



# Council Meeting Agenda

**Monday 4 October 2021 at 7 PM**

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

## **Information for the Community**

### **Welcome**

Welcome to a City of Stonnington Council meeting.

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

### **About this meeting**

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

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

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

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

### **Live webcasting**

Council meetings are broadcast live via Council's website, allowing those interested to view proceedings without needing to attend the meeting. This gives people who are unable to attend, the ability to view Council decisions and debate. A recording of the meeting is available on the Council website after the meeting (usually within 48 hours). Live captioning is occurring during the meeting. Only Councillors and Council Officers are visible. People in the public gallery will not be filmed, but if you speak, you will be recorded.

### **Governance Matters**

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

### **Recording of Council Meetings**

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

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

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

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

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

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

**Behavior at meetings**

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

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

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

Your cooperation would be appreciated.

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

## Attendees

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

### Statement of Reconciliation

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

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

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

### Statement of Commitment

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

# Council Meeting Agenda Monday 4 October 2021 Order of Business

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- 1 Reading of the Reconciliation Statement
- 2 Reading of Statement of Commitment
- 3 Apologies
- 4 Introductions of Councillors & Executive Staff
- 5 Confirmation of the Minutes of the previous meeting
- 5.1 Minutes of the Council Meeting held on 20 September 2021

#### Officer Recommendation

*That the Minutes of the Meeting of the Stonnington City Council held on 20 September 2021 be confirmed as an accurate record of the proceedings.*

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

## 8.1 Audit & Risk Committee Report

**Chief of Staff: Tracey Limpens**

**Manager Councillor & Civic Relations: Tony McIlroy**

#### 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 present to the Council the Audit and Risk Committee report for the period ending 31 August 2021.

#### Officer Recommendation

*That the Council RECEIVE and NOTE the report from the Audit & Risk Committee (refer Attachment 1).*

#### Background

1. Pursuant to section 54 (5) (a) (b) of the *Local Government Act 2020* the Audit & Risk Committee must prepare a biannual Audit & Risk report and provide the report to the Chief Executive Officer for tabling at the next Council meeting.
2. The Chair Ms Bev Excell has provided the report (refer Attachment 1) on behalf of the Committee and will be present at the meeting to provide an overview.

## **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 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 report is required under the *Local Government Act 2020*.

### **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**



## 8.2 Audit & Risk Committee Appointment

**Chief Executive Officer: Jacqui Weatherill**

**Senior Governance Advisor: Tony McIlroy**

### 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 appoint an independent member of the Audit & Risk Committee.

### Officer Recommendation

***That the Council APPROVE the appointment of Ms Jenny Johanson to the Audit & Risk Committee for a three (3) year term ending 3 October 2024.***

### Background

1. The Council on 17 May 2021 resolved to appoint a fourth independent member to the Audit & Risk Committee with specific experience in digital transformation and cyber management.
2. Accordingly, expressions of interest were sought (July 2021) and a total of 39 expressions of interest were received.
3. Six applicants were shortlisted and interviewed on 5 August 2021.
4. The interview panel comprised the Chair Bev Excell, Cr Nicki Batagol, Manager People & Performance, Sarah Taylor and Manager Councillor and Civic Relations, Tony Mcilroy.
5. The Panel selected Ms Jenny Johanson as the preferred candidate.

### Governance Compliance

#### Policy Implications

There are no policy implications associated with this report.

#### Financial and Resource Implications

Appropriate provision is included in the Council's budget each year.

#### Conflicts of Interest Disclosure

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

This appointment complies with Section 53 of the *Local Government Act 2020* which requires the Council to establish an Audit & Risk Committee.

### 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. Preferred Candidate Profile [8.2.1 - 1 page]

## 8.3 Reconciliation Action Plan 2021-2023

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

### Linkage to Council Plan

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

- C1** Enhance community health and wellbeing outcomes through quality service delivery and strategic partnerships.
- C2** Strengthen Council's commitment to support our diverse and inclusive communities.
- C4** Enhance community engagement to ensure Council makes long-term decisions in the best interests of the community.

### Purpose of Report

The purpose of this report is to seek Council's endorsement of the draft Stonnington Reconciliation Action Plan 2021-2023 (**Attachment 1**) for public exhibition between 5 October and 31 October 2021.

### Officer Recommendation

***That Council ENDORSE the Draft Stonnington Reconciliation Action Plan 2021-2023 (refer Attachment 1) for public exhibition from 5 October to 31 October 2021.***

### Executive Summary

1. The Draft Reconciliation Action Plan (RAP) 2021-2023 builds on the achievements of the previous RAP 2018-2020 and is centered around Reconciliation Australia's core principles of respect, relationships and opportunities.
2. The Draft RAP articulates Council's commitment to reconciliation, our vision to create an open and welcoming community and the actions we will take to strengthen relationships; build respect and awareness; and create opportunities for Aboriginal and Torres Strait Islander Peoples.

### Background

3. A RAP is a strategic document that includes practical actions that contribute to reconciliation.
4. The framework was developed by Reconciliation Australia and sets out minimum elements required to build strong relationships, respect and opportunities.
5. Council has developed an 'Innovate' RAP focusing on developing and strengthening relationships with Aboriginal and Torres Strait Islander peoples, engaging staff and stakeholders in reconciliation and developing and piloting innovