable assessment;
- k) **RESIDENTIAL 240 LITRE ORGANICS COLLECTION SERVICE** **For premises opting to use the 240-litre receptacle kerbside food organics and garden organics collection service. An annual service charge on residential properties for waste management this charge of \$132.60 in respect of each rateable and non-rateable assessment;**
- l) **COMMERCIAL 240 LITRE ORGANICS COLLECTION SERVICE (ANNUAL COST)**
For premises opting to use the 240-litre receptacle kerbside food organics and garden organics collection service. An annual service charge on commercial properties for waste management this charge of \$132.60 in respect of each rateable and non-rateable assessment;

- m) OWNERS CORPORATION ORGANICS COLLECTION SERVICE 240 LITRE (ANNUAL COST) For premises opting to use the 240-litre receptacle kerbside food organics and garden organics collection service. An annual service charge on commercial properties for waste management this charge of \$132.60 in respect of each rateable and non-rateable assessment;**
- n) OWNERS CORPORATION ORGANICS COLLECTION SERVICE 120 LITRE (ANNUAL COST) For premises opting to use the 120-litre receptacle kerbside food organics and garden organics collection service. An annual service charge on commercial properties for waste management this charge of \$132.60 in respect of each rateable and non-rateable assessment;**
- o) OWNERS CORPORATION ORGANICS COLLECTION ADMINISTRATION FEE (ANNUAL COST) Owners Corporation Annual administration fee \$20.00 per unit development.**

8. Government Rebates:

That where a State Government municipal concession on rates and charges has been applied, pursuant to sub section 4 of section 171 of the Act subject to the consent of the Minister for Local Government, that Council treat any person(s) who has been excused the prescribed amount of rates and charges for the year ending 30 June 2021 in respect of any premises, being the sole or principal place of residence, as having lodged a similar application in respect of the 2021-2022 financial year subject to such person(s) being eligible to continue to receive assistance in accordance with the State Concessions Act 2004.

9. Incentives:

That no incentives or discounts be declared on any rates or charges.

10. Waiver:

That no waivers be declared on any rates or charges.

11. Concessions:

That no council concessions be declared on any rates or charges.

12. Consequential:

- a) that Council requires any person to pay interest on any amounts or rates or charges where:
 - that person is liable to pay; and**
 - they have not been paid by the date specified for payment.****
- b) that Council resolve that the interest rate fixed under Section 2 of the Penalty Interest Rates Act 1983 be applied as the interest rate set in accordance with Section 172(2) of the Act and that interest will be charged for rates not paid by the prescribed dates for the 2021/2022 financial year until 30 June 2022.**
- c) that the due date for rates and charges be set at 15 February 2022 and is deemed to be the date on which any rates or charges are declared under the provisions of the Act.**
- d) that where a supplementary valuation and rate has been returned resulting in an increase in the rate payable, payment can be made within two months**

of the effective date of the supplementary valuation or the prescribed date for full payment of rates whichever is the latter without penalty interest.

- e) that the Chief Financial Officer and/or Revenue Coordinator be authorised to levy and recover the rates, service charges, rates levied in accordance with the Cultural and Recreational Lands Act and any other fees and charges declared or levied in accordance with the Act.***
- 13. That the Council pursuant to Section 158 of the Local Government Act 1989 as amended determines that rates and charges may be paid in a lump sum, with the date on which such payment is due in the 2021-2022 Financial Year being 15 February 2022 as fixed by the Minister for Local Government under Section 167(2A) and (2B) of the Act.***
- 14. That the Council confirms for the 2021-2022 financial year the 31 September 2021 first instalment, 30 November 2021 second instalment, 28 February 2022 third instalment and 31 May 2022 fourth instalment as the dates on which payment by four instalments of the rates or charges are due under Section 167(1) & (2) of the Act.***
- 15. That the Council notes the due date in the 2021-2022 financial year for dog and cat registration under the Domestic Animals Act 1994 is 10 April 2022.***
- 16. That in accordance with Section 130 of the Local Government Act 1989 the Budget be submitted to the Minister for Local Government.***
- 17. That the Council APPROVE and ADOPT the Revenue and Rating Plan as part of the 2021-2022 Annual Budget processes in accordance with Section 93 of the Local Government Act 2020.***
- 18. That the Council APPROVE and ADOPT the Waste Collection fees and Charges Policy in accordance with Council's endorsement of the full economic cost recovery methodology for calculating Waste Service charges.***
- 19. That the Council APPROVE and ADOPT the Financial Management Principles in accordance with Section 102 of the Local Government Act 2020.***

Background

Sections 93 and 94 of the Local Government Act 2020 requires Council to prepare and adopt an annual budget and prepare and adopt a Revenue and Rating Plan by the next 30 June after a general election for a period of at least the next 4 financial years.

Council resolved on Monday 19 April 2021 to endorse the proposed 2020/21 Budget for public notice and exhibition in accordance with section 223 of the Local Government Act 1989.

In response to the public notice, Council received 207 submissions in relation to the proposed 2021/22 Budget, 85 of these submissions were received via the Stonnington Residents and Ratepayers Association. A total of 14 submitters requested to be heard in relation to their submission and 11 submitters made a presentation to Council at a meeting of Council on Monday 7 June 2021 in accordance with Section 223 of the Local Government Act 1989

All submissions have been considered in depth and Management developed a number of alternative budget recommendations for further consideration by Council at briefing on Tuesday 15 June 2021. Adjustments to the 2021/22 Budget will be considered for formal adoption on Monday 28 June 2021.

The 2021/22 Budget has been prepared with a focus on responsible financial management and in accordance with the Local Government Act 2020 and Accounting Standards.

Executive Summary

The 2021/22 Budget is one of recovery and rebuilding, and follows a year when Council was forced to balance a significant reduction in revenue with the delivery of critical Council services, facilities and improvements for the benefit of our local community.

In 2020/21 Council's commitment to our community's needs delivered much needed assistance to residents and the local business community with over \$11.0 million in support packages and programs, as well as various fee waivers to help counter the impacts of the global COVID-19 pandemic. COVID-19 community recovery will extend into the 2021/22 budget with an allocation of funds for a program of initiatives to address arising social, physical and psychological health impacts.

The 2021/22 Budget will deliver a responsible surplus of \$33.61 million. The budgeted underlying surplus (which removes capital funding contributions and grants) proposes a surplus of \$11.02 million. This underlying result is significantly lower than previous years and continues to highlight the impact of the COVID-19 pandemic on Council's finances and reality of the significant reduction in revenue that is projected to be felt over the medium-term (forecast until 2023-24).

This year's budget was developed following an extensive community consultation that attracted the highest number of suggestions and feedback compared to previous years. Consultation with the community has helped to shape this budget, ensuring that we are prioritising projects and initiatives that reflect the vision of our diverse community now and into the future.

The 2021/22 year will see a significant focus on improved service delivery and internal efficiency, as Council enables new ways of engaging with our Community, reimagining our events and activation programs and providing support for local businesses and precincts to rebound from an incredibly tough 2020.

The 2021/22 Budget also underlines the importance of major projects in creating employment and economic growth opportunities which proposes a capital works program, including deferrals of \$84.65 million and intangibles program of \$13.01 million, including deferrals to deliver on Council's digital transformation program.

Council has determined that to meet our obligations of the community recovery effort in 2021/22, long term financial sustainability, and to fund economic stimulus into our community through capital growth, Council will pass through the rate cap rise of 1.5%. Council also proposes to access further funding via external borrowings of \$15.0 million. Loan borrowings proposed for 2021/22 are deemed low risk and meet Council's targets within our financial management principles.

This 2021/22 Budget reflects the efficient and effective allocation of resources having regard to the objectives, roles and functions of Council and the acknowledgement of financial hardship across the community. It is also aligned to the Council Plan 2021 – 2025, Council's long term financial strategy and Council's hardship policy.

Key Issues and Discussion

Budget Amendments

The 2021/22 in **Attachment 1** is being presented for Council adoption.

The 2021/22 Budget demonstrates Council's strong continued commitment to the City's fiscal sustainability and to preserving its financial health for the benefit of future generations.

This 2021/22 Budget is designed to help our community recover from the immediate impacts of the pandemic, position our local economy for re-growth, re-build community connections and confidence, and further strengthen the City of Stonnington's financial resilience.

This is the first Budget of the current Council Plan cycle. It delivers on the strategies outlined in the Council Plan 2021/25 and lays the foundations for next four-years.

Each of the 207 submissions received have been considered in light of the priorities facing Council and its adopted strategies and plans. Council acknowledges the financial hardship across the community. Amendments to the Proposed 2020/21 Budget are summarised below:

1. Introduction of a new \$1.89 million COVID-19 response/recovery fund to the value of the 2020/21 2% rate waiver to provide targeted community support and to those most impacted. Funding allocation will be approved via the Economic Recovery Committee and Council.
2. Reverting back to the \$1/2hr parking at Prahran Square until 1 January 2022 to further support local traders as outlined in Appendix B of the Budget.
3. Works at East Malvern Tennis Club to be brought forward to 2021/22 as outlined in Appendix C of the Budget and an additional maintenance provision for any urgent works.
4. Works at Toorak Park/Charles Lux pavilion to be brought forward to 2021/22 as outlined in Appendix C of the Budget, to align with the timing requirements of \$3.0 million State Government funding recently announced for Charles Lux Pavilion.
5. Savings achieved from the new green power electricity contract to be re-directed to a spring cleaning and upkeep blitz across our shopping precincts via a Clean Team and increased waste education programs.

There are inevitably additional worthwhile initiatives raised through Community consultation that were not able to be funded given the finite resources available in Council's budget, however will be considered in future budget and planning processes.

The 2021/22 Budget will deliver a responsible surplus of \$33.61 million. The budgeted underlying surplus (which removes capital funding contributions and grants) proposes a surplus of \$11.02 million. Our surplus directly funds the capital works program for 2021/22 of \$84.65 million which includes projects that may be carried over from the 2020/21 year.

Of the \$84.65 million in capital (excl. intangibles) funding required, \$38.77 million comes from Council operations (surplus plus investment funded reserves), \$12.58 million from external grants, \$10.0 million from open space reserve (investment funded), \$8.29 million from future fund reserve (investment funded) and \$15.0 million to be funded from new borrowings.

The underlying operating surplus for 2020/21 which excludes income which is used for capital (external grants and open space contributions) is \$11.02 million.

Summary Table of Key Financial Statistics:

	Budget 2020-21 \$'000
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Total Revenue	206,924
Total Expenditure	173,321
Operating Surplus (Note: Includes capital grants and contributions)	33,605
Underlying Operating Surplus (Note: Important measure of financial sustainability as it excludes income which is to be used for capital, from being allocated to cover operating expenses)	11,024
Cash Result	67,186
Capital Works Program	84,648
<i>Funding the Capital Works Program:</i>	
Council Operations (rate and investment funded)	38,773
Reserves – Open Space (contribution and investment funded)	10,000
Reserves – Future Fund (investment funded)	8,294
Borrowings (external)	15,000
External Capital Grants	12,580

Revenue and Rating Plan

Under the new Local Government Act 2020 Council is required to prepare a Revenue and Rating Plan to cover a minimum period of four years and adopt by 30 June after a Council election.

The purpose of the Revenue and Rating Plan is to determine the most appropriate and affordable revenue and rating approach, which in conjunction with other income sources, will adequately finance the objectives in the Council Plan.

In particular, the Revenue and Rating Plan will set out the decisions Council has made in relation to rating options available to it under the Local Government Act 1989 to ensure the fair and equitable distribution of rates across property owners. It will also set out the principles and practices for fee and charge setting and include other revenue items to ensure Council's commitment to responsible financial management is achieved, while at the same time continuing to provide high quality, accessible services to the Community.

The Revenue and Rating Plan 2021-2025 and has been developed using the existing Rating Strategies in place and does not intend to change any practices Council has previously adopted for a rating framework. Refer Attachment 2 for Revenue and Rating Plan 2021-2025.

The Revenue and Rating Plan will be reviewed annually as part of the Budget setting process.

Waste Management Policy

The Waste Management Policy outlines the criteria and requirements for setting and applying the fees and annual service charge for Council's Garbage Collection and Food and Green Waste Services. The Waste Management Policy supports Council's endorsement of the full economic cost recovery methodology for calculating Waste Service charges.

Tipping fees and waste removal increases that have been factored within the 2021/22 Budget are driven from State Government levies to Council and will include:

- The Environment Protection Authority (EPA) landfill levy is to increase sharply (they will double) over the next two financial years. The levy will contribute to an increase in landfill costs of 33-36% in 2021/22 and a further 20% on current costs in 2022/23.
- Recycling costs are expected to increase by 10%.
- The combination of COVID-19 restrictions and a wet and mild spring and summer has seen a significant increase in the number of households taking up the service and the tonnages of organics recovered which has increased service costs.

Council has endorsed a revised full cost recovery model for waste service charges which will result in costs of those using 120L and 240L garbage and recycling services increase in the 2021/22 year. The cost charged to premises not receiving kerbside garbage, recycling or organics services has effectively been reduced, as these residents will now only pay for base waste and resource recovery services and not for collection and disposal services.

Cost recovery through Rates and Other Charges as per this modelling will reflect a more equitable 'user-pays' approach to waste services charges.

Financial Management Principles

Council's Financial Management Principles set out measures that will be used to guide financial decision making and outline targets which support both the prudent short and long-term management of the community's resources. The policy proposes 16 Financial Management Principles and 39 Performance Measures/Targets which Council will use to monitor its progress to be reported back to Council bi-annually.

All Councils are required to comply with the Financial Management Principles contained in Section 101 of the Local Government Act 2020 (the Act). Whilst these requirements outline overarching considerations for Council's financial management, Council has further defined specific measures to the circumstances and goals of the Stonnington community for future financial planning.

Conclusion

The 2021/22 Budget, and associated plans and policies, as presented are aligned with the proposed Council Plan 2021 – 2025 and is recommended for adoption by Council.

Governance Compliance

Policy Implications

The adoption of the 2021/22 Budget has considered all relevant legislation, policies and guidelines.

Financial and Resource Implications

The 2021/22 Budget as per **Attachment 1**.

Sections 94 of the of the Local Government Act 2020 requires Council to prepare and adopt an annual budget.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

Sections 94 of the of the Local Government Act 2020 requires Council to prepare and adopt an annual budget.

The impacts of the economic downturn as a result if COVID-19 will be felt within the municipality for some time. Should there be further restrictions with 2021/22 this will directly impact Council’s budgeted surplus and funding capacity of the 2021/22 Capital Program.

The economic output delivered through our Capital Program has borne the brunt of several stages of restrictions over the last two financial years, and Council continues to experience challenges with:

- Contractor availability: several tenders have resulted in low number of submissions possibly due to the significant number of construction projects to rebuild economic activity across the sector;
- Supply chain issues with materials including (but not limited to):
 - timber supply, delay in trusses and building material supply
 - concrete supply issues, where significant development has caused slower and inconsistent concrete delivery
 - Overseas and local paver supply, where supply of bluestone pavers has been effected by limited local supply
 - Fabricated street furniture supply issues
 - Silicone supply which impacts on technology and lighting
- Labour shortage: with large constriction companies impacted by the availability of international labourers, this has delayed works and increased prices.

The likelihood of these challenges to continue through-out 2021/22 budget year is high and therefore could impact the delivery of the Capital Program. Council will continue to monitor these dependencies closely and report any delivery concerns to Council each quarter.

Environmental Implications

There are no environmental implications relevant to this report.

Community Consultation

Purpose:	Noting the Council resolved to undertake community consultation in line with the Local Government Act 1989 which provides that Council must: Give public notice of a proposed budget and make it available for public inspection for at least 28 days – Section 129; Adopt the budget following consideration of public comments, and submit a copy to the Minister within 28 days - Section 130 (3-4)
IAP2 Goal:	Consultative engagement
Exhibition period	Tuesday, 20 April 2021 to Thursday, 20 May 2021
Method:	The draft budget 2021/22 was made available via: Council's Service Centre, Council libraries, Council’s website and Connect Stonnington Engagement Portal and advertised in The Age Newspaper.
Reach:	207 submissions were received on the draft budget 2021/22.

Summary of feedback:	Refer Council Report – Consideration of 2021-22 Budget Submissions
Impact:	Adjustments to the draft budget 2021/22 will be considered for formal adoption on Monday 28 June 2021.

Human Rights Consideration

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

Attachments

1. Revenue and Rating Plan 2021-2025 [**14.3.1** - 32 pages]
2. Appendix 1 Stonnington City Council Community Profile [**14.3.2** - 3 pages]
3. Appendix 2 Council Rating and Valuations - Statistics 10 years [**14.3.3** - 1 page]
4. Waste Collection Fees and Charges Policy [**14.3.4** - 16 pages]
5. Financial Management Principles 2021-2025 [**14.3.5** - 43 pages]

14.4 Multi-Purpose Sports Facility Independent Site Review

Manager Project Management & Delivery: Madelyn Eads-Dorsey

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

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

C5 Increase participation in physical activity through long-term recreation planning and service delivery.

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

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

Purpose of Report

To update Council on the outcome of discussions with Vicinity Centres and Holmesglen Institute and to seek approval to move forward with the masterplan proposal for a Multipurpose Sport and Recreation Facility at Percy Treyvaud Memorial Park.

Officer Recommendation

That Council

- 1. NOTE the outcome of further investigations and discussions with the two (2) options as potential sites for the Multi-purpose Sport and Recreation Facility:**
 - Vicinity Centres Chadstone Shopping Centre
 - Holmesglen Institute Chadstone Campus;
- 2. CONFIRM Option 3. Percy Treyvaud Memorial Park as the most suitable location for a Multipurpose Sport and Recreation Facility;**
- 3. APPROVE Council officers proceed with contract documentation and contractor procurement for a multipurpose facility at Percy Treyvaud Memorial Park;**
- 4. NOTE that the award of the construction contract, as outlined in recommendation 4 above, will be brought back to council for consideration;**
- 5. NOTE that Council officers will continue to engage with Holmesglen Institute Chadstone Campus and Vicinity Centres Chadstone to pursue future open space opportunities.**

Executive Summary

On 3 May 2021, Council endorsed the independent review of additional potential sites for a multipurpose sports facility, which identified Chadstone Shopping Centre (run by Vicinity Centres) and Holmesglen Institute as two additional potential options, with Chadstone Shopping Centre being the most feasible. Council also approved of officers continuing investigations and discussions to determine if the proposed sites satisfy Council's requirement for community outcomes.

Further engagement with Holmesglen Institute indicated that they are not able to further discussions until they complete an asset management plan for their site. Vicinity Centres Chadstone completed a feasibility of the proposition and concluded that a community building on their site may not meet the expectations of either Council or Chadstone.

Based on the independent site review it is therefore appropriate to proceed with the development of a multipurpose facility at Percy Treyvaud Memorial Park in line with the endorsed masterplan for the site.

Background

On 30 October 2017 Council resolved to proceed with the development of a masterplan for a new multipurpose sport and recreation facility at Percy Treyvaud Memorial Park and on 6 May 2019, Council resolved to adopt the masterplan for the park and proceed with the design and development of a new multipurpose facility. The proposed facility would host four (4) indoor sports courts, plus upgraded facilities for the Chadstone Recreation and Civic Club and its sport sections of the Chadstone Bowls Club and Chadstone Tennis Club, as well as seasonal sporting clubs (East Malvern Tooronga Cricket Club and Chadstone Lacrosse Club) and casual users of the park. Council worked with clubs and user groups to finalise the design of the project sits in readiness for contractor procurement.

On 7 December 2020 Council committed to conduct a further independent review of additional potential sites. This review identified Chadstone Shopping Centre and Holmesglen Institute as two additional potential options, but still identified Percy Treyvaud Memorial Park as the most suitable Council owned site.

On 3 May 2021 Council endorsed further discussions with Vicinity Centres, to determine if it was feasible to build a community facility at Chadstone which would satisfy Council's requirement for community outcomes.

Officers have since met with Vicinity Centres and Holmesglen to seek their feedback on the possible concept of a multipurpose facility on their sites. Several constraints have been identified with each of the alternative sites and have been summarised in this report.

Key Issues and Discussion

Option 1 - Vicinity Centres

Council officers prepared a list of principles to commence negotiations with Vicinity Centres in order to progress the feasibility study. The principles were to provide a starting point for discussions and were negotiable with a view of bringing the response from Vicinity Chadstone back to Council for consideration.

The following was proposed:

General Facility Requirements	
Areas	Appropriate design of a minimum of four courts and associated administration and change areas
Parking	Dedicated parking of 150 cars at all times for players and families.
Hours of use (programmable hours)	<ul style="list-style-type: none">- 9am – 10pm Mon – Fri- 8am – 10pm Sat- 8am – 8pm Sunday

Proposed uses.	Multisport highball activities
Management	Council to manage the facility through an external provider.
Notice period for non-use times	6 months (maximum). Ideally to be agreed annually in September.
Lease terms	To be negotiated
Lease tenure	Long term tenure (With whole of life for community buildings of 50 years).
Maintenance terms	Council to manage and repair FF&E, Vicinity to maintain facility.
Construction Requirements	
Timeline	Operational within a reasonable timeframe (24 Months)
Planning	Building envelope must be within allowable heights and setback as dictated by the incorporated plan.
Costs	Council to contribute to fit out of sports facility.
Management	Vicinity to manage construction but Council act as client. Council will review all designs, tenders and have access to site during construction.

Vicinity Centres reviewed these principles in detail and discussed them at the executive management level. After more than three weeks of due diligence, Chadstone informed council that at this time it is appropriate to advise City of Stonnington that it is unlikely there will be common ground to proceed with the proposition of a community facility on their site. The follow items summarise their response.

1. Lease Tenure – While it is understood that City of Stonnington was seeking a long-term tenure recent major tenant deals at Chadstone have typically provided up to a maximum of 20 years tenure.
2. Lease Agreement – As a commercial enterprise Vicinity Centres need to maintain flexibility and this would require that demolition and relocation provisions would need to be incorporated within the lease. If these were able to be negotiated and if at some point in the future, they were exercised there would be potential disruption to the continuity of the facility which could be considered as unacceptable community impact. This was seen as a potential reputational risk by Chadstone.
3. Even if the design, permits and approvals could be accommodated to meet council's timelines, the facility could only be completed by late 2024 at the earliest due to the current development program for Vicinity Chadstone. This timeframe does not include issues that may be associated with a public planning process.
4. Vicinity believe that the proposed facility will exceed maximum height limits stipulated in the planning development overlay by 5 to 10m in various locations. This would trigger the need for a public planning process including public advertising and may result in a potential VCAT appeal. The need to undertake a planning process may

result in potential delays to the start of construction and further delay the completion of the facility.

Vicinity Centres noted they were genuinely hopeful for a mutually beneficial outcome however they consider that the proposition of a community building on their site may not meet the expectations of either Council or Chadstone. Vicinity Chadstone have since confirmed their position in writing.

Option 2 - Holmesglen Institute Chadstone Campus

Council officers met with Holmesglen Institute a second time and they reiterated that they are currently in the process of developing an asset management plan and while they are still interested in continuing discussions, they are not able to make any decisions on the future use of their assets at this time.

Council appreciates the time that Holmesglen has dedicated to considering the proposition and will continue to engage with them to pursue possible future open space opportunities.

Options 3 - Percy Treyvaud Memorial Park

Percy Treyvaud is currently endorsed by Council as the preferred site for the multipurpose facility. Council had subsequently developed and endorsed a masterplan for the site and has more recently received a Supreme Court order to resolve covenants which had previously burdened the site. The project has a budget allocation and should council choose to proceed the earliest possible construction start date is January 2022 and would require the temporary relocation of existing users on the site. It is estimated that works on site would be in the order of 24 months before being fully operational with the timeframe influenced by the need to manage the existing users.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

The Percy Treyvaud Memorial Park Masterplan has an allocated capital funding with a full budget provision of \$44.6M. Approximately \$2.4M has been expended on the planning and design process to date. The project team has finalised documentation and is ready for procurement. The forecast budget and funding sources are detailed in the following table and are subject to budget approval.

Financial Year	Funding Source	Amount
2021/22	Council	\$3,000,000
	Commonwealth	\$4,000,000
2022/23	Council	\$14,450,000
2023/24	Council	\$12,000,000
2024/25	Council	\$8,000,000

Note: the final budget phasing will be confirmed once the construction program is finalised following the appointment of the principal contractor.

Conflicts of Interest Disclosure

The CEO has declared that Ontoit Pty Ltd has previously worked on projects with her husband's consultancy company. As such the CEO, Jacqui Weatherill took no part in the consultant selection process for this project, nor did she sit on the Stakeholder Reference Group. No other Council Officer and/or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Legal / Risk Implications

The legal team and risk teams will be involved in the next stage of work to deliver the proposed new facility which will include contract documentation and procurement.

Stakeholder Consultation

A stakeholder reference group was formed for this project, and they contributed throughout the process. The stakeholder reference group have endorsed the findings of the site review. It is proposed to update the reference group on the proposed direction following Council briefing.

Human Rights Consideration

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

Attachments

1. Council Report 6 May 2019 [14.4.1 - 12 pages]
2. Masterplan Report 2020 [14.4.2 - 62 pages]

This document is confidential information under Section 66 (2) (a) of the Local Government Act 2020. The matter is deemed to be confidential under Section 3 (1) (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

14.5 Planning Amendment 0878/18 - Ground 1/657 Chapel Street, South Yarra

Acting Manager Statutory Planning: Anthony DePasquale
Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider an application to amend Planning Permit 878/18 pursuant to Section 72 of the *Planning and Environment Act 1987* at 1/657 Chapel Street, South Yarra.

Abstract

Proposal

The proposal seeks to make the following changes to the existing Planning Permit:

- Variation to the permit preamble to remove reference to 'use as a beauty salon'.
- Amendment to Condition 3 to allow for 55 patrons. No increase to staff numbers is proposed (20 staff).
- Amendment to Condition 4 to increase hours of operation as follows:
 - Sunday 9am to 9pm
 - Monday to Wednesday between 9am to 8pm
 - Thursday between 9am and 9pm
 - Friday and Saturday between 9am and 11pm
 - Good Friday and ANZAC Day between 12noon and 11pm.
- Amend Condition 5 to allow for bar operation without beauty services on:
 - Thursday between 5pm and 9pm
 - Friday and Saturday between 5pm and 11pm
 - Sunday between 12noon and 9pm
 - Good Friday and ANZAC Day between 12noon and 11pm.
- Deletion of Condition 6 which requires that the sale and supply of liquor must only be to patrons partaking in beauty services.
- Waste Management Plan amended to reduce collections/bin storage capacities to the premises.
- Venue, Noise and Amenity Action Plan updated to refer to revised hours of operation.

The existing hours of operation are:

- Sunday to Wednesday between 9:00am and 8:00pm
- Thursday, Friday and Saturday between 9:00am and 9:00pm
- Good Friday and Anzac Day between 12 noon and 9:00pm

Condition 3 of the current permit permits a maximum number of 35 patrons and 20 staff that may be housed on the premises at any one time.

Officer Recommendation Summary

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

- The subject site is within an Activity Centre Zone and forms part of the Chapel Street Activity Centre. Being in an Activity Centre Zone, a bar that operates until no later than 11pm is a use that is consistent with the role of the function of the area as an entertainment precinct.

- The proposal is consistent with the requirements of Clause 22.10 (Licensed Premises Policy) and Clause 52.27 (Licensed Premises).
- Having regard to the existing conditions of permit, the proposed amendments will not have an unreasonable impact to the adjoining residential properties.

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

- Whether the proposal is consistent with the purpose of the Activity Centre Zone (refer to Strategic Context assessment).
- The use of the land as a bar after 5pm without the use of the premises as a beauty salon (refer to use of the premises as a bar assessment).
- Amenity issues associated with the proposed increase in operating hours, patron numbers and removal of the 'beauty salon' aspect after 5pm (refer to Hours and Noise and Amenity and Safety assessment).
- Amendment to Waste Management Plan (Refer to Waste assessment).

Officer's response

The subject site is located within the Chapel Street Activity Centre surrounded by a mix of retail, commercial, entertainment and residential uses. The use is consistent with the Activity Centre and is not anticipated to have an adverse impact on the area.

The venue type, patron numbers and hours of operation are relatively low risk and suitable in an activity centre. Overall, it is considered that impacts from the amendments sought to the existing permit can all be adequately regulated and managed through the existing permit conditions as well as the Venue, Noise and Amenity Action Plan.

Executive Summary

Applicant:	Stephen Jerman
Ward:	North
Zone:	Activity Centre Zone- Schedule 1
Overlay:	Environmental Audit Overlay
Commercial Precinct:	Forrest Hill FH-3
Date Lodged:	3 December 2020
Statutory Days: (as at Council Meeting date)	27
Trigger for Referral to Council:	13 objections
Patron Numbers	55 (increase of 20 patrons from existing approval)
Cultural Heritage Plan	No
Number of Objections:	13 objections
Consultative Meeting:	Yes – held on 18 May 2021
Officer Recommendation	Notice of Decision to Grant an Amendment to Planning Permit

Background

Planning Permit No. 878/18 was issued by Council on 27 May 2019. The permit allowed for the sale and supply of liquor (on premises licence) for a tavern in conjunction with the use of the premises as a beauty salon (as of right) in an Activity Centre Zone.

Condition 3 of the current permit permits a maximum number of 35 patrons and 20 staff that may be housed on the premises at any one time.

Condition 4 of the permit restricts the hours of operation to:

- Sunday to Wednesday between 9:00am and 8:00pm
- Thursday, Friday and Saturday between 9:00am and 9:00pm
- Good Friday and Anzac Day between 12 noon and 9:00pm

Condition 5 of the permit restricts the use of the premises as a tavern with an on-premises liquor licence to only occur in conjunction with the use of the premises as a beauty salon.

Condition 6 restricts the sale and supply of liquor to only be to patrons partaking in beauty services.

The premises is known as 'Soak Bar and Beauty' and has been operating since 2019 and therefore the permit is valid.

This is the first amendment to the permit.

The Proposal

The amendment application originally proposed to include a licensed outdoor seating area on the Chapel Street footpath for 18 patrons as well as 55 patrons to be housed internally, resulting in a total of 73 patrons. The amendment application also originally proposed to delete the requirement of Condition 13 to provide a Waste Management Plan.

Following a Consultative Meeting held on 18 May 2021, the application was amended pursuant to section 57A of the *Planning and Environment Act 1987* on 25 May 2021 after advertising in an attempt to address objector and Officer concerns. The revised proposal removes the licensed footpath trading area and reduces the patron numbers to 55 patrons to be housed internally. The revised proposal also seeks to amend the current Waste Management Plan rather than remove it in its entirety.

The application proposes the following changes to the existing Planning Permit:

- Variation to the permit preamble to remove reference to 'use as a beauty salon'. The new permit preamble is proposed to read:
'Sale and supply of liquor (on premises licence) for a tavern in an Activity Centre Zone'.
- Amendment to Condition 3 to allow for 55 patrons;
- Amendment to Condition 4 to increase hours of operation as follows:
 - Sunday 9am to 9pm
 - Monday to Wednesday between 9am to 8pm
 - Thursday between 9am and 9pm
 - Friday and Saturday between 9am and 11pm
 - Good Friday and ANZAC Day between 12noon and 11pm
- Amend Condition 5 to read:
'Tavern operation without beauty services may operate on'
 - *Thursday between 5pm and 9pm*
 - *Friday and Saturday between 5pm and 11pm*
 - *Sunday between 12noon and 9pm*
 - *Good Friday and ANZAC Day between 12noon and 11pm'*.

The applicant is essentially seeking to continue operating as a beauty salon in conjunction with the use of the site as a bar which supplies liquor on the premises as an ancillary service, except for between the hours stipulated in Condition 5 where the premises intends to operate as a bar without the need for beauty services.

- Deletion of Condition 6 which requires that sale and supply of liquor must only be to patrons partaking in beauty services.

The applicant notes that the beauty salon use of the site will remain the main operation of the venue and the beauty services will still be available at all times of operation (except for between the hours listed in Condition 5 above), however the applicant seeks the ability to be able to provide liquor beverages to patrons who are not undertaking services at the venue. For example, a customer attends the venue with other patrons receiving services. This patron while not receiving beauty services would be able to purchase a liquor-based beverage for consumption on the licensed premises whilst the customer/s receives their beauty services.

The application proposes the following changes to the existing endorsed plans:

- Waste Management Plan amended to reduce collections/bin storage capacities to the premises.
- Venue, Noise and Amenity Action Plan updated to refer to revised hours of operation.

The applicant does not seek any amendments to the endorsed red line plan.

In support of the application the following documents have also been submitted:

- Venue, Noise and Amenity Action Plan prepared by On Tap Liquor Consulting Council date stamped 25 May 2021.
- Waste Management Plan prepared by On Tap Liquor Consulting Council date stamped 25 May 2021.

Site and Surrounds

The subject site is located on the western side of Chapel Street on the north-west corner of its intersection with Forrest Hill. The site and adjoining properties have the following significant characteristics:

- The subject site is located within the Chapel Street Activity Centre which accommodates residential, shopping, business, civic, cultural and entertainment use and development.
- The subject site is identified as Unit 1 and is located at the ground floor in the far south-east corner within an eight storey building at 657 Chapel Street. The subject premises is known as 'Soak Bar and Beauty', a licenced tavern which offers a range of beauty services, including tanning, waxing, nails, skin treatment, makeup as well as massages. The venue supplies liquor on the premises as an ancillary service with the operation of the beauty salon being the primary business.
- The remainder of the building is used as offices and a residential car park at ground floor, with sixty residential flats above as well as an additional level of basement car parking. The residential entry to the building is via Forrest Hill Road.
- The building at 657 Chapel Street is irregular in shape and has frontages to Chapel Street of approximately 59.3 metres and to Forrest Hill of approximately 48.5m. A corner splay of approximately 2.7 metres exists with an entry to the subject site. The building has an estimated site area of 2,115 square metres.

- The subject site (Unit 1) has a frontage to Chapel Street of 20.5 metres and to Forrest Hill Road of 12.5 metres and is accessed by the aforementioned 2.7 metre corner splay.
- To the east of the subject site is Chapel Street, a wide two-way road with on street parking available on either side. Further to the east, is 668-670 Chapel Street, a significant high-rise mixed-use complex commonly known as the “Vogue” building. The site contains four residential buildings comprising 275 dwellings, an art gallery, offices, day spa, food and drink premises, convenience store and associated car parking.
- Further north-east of the subject site is 700 Chapel Street, a high-rise mixed-use building containing residential dwellings and a restaurant at ground floor.
- To the west of the subject site is Melbourne High School. The site shares a direct interface with the sporting ground oval area of the School.
- To the south is Forrest Hill, a narrow two-way street which has parking available on the north side only. Further to the south is 651 Chapel Street, commonly known as ‘Quest Apartments’ containing forty-eight serviced apartments.
- To the north of the subject site is 661 Chapel Street, a mixed-use development comprising of dwellings, shops, cafes and offices.

Previous Planning Applications

A search of Council records indicates the following relevant planning application/s

- Planning Permit No. 1119/15 issued on 22 September 2016 for 1/657 Chapel Street South Yarra (subject premises) for use of the land as a Restricted Retail Premises (Furniture & Homewares Shop) and the display of Business Identification Signage in a Mixed Use Zone.
- Planning Permit No. 92/716 issued on 25 August 1993 for 657 Chapel Street South Yarra for development of an eight storey building for use as offices, sixty residential flats and associated car parking.

The Title

The site is described on Certificate of Title Volume 10192 Folio 972 as lot 9S on Plan of Subdivision 328655U and no covenants or easements affect the land.

Planning Controls

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

Zone

Clause 37.08 – Activity Centre Zone (Schedule 1)

Pursuant to Clause 37.08-2 and Schedule 1 to the Zone, a permit is required for a bar as it is a Section 2 use.

It is noted that since the issue of Planning Permit 878/18, Amendment VC159 was gazetted on 8 August 2019 and amends all Victorian planning schemes to introduce new land use terms, revise the definition of land use terms and change where land use terms are nested. VC159 amends Clause 73.03 (Land Use Terms) to rename the land use term ‘Tavern’ as ‘Bar’. There is no change to the definition of a bar. The amendment sought to modernise obsolete terms and increase the use of everyday terms that the wider community understands. It is recommended the permit preamble and conditions of permit be updated to reflect the revised land use term as a ‘bar’.

Pursuant to Clause 37.08-2 and Schedule 1 to the Zone, a permit is not required to use the land for a shop (beauty salon) as it is a Section 1 use.

Overlay

Clause 45.03 - Environmental Audit Overlay

Pursuant to Clause 45.03-1, before the commencement of a sensitive use, an environmental audit must be undertaken. As a bar is not considered a “sensitive use”, the requirements under this provision are not triggered.

Particular Provisions

There are no particular provisions triggered by the amendments sought to the existing permit.

Relevant Planning Policies

Clause 11.03-1S	Activity Centres
Clause 17	Economic Development
Clause 17.02-1S	Business
Clause 21.04	Economic Development
Clause 22.10	Licensed Premises Policy
Clause 37.08	Activity Centre Zone
Clause 52.27	Licensed Premises
Clause 65	Decision Guidelines

Advertising

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

The site is located in North Ward and objections from thirteen (13) different properties have been received which can be summarised as follows:

- Impacts from footpath trading (i.e. smoke, noise, safety concerns, furniture on footpath, overlooking from patrons).
- Extended hours for consumption of alcohol.
- Removal of beauty salon aspect after 5pm.
- Noise levels.
- Increase in traffic/parking concerns.
- Waste management.
- Increase in patrons inappropriate due to pandemic.
- Precedent for applicant to further extend operating hours.
- Devaluation of properties.

A Consultative Meeting was held on 18 May 2021. The meeting was attended by Councillor Koce, representatives of the applicant, objectors and a Council planning officer. The meeting resulted in the following changes to the application:

- Deletion of the licensed outdoor seating area on the Chapel Street footpath for 18 patrons.
- Amendment to the existing Waste Management Plan to include reduced collections/bin capacities. Previously deletion of Condition 13 (requirement for a Waste Management Plan) was proposed.

As the revised scheme results in reductions in patrons numbers through deletion of the licensed outdoor seating area and the reinstatement of a Waste Management Plan, this will not result in further potential detriment and therefore the application was not re-advertised.

Referrals

Community and Health Planner (comments on advertised plans):

- Whilst the proposed hours are longer they are consistent with the closing times of other on-premise licensed venues within 500 metres including Dainty Sichuan, Moose Bar, Como and the Olsen which close at 11pm with the exception of Graze (midnight) and Two Wrongs (1am). The proposed Friday and Saturday 11pm closing time is also consistent with restaurants and cafes in the immediate precinct and Activity Centre.
- There are no concerns regarding congregation or movement of patrons between premises.
- There is no proposal to change the music, currently background.
- The applicant has sought to use the footpath on both sides of the premises for seating. With nearby residential properties there is potential for noise from outdoor use to affect local residents. A temporary permit for outdoor seating could be considered to support health directions and physical distancing.
- The applicant seeks to increase patron numbers from 35 to 55, retaining the current staffing level of 20. The increased patron numbers are consistent or lower than most other 'On-premise' licensed venues in 500 metres. The relatively small increase is unlikely to have a negative impact on the precinct.
- The proposal is consistent with uses within the Chapel Street Activity Centre and compatible with the surrounding area.
- Vertical drinking at this venue is more likely to occur after business hours, when the venue is seeking to serve alcohol without the need to participate in beauty services. Venue management, including RSA trained staff should minimise the risks. The size of the venue and closing time (latest 11pm) also reduce nuisance impacts.
- The boutique nature of the venue, medium patron numbers and latest closing time of 11pm (Friday and Saturday) make it relatively low risk.

Planner Response: As noted above, the application was formally amended to delete the licensed outdoor seating area on Chapel Street.

Local Laws

- This business is inside the Activity Centre and the latest they will be trading is till 11.00pm at night.
- Local Laws has no issues with the proposal.

Waste Management

- The collection of 4 x 240 litre (recycling and garbage) will adequately service this premise. The Waste Management Plan is satisfactory.

Key Issues and Discussion

This application has been lodged as an amendment pursuant to Section 72 of the *Planning and Environment Act 1987*. This assessment is limited to the elements of the proposal that represent a change from the already approved use.

Strategic Context

The site sits within the Chapel Street Activity Centre. Council's Local Policy on Activity Centres at Clause 21.04-1 classifies Chapel Street as a 'Group 1 – Principle Activity Centre'. This is reinforced by the zoning of the land within the Activity Centre Zone.

The site is located within the Forrest Hill precinct, sub precinct FH-3. The precinct objectives within the Activity Centre Zone envisages a vibrant, higher density true mixed-use precinct that makes a significant contribution towards providing housing and employment opportunities in the Chapel Street Activity Centre and the broader City of Stonnington.

Council's strategic vision for the municipality includes economic development and entertainment and hospitality uses which are recognised for their contribution to the vitality and viability of the City without dominating or adversely affecting activity centres and the surrounding residential areas.

Clause 17.02-1S (Business) seeks to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services. Clause 21.04-2 (Entertainment Uses) seeks to support entertainment uses in activity centres that reflect the role and function of individual centres whilst minimising adverse amenity impacts. Clause 21.04-2 aims to ensure that entertainment uses are directed to activity centres and away from locations close to residential zones where licensed trade occurs after 11pm.

Clause 22.10 (Licensed Premises Policy) provides guidance for licensed premises, generally directing that such uses be located within activity centres. The policy also specifies that licensed premises operating after 11pm should be located within a Principal Activity Centre and away from residential land.

Clause 52.27 (Licensed Premises) guides Council to consider the cumulative impact of existing licensed premises' on the amenity of the surrounding area, taking into account the hours of operation and number of patrons.

Having regard to relevant policy and objections, the key issues in consideration of this amendment application are:

- The use of the land as a bar after 5pm without the use of the premises as a beauty salon.
- Amenity issues associated with the proposed increase in operating hours, patron numbers and removal of the 'beauty salon' aspect after 5pm.
- Amendment to the Waste Management Plan.

Use of the premises as a bar after 5pm

The subject site is located within a Principle Activity Centre where the purpose of the zone is to (amongst other things):

To encourage a mixture of uses and the intensive development of the activity centre:

- *As a focus for business, shopping, working, housing, leisure, transport and community facilities.*
- *To support sustainable urban outcomes that maximise the use of infrastructure and public transport.*

The relevant decision guidelines of Schedule 1 to the Activity Centre Zone require that consideration be given to *the extent to which the proposed use, contributes to a vibrant local economy and promote the Activity Centre as a tourist destination.*

The subject site is already operating as a bar, albeit with the supply of liquor on the premises acting as an ancillary service with the operation of the beauty salon being the primary business. Condition 5 of the permit only allows the bar use and on premises liquor licence to occur in conjunction with the use of the site as a beauty salon. The amendment seeks to allow the use of the site as a bar without the need for beauty services after 5pm (or after 12 noon on Sunday, Good Friday and Anzac Day). It is also proposed to delete Condition 6 of

the permit which requires that sale and supply of liquor must only be to patrons partaking in beauty services. The primary assessment is the consideration of the change of use after business hours (i.e. to operate as a bar without the requirement to provide beauty services).

The amended hours of operation sought relating to the sale of liquor are:

- Sunday 9am to 9pm
- Monday to Wednesday between 9am to 8pm
- Thursday between 9am and 9pm
- Friday and Saturday between 9am and 11pm
- Good Friday and ANZAC Day between 12noon and 11pm.

The amended patrons numbers sought is a maximum capacity of 55 patrons and 20 staff members, an increase of 20 patrons. It is considered that the increased patrons numbers continues to be a relatively small number of patrons when compared to other venues. The surrounding land comprises of a number of uses, some with liquor licenses with varying hours. The operation of an on-premises liquor licence with a capacity of 55 patrons, is considered “low risk” by the Victorian Commission for Gambling and Liquor Regulation. The application was also submitted with a Patron Capacity Report from a Building Surveyor advising that according to Building Code regulations, the bar can accommodate a maximum of 75 patrons.

Being in an Activity Centre Zone, a bar that operates until no later than 11pm is a use that is consistent with the role of the function of the area as an entertainment precinct. The site is of smaller scale and is of a boutique nature and proposes activities that has the capacity to increase customer interaction and activation along Chapel Street.

It is expected that in an entertainment precinct, a number of licensed premises will exist within close proximity to each other. The information from the applicant shows there are 77 licensed premises within a 500 metre radius of the site. Many of these are restaurant and café licenses and packaged liquor licenses, while 3 venues operate under a general late night (on-premises) licence.

Despite the high number of venues, Council’s Local Licensed Premises Policy recognises that small, well managed licensed premises generally present a low risk of adverse impacts to surrounding land. As it is considered that the proposal falls within this category, it is not likely that it will increase any cumulative impact associated with licensed venues to an unacceptable level.

Further consideration of the impacts associated with the proposed amendments to the use, operating hours and patron numbers are provided in the following sections of this report.

Hours and Noise

Both Clause 22.10 and Clause 52.27 address the potential for an adverse cumulative effect on an area from a licences premises. Specifically, the policy at Clause 22.10 states:

Trading after 11:00pm is discouraged for licensed premises adjacent to a residential zone/use unless the responsible authority is satisfied that the use will not adversely affect the amenity of the area.

The proposal complies with the policy expectations of Clause 22.10 as the use is not proposed to operate past 11pm on any night. The proposed hours of operation of the liquor licence cease at 11pm on a Friday and Saturday and either 8pm or 9pm on all remaining days of the week. These hours are deemed appropriate given the sites location in an Activity Centre Zone and this closing time will reduce the potential noise and impacts of patrons on

the surrounding area and will minimise the likelihood of the bar becoming a source of potential harm.

With regard to the physical context of the subject site, it is acknowledged the site is surrounded by mixed use buildings, of which comprise of a number of residential dwellings. The subject building itself comprises of a number of residential apartments located directly above the bar.

Objections have raised concerns with the proposed extended hours of operation, complete bar use after 5pm and additional noise that will be generated from the premises given the proximity of the dwellings above and surrounding the site. Whilst the amenity of the surrounding area must be considered, it must also be acknowledged that residents who live in or adjacent to a commercial area, and so enjoy very convenient proximity to the services and infrastructure of an inner city activity centre, should not also expect to enjoy residential amenity consistent with a residential suburb that is more removed from the commercial centre. That being said, a reasonable balance must be struck between the commercial objectives of the activity zone and the protection of the amenity of higher density development.

The proposal as per the advertised application sought to include footpath trading for 18 patrons on the Chapel Street footpath. This was considered to have the potential to increase noise for nearby residents. The applicant accordingly formally revised their proposal to remove the footpath trading component and accommodate the increase of patrons all internally within the premises. As such, given the venue will continue to be of an enclosed nature, the increase in patrons numbers is unlikely to generate a level of noise that would be a disturbance to nearby residential properties. It is acknowledged that some noise emissions are likely to result from the proposed use, however the application has been submitted with a Venue, Noise and Amenity Action Plan that details how noise will be managed on the site. The Venue, Noise and Amenity Action Plan includes the following measures and comments with regard to noise:

- Background recorded music will be played at the venue on a daily basis utilising the installed speaker system in the roof of the venue. No live music will be provided as part of the operation.
- Bottles / Cans can only be emptied into the waste bins during daylight hours only on any given day of trade in order to reduce possible noise. There will be no transfer of bottles to bins in large quantities.
- A sign will be erected at the entry exit point to read; *"We ask that all patrons are respectful of residents in the area and depart quietly"*.
- The venue operation is internal use only.
- The front of the property is located on Chapel Street which is located in a commercial precinct (Activity Centre) recognised as a highly active commercial entertainment area.

Condition 22 of the permit requires that the use must operate in accordance with the Venue, Noise and Amenity Action Plan.

The existing planning permit also already contains conditions with respect to managing noise as follows:

- Condition 9 requires that no live or amplified music may be provided within the tavern.
- Condition 10 requires that the provision of music on the premises must be limited to background music.

- Condition 11 requires that a sign be displayed 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.
- Condition 12 requires that patrons must not at any time congregate on the ramp and lounge entry to the tavern.
- Conditions 19 and 20 require that noise emanating from the subject land must comply with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade, No. N-1) and (Control of Music Noise from Public Premises, No. N-2).
- Condition 21 requires that the use must be managed so that the amenity of the area is not detrimentally affected through the emission of noise.

It is considered that these conditions will continue to ensure the proposed use will not result in detrimental impacts on the amenity of nearby residents by way of noise emissions. It is further noted that to date Council has no records of any complaints received relating to Soak Bar and Beauty.

Amenity and safety

The ACZ1 objectives with regard to amenity include the following:

- *To enhance the liveability of the area and ensure that the Activity Centre provides a high quality environment.*
- *To manage potential and existing conflicts between residential amenity and hospitality and entertainment uses.*
- *To ensure the appropriate location and scale of residential, hospitality and entertainment uses so as to contribute to the liveability and role of the Activity Centre.*
- *To protect and enhance amenity within the Activity Centre and surrounding established residential neighbourhoods.*

Clause 22.10 details that research has found that smaller well managed premises generally present a low risk of adverse impacts, in comparison to large licensed premises that operate late at night.

As noted above, the applicant has submitted a Venue, Noise and Amenity Action Plan which has been designed to ensure that the operations of the venue provide a safe environment for patrons and the broader community. The Venue, Noise and Amenity Action Plan also includes responsible service of alcohol, safety lighting, staff training, neighbourhood amenity management and waste management. The measures that have been proposed are considered acceptable to ensure that the bar use does not unreasonably impact on the surrounding amenity.

The internal furnishings within the premises includes a number of seats and benches in the waiting lounge, nail bar and pedicure room, as well as a number of 'beauty beds'. There are not large expanses available for standing only. It is considered that a high number of the patrons would be able to sit down at any time, which will reduce potential for a vertical drinking culture (vertical drinking refers to the action of standing up and drinking in a crowded venue which is associated with binge drinking and alcohol consumption without the accompaniment of food). It is also noted that Condition 7 of the permit requires that the sale and supply of liquor is to be via a glass at the bar with no taps to be installed at the premises.

Entry/egress to and from the premises for patrons of the venue is easily accessible via Chapel Street to the south east of the premises. The site has excellent access to public transport as well as taxi services which will reduce the likelihood of people congregating in front of the venue when leaving. It is noted that there is some separation provided from the

subject from other licensed venues in the area. This would discourage people from congregating at this intersection with Chapel Street and Forrest Hill Road and there would be less risk of patrons of this venue having to mix with patrons from another nearby venue. This lessens the likelihood that patrons would move between venues, enabling patron behaviour and liquor consumption to be managed more effectively by the venue. Condition 12 of the permit also requires that patrons must not at any time congregate on the ramp and lounge entry to the tavern.

While the change in use to a 'bar' after normal business hours changes the nature of the business, the proposal continues to be relatively 'low risk' in terms of the potential amenity impacts that could be generated by patrons as well as by virtue of its boutique nature, physical size, limited hours of operation, limited maximum patron capacity and position within an activity centre alongside other commercial uses.

Overall, it is considered that impacts from the amendments sought to the existing permit to operate as a standalone bar after 5pm (or after 12 noon on Sunday, Good Friday and Anzac Day), extend the operating hours and to increase patron numbers can all be adequately regulated and managed through the existing permit conditions as well as the Venue, Noise and Amenity Action Plan.

Amendments to permit preamble and conditions

As noted above, the applicant is seeking to continue operating as a beauty salon in conjunction with the use of the site as a bar which supplies liquor on the premises as an ancillary service, except for between the hours stipulated in Condition 5 which is proposed to be amended to read as follows:

'Tavern operation without beauty services may operate on:

- *Thursday between 5pm and 9pm*
- *Friday and Saturday between 5pm and 11pm*
- *Sunday between 12noon and 9pm*
- *Good Friday and ANZAC Day between 12noon and 11pm'.*

Condition 5 of the permit currently states *'the use of the premises as a tavern with an on-premises liquor licence is only to occur in conjunction with the use of the premises as a beauty salon unless with the written consent of the Responsible Authority'.*

The permit preamble is also proposed to be amended to read *'Sale and supply of liquor (on premises licence) for a tavern in an Activity Centre Zone'* in lieu of *'sale and supply of liquor (on premises licence) for a tavern in conjunction with the use of the premises as a beauty salon (as of right) in an Activity Centre Zone'.*

Ultimately the consequence of these amendments to Condition 5 and the permit preamble remove reference to use of the site as a 'beauty salon' and would enable the bar operation (without the need for beauty services) at all hours proposed, not just after 5pm.

As such, it is recommended that the permit preamble remain as per existing (which retains reference to use of the site as a bar in conjunction with the use of a beauty salon) and Condition 5 of the permit instead be amended to afford greater clarity as to the hours of operation for the beauty salon and bar use. It is recommended that Condition 5 of the permit be amended to read:

*'The use of the premises as a **bar** with an on-premises liquor licence is only to occur in conjunction with the use of the premises as a beauty salon **except for between the following hours, where the use of the site as a bar may operate without beauty services on:***

- *Thursday between 5pm and 9pm*
- *Friday and Saturday between 5pm and 11pm*
- *Sunday between 12noon and 9pm*
- *Good Friday and ANZAC Day between 12noon and 11pm*.

Condition 6 of the permit currently restricts the sale and supply of liquor only to patrons partaking in beauty services. As noted above, the applicant seeks the ability to be able to provide a liquor beverage to patrons who are not undertaking services at the venue, and therefore seeks deletion of this condition. The beauty salon use of the site will remain the main operation of the venue and the beauty services will still be available at all times of operation (except for between the hours listed in Condition 5 above). It is considered that removal of this condition will not result in detriment considering that the permit will continue to require that prior to the Condition 5 hours, the use of the site as a beauty salon must occur in conjunction with use of the site as a bar.

This will ensure the premises is not used as a stand-alone bar during normal business hours and if the use of the salon ceased to trade, the venue could not operate as a licensed bar in its own right without the proposed beauty salon service during normal business hours. The removal of this condition will also afford greater flexibility to the premises to serve patrons not partaking in beauty services who may be accompanying another patron/s partaking in beauty services.

Waste Management

There are a number of waste and recycle bins that are in use by residents of the building and stored in the basement area (bin rooms). At present there is a 1000 litre waste bin and 1000 litre recycle bin that is in use. The waste storeroom is available to all occupants and users of the complex and managed under the Body Corporate.

The current Waste Management Plan (WMP) allows for use of the 1000 litre waste bin and allows for one additional collection per week of this bin (noting that the complex originally had two collections per week).

The applicant seeks to amend the WMP to use 4 x 240 litre bins (2 x general waste and 2 x recycle) associated with the venue and revert to two collections a week. The applicant notes that given the fact that the venue is a combination venue, and the current use and waste practice at the venue have seen the waste generation be up to half of what is required under the current requirements related to waste management, it is recommended that the waste bin capacities associated with the venue be reduced. The applicant also notes that discussions with the Body Corporate and management have agreed that oversized bins are not required.

It is noted that no other changes are sought to the WMP having regard to collection hours and other waste management practices.

Council's Waste Management Department has reviewed the revised WMP and notes that the collection of 4 x 240 litre (recycling and garbage) will adequately service this premise and the revised WMP is acceptable.

Objections

- Traffic/car parking

The amendment does not seek to increase the leasable floor area of the premises and therefore there is no change to the car parking requirements to this premises. It is noted that a planning permit was not required for the proposed car parking reduction as part of the

original approval given the site is located within a Principle Public Transport Network, and therefore the matter of car parking is not a relevant consideration of this application.

- Increase in patrons inappropriate due to pandemic

This is not a relevant planning consideration. Patron capacity limits in response to the pandemic are governed by the State Government.

- Impact from smoke

The location of where people smoke is not a planning matter and would need to be undertaken in accordance with any relevant health requirements.

- Precedent for applicant to further extend operating hours

The applicant has the right to further amend the planning permit pursuant to Section 72 of the *Planning and Environment Act* and every application must be assessed on its merits.

- Devaluation of properties

This is not a relevant planning consideration.

Conclusion

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

Governance Compliance

Conflicts of Interest Disclosure

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

Human Rights Consideration

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

Attachments

1. 0878/18 - Ground 1/657 Chapel Street, South Yarra [**14.5.1** - 21 pages]

Officer Recommendation

That the Council AUTHORISE Officers to issue a Notice of Decision to Grant an Amendment to Planning Permit No: 878/18 for the land located at Ground 1/657 Chapel Street, South Yarra under the Stonnington Planning Scheme for the sale and supply of liquor (on premises licence) for a bar in conjunction with the use of the premises as a beauty salon (as of right) in an Activity Centre Zone subject to the following amended conditions (amendments shown in bold):

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 amended plans but modified to show:*
 - a) *Waste Management Plan as per Condition 13.*
 - b) *Venue, Noise and Amenity Action Plan updated to refer to the operating hours as per Condition 4.*

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 55 patrons and 20 staff may be housed on the premises at any one time to the satisfaction of the Responsible Authority.*
4. *The **bar** use and associated sale and consumption of liquor hereby permitted may operate only between the hours of:*
 - **Sunday between 9:00am to 9:00pm**
 - **Monday to Wednesday between 9:00am to 8:00pm**
 - **Thursday between 9:00am to 9:00pm**
 - **Friday and Saturday between 9:00am to 11:00pm**
 - **Good Friday and ANZAC Day between 12noon to 11:00pm**
5. *The use of the premises as a **bar** with an on premises liquor licence is only to occur in conjunction with the use of the premises as a beauty salon **except for between the following hours, where the use of the site as a bar may operate without beauty services on:***
 - **Thursday between 5:00pm and 9:00pm**
 - **Friday and Saturday between 5:00pm and 11:00pm**
 - **Sunday between 12noon and 9:00pm**
 - **Good Friday and ANZAC Day between 12noon and 11:00pm.**
6. **Deleted.**
7. *The sale and supply of liquor must be via glass service with no taps to be installed at the premises.*
8. *Five (5) car spaces in the basement are to be provided for staff and made available for exclusive use by the premises between:*
 - **8am and 7pm Monday to Friday; and**
 - **9am to 12noon on Saturdays**
9. *No live or amplified music may be provided within the **bar** hereby approved to the satisfaction of the Responsible Authority.*
10. *The provision of music on the premises must be limited to background music unless with the written consent of the Responsible Authority.*
11. *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.*
12. *Patrons must not at any time congregate on the ramp and lounge entry to the bar.*
13. *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.

- 14. *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.*
- 15. *All loading and unloading of goods must be undertaken in accordance with Council's Local Laws.*
- 16. *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.*
- 17. *Bottles and rubbish must only be removed from within the premises between the hours of 9am and 7pm on any given day.*
- 18. *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.*
- 19. *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 tavern 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.*
- 20. *Noise emanating from the subject land must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels of the **bar** are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.*
- 21. *The 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.*
- 22. *The approved Venue, Noise and Amenity Action Plan forms part of the permit and the use must operate in accordance with it to the satisfaction of the Responsible Authority.*
- 23. *This permit will expire if one of the following circumstances applies:*
 - a) *The use is not started 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. *Background music level, in relation to premises, means a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voices to a substantial level.*
- C. *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.*
- D. *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.*

Changes to the permit preamble:

Permit preamble changed from:

'The sale and supply of liquor (on premises licence) for a tavern in conjunction with the use of the premises as a beauty salon (as of right) in an Activity Centre Zone'.

To:

*'The sale and supply of liquor (on premises licence) for a **bar** in conjunction with the use of the premises as a beauty salon (as of right) in an Activity Centre Zone'.*

Changes to plans:

- *Waste Management Plan amended to reduce collections/bin storage capacities to the premises.*
- *Venue, Noise and Amenity Action Plan updated to refer to revised hours of operation.*

14.6 Planning Application 0316/20 - 727-729 Toorak Road, Kooyong

Acting Manager Statutory Planning: Anthony DePasquale

Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a planning application for part demolition and buildings and works to two existing dwellings and construction of a multi-dwelling development to the rear in a General Residential Zone and Heritage Overlay and alterations to a road in a Road Zone, Category 1 at 727-729 Toorak Road, Kooyong.

Abstract

Proposal

The proposal seeks partial demolition, buildings and works to the two existing dwellings converting each into a 3 bedroom two-storey townhouse and the construction of a three-storey apartment building to the rear of the existing dwellings. The apartment building will comprise of 3 x one bedroom, 2 x two bedroom and 6 x three bedroom apartments (total of 11 apartments). Vehicular access is proposed from Sutton Street via a car-lift to two levels of basement car parking comprising of 26 resident car spaces and 2 visitor car spaces.

Officer Recommendation Summary

That the Council authorise Officers to **advise VCAT that had a Failure to Determine appeal not been lodged, a Notice of Decision to Grant a Planning Permit** would have been issued subject to conditions outlined in the Officer Recommendation. **The proposal is supported** for the following reasons:

- The proposed development is consistent with the objectives of State and Local Planning Policy.
- The proposal provides for a satisfactory landscape response that will contribute to the landscape character of the area.
- The extent of demolition proposed will not adversely affect the significance of the heritage place or the heritage streetscape.
- The development represents an appropriate design response to the heritage character and significance of the precinct.
- The development will not unreasonably impact upon adjoining residential amenity as determined by compliance with ResCode (Clause 55) Objectives.
- The development will provide for an acceptable level of internal amenity.
- Sufficient car parking is provided in accordance with the Stonnington Planning Scheme and the development will not result in unreasonable traffic and parking impacts.
- The new proposal is considered to have satisfactorily addressed the fundamental concerns of the previous VCAT determination on the site.

Issues

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

- Partial demolition of the existing buildings (refer to Heritage assessment);
- Building height, scale and massing (refer to Heritage and Neighbourhood Character assessment);

- Amenity impacts on the adjoining properties (refer to Amenity Impacts assessment); and;
- Internal amenity within the development (refer to Internal Amenity and Environmentally Sustainable Design assessment).

Officer's response

The proposal seeks partial demolition, buildings and works to the two existing dwellings. The significant heritage fabric of the dwellings will be retained and the proposed extent of demolition will not adversely affect the significance of the heritage place or the heritage streetscape. The dwellings will be retained to a depth that will ensure the visual prominence of the heritage place is maintained.

Despite being within a "minimal change area" due to the Heritage Overlay, the subject site is a consolidated lot on a main road where some increased housing density is anticipated by State and local policy. The proposal is located within walking distance to public transport and a local neighbourhood activity centre, making it a convenient and well serviced location for new housing.

The proposal is considered to appropriately respond to the surrounding context and the preferred character of the area and is supported by Council's Urban Designer and Heritage Advisor.

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

Executive Summary

Applicant:	Ed Zagami Planning Studio on Peel
Ward:	North
Zone:	General Residential Zone - Schedule 1
Overlay:	Heritage Overlay (HO181)
Neighbourhood Precinct:	Garden Estate
Date Lodged:	27 April 2020
Statutory Days: (as at Council Meeting date)	217
Trigger for Referral to Council:	10 Objections and Cr Call Up
VCAT Hearing Date	Compulsory Conference scheduled for 16 July 2021. Hearing scheduled for 4, 5, 6 and 7 October 2021. Five (5) objector parties have joined the Application for review.
Cultural Heritage Plan	No
Number of Objections:	10
Consultative Meeting:	Yes – held on 9 June 2021
Officer Recommendation	That Council advise VCAT that had a Failure to Determine appeal not been lodged, a Notice of Decision to Grant a Planning Permit would have issued

Background

This application was lodged with Council on 27 April 2020. Following the advertising period and ongoing discussions with Council Officers, the Applicant lodged an appeal against Council's failure to determine the application within the prescribed timeframe with the Victorian Civil and Administrative Tribunal (VCAT).

A VCAT Compulsory Conference is scheduled for 16 July 2021 with a 4-day hearing set down for 4 October 2021. Five objector parties have joined the Application for Review.

The purpose of this report is to formalise Council's position on the proposal prior to the VCAT Compulsory Conference.

The Proposal

The plans that form the basis of Council's consideration are known as the Advertised Plans Sheets TP0.01, TP1.01, TP2.01, TP2.02, TP3.01, TP3.04, TP3.05, TP3.07, TP3.08, TP3.09, TP3.11, TP3.12, TP3.13, TP3.14, TP3.15, TP4.01, TP5.06, TP5.08, TP6.01, TP6.02, TP6.05, Council date stamped 1 September 2020 and TP3.02, TP3.06, TP3.16, TP5.01, TP5.02, TP5.03, TP5.04, TP5.05, TP5.07, TP6.03, TP6.04, TP6.06, TP7.01, TP7.02 and TP7.03 Council date stamped 13 October 2020, prepared by Interlandi Mantesso Architects. Landscape Plans titled 'Ground Floor' and 'First and Second Floor' prepared by John Patrick Landscape Architects Council dated stamped 1 September 2020 have also been submitted.

In support of the application the following documents have also been considered:

- Urban Planning and Design Report, prepared by Planning Studio on Peel, Council date stamped 27 April 2020;
- Heritage Impact Statement prepared by Lovell Chen Council date stamped 27 April 2020;
- Arboricultural Report prepared by John Patrick Landscape Architects Council date stamped 1 September 2020;
- Sustainability Management Plan prepared by SDC Council date stamped 13 October 2020;
- Transport Impact Assessment prepared by One Mile Grid Council date stamped 27 April 2020;
- Waste Management Plan prepared by Leigh Design Council date stamped 27 April 2020.

Key features of the proposal are:

- Partial demolition of the rear section of the two existing dwellings and outbuildings on the land.
- Buildings and works to the two existing dwellings to convert each into a 3 bedroom two-storey townhouse.
- Construction of a 3 storey apartment building to the rear of the two existing dwellings comprising 11 apartments (3 x 1 bedroom, 2 x two bedroom and 6 x three bedroom).
- Two basement levels of car parking comprising 26 resident car spaces and 2 visitor car spaces are proposed with access provided by a car lift. The car lift will be accessed from a double width crossover to Sutton Street.
- The one existing crossover to Toorak Road in front of 729 Toorak Road will be removed and the two existing crossovers to Sutton Street that service No's 727 and 729 Toorak Road will be removed.
- Provision of 14 resident bicycle parking spaces and 4 visitor bicycle spaces within Basement Level 1.

- A central entrance spine between Toorak Road and Sutton Street will internally connect the townhouses with the Apartment building.
- The overall proposed height of the apartment building is 9.95 metres measured from Section B (not including screened roof plant) while the townhouses will have an overall height of 8.49 metres.
- Removal of all on site vegetation is proposed, including three significant trees (one Chinese Magnolia located on the southern boundary and two Monterey Cypress' located within the rear setback of 727 Toorak Road).
- Removal of four Silver Birch street trees on Sutton Street.
- The development proposes site coverage of 60.7%, basement coverage of 41.7% and permeability of 30.3%.
- Private open space for each Apartment will be provided in the form of balconies and terraces varying in size between 8.3 square metres and 91.7 square metres.
- Townhouse 1 and Townhouse 2 are provided 108 square metres and 122 square metres of private open space respectively.
- The existing 2 metre high brick fence along Toorak Road is proposed to be retained and will incorporate new pedestrian gates to each of the dwellings. A 1.5 metre high rendered fence painted 'antique white' and a 1.5 metre high powdercoated bronze aluminum batten fence is proposed to Sutton Street.
- For both townhouses, the first floor will adopt a hipped and gable-end tiled roof. The gable ends will be timber with textured render infill and include a casement window.
- The apartment building will comprise of a combination of a light grey 'metallix titanium' and 'metallix bronze' face brickwork, 'light grey' zinc cladding and 'antique white' and 'charcoal grey' render finishes.

Site and Surrounds

The land at 727 and 729 Toorak Road, Kooyong comprises two properties which have two street frontages; Toorak Road to the south, and Sutton Street to the north. The site has the following significant characteristics:

- The combined site has a street frontage to Toorak Road of 28.35 metres, 29.22 metres to Sutton Street and side boundaries of 50.52 metres (west) and 50.29 metres (east) resulting in a total site area of 1452 square metres.
- Each property is occupied by Federation villas located in the Kooyong Heritage Overlay Precinct (HO181). Both of the dwellings are constructed of brick with roofs clad in Marseilles roofing tiles. Outbuildings are also located to the rear of 729 Toorak Road.
- Both dwellings are identified as being significant to the precinct and were previously identified as B-graded buildings.
- The dwellings have solid fences and vegetation in their front setback areas.
- The land is heavily sloped from Toorak Road to Sutton Street, dropping approximately 2.5 metres from south to north.

The subject site is located within the Kooyong Heritage Precinct which is bordered by Toorak Road to the south, Glenferrie Road to the west, and extends up through various properties and streets to Kooyong Station and Sir Zelman Cowan Park in the north. The surrounding residential area exhibits a diverse range of housing types and styles including substantial interwar villas and bungalows on broad allotments, and a predominant two storey scale along Toorak Road. There are also several examples of three or four storey infill developments constructed in the local vicinity.

Public transport including trams (Routes 8 and 16 accessed approximately 500 metres to the west) and trains (Kooyong Station is 1km north and Tooronga Station is 800 metres south-east). Additionally, the Monash Freeway is located nearby to the east. A wide range of public open spaces and recreational fields surrounds the site, including Tooronga Park, Gardiners Creek and Reserve and the Sir Robert Menzies Reserve opposite.

Surrounding development includes:

- On the northern side of Sutton Street, there are two residential properties, (No's 1 and 3 Sutton Street), both occupied by single storey inter-war brick dwellings with landscaped frontages and driveways/garages. Two other properties have their long sideages to Sutton Street, (with frontages to Avenel Road and Elizabeth Street respectively). These dwellings are located within a Neighbourhood Residential Zone and are also included within the Heritage Overlay (Kooyong Precinct).
- To the south, across Toorak Road is the Sir Roberts Menzies Reserve, a large oval and open space area.
- To the east is a double storey brick Federation villa with a double storey outbuilding to the rear at 731 Toorak Road. This dwelling contains two habitable room windows along its western façade that face the subject site. The dwelling is setback 1.25 metres from the common boundary with the subject site and features a front setback to Toorak Road of between 5.83-5.91 metres. Further to the east on the corner of Elizabeth Street, there is a large single storey brick dwelling at 731A Toorak Road which is elevated by retaining walls and well-vegetated in the front setback area. To the immediate north of this dwelling, there are three properties at No's 73, 75 and 77 Elizabeth Street which are occupied by two single storey brick dwellings and one double storey brick dwelling respectively.
- To the west at 725 Toorak Road, there is a double storey brick dwelling with a garage and swimming pool located to the rear. This dwelling is setback a minimum 1.1 metres from the common boundary with the subject site and contains four habitable room windows along its eastern façade that face the subject site.
- Further west, on the corner of Avenel Road, there is a three storey brick and rendered apartment building at 723 Toorak Road.

Previous Planning Application

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

- Planning Application 844/16 for full demolition of the three dwellings addressed to No's 727, 729 and 731 Toorak Road, construction of a five storey apartment building and a reduction in the car parking requirements was refused under delegation on 16 February 2017. An application for review was considered by the Victorian Civil and Administrative Tribunal (VCAT) who upheld Council's decision by way of a VCAT Order dated 28 August 2017. The citation of this decision is: Autron Property Pty Ltd v Stonnington CC [2017] VCAT 1352. Further details are provided within the body of this report.

The Title

The site is made up of two lots, registered on Title as:

- Lot 1 on Title Plan 542859T in Volume 03800 Folio 906 (727 Toorak Road).
- Lot 1 on Title Plan 427693V in Volume 03800 Folio 908 (729 Toorak Road).

No covenants or easements affect the land.

Planning Controls

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

Zone

Clause 32.08 - General Residential Zone (Schedule 1 – Key Boulevards)

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

Pursuant to Clause 32.08-4, a minimum garden area of 35% is required to be provided on a lot greater than 650 square metres. The development provides a minimum garden area of 35.9% (or 521.7sqm) in compliance with this mandatory requirement.

Schedule 1 specifies that a building used as a dwelling must not exceed a height of 13.5 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 14.5 metres. This site has an allowable height of 14.5 metres and a lift overrun may exceed this height by up to 1.2 metres. The development complies with a proposed maximum building height of 9.95 metres to the roof. The lift overrun does not protrude above the overall building height. It is noted that the screening to the services extends an additional 0.6 metres above the parapet height of the building. This structure is not considered to be part of the maximum building height, and in any event is recessed behind the parapet with limited visibility from the street.

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

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

Overlay

Clause 43.01 – Heritage Overlay (HO181)

Pursuant to Clause 43.01-1, a permit is required to demolish or construct a building or construct or carry out works. The land is affected by HO181 which applies to the Kooyong Precinct.

Particular Provisions

Clause 52.06 - Car Parking

Pursuant to Clause 52.06-2 prior to a new use commencing, the car spaces required under Clause 52.06-5 must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the Responsible Authority. Given the site is not located within the PPTN, the car parking rates within Column A would apply to the site pursuant to Clause 52.06-5.

The development proposes 3 x one bedroom, 2 x two bedroom and 8 x three bedroom dwellings and 28 car parking spaces, including two visitor car parking spaces. This exceeds the residential statutory requirement by five car spaces and meets the visitor car parking requirements. Thus a permit is not required pursuant to this Clause. However, the design standards for car parking outlined at Clause 52.06-9 are applicable to the assessment of the application.

Clause 52.29 – Land Adjacent to a Road Zone, Category 1

Pursuant to Clause 52.29-2 a permit is required to create or alter access to a road in a Road Zone, Category 1. An application must be referred to the Department of Transport as the relevant Roads Corporation.

Clause 52.34 – Bicycle Facilities

Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land.

Pursuant to Clause 52.34-5, 1 residential bicycle space is required per 5 dwellings and 1 visitor bicycle space is required per 10 dwellings. The proposal generates a requirement to provide 3 resident bicycle spaces and 1 visitor bicycle space. The application proposes to provide 18 bicycle spaces including 4 visitor spaces, thus exceeding the statutory requirement.

Relevant Planning Policies

Clause 11 - Settlement

Clause 15 - Built Environment and Heritage

Clause 16 - Housing

Clause 21.03 - Vision

Clause 21.05 - Housing

Clause 21.06 - Built Environment and Heritage

Clause 22.04 - Heritage Policy

Clause 22.05 - Environmentally Sustainable Development

Clause 22.18 - Stormwater Management

Clause 22.23 - Neighbourhood Character Policy

Clause 65 - Decision Guidelines

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 one sign on Toorak Road and one sign on Sutton Street. Public notification of the application has been completed in accordance with the *Act*.

The site is located in North Ward and objections from ten (10) different properties have been received. The objections are summarised as follows:

- Impact on neighbourhood character and heritage integrity of area;
- Inappropriate transition to the Neighbourhood Residential Zone;
- Height, scale and mass;
- Number of apartments;
- Overlooking;
- Overshadowing/loss of daylight;
- Traffic and parking implications (car lift access via Sutton Street);
- Safety concerns with vehicle access from Sutton Street;
- Inadequate car parking;
- Inadequate landscaping provision;
- Drainage concerns;
- Impacts from Waste collection from Sutton Street;
- Noise from air conditioning units;
- Noise/light spill from vehicles entering/exiting from Sutton Street;
- Maintenance of Council land fronting Sutton Street;
- Lowering of western common boundary fence;
- Impacts during construction.

Of these 10 objections, 5 have lodged statement of grounds with VCAT and are formal parties to the appeal.

A Consultative Meeting was held on 9 June 2021. The meeting was attended by Councillors Hely, Griffin and Koce, representatives of the applicant, objectors and a Council planning officer. The meeting did not result in any changes to the plans.

Referrals

Heritage

(Comments on advertised plans)

- The amended scheme addresses my earlier concerns about the way the infill development addresses Sutton Street.
- The upper level has been setback a metre deeper within the site as a means by which to reduce the apparent building mass as it addresses the narrow street, the Sutton Street (north) facade has been further articulated, the thickness of the eaves has been reduced, and the colour of the standing seam cladding proposed for the upper level wall has been changed from 'charcoal grey' to 'light grey' to help ensure this level appears as recessive as possible.
- I believe that these measures are sufficient to ensure that the proposed building will sit comfortably in the Sutton Street streetscape.
- The amended scheme can therefore be supported in its current form.

Urban Design

(Comments on advertised plans)

- I would support the proposal in its current form.

Parks

(Comments on advertised plans)

- The submitted landscape plan is suitable for approval.
- The street trees in Sutton Street are *Betula pendula* (Silver Birch), which are short lived in Melbourne and not planted by Council within the streetscape anymore. No objection to their removal.

Waste

(Comments on advertised plans)

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

Infrastructure

(Comments on advertised plans)

- Conditions are required relating to a report for the legal point of discharge, stormwater drainage system, new crossover levels to match the existing surface levels at the Sutton Street property line, removal of redundant vehicle crossover and the provision of a stormwater detention system or alternatively stormwater tanks that are in total 5,000 litres greater than those tanks required to satisfy WSUD requirements.

Environmentally Sustainable Design

(Comments on advertised plans)

- There is inadequate daylight access to the living areas of apartment G.02 and G.03, which are both partially below natural ground level (NGL) and have insufficient boundary setbacks.
- Daylight modelling of apartment G.02 and G.03 still shows their living areas achieve a 1% Daylight Factor (DF) for 81% and 79% respectively of their floor area. An internal study is now located at the rear of the living areas with no direct access to daylight.
- The reflectance values for apartment G02 and G03 Living areas internal walls and ceilings are to be increased to 80% for the walls and 90% for the ceiling to improve the daylight access to these spaces. The revised reflectance values are to be included on a materials schedule as part of the endorsed plans.
- The east and west facing bedrooms, B2 and B3 of the first floor apartments 101 and 104 are also to have external operable vertical shading devices to their windows to prevent excessive heat gain in summer.

Transport & Parking

(Comments on advertised plans)

- The parking allocation can be accepted.
- The applicant should be aware that as the number of dwellings at the site is proposed to be increased by more than one, no residential parking permits would be available to future occupants.
- The traffic generation of the proposed development is deemed unlikely to impact the surrounding road network.
- The plans submitted show a 6 metre wide access point, with a vehicle crossing which widens to 8.4 metres at the street. It is assumed that this is 1.2 metre splays on either side, but this should be confirmed when an application is made for a vehicle crossing permit. Typically 1.3 metre wide straight splays are required, however given the short distance between the property boundary and the street, and the width of the property access point, this may be acceptable, and can be considered when the vehicle crossing application is received.

Department of Transport

- No response was received prior to the Applicant having lodged an appeal against Council's failure to determine the application with the Victorian Civil and Administrative Tribunal (VCAT). The referral authority has however since provided a response dated 28 April 2021 and states that that Head, Transport for Victoria, Department of Transport would have responded to Council with no objection, subject to the following condition being included in the planning permit:
 - *Prior to the occupation of the development, all disused or redundant vehicle crossings on Toorak Road must be removed and the area reinstated to kerb and channel to the satisfaction of the Responsible Authority and at no cost to the Responsible Authority and the Head, Transport for Victoria.*

Key Issues and Discussion

Strategic Context

The overarching policies and objectives at both a State and Local level encourage urban consolidation in established urban areas and medium density residential development in and around neighbourhood activity centres and close to public transport. These strategies call for well-designed medium-density development that respects neighbourhood character,

improves housing choice, makes better use of existing infrastructure and improves energy efficiency.

The subject site is located approximately 700 metres to the south-east of the Kooyong Village Small Neighbourhood Activity Centre and Kooyong Railway Station, along with tram services operating along Glenferrie Road approximately 450 metres to the west. The subject site is also located opposite public open space in the Sir Robert Menzies Reserve. The location of the subject site and its proximity to services responds to State planning policy including Clause 16.01 which generally encourages development of more intense housing on sites that are well located in relation to activity centres, employment corridors and public transport.

Whilst the subject site is well located with regard to proximity to services, Clause 21.05 (Housing) of the Stonnington Planning Scheme identifies the site as being within an area of minimal change due to its location within a Heritage Overlay. Medium density housing proposals may be accepted in minimal change areas, yet regard must be had for the relevant objectives of the Heritage Policy at Clause 22.04 and the Heritage Overlay, which act to afford a level of protection against larger scale developments. The subject site is subject to policies that seek to temper development expectations, by encouraging a height and scale that is not significantly higher or lower than surrounding buildings, and which retains the low rise character of the minimal change area.

These provisions must be balanced against other applicable local policies in the Planning Scheme.

The land is within a General Residential Zone which includes the following purpose:

To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

The proposed development seeks partial demolition of the rear of the two existing dwellings and buildings and works to convert each into a 3 bedroom two-storey townhouse. The development then incorporates 2 and 3 bedroom apartments to the rear which will provide for a greater range of housing stock in this established residential area and is consistent with the purpose of the zone and Clause 21.05-4 (Housing diversity) which encourages infill developments to provide for a range of dwelling types.

The proposal accords with the strategies at Clause 21.06 (Built Environment and Heritage) and seeks to maintain the low rise character of this part of Toorak Road through retention of the primary volumes of the existing double storey heritage dwellings, the generous set back of the upper level additions to the existing dwellings and the siting of the new building, being to the rear of the retained heritage dwellings. The height of the new building will only marginally exceed that of the retained dwellings and will be substantially concealed by the retained dwellings.

The new building is considered to represent a high quality architectural response which will ensure that it is clearly identifiable as a new building and distinguishable from the retained buildings and will also complement the diverse character of the significant heritage dwellings in the precinct. The 3 storey scale to Sutton Street will sit appropriately within the streetscape context and will also complement the 3 storey apartment buildings to the west at 721-732 Toorak Road and further west at 717 Toorak Road as well as other three storey developments in the vicinity.

Essentially, there is high level policy support within the Planning Scheme for a medium density residential development on the subject site. Partial demolition of the existing dwellings may be supported subject to the replacement built form being sympathetic to the

scale, setback and significance of the place. Detailed consideration of this aspect of the proposal is discussed in further detail below.

Heritage and Neighbourhood Character

Demolition

The properties at 727-729 Toorak Road, Kooyong are included in the Kooyong Precinct. The citation for the Kooyong Precinct includes the following statement of significance:

'The Kooyong area is of local heritage significance as an architecturally interesting and diverse group of inter-war dwellings and streetscapes which include several substantial buildings of state significance'.

The two subject properties are identified in Clause 22.04 as 'significant places'. 'Significant places' are places of either state or local significance including individually listed places graded A1, A2 or B.

The previous planning application considered by VCAT in *Autron Property Pty Ltd v Stonnington CC [2017]* sought to fully demolish the two dwellings on the subject site as well as the adjoining dwelling to the east (731 Toorak Road) and to construct a new five storey apartment building on the site. In its decision on this matter, the Tribunal provided the following relevant commentary:

23 *The view from the southern footpath along Toorak Road opposite the review site allows for an appreciation of the Edwardian roof lines, gable ends, eaves, window detailing, and Edwardian detailing to the respective verandahs. We consider the view from the footpath opposite the review site is more relevant and important, rather than the more restricted view that could be achieved by drivers along Toorak Road.*

79 *In this area designated for minimal change, we consider that an appropriate future proposal could be considered, which seeks to retain the existing heritage dwellings that front Toorak Road, and which develops the considerable extent of the middle and rear portions of the site with a well-articulated two and three storey form. Such an outcome will still achieve a good level of additional housing, while achieving a degree of change that might better respond to both the strategic intent of this locality, the significance and character of the heritage place, and the neighbourhood character of this area.*

Essentially VCAT determined that demolition of the three dwellings would unreasonably impact the character and significance of the heritage place within an area identified for minimal change and a future proposal for the site should seek to retain the existing heritage dwellings which then develops a considerable extent of the middle and rear portions of the site.

With respect to the demolition of significant buildings, Council's heritage policy as set out under Clause 22.04-4.1 seeks to: discourage demolition of parts of significant buildings unless it can be demonstrated that the demolition is minor in scale, the demolition will not adversely affect the significance of the heritage place and the replacement development is sympathetic to the scale, setback and significance of the heritage place.

The rear portions of both existing dwellings are proposed to be demolished, including landscaping elements and outbuildings. At 727 Toorak Road, the northern sections of the attic storey including its roof and a chimney to its western roof pitch are proposed to be demolished. A second chimney, the front roof hips and part of the roof ridge will be retained to a depth of approximately 9 metres from the front facade. At 729 Toorak Road, the existing

façade, verandah, entry foyer and front rooms will be retained to a depth of approximately 8 metres. The rear sections of the existing first floor, including the roof will be demolished, while the front portion of the roof, including the existing chimney will be retained to a depth of approximately 7.5 metres from the facade.

The significant heritage fabric of the dwellings largely derives from its principal façade. Both of the Federation dwellings are to be retained to a depth of between 8 and 9 metres and this is considered acceptable as the majority of the proposed extent of demolition relates to building fabric that is either not original or is not visible from Toorak Road. The main exception to this is the rear chimney to 727 Toorak Road, which is proposed for demolition to facilitate the proposed upper level addition. However, the front chimney is to be retained which has more prominent views from the street, and the modest loss associated with demolition of the rear chimney is considered acceptable. Council's Heritage Advisor supports the extent of demolition proposed to the existing dwellings, and overall, it is considered that the proposed extent of demolition will not adversely affect the significance of the heritage place or the heritage streetscape. The dwellings will be retained to a depth that will ensure that the visual prominence of the heritage place is maintained.

Additions and new development

New first floor additions are proposed to the existing heritage dwellings. These will take the form of transverse hipped and gable-end tiled roofs set back in excess of 13 metres from Toorak Road. The proposed upper storey additions to the Federation dwellings constitute a reasonable response to Council's heritage policy and are sympathetic to the integrity of the surrounding Toorak Road streetscape.

It is proposed to construct a three-storey building (with two basement levels) to the northern portion of the site and behind the two retained heritage dwellings. The proposed building will present to Sutton Street but be visible as a backdrop to the retained buildings from some vantage points on Toorak Road.

The previous planning application considered by VCAT found the design of the replacement building to be an unacceptable response in the minimal change area by virtue of the following key elements:

- The proposal for a five storey apartment building, which presents as four storeys in height to the frontages of both Toorak Road and Sutton Street, will present a considerable level of built form change to this neighbourhood, surpassing the scale of the apartment development approved and completed nearby (723 Toorak Road).
- The proposal comprises of a very bulky four storey form to both Toorak Road and Sutton Street, with the top floor presenting to Toorak Road with elements that cantilever towards the street, which seek to overemphasise its overall height and scale.
- The proposed building, with a height to Toorak Road of around 13.1 metres, and a facade width of between around 26 and 35 metres, will appear much larger and broader than any other built form along this part of Toorak Road.
- A far more moderated built form and polite insertion into the surrounding character which currently comprises one, two and three storey forms is required.
- The top level, which would appear as a fifth storey to Sutton Street, is not provided with substantial side setbacks, and so will be a very visible element of the proposed building on angled views from Sutton Street. The extent to which the five storey form will be visible to and present a significant amount of scale and bulk to Sutton Street does not achieve the visual transition that is clearly sought under the schedule to the zone.

The new proposal offers an alternative design response which is considered to have satisfactorily addressed the above fundamental concerns by way of the following:

- The revised proposal now encompasses two properties rather than three and seeks to retain the front portions of the existing heritage dwellings facing Toorak Road. This will ensure that the key characteristics of the neighbourhood character precinct will largely remain intact.
- The revised development height now reaches 9.95 metres, below the 14.5 metres allowed by Schedule 1 to the General Residential Zone. The proposal seeks to develop the middle and rear portions of the site with a three storey form. The height is considered to be sympathetic to the existing buildings and neighbourhood character, which includes a range of scales, from broad and robust buildings on Toorak Road and low scale Victorian, Edwardian and interwar era dwellings. The highest section of the new building will be located at the centre of the site to minimise the extent to which the new building is perceived in the streetscape.
- The scale and bulk of the building fronting Sutton Street has been moderated by providing a generous setback of the upper level recessed behind an open terrace and by utilising a light grey cladding at the upper level. The design has also incorporated measures to reduce the horizontal emphasis of the building as to reduce the perceived breadth of the built form by providing narrow upper level eaves and incorporating vertical elements through standing seam cladding and columns of protruding brickwork. These measures will ensure that the building will fundamentally be read as two storeys and not overwhelm the Sutton Street streetscape.

With regard to the overall response to neighbourhood character, the site is located within the Garden Estate Neighbourhood Character Precinct as defined by Council's Local Neighbourhood Character Policy at Clause 22.23. The policy requires that the statement of preferred character and design guidelines for the respective precinct be taken into account when assessing development applications. The relevant section of the statement of preferred character for this precinct is as follows:

The Garden Estate character precinct comprises large, high quality buildings set within spacious, landscaped gardens. Generous front and side setbacks allow space for substantial planting and canopy trees, which reinforces the leafy character of the precinct and contributes to the Yarra River landscape setting. New buildings or additions offer innovative and contemporary design responses while complementing the key aspects of building form and scale of the precinct.... While many properties have high front fences, these are designed to incorporate some visually permeable elements or landscaping.

The development represents a large, high-quality, contemporary designed building with generous front and side setbacks to allow for substantial planting that complements the key aspects of building form and scale of the Garden Estate precinct.

Consideration has been given to the ground and upper level setbacks of the proposal to minimise visual bulk impacts to the adjoining residential properties to the north within the Neighbourhood Residential Zone. The proposed apartment building presents as two storeys to the Sutton Street frontage with a recessed third storey setback 9.2 metres from Sutton Street. This ensures the development will complement the 1-3 storey scale of buildings along Toorak Road and will not dominate the Sutton street streetscape. The height of the new building will only marginally exceed that of the retained dwellings and the highest points of the building are located within the centre and rear of the site where the natural ground level of the site is significantly lower than at the Toorak Road frontage.

The development is sufficiently setback from all boundaries to further reflect and reinforce the rhythm of spacing between and around buildings within both streetscapes. The siting enables a suitable landscape response incorporating a number of new canopy trees, screen planting and lower level vegetation around the perimeter of the site to enhance the garden character of the precinct and soften the built form.

The proposal positions the entrance to the basement car park at the rear of the site so as not to dominate the Toorak Road frontage. The entrance to the basement is setback beyond the front facade of Apartments G01 and G04 and the basement will not project above natural ground level. The car lift access gate will be constructed of vertical aluminum battens that integrates with the architectural expression of the remainder of the building and planting is provided either side of the driveway. This will ensure car parking will not visually dominate the streetscape.

The colours and materials of the new building are considered appropriate and sympathetic to the Sutton Street and Toorak Road streetscapes and clearly distinguish the new building as a contemporary addition to the existing dwellings.

The existing 2 metre high brick fences to each dwelling along Toorak Road are proposed to be retained. This is with the exception of small portions of the fences proposed to be demolished to provide aluminum gates with vertical battens to the central pedestrian entrance and the individual entryway to the dwelling at 727 Toorak Road. This will allow for some visual transparency and views into the central entry for the development. Fencing to Sutton Street consists of a 1.5 metre high rendered fence painted 'antique white' and a 1.5 metre high powdercoated bronze aluminum batten fence which is consistent with rear wall/fence heights along Sutton Street.

Built Form

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

Street setback

The adjoining properties adopt a front setback of 5.83-5.91 metres and 9.29 metres to the east and west respectively. Therefore, the proposed development should be set back 7.58 metres from Toorak Road. Due to the retention of the front portion of the two existing dwellings, the existing front setbacks will be maintained and comply with the Standard. The apartment building is setback 21.7 metres from Toorak Road, thus complying with the Standard.

Building Height

Due to the fall in the land, the apartment building proposes varying building heights above natural ground level of between 8.4 metres toward the south (Toorak Road) and 9.95 metres toward the north (Sutton Street). Screening to the roof plant results in an additional 0.6 metres in the overall building height and is 1.8 metres high above the roofline which is considered acceptable. The townhouses will have an overall height of 8.49 metres. This complies with the 14.5 metres maximum height specified by the General Residential Zone for a sloping site.

The overall scale of the apartment building is not dissimilar to adjacent buildings in the Toorak Road streetscape noting that the apartment building at 723 Toorak Road reaches an

overall height of 12.4 metres and the apartment building at 717 Toorak Road reaches an overall height of 13.5 metres. As such, the building height is considered to be compatible with the broader area.

With regard to the alterations to the roof of the existing dwellings, the proposal is seeking a 0.5 metre increase in height. This is considered to be a minor difference in height, and the generous street setbacks will ensure the heritage dwellings retain their prominence within the Toorak Road Streetscape.

Site Coverage and Permeability

Schedule 1 of the General Residential Zone varies ResCode and states that a basement should not exceed 75% of a site's area. The proposed basement footprint equates to site coverage of 41.7% in compliance with the varied requirement. Above ground, the proposed site coverage of the building is 60.7% which is marginally more than the 60% permitted by the standard. This is considered negligible in an area where robust buildings are evident along Toorak Road, with surrounding sites exceeding 60% site coverage such as the neighbouring apartment development to the west at 723 Toorak Road with 61% site coverage. It is also noted that the development is able to achieve adequate areas of private open space and landscaping.

ResCode seeks at least 20% of the site to be of permeable surfaces and the application proposes 30.3%, thereby exceeding the minimum requirement.

Landscaping

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

The subject sites are planted with moderate vegetation, all of which are proposed to be removed. In some instances it may be considered acceptable to remove vegetation from a site provided an acceptable level of replacement planting is proposed. The applicant has submitted an Arboriculture Report prepared by John Patrick Landscape Architects dated July 2020 that assesses the health and retention value of the trees proposed for removal. In this regard, the proposed removal of vegetation is considered acceptable given the fair to poor health and structure and low value of the identified vegetation. The Monterey Cypresses in the rear of 727 Toorak Road (in which two of them meet the criteria for a significant tree) are identified as an environmental weed in Victoria. The only other significant tree is a Chinese Magnolia located along the western boundary of 727 Toorak Road which has decay in all its trunks and is of poor structure.

The proposal offers a meaningful landscape response which is respectful of the landscape character of the neighbourhood. The building setbacks above and below ground allow for a generous amount of vegetation to be incorporated into the overall landscape design and are adequate to ensure that trees on neighbouring properties are not adversely impacted.

The overall landscape response respects the character of the area with 22.7% of the site (329.7 square metres) set aside for deep soil planting, and provision is made for 15 large canopy trees, including Pin Oaks with a mature height of 14 metres and Capital Pears with a mature height of 11 metres, 4 medium canopy trees including Crepe Myrtles and Blueberry Ash trees with a mature height of 8 metres and lower level vegetation and planter boxes to balconies, all of which will assist to soften the visual impact of the development and integrate the building into the neighbourhood. The proposed landscaping will provide a safe,

functional and attractive environment for future residents. The level of landscaping, including canopy tree planting is consistent with the prevailing landscape character, and suitably compensates for the removal of existing vegetation.

The development also proposes to remove four Silver Birch street trees located along the Sutton Street frontage of the subject site. Council's Arborist has no objection to the removal of the street trees, given that they are short lived in Melbourne and are no longer planted by Council within the streetscape.

It is however considered that the street trees offer an additional level of screening to the subject site and should be replaced with new street tree planting of a species likely to thrive in Melbourne's climate. As such, it is recommended that a condition of permit require that the owner and/or developer is to inform Council of the completion of the development and during the winter months post construction completion, Council's Parks Department is to install replacement street trees along the Sutton Street frontage. The street trees are to be of a species, size and planted in a location to Council's satisfaction. It is noted that advice has been sought by Council's Arborist in the preparation of this condition.

Subject to this condition, it is considered the development respects the landscape character of the neighbourhood.

Access and Parking Location

The vehicle access is to be provided via a new double width 6 metre crossover accessed from Sutton Street. The existing vehicle crossings on Sutton Street providing access to No's 727 and 729 Toorak Road are to be removed. The existing vehicle crossover on Toorak Road in front of 729 Toorak Road is also proposed to be removed.

The new accessway occupies approximately 21% of the site's Sutton Street frontage, which complies with the recommended maximum of 33% as specified by Standard B14. The location and design of the proposed crossover is supported by Council's Transport and Parking Unit.

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

Amenity Impacts

Side and Rear Boundary Setbacks

Schedule 1 to the zone varies the side setback standard requirements and seeks new buildings, including basements, to be setback a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height, for a distance of at least 5 metres behind the street facing façade. The development exceeds these requirements with a minimum setback to the east of 1.61 metres and a minimum setback to the west of 2.77 metres for the two townhouses fronting Toorak Road and a minimum setback of 3.19 metres to the east and west of the apartment building within the 5 metres behind the street facing façade.

Apartment building

The proposal is fully compliant with all side and rear setback requirements of the Standard and no variations are sought.

'Western and Eastern Interfaces'

Based on a double storey wall height varying between 6- 7.6 metres to the west, the side setback requirement is 1.72- 2.69 metres to the first floor. Side setbacks between 1.8- 3.1 metres are provided to the ground and first floors to the west. The setback of the second

floor then increases to between 4.72-5.54 metres. Based on a wall height varying between 8.53-9.8 metres a setback of between 3.62-4.89 metres is required. The side setbacks of the balconies at first and second floors are also compliant with the setback requirements of the Standard.

Based on a double storey wall height varying between 6.2- 7.6 metres to the east, the side setback requirement is 1.78- 2.69 metres to the first floor. Side setbacks between 1.8-3 metres are provided to the ground and first floors to the east. The setback of the second floor then increases to between 4.8-5.4 metres. Based on a wall height varying between 8.74-9.75 metres a setback of between 3.83-4.84 metres is required. The side setbacks of the balconies at first and second floors are also compliant with the setback requirements of the Standard.

The setbacks to the western and eastern boundaries have been increased at the second level opposite the rear secluded private open spaces of No's 725 and 731 Toorak Road. It is considered that the proposed setbacks provide an acceptable separation from the adjoining properties. The western and eastern facades are articulated by colour, facade detailing and architectural features designed to fragment the mass of the building.

The submitted landscape plan also shows the planting of four canopy trees each along the western and eastern boundaries varying in size between 8-11 metres. The hedge treatment along these interfaces is also expected to grow up to 4-6 metres high. This will help soften the impact of the built form to the neighbouring properties to the west and east.

'Northern Interface'

Due to the modulation of the northern building elevation, rear setbacks are staggered to all floors, with minimum setbacks proposed at 5.6 metres to the ground floor, a minimum setback of 5.8 metres to the first floor and a minimum setback of 9.2 metres to the second floor. All setbacks exceed the minimum requirements which are 1 metre at ground floor, 1.84 metres at first floor and 4.79 metres at second floor. The rear setbacks of the balconies at first and second floors are also compliant with the setback requirements, which requires setbacks of 1.21 metres and 2.69 metres at first and second floors respectively. Balconies are setback 4.3 metres at first and second floors.

The development provides staggered setbacks towards the Neighbourhood Residential Zone across Sutton Street to the north and presents as a double storey form to Sutton Street where it interfaces with the lower scale built form, due to the recessive third level above which is setback 9.2 metres. This results in the overall height of the built form to the roof of the first level when viewed from the north being approximately 6.4 metres.

It is considered that the rear setbacks will not have a detrimental impact on the adjoining properties to the north and will be viewed from Sutton Street as sitting comfortably on the site with the built form following the slope of the land. The area at the rear will also allow for spreading of proposed canopy trees along the northern boundary which should contribute to the softening of any visual impact perceived by the properties to the rear, in addition to the recommended planting of new street trees to Sutton Street.

It is further considered that the presentation towards Sutton Street is consistent with the apartment building at 721 - 723 Toorak Road and is acceptable in the context of tall fencing and outbuildings/ car parking structures evident along the southern side of Sutton Street.

Townhouses

The buildings and works proposed to the two townhouses will retain the minimum side setbacks of the existing dwellings at both ground and first floor. Townhouse 1 maintains an

eastern setback of 1.6 metres at ground and a minimum 2.47 metres at first floor. These setbacks exceed the minimum requirements which are 1 metre at ground floor and 1.81 metres at second floor.

Townhouse 2 maintains a western setback of a minimum of 2.77 metres at ground and a minimum 4.58 metres at first floor. These setbacks exceed the minimum requirements which are 1 metre at ground floor and 3.58 metres at second floor.

The proposed side and rear setbacks are sufficient to limit amenity impacts, including daylight to existing habitable room windows and visual bulk impacts from neighbouring secluded private open space areas.

Given the overall form of development and the site's location on a main road, it is considered that the amenity of neighbouring residential properties will not be unreasonably impacted.

The proposed side and rear setbacks are deemed to make efficient use of the site whilst providing sufficient building separation between neighbouring buildings to respect the existing character of the area.

Overshadowing

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

In the morning at the equinox, the development will cast limited shadows over the primary secluded private open space associated with the property to the west at 725 Toorak Road between 9-11am, after which, there is no more impact. In the afternoon at the equinox, the development will cast limited shadows over the primary secluded private open space associated with the property to the east at 731 Toorak Road between 2-3pm.

Given the large areas of adjoining secluded private open space, the majority of these spaces remains largely unaffected and the impacts meet the prescriptive requirements of the standard in that there will be a clear 5 hours between 9am and 3pm in which no more than 75% of these spaces are impacted by shadow.

Overlooking

The development seeks to minimise opportunities for overlooking of neighbouring properties, whilst maximising the internal amenity of the proposed dwellings.

'Western Interface'

It is recommended that all windows and terraces with potential for overlooking within 9 metres of neighbouring habitable room windows or secluded private open space must be either screened or it be demonstrated that there are limited views in order to comply with Standard B22 (Overlooking) as a condition of approval.

To the west, new boundary fencing at a height of 1.8 metres to the apartment building will adequately limit overlooking from proposed ground floor windows. A new 1.6 metres high fence is proposed along the boundary with Townhouse 2. The ground floor dining room windows are located opposite a habitable room window of 725 Toorak Road. It is unclear whether the boundary fencing adjacent to this area is of sufficient height to limit overlooking into the neighbouring window.

At first floor balconies and habitable room windows of the apartment building are proposed to be screened to a height of 1.7 metres (by either obscure glazing or aluminum batten screens) to prevent unreasonable overlooking of the adjacent private open space area. This

is with the exception of Bedroom 1 in Apartment 103 (which is clear glazing) and Bedroom 1 of Apartment 104 (which comprises of clear glazing in the lower 800mm portion of the windows). It is unclear if there will be any views from these windows into the neighbouring secluded private open space area opposite. The proposed boundary fencing may obscure downward views. The first floor Bedroom 2 window of Townhouse 2 is proposed with a 1.7 metres high vertical planter screen.

At the second floor of the apartment building balconies and habitable room windows are proposed to be screened to a height of 1.7 metres by either a planter screen or aluminum batten screening (no more than 25% transparent). This is with the exception of the study to Apartment 202 (proposed with clear glazing) and Bedroom 3 also comprises of clear glazing in the lower 800mm portion of the windows. Section E on TP7.03 depicts the line of sight from the study and it is considered the window is suitably distanced from the neighbouring secluded private open space to adequately limit views and prevent unreasonable overlooking. It is unclear however if there will be views from the lower portion of the Bedroom 3 windows.

Furthermore, the use of vertical 'plant screens' as a screening measure is considered inadequate in sufficiently limiting views and relies on the plants to be maintained to a minimum height at all times. The reliance on vegetation to provide screening is not satisfactory. Vegetation is a transient material and the burden is on the future owners of the apartments to retain and look after the vegetation to prevent overlooking. As such, it is considered that a more permanent or fixed material be utilised as screening to the balconies/windows and a permit condition will recommend alternate screening be provided in lieu of the vertical garden screening to accord with Standard B22 of Clause 55.04-6.

It is also recommended that section diagrams be provided to clearly demonstrate compliance with Standard B22 of Clause 55.04-6 for the ground floor dining room windows of Townhouse 2, Bedroom 1 of Apartment 103, Bedroom 1 of Apartment 104 and Bedroom 3 windows of Apartment 202.

'Eastern Interface'

It is recommended that all windows and terraces with potential for overlooking within 9 metres of neighbouring habitable room windows or secluded private open space must be either screened or it be demonstrated that there are limited views in order to comply with Standard B22 (Overlooking) as a condition of approval.

To the east, new boundary fencing at a height of 1.8 metres to the apartment building will adequately limit overlooking from proposed ground floor windows. A new 1.6 metre high fence is proposed along the boundary with Townhouse 1. The ground floor dining room windows are located opposite habitable room windows of 731 Toorak Road. It is unclear whether the boundary fencing adjacent to this area is of sufficient height to limit overlooking into the neighbouring windows.

At first floor balconies and habitable room windows of the apartment building are proposed to be screened to a height of 1.7 metres (by either obscure glazing or aluminum batten screens) to prevent unreasonable overlooking of the adjacent private open space area. This is with the exception of Bedroom 1 in Apartment 102 (which is clear glazing) and Bedroom 1 of Apartment 101 (which comprises of clear glazing in the lower 800mm portion of the windows). Bedroom 1 in Apartment 102 does not have any direct views to neighbouring habitable room windows or secluded private open space. It is unclear if there will be any views from the lower portion of the windows of Bedroom 1 in Apartment 101 into the neighbouring secluded private open space area opposite. The proposed boundary fencing

may obscure downward views. The first floor Bedroom 2 window of Townhouse 1 is proposed with a 1.7 metre high vertical plant screen.

At the second floor of the apartment building balconies and habitable room windows are proposed to be screened to a height of 1.7 metres by either a plant screen or aluminum batten screening (no more than 25% transparent). This is with the exception of the study to Apartment 201 (proposed with clear glazing) and it is noted that Bedroom 3 also comprises of clear glazing in the lower 800mm portion of the windows. Section E on TP7.03 depicts the line of sight from the study and it is considered the window is suitably distanced from the neighbouring secluded private open space to adequately limit views and prevent unreasonable overlooking. It is unclear however if there will be any views from the lower portion of the Bedroom 3 window.

As noted above, it is recommended a condition require a more permanent or fixed material be utilised as screening to the balconies/windows in lieu of a vertical garden screen.

It is also recommended that section diagrams be provided to clearly demonstrate compliance with Standard B22 of Clause 55.04-6 for the ground floor dining room windows of Townhouse 1, Bedroom 1 of Apartment 101 and Bedroom 3 windows of Apartment 201.

'Northern Interface'

To the north, no windows or balconies are provided with screening. Due to the sites interface with Sutton Street, the development is setback over 9 metres at all levels from any secluded private open space or habitable room windows of the dwellings located opposite facing Sutton Street, and therefore screening is not required under the Standard. There are also no opportunities for oblique views due to the garage and outbuilding located on the northern boundaries of No's 727 and 731 Toorak Road.

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

Daylight to existing windows

The habitable room windows located at 731 Toorak Road interface with the proposed Townhouses and are setback 1.33 metres from the common boundary.

The habitable room windows located at 725 Toorak Road interface with both the proposed Townhouses as well as the apartment building and are setback between 3 metres and 4.4 metres from the common boundary.

To the east, the additions to Townhouse 1 have been setback from the opposite windows 2.93 metres at ground floor and a minimum of 3.8 metres at first floor. This exceeds the numeric requirements of the Standard which requires the ground and first floors of the dwelling to be setback 2.05 metres and 3.2 metres from the windows respectively.

To the west, the additions to Townhouse 2 have been setback from the opposite windows 3.9 metres at ground floor and a minimum of 7.5 metres at first floor. This exceeds the numeric requirements of the Standard which requires the ground and first floors of the dwelling to be setback 2.1 metres and 4.2 metres from the windows respectively. The overall height of the section of the apartment building located opposite the neighbouring habitable room windows to the west is approximately 9 metres, requiring the building to be setback 4.5 metres from the neighbouring habitable room windows. The apartment building is setback a minimum of 7.4 metres from the windows. This exceeds the numeric requirements of the Standard.

As such, the proposal will ensure adequate daylight to all existing habitable rooms to the adjoining dwellings is maintained.

Internal Amenity

The dwellings and the apartment building are each provided with a clearly defined pedestrian entry located along the Toorak Road frontage. The apartment building is also provided with clearly identifiable pedestrian access from Sutton Street. The building is provided with a communal stairwell and lift providing access to the ground, first and second floors from the basement. The common hallways and stair area are provided with a large skylight above for natural daylight access. Overall, the building entry and internal circulation area satisfy the objectives of Standard B42 (Building entry and circulation objectives).

The new dwellings will be provided a good level of internal amenity. The apartments have generally been designed to achieve energy efficient dwellings. Each proposed apartment will be of a reasonable size ranging between 81-166 square metres. Each apartment will have direct access to natural light and ventilation.

Standard B41 (Accessibility objective) seeks to ensure the design of dwellings meet the needs of people with limited mobility. The pedestrian entry to the building is appropriately graded to allow easy access for people with limited mobility. The development includes a lift in the central lobby area to access all levels of the building. In terms of internal apartment layout, Drawings TP5.07 and TP5.08 depict that all apartments are designed to be accessible to people with limited mobility and include adaptable bathrooms. This exceeds the requirements of the relevant Standard, which requires only 50 percent of dwellings to deem compliance with the standard.

The Apartments will be provided with ample internal storage areas including walk-in-robos, wardrobes and built in cupboards within each dwelling as well as external storage of at least 9.2 cubic metres, at the basement level. The internal storage areas within Apartments vary between 8.7-30 cubic metres per dwelling and exceed the requirements as required in Standard B44 (Storage objective).

All dwellings will receive adequate access to daylight to all habitable rooms. The majority of living areas are dual aspect (with the exception of Apartments G02, G03, 102 and 103) and are provided ample daylight and cross ventilation. All single aspect habitable rooms have a floor to ceiling height of either 2.7 metres or 3 metres and a room depth that complies with the numeric requirements of Standard B47 (Room depth objective). All bedrooms are provided with direct daylight access with no reliance on borrowed light or 'saddleback' windows.

The apartments at ground level have private open space areas between 34.8 square metres and 91.7 square metres. Apartment G02 and G03 have 35.7 square metres and 34.8 square metres of private open space respectively, which is less than the 40 square metres required by Standard B28 (Private Open Space). This is not uncommon for apartment developments. Importantly, the ground level spaces are appropriately connected to the living areas, are of a useable size and have a good solar orientation making it suitable for future residents.

Furthermore, the development has proximate access to notable public open spaces including the Sir Robert Menzies Reserve opposite the site. On balance it is considered the proposed private open space areas to apartment G02 and G03 are considered adequate to meet the recreation and service needs of future residents for a one bedroom apartment. For dwellings with private open space above ground floor, Standard B43 (Private open space above ground floor objective) requires balconies of at least 8 square metres and 2 metres in width for a one or two bedroom dwelling, or 12 square metres and 2.4 metres in width for a three bedroom dwelling. Each apartment above ground floor is provided with a balcony with

a minimum dimension and size in accordance with the Standard. The retained dwellings are provided with private open space between 108-122 square metres which comfortably complies with the numerical requirements of Standard B28.

All dwellings will be provided with either courtyards or balconies which will provide adequate solar access given the orientation of the site. The apartments located centrally on the site do not have private open space orientated to the north, however they will receive direct sunlight from the east in the morning and/or the west in the afternoon. This is considered acceptable for an apartment development as it is not practicable to provide all private open space areas to the north. The retained dwellings will have their private open space predominately orientated to the south. This is considered acceptable given the generous amount of space provided and considering the proposal retains the existing front setback conditions.

In terms of Standard B46 (Functional layout objective), the new dwellings are adequate in size with the smallest bedroom having dimensions of 3 metres by 3.3 metres. All main bedrooms have a minimum depth of 3.4 metres and the smallest living room will be 12.24 square metres in size with a minimum width of 3.6 metres which complies with the recommendation of Standard B46 (Functional layout objective).

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

Car Parking and Traffic

The proposal attracts an on-site car parking requirement of 21 spaces for residents and 2 spaces for visitors. One car space is required for each one or two bedroom dwelling, 2 are required for each three bedroom dwelling and 1 visitor space is required per five dwellings.

The proposal exceeds the residential car parking requirements with a total of 26 spaces, providing a surplus of 5 spaces, and meets the visitor parking requirements by providing two visitor spaces. Car parking is provided in a stacker arrangement within the basement.

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

Council's Transport and Parking Department have assessed the proposed bicycle parking provision and layout and confirm that it is compliant with the requirements of Clause 52.34 and the Australian Standards. A total of 14 bicycle racks are provided for residents within the basement as well as 4 visitor bicycle racks.

In terms of traffic generation, the development will not result in any adverse traffic impact to the nearby streets, the surrounding area and local road network. No concerns with traffic generation or the use of Sutton Street for vehicle access have been raised by Council's Transport and Parking Unit and the Department of Transport (DoT).

The Traffic Impact Assessment prepared by One Mile Grid provides the following commentary with regard to the operation of the proposed car lift, traffic generation and impact from the proposed development:

- The existing crossovers to Sutton Street will be reinstated with kerb and channel likely to result in 1 additional on-street car space through the consolidation of crossovers. With regard to Toorak Road, the removal of the crossover will similarly result in an additional on-street car space (outside of Clearway periods).
- A lighting system will illuminate (visible from Sutton Street) in the event that the car lift is in operation to advise an on-coming motorist to wait within Sutton Street or the crossover until the lift has cleared.

- Swept path diagrams demonstrate that a vehicle exiting the car lift can successfully pass a vehicle waiting on the crossover at ground level.
- Medium to high density dwellings in inner areas generate traffic with rates between 3.0 and 6.0 movements per dwelling. Considering the location of the subject site and the very good access to public transport, it is expected that generation rates will be towards the lower end of the range. Nevertheless, for the purposes of this assessment a daily rate in the order of 5.0 movements per day per dwelling will be adopted with 10% occurring during each of the peak hours. Application of these rates indicates that the 14 dwellings with car parking will generate 70 movements per day, inclusive of 7 vehicle movements during the morning and afternoon peak hours.
- This level of traffic is very low in traffic engineering terms and equates to one movement every 8 minutes during the peak hours and as such is not expected to have an impact on the operation of the surrounding road network.
- With a service time of approximately 99 seconds, the car lift is expected to generate a 98th percentile queue for 1.39 vehicles, which includes one vehicle 'within' the system; either in the lift, waiting in the basement or in the process of accessing the lift at ground-level and one vehicle waiting. It is not expected that the use will contribute significantly to any queues or delays external to the site, with a short queueing area provided on-site in the front setback.

The location and design of the proposed crossover are accepted by Council's Transport and Parking Unit and DoT and will not create unreasonable traffic and safety issues.

Sustainable Design Assessment

A Sustainable Management Plan (SMP) was submitted with the application. The SMP uses the BESS tool to demonstrate that the objectives of Clause 22.05 have been addressed. The BESS score achieved for this development is 54%. This score meets overall best practice (minimum 50%) and demonstrates an adequate response.

The development proposes several ESD commitments including a rooftop solar panel system; a rainwater harvesting system for toilet flushing and irrigation; energy and water efficient fixtures and appliances; double glazing; carbon monoxide sensors to the basement carpark; and bicycle parking for each dwelling.

Council's ESD officer has raised concerns in relation to daylight to the living areas of Apartments G.02 and G.03. In BESS, the daylight best practice standards seek compliance for 80% of living areas and bedrooms. In this development, 82% of living areas and 100% of bedrooms meet the daylight criteria. Whilst the living areas of two apartments do not meet best practice standards, Council's ESD officer has suggested that the reflectance values for the internal walls of these living areas and ceilings be increased to provide acceptable daylight performance. It is recommended this form a permit condition.

Council's ESD officer has also raised a concern that the internal studies for Apartments G.02 and G.03 have no direct access to daylight. This is a poor outcome and it is recommended a condition require that the studies be either converted to non-habitable spaces or deleted whilst still ensuring compliance with Standard B47 (Room Depth Objective) for the living areas (with the existing building footprint not to be exceeded).

In terms of shading, additional treatment measures to the east and west facing bedrooms B2 and B3 of the first floor apartments 101 and 104 are required to prevent passive solar gain in summer. This is also recommended to be addressed via a permit condition.

Subject to these two conditions, Council's ESD officer is satisfied that the proposal adequately responds to environmentally sustainable development design standards.

The SMP includes a Water Sensitive Urban Design (WSUD) response which indicates that the development achieves a STORM Rating of 105%. This is achieved by the provision of a 16,000 litre rainwater tank connected to all toilets.

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

Objections

- Impacts during construction - this is not a relevant town planning consideration and will be managed at building permit stage.
- Drainage concerns - Council's Infrastructure Department have no objection to the proposed development and have recommended a number of conditions to ensure that that drainage is effectively managed on the site.
- Impacts from Waste collection - Council's Waste Management Department note that the Waste Management Plan provided responded well to the waste management challenges of the site and a Waste Management Plan is recommended as a condition of approval which will ensure waste collection is appropriately managed.
- Noise from air conditioning units - A permit condition is recommended that requires all plant and equipment 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*.
- Noise/light spill from vehicles entering/exiting from Sutton Street - The design incorporates a driveway ramp going down towards the street and it is not anticipated the noise/light spill from vehicles will result in unreasonable impacts, also having regard to the anticipated traffic volumes. Council's Transport Engineer has also confirmed that the angle of the driveway is also better for pedestrian safety, as sight lines are less impacted.
- Maintenance of Council land fronting Sutton Street - Permit conditions are recommended that require the redundant crossings to be reinstated as standard footpath and kerb and channel. Maintenance of this land which falls outside of the title boundary is managed by Council's Building and Local Laws Department.
- Lowering of western common boundary fence - The proposal seeks to reduce the common boundary fence to 1.8 metres in height. The assessment relevant to town planning relates to the potential for overlooking. As discussed in the above assessment, lowering of the fence height continues to ensure overlooking is not possible from the ground floor windows of the apartments and therefore there is no objection to this from a planning perspective. It is noted however, matters relating to common boundary fences are governed by the *Fences Act 1968*.

Conclusion

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

Governance Compliance

Conflicts of Interest Disclosure

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

Human Rights Consideration

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

Attachments

1. 0316/20 - 727-729 Toorak Road, Kooyong [14.6.1 - 37 pages]

Officer Recommendation

That the Council AUTHORISE Officers to advise VCAT that had a Failure to Determine appeal not been lodged, a Notice of Decision to Grant a Planning Permit No: 316/20 would have been issued for the land located at 727-729 Toorak Road, Kooyong under the Stonnington Planning Scheme for part demolition, buildings and works to two existing dwellings and construction of a multi-dwelling development to the rear in a General Residential Zone and Heritage Overlay and alterations to a road in a Road Zone, Category 1 subject to the following conditions:

1. ***Before the commencement of the development, 1 electronic copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans advertised in October 2020 (prepared by Interlandi Mantesso Architects) but modified to show:***
 - a) ***Demonstrated compliance with Standard B22 of Clause 55.04-6 through section diagrams for the following windows:***
 - i. ***Dining room windows of Townhouse 1 and 2;***
 - ii. ***Bedroom 1 of Apartments 101, 103 and 104 and;***
 - iii. ***Bedroom 3 of Apartments 201 and 202.***
 - b) ***An alternative screening method in lieu of the vertical garden screening to accord with Standard B22 of Clause 55.04-6.***
 - c) ***Dimension splays on either side of the vehicle crossover;***
 - d) ***The east and west facing bedrooms B2 and B3 of the first floor Apartments 101 and 104 to have external operable vertical shading devices to their windows which could be in the form of operable louvres, sliding shutters or external blinds to prevent excessive heat gain in summer. The external shading devices are to be clearly shown/noted on the plans and elevations;***
 - e) ***The reflectance values of the internal walls and ceilings of the living areas of Apartments G02 and G03 to be increased to 80% for the walls and 90% for the ceilings to improve the daylight access to these spaces. The revised reflectance values are to be included on the materials schedule.***
 - f) ***The studies to Apartments G.02 and G.03 to be either converted to non-habitable spaces or deleted whilst still ensuring compliance with Standard B47 (Room Depth Objective) for the living areas of these Apartments. The existing building footprint must not be exceeded.***
2. ***The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.***

3. ***Prior to the endorsement of plans pursuant to Condition 1, a Sustainability Management Plan (SMP), generally in accordance with the plan prepared by Sustainable Development Consultants dated September 2020, must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must be modified as follows:***
 - a) ***Changes to accord with conditions 1.d) and e).***
4. ***All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to the Sustainable Management Plan may occur without written consent of the Responsible Authority.***
5. ***Prior to the commencement of the use of the building approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.***
6. ***Prior to the endorsement of any plans, a Water Sensitive Urban Design (WSUD) report must be submitted to and approved by the Responsible Authority. Upon approval the WSUD report will be endorsed as part of the planning permit and the development must incorporate the Water Sensitive Urban Design initiatives outlined in the WSUD report to the satisfaction of the Responsible Authority. The report must be generally in accordance with the Stormwater Management (WSUD) Report prepared by Sustainable Design Consultants dated September 2020 but:***
 - a) ***Updated to reflect the requirements of Condition 21.***
7. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
8. ***Prior to the endorsement of any plans, a landscape plan, to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must be generally in accordance with the plans prepared by John Patrick Landscape Architects Council date stamped 1 September 2020 and include:***
 - a) ***A survey (including botanical names) of all existing vegetation to be retained and/or removed.***
 - b) ***Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.***
 - c) ***Details of surface finishes of pathways and driveways.***

- d) ***A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.***
 - e) ***Landscaping and planting within all open areas of the site.***
 - f) ***The extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site.***
 - g) ***Details of all proposed hard surface materials including pathways, patio or decked areas.***
 - h) ***A note making reference to Condition 9.***
9. ***Before the occupation of the development, the owner and/or developer is to inform Council of the completion of the development. During the winter months post construction completion, Council's Parks Department is to install replacement street trees along the Sutton Street frontage. The street trees are to be of a species, size and planted in a location to Council's satisfaction.***
10. ***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.***
11. ***Prior to the endorsement of plans a Waste Management Plan, generally in accordance with the plan prepared by Leigh Design dated 2 April 2020, must be submitted to and approved by the Responsible Authority.***
- 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.***
12. ***Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.***
13. ***All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority. Ventilation systems must be designed and installed in accordance with the relevant Australian Standards.***
14. ***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.***
15. ***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.***
16. ***Prior to the commencement of the development hereby approved, the permit holder must obtain approval from Council's Building and Local Laws***

Department to construct or modify any vehicle crossover/s providing access to the subject site. The issue of a planning permit does not provide approval for vehicular crossovers which are outside of the title boundary.

- 17. Prior to the occupation of the building, any existing vehicular crossing made redundant by the development hereby permitted must be removed and reinstated as standard footpath and kerb and channel at the permit holder's cost to the approval and satisfaction of the Responsible Authority.**
- 18. 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.**
- 19. 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.**
- 20. The new crossover levels in Sutton Street must match the existing surface levels at the Sutton Street property line and must not be altered in any way (to facilitate the new driveways levels).**
- 21. The applicant must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the stand-alone detention system, the owner may provide stormwater tanks that are in total 5,000 litres greater than those tanks required to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.**

Department of Transport Conditions

- 22. Prior to the occupation of the development, all disused or redundant vehicle crossings on Toorak Road must be removed and the area reinstated to kerb and channel to the satisfaction of the Responsible Authority and at no cost to the Responsible Authority and the Head, Transport for Victoria.**

End Department of Transport Conditions

- 23. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within two years of the date of this permit.**
 - b) The development is not completed within four years of the date of this permit.****

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

NOTES:

Department of Transport Notes

- A. The proposed development might require the modification of an existing crossover. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact Department of Transport (Roads) prior to commencing any works.**

End of Department of Transport Notes

- B. The crossover must be constructed to Council's Standard Vehicle Crossover Guidelines unless otherwise approved by the Responsible Authority. Separate consent for crossovers is required from Council's Building and Local Law Unit.**
- C. 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.**
- D. The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".**
- E. At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:**
- i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and**
 - ii. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.**

14.7 Planning Application 0845/20 - 11 Mell Street, Toorak

Acting Manager Statutory Planning: Anthony DePasquale
Director Planning & Place: Annaliese Battista

Purpose of Report

For Council to consider a planning application for partial demolition and extension to a dwelling on a lot under 500 square metres in a Neighbourhood Residential Zone and Heritage Overlay at 11 Mell Street, Toorak.

Abstract

Proposal

The proposal seeks partial demolition and extension to a dwelling on a lot under 500 square metres in a Neighbourhood Residential Zone and Heritage Overlay comprising a ground and first floor addition at the rear of the existing dwelling.

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 proposal is in accordance with Council's Heritage Policy at Clause 22.04 of the Stonnington Planning Scheme.
- The primary building volume is to be retained ensuring the intactness of the heritage streetscape is preserved.
- The design and siting of the new additions ensure the new upper level additions are visually recessive and will not detract from the significance of the heritage streetscape.
- The proposal provides a satisfactory response to the preferred and prevailing neighbourhood character of the area.
- The proposal will not cause any unreasonable off site amenity impacts by way of visual bulk, overlooking or overshadowing.

Issues

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

- Partial demolition of the existing dwelling (refer to Heritage Assessment).
- Building height, scale and massing (refer to the Heritage and Neighbourhood Character Assessment).
- Amenity impacts on the adjoining properties (refer to Amenity Impacts assessment).

Officer's response

The proposal seeks partial demolition and extension to a dwelling on a lot under 500 square metres in a Neighbourhood Residential Zone and Heritage Overlay. The significant heritage fabric of the dwelling will be retained and the proposed extent of demolition will not adversely affect the significance of the heritage place or the heritage streetscape.

The proposal is considered to appropriately respond to the surrounding context and the preferred character of the area and is supported by Council's Urban Designer and Heritage Advisor.

The proposal meets all of the Objectives of Clause 54 and importantly does not compromise the amenity of neighbouring properties.

Executive Summary

Applicant:	Paul O'Shea CS Town Planning Services
Ward:	North
Zone:	Neighbourhood Residential Zone - Schedule 3
Overlay:	Heritage Overlay - Schedule 380
Neighbourhood Precinct:	Inner Urban
Date Lodged:	6 October 2020
Statutory Days: (as at Council Meeting date)	52
Trigger for Referral to Council:	More than 7 objections
Number of Objections:	9 objections (from 8 different properties)
Consultative Meeting:	Yes – held on 24 March 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 The Attic and are known as Job No. 1454, Drawing No.s: 1-23 (inclusive) and Council date stamped 30 April 2021.

The application seeks partial demolition and extension to a dwelling on a lot under 500 square metres in a Neighbourhood Residential Zone and Heritage Overlay, comprising a ground and first floor addition at the rear of the existing dwelling.

Key features of the proposal are:

- Demolition ground floor comprising the living area and associated roof at the rear of the existing dwelling.
- Construction of a new ground floor addition comprising a new kitchen, dining and living area.
- Construction of a new first floor addition comprising a master bedroom, robe and ensuite.
- The extended dwelling will contain three bedrooms, two bathrooms and an open plan kitchen/dining/living area.
- The new additions to the dwelling will have a maximum height of 7.3 metres above natural ground level.
- The additions to the dwelling will be finished in white colorbond cladding, aluminum framed windows and doors and a metal roof. The existing roof at the front of the dwelling will be retained.
- The first floor addition will be setback behind the original roof of the existing dwelling at a distance of approximately 10.1 metres from the street and 8.9 metres behind the front façade.

The application was revised after the consultative meeting and the plans advertised in December 2020 have been superseded by the plans Council date stamped 30 April 2021. Details of the changes are included under the "Advertising" section of the report.

Site and Surrounds

The site is located on the eastern side of Mell Street, approximately 240 metres to the east of the intersection with Williams Road. The site has the following significant characteristics:

- The site is a rectangular allotment, with a frontage to Mell Street of 4.77 metres and a depth of 21.2 metres.
- The site has an overall area of 103 square metres.
- The land is currently developed with a single storey painted brick dwelling, containing two bedrooms, with an overall height of 5.8 metres above natural ground level.
- The original dwelling has a B-heritage grading and presents to the street as an intact late Victorian single storey dwelling. The dwelling has a pitched and tiled roof form at the front and a flat metal roof form at the rear.
- The dwelling on the site forms part of a row of four single-storey Victorian semi-detached dwellings. The front façade of each of the dwellings feature white painted brick, a cast iron verandah and a low front fence.
- The subject site is within the Bush Inn Estate Heritage Precinct (HO380). The Bush Inn Estate precinct, Toorak, is a residential area created during the land boom era of the 1880s. The precinct retains a large number of dwellings from this period including grand double-storey terraces and handsome villas as well as modest single-storey cottages.

Mell Street is developed with detached or semi-detached dwellings all from a similar period. All dwellings have pitched and gabled roof forms to the front, constructed of either tiles or metal, and typically a metal roof to the rear portion. The dwellings are constructed with wall on boundary built form to the side boundaries and small secluded private open space areas at the rear of each dwelling.

Key features of the adjoining sites are as follows:

- To the north is a 1.1 metre wide laneway that provides rear access to the dwellings at 10, 9 and 8 Mell Street. Adjacent to the laneway is a Victorian single storey dwelling at 12 Mell Street. The dwelling has a B heritage grading, is setback 1.5 metres from Mell Street and has a low picket fence to the front boundary. The dwelling has wall on boundary built form constructed on the southern boundary for the length of the laneway.
- To the east is the double storey dwelling at 27 Mathoura Road. A large area of secluded private open space is located at the rear of the site, abutting the subject site.
- To the south, 10, 9 and 8 Mell Street house a row of single-storey Victorian semi-detached dwellings. The buildings are constructed to the north and south title boundaries and are setback from the street a distance of approximately 1.12 metres. The dwellings have a B heritage grading and a low picket fence to the front boundary.
- To the west, across Mell Street is the dwelling at 46 Evelina Road. The dwelling is a B graded dwelling and is developed with a new double storey extension at the rear of the site. The dwelling has single and double storey built form construed on the eastern boundary, abutting Mell Street.

Previous Planning Application/s

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

The Title

The site is described on Certificate of Title Volume 08675 Folio 008 / Plan of Subdivision 043100 and no covenants or easements affect the land.

Planning Controls

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

Zone

Clause 32.09 – Neighbourhood Residential Zone -Schedule 3

Pursuant to Clause 32.09-5, a permit is required to construct or extend one dwelling on a lot less than 500sqm.

Pursuant to Clause 32.09-4, the minimum garden area requirement is not applicable to this application as the site has an area of less than 400sqm.

Clause 32.09-10 of the Neighbourhood Residential Zone states that a building must contain no more than two storeys at any point. It is noted that the proposal contains no more than two storeys at any point and is therefore compliant with the maximum number of storeys under Clause 32.09-9.

Clause 32.09-10 of the Neighbourhood Residential Zone further states that a building used as a dwelling or a residential building must not exceed a height of 9 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 10 metres.

The proposal has a maximum height of 7.3 metres and therefore, complies with the maximum height limit.

A development must meet the requirements of Clause 54 (ResCode). Schedule 3 modifies the following requirements:

- Site coverage (Standard A5) - Basements should not exceed 75% of the site area.
- Front Fence Height (Standard A20) – Maximum height of 2 metres in streets in a Road Zone, Category 1. Other streets 1.2 metres maximum height.

Overlay

Clause 43.01- Heritage Overlay - Schedule 380

Pursuant to Clause 43.01-1, a permit is required to construct a building or construct or carry out works, including demolition. The land is affected by HO380, which applies to the Bush Inn Precinct.

Particular Provisions

Clause 52.06- Car Parking

Pursuant to Clause 52.06-1, Clause 52.06 does not apply to the extension of one dwelling on a lot in a Neighbourhood Residential Zone. Therefore, the requirements of Clause 52.06 are not applicable to this application.

Clause 54- One dwelling on a lot.

A development must meet the requirements of Clause 54.

Relevant Planning Policies

Clause 11 – Settlement

Clause 15 - Built Environment and Heritage

Clause 16 - Housing
Clause 21.03 - Vision
Clause 21.05 - Housing
Clause 21.06 - Built Environment and Heritage
Clause 22.04 - Heritage Policy
Clause 22.05 - Environmentally Sustainable Development
Clause 22.18 - Stormwater Management
Clause 22.23 - Neighbourhood Character Policy
Clause 65 - Decision Guidelines

Advertising

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

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

- Heritage.
- Neighbourhood Character.
- Height, Scale and Mass.
- Overshadowing.
- Overlooking.
- Visual bulk.

A Consultative Meeting was held on 24 March 2021. The meeting was attended by Councillors Koce and Hely, representatives of the applicant, objectors and a Council planning officer.

Following the Consultative meeting, the application was formally revised via Section 57A of the Planning and Environment Act 1987. The revised plans are Council date stamped 30 April 2021. The key changes are outlined below:

- The setback of the new extension from the front facade increased from a setback of 6.1 metres to a setback of 8.9 metres, to ensure more of the principal building volume is retained.
- The overall height of the new extension reduced from a height of 8.01 metres to a height of 7.3 metres.
- The roof form at the rear of the dwelling modified from a pitched roof form to a raked roof form and the height of the wall on the southern boundary consequently reduced.
- The setback of the extension from the rear boundary increased by 250 millimetres.
- The deletion of the study nook and sky lights at first floor level.
- The first floor reduced in size and internal modifications to the first floor layout.
- The material of the extension modified from black colorbond cladding to white colorbond cladding.

Referrals

Heritage

Councils Heritage Advisor reviewed the revised plans and provided the following key comments (summarised):

- Given that the new scheme retains all of the front roof form, I am happy to support it.

- The original front section of the house is to be retained and the brick wall is proposed to be extended to integrate the new addition, this is acceptable.

Planner Response: As noted above, Councils Heritage advisor reviewed the revised plans and has no objection to the proposal.

Urban Design

Council's Urban Design Advisor reviewed the revised plans and provided the following key comments (summarised):

- The proposal comprises a modestly scaled and well-conceived contemporary 2-storey addition located at the rear of the retained primary volume of the existing Victorian cottage.
- The rear addition will have low visibility from public vantage points within the street; and, in my opinion, will have no detrimental impact on this predominantly intact streetscape.
- From an urban design perspective, I support the application.

Planner Response: As noted above, Councils Urban Design Advisor reviewed the revised plans and has no objection to the proposal.

Key Issues and Discussion

Strategic Context

The overarching policies and objectives at both a State and Local level encourage urban consolidation in established urban areas and residential development in and around neighbourhood activity centres and close to public transport.

These strategies call for well-designed development that respects neighbourhood character, improves housing choice, makes better use of existing infrastructure and improves energy efficiency.

The site is located in close proximity to a tram route along Williams Road to the west and is within walking distance of the Hawksburn Village Commercial Precinct to the south. It is also within close proximity to Hawksburn Station to the north-west. Overall, the site is considered suitably located to support an extension to a dwelling.

Council's Strategic Framework defines the site within a "minimal change area" as it falls within the Heritage Overlay. In this context, it is considered that there is local policy support for development in this location, subject to the design response to the Heritage Overlay and other local planning policies.

Heritage

The Bush Inn Estate precinct is a residential area developed in the late-nineteenth and early twentieth century on the south side of the railway line, near Hawksburn Station. Building stock in the precinct includes ornate Victorian terraces and middle class villas derived from Italianate sources as well as modest single-fronted cottages. Edwardian and interwar dwellings can also be found intermingled among earlier Victorian building stock. Early building stock in the precinct generally remains in good original condition and there are few visible modern additions.

The elements that contribute to the significance of the precinct are:

- *Late-Victorian, Edwardian and interwar building stock including double and single storey terrace rows, freestanding villas, semi-detached cottages and the commercial*

buildings on Williams Road. -Individually noteworthy early dwellings of high architectural quality

- *The single and double-storey scale of existing built form.*
- *Intactness of the area to its c.1926 state arising from the very low proportion of modern infill.*
- *Intactness of individual buildings to their original states. Dwellings typically survive with their presentation to the street largely unaltered retaining verandahs and decorative detailing. The area is notable for the absence of prominent additions and alterations.*
- *The consistent, modest scale of the built form in May Road, Mell Street and the eastern half of Evelina Road.*
- *The detached form of the early dwellings, other than the terraces and semi-detached cottages, with generally uniform (within each streetscape) front setbacks and modest side setbacks.*
- *Face brick (including unpainted polychrome brickwork), render and timber materiality.*
- *Roofscapes with parapets, chimneys, and pitched roof forms in corrugated galvanised iron, slate or terracotta tiles.*
- *Bluestone kerbs and channels (to the extent that they survive).*

The subject site contains a white painted brick house with an encompassing cast iron verandah and a low front fence. It presents to the street as an intact late Victorian single storey dwelling.

The objectives of Council's Heritage Policy at Clause 22.04 of the Stonnington Planning Scheme are:

- *To retain all significant and contributory heritage places.*
- *To conserve and re-use significant and contributory heritage places.*
- *To ensure that new development respects the significance of heritage places.*
- *To maintain views of and vistas to significant heritage places.*

This application proposes partial demolition and an extension to the dwelling, as will be discussed in turn below.

Demolition

The subject site contains an intact B-graded heritage dwelling, also known as a "significant" building.

It is policy at Clause 22.04-4.1, to ensure significant building fabric is retained to conserve:

- *The heritage significance of the place (including buildings, fences and gardens).*
- *The primary building volume (including original external joinery to doors and windows, original or early shopfront features, verandahs and other features).*
- *The intactness of the heritage streetscape (if applicable).*

This proposal seeks to remove the living area located at the rear of the dwelling, ensuring that the significant building fabric including chimney and main roof form of the original house will be retained in its entirety. The proposed demolition will remove the non-original elements that are situated at least 8.9 metres from the front façade of the house. As the demolition works will retain the original dwelling's presentation to the street, largely unaltered, the extent of demolition will ensure that there are no detrimental heritage impacts on the significant heritage place or the intactness of the original building. Moreover, the demolition is supported by Council's Heritage Advisor.

New Additions

Council's Heritage Policy at Clause 22.04-4.4 seeks to ensure that all additions and alterations:

- *Retain and conserve the primary building volume and significant building fabric.*
- *Are set back behind the primary building volume.*
- *Respect the built form character of the place including but not limited to scale, form, height, street wall, siting and setbacks.*
- *Adopt a visually recessive design where the heritage place remains the dominant visual element.*
- *Are readily identifiable as new works while respecting and having minimal impact on the significance of the heritage place.*
- *Complement the materials, detailing and finishes and paint colours of the heritage place.*
- *Avoid new openings in the primary building volume and significant building fabric.*

A significant feature of the Bush Inn Estate Precinct is the absence of prominent additions and alterations. This proposal is for a new ground and first floor addition to the rear of the original dwelling with an overall height of 7.3 metres. The existing dwelling has a height of 5.8 metres above natural ground. The proposed extension to the dwelling is to be located behind the primary building volume at a distance of no less than 8.9 metres from the front façade and no less than 10.1 metres from the street (Mell Street).

In addition to the policy guidance above, Council's Heritage Guidelines (2017) direct that new additions should be visually recessive and present minimal bulk from oblique view points from the footpath on the opposite side of the street/s or laneways. Council's Policy 22.04-4.4 for upper level additions recommends that new additions are contained within an envelope created by projecting a sight line from 1.7 metres above ground level on the opposite side of the street. Sight lines taken at 1.7 metres above ground on the western side of Mell Street have been submitted and confirm the new additions will have limited visibility when standing directly in front of the subject site. This is primarily due to the reasonable setback from the street (10.1 metres) and wall height of the new addition being 0.65 metres above the existing ridgeline of the original roof.

Council's Heritage Policy also calls for new additions to be readily identifiable as new works. The additions to the dwelling include a raked roof to minimise the visibility of the extension above the original heritage building. The additions are to be finished in a variety of durable and substantive materials including white colorbond cladding, a metal roof, and aluminium framed windows and doors. The proposed finishes are considered to complement the existing heritage building, while being identifiable as new works.

Overall, the extension to the existing residence complements the significant and contributory buildings in the precinct by ensuring that the new additions are located behind the original building and will not result in visually prominent new additions within the streetscape. This is a view shared by Council's Heritage Advisor who supports the proposal on heritage grounds.

Neighbourhood Character

The subject site sits within the Inner Urban Precinct as defined by Council's Neighbourhood Character Policy at Clause 22.23 of the Stonnington Planning Scheme. The character statement applicable to this precinct can be summarised as seeking to encourage; 'Innovative and high quality architectural styles, consistent front setbacks, well –designed gardens for small spaces, low or permeable front fencing and reduced dominance of car parking structures'.

The design objectives for the Inner Urban Precinct are as follows:

- *To encourage the retention of intact, older dwellings that contribute to the character of the area.*
- *To ensure new buildings and extensions do not dominate the streetscape.*
- *To encourage a high quality of building detailing that references, without mimicking, the details of buildings in the area.*
- *To maintain and reinforce the alignment of buildings along the street.*
- *To maintain and strengthen the garden settings of buildings and the tree canopy of the neighbourhood.*
- *To prevent the loss of front garden space and the dominance of car parking structures.*
- *To ensure fences complement the predominant style of front boundary treatment in the street and retain views to dwellings and gardens.*

As indicated within the above objectives, neighbourhood character is predominantly defined by the pattern of front and side setbacks, building height, form and design detailing, the siting of car parking and accessways, and the provision of adequate landscaped areas reflective of the garden character of the area. A building should not detract from the neighbourhood character, but rather it should fit in by respecting the streetscape and reflecting the key characteristics of the preferred character.

The proposed additions respond to the design objectives of the Inner Urban Precinct in the following manner:

- The principal building volume is to be retained, with the new ground and first floor additions situated to the rear.
- The new additions at the upper floor are to be setback 10.1 metres from the street and 8.9 metres behind the principal façade, meaning that the additions will be largely concealed behind the existing roof form when viewed from the opposite side of the street.
- The new additions are of a contemporary appearance that reflects elements of the surrounding built environment, whilst not mimicking the original heritage features of the Bush Inn Heritage Precinct.
- The inclusion of the white colorbond cladding to the new extension, acts to reduce the prominence of the first floor and enable an adequate contrast to the original dwelling. Contrasting elements provide for added articulation to assist with reducing visual bulk.
- By virtue of retaining a large portion of the original building volume, the additions directly to the rear of the dwelling will maintain and reinforce the building pattern along this street.
- The new additions will continue to allow for a small area of soft landscaping to the front and rear of the dwelling, reinforcing the garden setting of the neighbourhood.
- No car parking structures are proposed within the front setback.
- The low picket fence at the front of the dwelling is proposed to be retained.

Overall, the proposal is considered to be a site responsive design that will sit comfortably within Mell Street and reflect the preferred and prevailing neighbourhood character of the area. This is a view shared by Council's Urban Design Advisor who supports the proposal.

Built Form

As detailed above, the new additions are sympathetic to the heritage streetscape and are compatible in principle with the preferred and prevailing neighbourhood character of the area. A more detailed assessment of the building massing and amenity impacts is provided in the assessment against Clause 54 - One dwelling on a lot (ResCode) below.

Street setback

Through the retention of the main building volume and front façade, the primary street setback will be retained.

Building Height

The additions to the dwelling will extend to a maximum overall height of 7.3 metres. This is below the mandatory maximum height of 9 metres as stipulated by the Neighbourhood Residential Zone. The proposed additions are also two storeys and therefore comply with the two-storey maximum stipulated under the Neighbourhood Residential Zone.

Site Coverage

The development proposes approximately 78% site coverage, an increase of 3% from what currently exists on the site. The proposed site coverage does not comply with the 60% maximum stipulated in Standard A5 (Site coverage). When compared to the existing dwelling the new additions will not significantly increase the building footprint. It is also noted that the dwellings within the immediate surrounding area typically feature high site coverage. Therefore, the site coverage is deemed to comply with the Objective to the Standard, which seeks to “ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site”.

Permeability

The plans show that the paving to the secluded private open space at the rear will be permeable and that the development will achieve 21% permeability. This complies with Standard A6 (Permeability). Section details of the permeable paving have not been provided, this detail will be required as a condition on the permit.

The application includes a response to Councils Water Sensitive Urban Design (Stormwater Policy) contained under Clause 22.18, which indicates a STORM Rating of 100%. It is considered therefore that with these measures in place the development would minimise the impact of increased Stormwater run-off in accordance with Clause 54.03-4.

Energy Efficiency

The dwelling has been designed with good aspect to natural light. All habitable room windows will have direct access to daylight and natural ventilation, which helps to improve energy efficiency. The living and dining area at ground level is also open plan with no doors between the kitchen, living and dining area. The development therefore provide a good degree of cross-ventilation.

Significant Trees

There are two small shrubs proposed to be removed at the rear of the site that are not deemed significant under Council’s Local Laws.

Amenity Impacts

Side and Rear Setbacks

East Elevation

The proposed rear setback of 3.65 metres at ground and first floor is in excess of that required by the Standard. The rear setbacks are also consistent with the rear setbacks of other dwellings along the western side of Mell Street.

Southern Elevation

Location	Wall height	Minimum proposed setback	Setback required by Standard A10 (Side and rear setbacks)	Complies?
Ground and first floor – Raked wall.	2.6 metres-6.5 metres	0.001 min to 4.0 metres maximum.	1.0 metres to 1.8 metres.	No

As outlined in the table above, the proposed setbacks of the raked wall on the southern elevation do not comply with the Standard. The setback of the raked wall on the southern elevation does not comply with the Standard at its lower point, however exceeds the setback required by the standard at its highest point. While the setbacks of the raked wall do not comply with the standard at its lowest point, the setbacks proposed on this elevation are considered appropriate given the subject site is narrow and reduced side setbacks are not uncommon in the precinct. The proposed extent of non-compliance for the lower section of the raked wall will also not result in any unreasonable detriment to 10 Mell Street, as there are no habitable room windows directly opposite the wall and as discussed in the assessment against ‘Overshadowing’ the extent of shadow is not unreasonable.

The extent of variation that is proposed as part of this application is considered reasonable and meets the objective of Clause 54.04-1, which seeks to *‘ensure the setback respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwelling’*.

Walls on Boundaries

Northern Elevation

The proposal will be constructed to the northern boundary for a length of 17.05 metres at ground and first floor level. Standard A11(Walls on Boundaries) specifies that new walls constructed on or within 200mm of a side or rear boundary should not exceed 12.8 metres based on a boundary length of 21.2 metres. It is acknowledged therefore that the proposed northern boundary wall exceeds the length specified by the Standard.

Standard A11 (Walls on Boundaries) also requires wall on boundaries not to exceed an average height of 3.2 metres and a maximum height of 3.6 metres. At two storeys with a maximum height of 6.41 metres, the wall does not achieve the Standard. Despite this, it is noted that the length of the proposed northern boundary wall is less than the length of the boundary wall located directly to the north at 12 Mell Street. It is also noted that despite being on an exposed boundary abutting a laneway, views of the double storey wall from Mell Street will only be visible from an oblique angle. The appearance of the double storey wall is considered appropriate within the context of Mell Street.

With regard to amenity impacts, it is noted that the proposed wall is located adjacent to a 1.1 metre wide laneway and the proposed double storey wall is not located opposite any habitable room windows. Given the location of the boundary wall in relation to the adjacent site, it is considered that the development would not adversely impact upon the amenity of residents of 12 Mell Street.

Southern Elevation

The proposed dwelling will be constructed to the southern boundary for a length of 17.05 metres at ground and first floor level. Standard A11(Walls on Boundaries) specifies that new walls constructed on or within 200mm of a side or rear boundary should not exceed 12.8 metres based on a boundary length of 21.2 metres. Therefore, the proposed southern

boundary wall exceeds the length specified under by the Standard. Standard A11 (Walls on Boundaries) also requires wall on boundaries not to exceed an average height of 3.2 metres and a maximum height of 3.6 metres. The maximum height of the wall on the southern boundary is 6.45 metres, therefore the height of the wall does not achieve this standard. Despite this, it is noted that the length of the proposed boundary wall is 1.3 metres longer than the existing boundary wall. Therefore, the length of the boundary wall is not in contrast to the existing conditions.

With regards to amenity impacts, it is noted that the section of wall located directly opposite the secluded private open space of 10 Mell Street is a raked wall. The addition is designed so that the height of the bottom of the raked wall at ground floor is the same height as the existing fence. As the wall that is located directly opposite the secluded private open space of 10 Mell Street is a raked wall, there will be no unreasonable visual bulk impacts and minimal overshadowing. Overall, it is considered that the development would not adversely impact upon the amenity of the residents of 10 Mell Street.

Daylight to Existing Windows and North Facing Windows

The proposed addition is not located directly opposite any habitable room windows, therefore an assessment against Daylight to Existing Windows' or 'North facing windows' is not relevant to this application.

The plans show that the proposed addition will be located directly opposite a habitable room window located towards the rear of 12 Mell Street, Toorak. The window that is identified on the plans as a habitable room window, is a bathroom window and therefore is not a habitable room window. Accordingly, a condition will be included on the permit requiring the bathroom window located on the southern side of 12 Mell Street to be shown as a non-habitable room window.

Overshadowing

The proposal will result in increased shadow to the secluded private open spaces areas of 10 Mell Street. The additional shadow to 10 Mell Street is an additional 2.71m² at 3pm. This impact is reasonable given that the additional shadowing is a minimal increase to the existing conditions and that the area will remain free of additional shadow for five hours. In addition, as the proposed dwelling is located on a narrow site, the design response is sympathetic to the sites orientation and the potential shadowing impacts by designing the built form so that the proposed first floor wall is a raked wall.

Overlooking

The key assessment tool to determine unreasonable overlooking is the Overlooking Objective, including Standard A15. The standard provides a 9 metre, 45 degree angle arc that determines unreasonable overlooking, and windows or balconies that are located in such a position must be screened to a height of 1.7 metres above finished floor level accordingly.

At ground and first and floor level, there are habitable room windows and areas of secluded private open space that have the potential to overlook the neighbouring habitable room windows and areas of private open space within 9 metres at the properties north, south and east of the site.

Ground Floor

A 2.0 metre high boundary fence is proposed along the northern and eastern side of the development and a 2.5 metre high fence is proposed on the southern side. Therefore, there are no unreasonable overlooking opportunities from the proposed ground level.

First Floor

North Elevation

The windows at first floor level on the northern elevation are located 1.7 metres from finished floor level, therefore the windows comply with Standard A15 (Overlooking)

South Elevation

There are no habitable room windows proposed on the southern elevation. It is noted that there is a window proposed on the roof of the raked void, however as the window is located on the roof there will be no overlooking opportunities from the window.

East Elevation

The window to the bedroom at first floor on the east elevation has obscure glazing on the window to comply with Standard A15 (Overlooking). The east facing window to the void is not screened, however as the void area is not a habitable room and contains a staircase, screening is not required in this area.

Daylight to new windows

All proposed habitable rooms include windows that are located to face outdoor spaces clear to the sky, which will be sufficient to allow an appropriate amount of sunlight and daylight into the habitable area of the proposed dwelling.

Private Open Space

The development will have 18 square metres of secluded private open space located to the rear of the dwelling. The secluded private open space will be conveniently accessed via the open plan Kitchen/Meals/Living room. Standard A17 (Private open space) requires that the secluded private open space area is a minimum of 25 square metres. The secluded private open space area is considered to comply with the objective as it has a minimum depth of 3.6 metres and is a useable area that is not dissimilar in size to the existing secluded private open space area to the dwelling.

Water Sensitive Urban Design

The policy at Clause 22.18 details the requirement for any new buildings or extensions to existing buildings which are 50 square metres in floor area or greater to submit to Council a water sensitive urban design response which details the stormwater treatment measures. Therefore, Clause 22.18 is applicable.

The applicant has provided a Water Sensitive Urban Design Response, which included a STORM Rating Report achieving a STORM rating of 130% through a 1.94m² raingarden. The proposal is therefore in compliance with the best practice performance objective, set out in the Urban Stormwater Best Practice Environment Management Guidelines, Victoria Stormwater Committee 1999.

The proposed rain garden is not shown on the plans. Accordingly, a condition will be included on any permit issued requiring the proposed raingarden to be shown on the plans.

Conclusion

It is recommended that the proposal be supported for the following reasons:

- The proposal is in accordance with Council's Heritage Policy at Clause 22.04 of the Stonnington Planning Scheme.
- The primary building volume is to be retained ensuring the intactness of the heritage streetscape is preserved.

- The design and siting of the new additions ensure the new upper-level additions are visually recessive and will not detract from the significance of the heritage streetscape.
- The proposal provides a satisfactory response to the preferred and prevailing neighbourhood character of the area.
- The proposal will not cause any unreasonable off-site amenity impacts by way of visual bulk, overlooking or overshadowing.

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. 0845/20 - 11 Mell Street, Toorak [14.7.1 - 24 pages]

Officer Recommendation

That the Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 845/20 for the land located at 11 Mell Street, Toorak under the Stonnington Planning Scheme for part demolition and extension to a dwelling on a lot under 500sqm in a Neighbourhood Residential Zone and Heritage 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 The Attic and Council date stamped 30 April 2021 but modified to show:***
 - a) ***The bathroom window located on the southern side of 12 Mell Street to be shown as a non-habitable room window.***
 - b) ***The raingarden identified on the STORM Report, Council date stamped 30 April 2021 to be shown on all development plans.***
 - c) ***Section details of the permeable paving.***

All to the satisfaction of the Responsible Authority.
2. ***The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.***
3. ***Prior to the endorsement of plans, the applicant must provide a Water Sensitive Urban Design Response addressing the Application Requirements of the Water Sensitive Urban Design Policy to the satisfaction of the Responsible Authority. All proposed treatments included within the Water Sensitive Urban Design Response must also be indicated on the plans.***

4. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
5. ***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.***
6. ***Prior to the occupation of the building, fixed privacy screens (not adhesive film or timber screens) designed to limit overlooking as required by Standard A15 of Clause 54.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.***
7. ***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.***
8. ***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.***
9. ***This permit will expire if one of the following circumstances applies:***
 - a) ***The development is not started within two years of the date of this permit.***
 - b) ***The development is not completed within four years of the date of this permit.***

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

NOTES

- A. ***This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.***
- B. ***Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.***
- C. ***Nothing in this permit hereby issued shall be construed to allow the removal of, damage to or pruning of a significant tree (including the roots) without the further written approval of Council.***

“Significant Tree” means a tree or palm:

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

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

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

- D. ***At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:***

- i. ***Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and***
- ii. ***Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.***

14.8 Stonnington Planning Policy Framework Translation (Amendment C312ston)

Manager City Strategy: Susan Price

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 present the mandated new format planning scheme which will replace the existing local policies in the planning scheme forming Amendment C312ston; and for Council to endorse these changes and seek authorisation from the Minister for Planning to prepare, adopt and approve Amendment C312ston.

Officer Recommendation

That Council:

- 1. ENDORSE the Municipal Planning Strategy and local policies to this report (refer Attachments 1 and 2), as required by the Department of Environment, Land, Water and Planning.**
- 2. REQUEST the Minister for Planning to prepare, adopt and approve Stonnington Planning Scheme Amendment C312ston pursuant to section 20(4) of the Planning and Environment Act 1987.**
- 3. AUTHORISE the CEO or her delegate/s to finalise full amendment documents, including updating sections which reference the Council Plan when it is updated later in the year.**

Executive Summary

In 2018, the State Government introduced widespread changes to the Victorian Planning Provisions, including a new format for the policy content – the Planning Policy Framework (PPF). This was introduced through Amendment VC148, applying to all Victorian Planning Schemes as part of the Smart Planning reform program. The aim of the PPF is to improve the operation of planning policy in planning schemes by strengthening policies, and ensuring consistency and alignment of state, regional and local policy.

All Councils must translate their Local Planning Policy Frameworks to the new PPF structure.

Amendment C312ston to the Stonnington Planning Scheme proposes to replace the existing Local Planning Policy Framework with a redrafted policy neutral Planning Policy Framework including a Municipal Planning Strategy.

Background

Amendment VC148, gazetted on 31 July 2018, is part of the State Government's Smart Planning program to modernise Victoria's planning policy and planning schemes, by simplifying and improving their structure, function and operation.

Amendment VC148 implemented the first stage of the PPF by replacing the State Planning Policy Framework with the PPF structure. It encompasses Clauses 11 – 19 of planning schemes.

The PPF provides a thematic structure for policies that is standard across all Victorian Planning Schemes, with three tiers:

- State policy (Victoria)
- Regional policy (Melbourne)
- Local policy (Stonnington)

Attachment 2 outlines where Stonnington's local policies will sit within this new structure.

The PPF also provides a standardised format for all policies. Each policy will include 'objective/s', 'strategies', 'policy guidelines' and, where necessary 'policy documents'. 'Application requirements' and 'decision guidelines' will be removed and recast into 'policy guidelines' where appropriate.

Smart Planning Reforms

Smart Planning is a reform program by the Department of Environment, Land, Water and Planning (DELWP) to make Victoria's planning system more efficient and accessible. As part of this program, DELWP has introduced changes to the form and content of planning schemes to make them more efficient, accessible and transparent.

Key Issues and Discussion

Amendment C312ston (the Amendment) proposes to replace the existing local policy section of the planning scheme with a redrafted policy in the new format.

The translation process has included a review of all local policy to ensure that critical local content is retained. Content that is not consistent with the Planning Scheme rules established by DELWP such as duplicated or outdated content, material found in other legislation, or matters that planning cannot address, are required to be excluded. Content has been translated from existing policies within the LPPF, with changes made where required. No new planning policy or controls have been introduced.

The review has been coordinated across Council given the various departments that rely on the planning scheme. A working group comprising of City Strategy and Statutory Planning representatives have worked closely with DELWP to ensure that the policies have met the prescribed requirements and accord with the new format.

The Amendment is proposed to be processed via a Ministerial Amendment in accordance with section 20(4) of the *Planning and Environment Act 1987* (the Act). This is the approach being taken by DELWP for all translations which are considered policy neutral. Under a 20(4) Amendment, the Minister for Planning is the proponent for the Amendment and is exempt from the formal notification requirements of sections 17, 18 and 19 of the Act.

Council is required to undertake a Planning Scheme Review within twelve months of the adoption of a new four-year Council Plan. The Planning Scheme Review will review the effectiveness and efficiency of the planning scheme and will also provide an opportunity to identify any policy gaps.

Conclusion

Amendment C312ston proposes to introduce updated local planning policies into the Stonnington Planning Scheme. They have been prepared in accordance with the new format planning scheme introduced as part of the state government's Smart Planning initiative.

The changes to the local content in the Stonnington Planning scheme have generally been translated without issue to the new format, following negotiation with DELWP.

Governance Compliance

Policy Implications

Council's next Planning Scheme Review (to be completed within 12 months of the adoption of a new four-year Council Plan) will provide an opportunity to address any policy gaps identified through this process.

Financial and Resource Implications

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

Conflicts of Interest Disclosure

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

Legal / Risk Implications

Section 7 of the *Planning and Environment Act 1987* states that the Minister may issue directions and guidelines as to the form and content of any planning scheme and that a planning authority must comply with such a direction of the Minister.

The translation into the new format planning scheme is a state ministerial requirement of all Victorian Councils. The completed translation will fulfil that requirement.

Environmental Implications

There are no environmental implications relevant to this report, as the translation is policy neutral.

Stakeholder Consultation

Exemptions from notification are considered appropriate as the changes proposed as part of Amendment C312ston are policy neutral and translate existing content to the new PPF format established by DELWP.

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

Human Rights Consideration

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

Attachments

1. Stonnington Planning Scheme - local policies [14.8.1 - 83 pages]
2. Stonnington Planning Scheme - new structure [14.8.2 - 1 page]

14.9 Albion Street South Yarra - Footpath Accessibility

Manager Transport & Parking: Ian McLauchlan

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

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

C2 Strengthen Council's commitment to support our diverse and inclusive communities.

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

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

Purpose of Report

To seek approval to implement a staggered parking arrangement in Albion Street, South Yarra to improve accessibility on the footpaths, consult on parking restriction changes and investigate further works.

Officer Recommendation

That Council:

1. ***APPROVE implementing a staggered parking arrangement in Albion Street, South Yarra;***
2. ***AUTHORISE officers to notify residents abutting Albion Street of the new staggered parking arrangement and consult residents to alter parking restrictions from 2-HOUR to PERMIT ZONE;***
3. ***NOTE officers will investigate installation of new pram crossings along pedestrian routes in Albion Street;***
4. ***NOTE officers will investigate the opportunity to further improve accessibility as part of the road renewal program;***
5. ***NOTE officers will investigate a journey mapping program in conjunction with the Stonnington Access and Inclusion Committee, to assist in prioritising works required to remove barriers to access on the local road network;***
6. ***NOTE a further report on an appropriate education and enforcement campaign to encourage compliance with Council's Local Law relating to overhanging tree foliage and removal of rubbish bins on-street after collection will be submitted to the Council for consideration.***

Executive Summary

It is recommended that a staggered parking arrangement be implemented in Albion Street, South Yarra to address accessibility concerns raised by residents. This arrangement would maximise on-street parking retention. It is also proposed to offer residents the option of altering the current restrictions applying to the remaining on-street parking to PERMIT ZONE operating at all times.

Background

Albion Street, South Yarra is a residential street that runs east from Punt Road. Traffic flow operates one-way flow eastbound. The street is narrow and vehicles park with two wheels on the footpath in order to maintain a through traffic lane and parking on both sides. The key dimensions of the street are shown in **Attachment 1**.

Parking on the footpaths has been allowed in Albion Street (see **Attachments 2 and 3** for Council's 1997 decision), in recognition of it being a narrow street. Allowing vehicles to park with two wheels on the footpath maintains parking on both sides of the street, while allowing a clearance for a through traffic lane. Vehicles are still required to be parked a reasonable clearance from fences to allow pedestrians to pass.

The Council decision of 1997 acknowledges that parking on the footpath is contrary to the road rules. It also acknowledges that parking enforcement officers enforcing some vehicles parked on the footpath that do not leave room for pedestrians to pass, while not enforcing others, is problematic as the offence is technically the same.

A query was tabled at the Council meeting of 6 August 2018 regarding vehicles parked on the footpath and blocking access for pedestrians, particularly for prams and wheelchairs. The *Road Safety Road Rules (2017)* does not allow vehicles to park on footpaths unless permitted by a parking control sign.

Council officers have been corresponding with residents in the street regarding the accessibility since 2018 to establish key concerns. The existing Council decision to allow vehicles to park on the footpath has provided some justification for the existing arrangement, despite being contrary to the Victorian Road Rules.

Accessibility for pedestrians and walkability are key community concerns and are also reflected in the *Council Plan 2017-2021*.

Key Issues and Discussion

Several options have been considered to try to resolve the issue. The below table summarises the changes to on-street parking compared with the existing conditions.

	On-street parking spaces (change)	Available Footpath width (north side)	Available Footpath width (south side)	Trees (change)
Existing arrangement	44	0.88	1.06	17
Option 1 – prohibit parking on north side	25 (-19)	1.32*	1.5	10 (-7)
Option 2 – prohibit parking on south side	19 (-25)	1.32*	1.5	7 (-10)
Option 3 – staggered parking	28 (-16)	1.32*	1.5	8 (-9)

*the footpath on the north side is also constrained in some locations by utility poles. The narrowest constriction is 0.82m.

A typical cross section of each arrangement is shown in **Attachment 4**.

Based on the above, Option 3 is the recommended option, as it retains the highest number of on-street parking spaces and street trees. All options result in some parking and street trees losses, however the staggered parking arrangement minimises losses when compared with other options. It also accommodates a footpath on either side of the street. A similar arrangement has been operating in Argo Street, a parallel street approximately 80 m south of Albion Street, for many years.

Other Improvements

Due to the associated loss of on-street parking in the proposed option, compared with the existing arrangement, it is recommended that residents be consulted on a proposal to implement PERMIT ZONE restrictions operating 24/7, to ensure that spaces are kept free for residents. The street has 2-HOUR parking restrictions currently.

In addition, it is intended to investigate the installation of pram crossings at any intersections that do not currently have crossings.

In the longer term, it is suggested that Council, as part of the road renewal program, investigate opportunities for landscaping and kerb outstands, and the opportunity to widen the footpath on the north side of the street.

Other Obstruction Issues

Obstructions relating to overhanging foliage on private property and rubbish bins left on the footpath for excessive time after being emptied are significantly contributing to pedestrian access.

Appropriate community education and enforcement campaigns should be developed to address these issues as well.

Implications for Other Streets

Council will review accessibility and impacts on other narrow streets within the municipality and consider the options broadly discussed above.

Governance Compliance

Policy Implications

The proposed recommendation supports the Council Plan 2017-2021 items as noted above.

Financial and Resource Implications

The implementation of staggered parking can be managed through changes to parking signage. The installation of new signage is a minor expense which can be covered by existing operating budgets. Any changes to parking restrictions could be made at the same time.

Similarly, the installation of pram crossings can be covered by existing operating budgets.

Other infrastructure improvements to the street will be considered as part of Council's Road renewal program.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

Council has an obligation to comply with:

- Austroads Guide to Road Design Part 6A: Paths for Walking and Cycling
- AS 2890.5 - Parking Facilities Part 5: On-street car parking
- Victorian Road Rules

The recommended option and subsequent actions will enable Council to address compliance issues as far as practicable.

Stakeholder Consultation

Residents

Residents will be consulted on any changes to parking restrictions and will be informed of the proposed changes to parking arrangement subject to council approval.

Access and Inclusion Committee

Feedback was sought from Stonnington's Access and Inclusion Committee. The key issues raised specific to the issues in Albion Street were the overhanging foliage (from private property to the footpath) and bins not returned to properties following collection day. It was also noted that additional pram crossing should be installed at intersecting streets.

Accessibility Consultant Feedback

Feedback was sought from Equal Access, an independent accessibility consultant, in regard to the preferred option (staggered parking arrangement), as well as other potential options for the street.

The consultant has stated in initial discussions the staggered parking proposal recommended, in conjunction with:

- active patrolling on overhanging foliage
- program to encourage residents to remove rubbish bins on day of the pick-up
- installing missing pram crossings.

will provide an acceptable outcome. When the street is eligible for renewal a further review of design options will be considered.

Disability Services Commissioner

Consideration of these matters has implications for ensuring accessibility for visually and mobility impaired pedestrians and is problematic for many inner suburban Councils with narrow local streets constructed in the early 1900s.

Officers have therefore engaged with the Disability Services Commissioner on an informal basis, to seek guidance and ensure our proposed measures are consistent with good practice desirable in similar narrow streets across inner Melbourne.

The Commissioner indicated that the issue needs to be about mobility in general as a priority over cars. She also suggested that we consider Journey mapping key routes around public transport nodes and activity centers in addition to other initiatives.

Therefore, whilst the current recommendation for Albion Street is an interim adjustment to assist with mobility, it is part of a process to upgrade our streets to remove barriers to access. Longer term, the process developed in Albion Street can be a model to inform an overall program to journey map pedestrian routes and prioritise upgrades to infrastructure accordingly.

A recommendation has been made to commence the process by officers working with Stonnington's Access and Inclusion Committee.

Human Rights Consideration

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

Attachments

1. Albion Street - Existing Arrangement [**14.9.1** - 1 page]
2. Council Report from 1997 [**14.9.2** - 3 pages]
3. Council Decision from 1997 [**14.9.3** - 1 page]
4. Design Options - Cross Sections [**14.9.4** - 5 pages]

14.10 Volunteer Awards Program

Manager Active Communities: James Rouse

Director Community & Wellbeing: Cath Harrod

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 establish a refreshed Volunteer Awards Program (previously known as Citizen of the Year Awards) with a contemporary approach and stronger governance framework.

Officer Recommendation

That Council:

- 1. APPROVE the Volunteer Awards Program Policy;**
- 2. APPROVE the COVID Champions initiative as an additional element of the 2021 program.**

Executive Summary

Council previously conducted an annual award program known as Citizen of the Year. A need for a clear and documented framework for the end-to-end management of the process has been identified, as well as an opportunity to modernise the format of the awards.

A revised program is proposed, branded as the Volunteer Awards Program with redefined purpose and award categories. An associated policy has been developed to provide a strong, clear governance framework to support the management of the program.

Background

The Citizen of the Year Awards have been run in the City of Stonnington since 1997 and has included the following categories throughout its history.

1997 – 2002	2002 – 2006	2006 – present
Citizen of the Year	Citizen of the Year – Sport	Citizen of the Year – Sport
Young Citizen of the Year	Citizen of the Year – Youth	Citizen of the Year – Arts / Education / Culture
	Citizen of the Year – Education	Citizen of the Year – Community Service
	Citizen of the Year – Art and Music	Citizen of the Year – Community Group
	Citizen of the Year – Community Service	Young Citizen of the Year

	Young Citizen of the Year	Special Mayor's Award
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Key Issues and Discussion

It is proposed to refresh the Citizen of the Year awards with the aim of contemporising the purpose and format of the program. Key elements of the program are outlined below.

The purpose of the Volunteer Awards Program is to celebrate people and community groups whose commitment to volunteering makes a difference to our local community, positively impacts the lives of others and makes the City of Stonnington a better place to live.

With a greater focus on recognising volunteers, it is proposed to host the awards event during National Volunteer Week (May) from 2022. For 2021, the event will be held in early September to allow time for a nomination period, selection process and event preparation.

Categories of Volunteer Awards are proposed as:

- Community Inclusion
- Young Person
- Community Group
- Sport
- Environmental Sustainability
- Arts & Culture
- Mayor's award

The categories align with feedback from the Stonnington People's Panel.

Recognising community response to COVID-19

The COVID-19 pandemic saw exceptional examples of community members supporting one another. In honour of this, a special initiative is proposed for the 2021 Community Recognition Program which will recognise and thank local 'COVID Champions'.

The initiative will include a promotional program calling for community members to nominate a person or group who has demonstrated compassion and leadership in supporting their community during the pandemic.

Nominations will not be formally evaluated with the view to selecting award recipients. Rather, all nominees will be acknowledged with a personal letter of thanks from the Mayor and, subject to their agreement, recognition of their kindness and effort through the pandemic through Council's website or social media.

Governance

A new policy (refer **Attachment 1**) has been developed to provide direction on the management of the program including award categories, eligibility and evaluation processes. The policy also takes a further step to address circumstances which may warrant withdrawal of an award.

A key feature of the new policy is greater breadth of independent community input into the award evaluation, which provides increased transparency and governance in the selection of the winners.

Additionally, the policy provides the ability for Council to annually review the award categories to ensure that they remain contemporary and relevant to current issues and the achievements being made by community members.

Conclusion

The refreshed Volunteer Awards Program will provide a more contemporary mechanism for Council to recognise the contribution of community members and groups. The associated policy document provides Council with a clear framework and robust governance surrounding the management of the program.

Governance Compliance

Policy Implications

This report seeks adoption of a new Volunteer Awards Program Policy (**Attachment 1**).

Financial and Resource Implications

Cost to administer the program and host an event to present the awards are within budget.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Stakeholder Consultation

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

Human Rights Consideration

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

Attachments

1. Volunteer Awards Program Policy [**14.10.1** - 6 pages]

14.11 Toorak Park Masterplan

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

Linkage to Council Plan

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

- C1** Enhance community health and wellbeing outcomes through quality service delivery and strategic partnerships.
- C5** Increase participation in physical activity through long-term recreation planning and service delivery.
- C7** Support local community organisations with equitable access to facilities, training and resources.

Purpose of Report

To seek Council endorsement of the delivery of the Toorak Park Masterplan through funding commitments in the 2022/23, 2023/24 and 2024/25 financial years.

Officer Recommendation

That Council:

- 1. NOTE the commitment from the Victorian State Government of \$3.0 million towards the delivery of floodlighting, oval upgrade and new pavilion at Toorak Park.**
- 2. ENDORSE the delivery of the Toorak Park Masterplan through funding commitments across the 2022/23, 2023/24 and 2024/25 financial years.**
- 3. AUTHORISE the CEO to sign the funding agreement with Victorian State Government for the \$3.0 million funding contribution.**

Executive Summary

The Toorak Park Masterplan was adopted by Council in 2018. A number of key objectives of the plan have already been completed, including the upgrade of open space and playground facilities at Victory Square and the delivery of new cricket practice nets.

The key deliverables that remain outstanding are:

1. Consolidating spaces in the Charles Lux Pavilion and Cricketers Pavilion to a single, fit-for-purpose pavilion that meets the needs of all user groups.
2. Upgrades to the floodlighting to make compliant with the level of sport played.
3. Upgrades to the oval and pathway around the oval.

In 2018 the Victorian Labor Government pledged funding of \$3.0 million for the specific items above. When this was pledged the timing for delivery was unconfirmed. Now the State Government has advised that they wish to release the funds by the end of this financial year

but require a commitment from Council. This has triggered a Council decision to bring the project funding forward.

Background

As a regional level facility, Toorak Park is the highest standard of sporting facility within Stonnington, due to the level of sport that is played. It is a heavily utilised facility, as the home of Prahran Cricket Club, Prahran Football Club (seniors and juniors), Old Xaverians Football Club and the off-field home of Melbourne Rugby Union Football who utilise grounds at the adjacent Orrong Romanis Recreation Reserve.

Key Issues and Discussion

In 2018 the Victorian Labor Government pledged funding of \$3 million to the project, specifying a lighting upgrade, oval resurfacing and female friendly change rooms. When this was pledged the timing for delivery was unconfirmed. Now the State Government has advised that they wish to release the funds by the end of the Financial Year but require a commitment from Council. A funding agreement is currently being prepared that will require completion of the project by April 2024.

In response to visions prepared by Prahran Cricket Club, a feasibility study has been undertaken to evaluate the viability of Charles Lux as a partially commercial facility, and evaluate whether the upgrade of the site as a Cricket Australia Tier 3 (elite level) venue for cricket is justified.

The outcome of this work determined that the preliminary concept design prepared by Council in 2016 remains justified. Council officers are supportive of future proofing the design that would enable further expansion in the future in the event that user groups are able to raise funds or secure external financial support.

The key deliverables as proposed are:

- Four (4) changerooms to support extensive use and in particular female participation
- Female friendly umpires changerooms
- DDA compliant ancillary facilities for players and spectators
- Lighting upgrade to 750lux to enable premier cricket use
- Oval upgrade to appropriately support premier cricket and sustain intense winter use from multiple clubs

From a usage perspective these upgrades will result in equitable facilities that fully support and enhance female participation. Council officers have also been advised that, whilst designed to meet the requirements of tenant clubs, the upgraded facility also has the potential to host international women's cricket matches in the future.

Project Planning and Implementation

In order to meet the requirements of the Victorian government, Council is required to commit funding to deliver the following components:

- Female friendly changerooms
- Oval upgrade
- Floodlighting upgrade

Works must commence on site by September 2022 and officers are proposing to focus the first stage of works on the delivery of the floodlighting upgrade and detailed design of the pavilion. The project delivery timeline will also be developed with the intent of aligning the construction of the pavilion and the oval as closely as possible, in order to minimise the disruption to the facility user groups.

Budget

There are sufficient funds allocated within the current advertised draft budget for the delivery of the project components as outlined above.

Table 1. Draft budget allocation:

Project	2021/22 ('000)	2022/23 ('000)	2023/24 ('000)	2024/25 ('000)	2025/26 ('000)	2026/27 ('000)	2027/28 ('000)
Charles Lux Pavilion Redevelopment	-	-	-	350	4,000	4,250	-
Toorak Park Masterplan Implementation	-	-	-	600	1,000	1,000	500

However, the timing of the current allocation does not enable project delivery to occur in line with the requirements of the State Government funding.

Table 2. The proposed realignment of the project budget phasing is as follows:

Project	2021/22 ('000)	2022/23 ('000)	2023/24 ('000)	2024/25 ('000)	2025/26 ('000)	2026/27 ('000)	2027/28 ('000)
Charles Lux Pavilion Redevelopment	-	4,600	3,000	1,000	-	-	-
Toorak Park Masterplan Implementation	-	2,000	1,100	-	-	-	-

It should be noted that the above budgets represent Councils financial contribution and the State Government \$3 million contribution is to be additional project funding.

Conclusion

Council has been progressively implementing the delivery of the Toorak Park Masterplan for a number of years. Key deliverables that are currently in the planning phase are the redevelopment of Charles Lux Pavilion, new floodlighting and an upgraded oval. These three deliverables are all linked to a \$3 million funding commitment received by Council from the Victorian State Government in 2018.

In order to finalise the funding agreement with State Government a commitment is required from Council to deliver the Toorak Masterplan (pavilion, floodlights and oval) as per the funding profile outlined in the body of this report.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

This report requires Council to commit expenditure of approximately \$11.7 million in order to secure a State Government commitment of \$3 million. Council's contribution was listed in future years of the draft Capital Works Budget and is required to be brought forward in order to meet State Government funding requirements.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

Bringing the delivery of this project forward has required amendments to the overall capital works budget and places pressure on the delivery of the program. These risks are offset by the \$3.0 million grant provided by state government and will be mitigated by assigning a dedicated project manager to the delivery of the Toorak Park Masterplan.

It should also be noted that further consultation is required with stakeholders in finalising the design of the new pavilion.

Environmental Implications

The design and delivery of all elements of this project will consider appropriate Environmentally Sustainable Design (ESD) principles to optimise performance, lifecycle costs and limit environmental impacts.

Stakeholder Consultation

There has been consultation undertaken with Prahran Cricket Club, Prahran Football Club, Old Xaverians Football Club, Melbourne Rugby Union Football Club, Cricket Victoria, AFL Victoria and Sport & Recreation Victoria.

Human Rights Consideration

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

Attachments

Nil

14.12 East Malvern Men's Shed Building Plaque

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.

- C7** Support local community organisations with equitable access to facilities, training and resources.

Purpose of Report

To seek Council approval for a plaque to commemorate the opening of the East Malvern Men's Shed at 51A Ivanhoe Grove, Malvern East.

Officer Recommendation

That the Council APPROVE the purchase of a standard design plaque (per Attachment 1) to commemorate the official opening of the East Malvern Men's Shed at 51A Ivanhoe Grove, Malvern East with the wording as outlined in the body of this report.

Executive Summary

An official opening of the East Malvern Men's Shed at 51A Ivanhoe Grove, Malvern East is planned (date to be determined). The official unveiling will take place at the event with light refreshments and a tour of the facility to follow.

Background

Council installs commemorative plaques to acknowledge the opening of new Council facilities and redevelopment of existing facilities. A standard design (based on Council's brand and style guide), plaque size, working and text layout was adopted by Council at the Council Meeting 1 April 2019 (refer **Attachment 1**).

As a result of the East Malvern Girl Guides determining to end their use of their formal hall, located at 51A Ivanhoe Grove, Malvern East, the opportunity arose for Council to redevelop this facility as a purpose-built Men's Shed.

East Malvern Men's Shed had previously been utilising space at the East Malvern RSL, however this was restrictive in terms of its size and practicality.

The redevelopment works have been completed and the East Malvern Men's Shed group have commenced use of their new facility which is already proving successful in enabling them to increase their membership.

Key Issues and Discussion

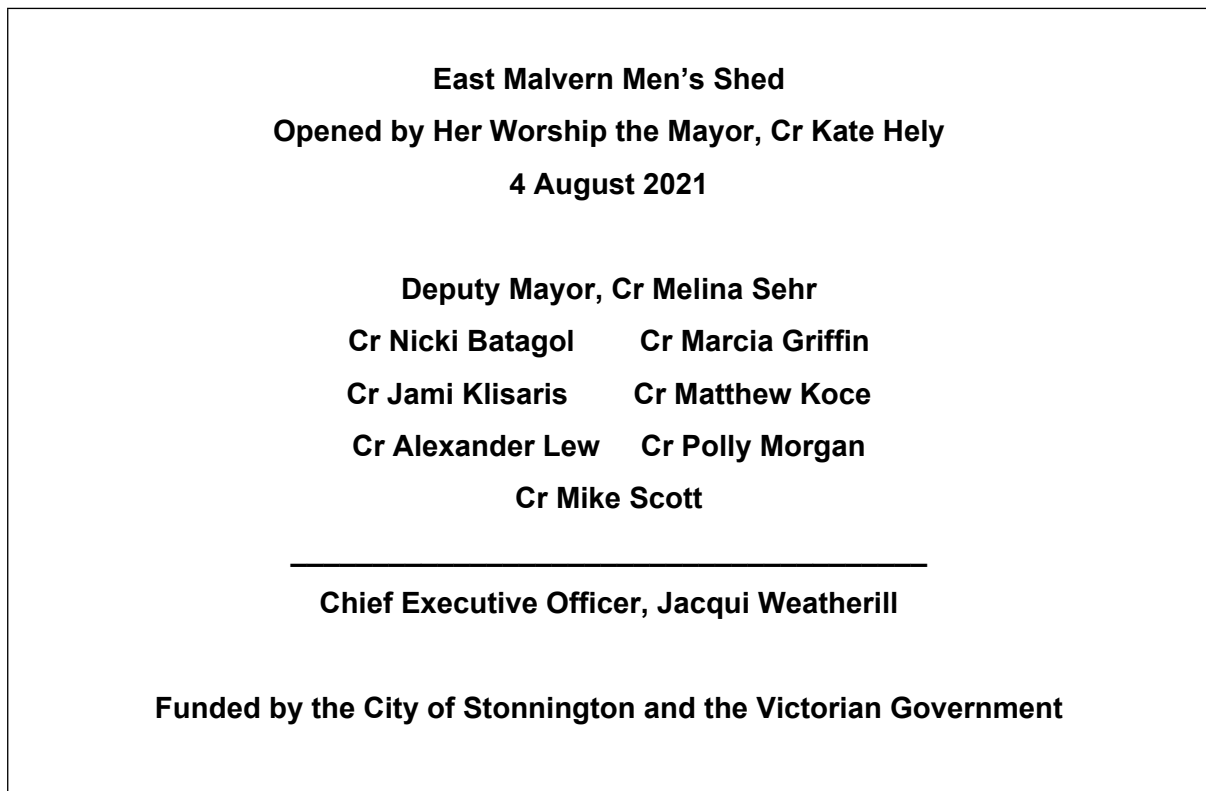
The opening of the Men's Shed has been delayed due to changing COVID-19 restrictions. A new date is being confirmed at the time of writing.

The plaque will be located on the exterior of the building immediately outside the main entrance in order to be visible to all visitors and users of the facility.

Council received funding support of \$80,000 from the Victorian State Government through the 2019-2020 Men's Shed Funding Program. In line with the funding agreement entered in

to, Council is required to acknowledge this contribution through the inclusion of the Victorian Government logo on the plaque.

The proposed wording for the plaque, in accordance with the standard design, is included below:



Conclusion

Following the recent completion of the significant building works Council has undertaken, the scale and significance of this project will be recognised by installing a plaque to commemorate the official opening.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

The plaque design, fabrication and installation costs are estimated at \$2,585 including GST and these costs will be funded out of the capital works budget for this project.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Environmental Implications

There are no environmental implications relevant to this report.

Community Consultation

There was no requirement for community consultation.

Human Rights Consideration

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

Attachments

1. Council Report - Standard design of commemorative plaques [**14.12.1** - 3 pages]

15 Confidential Business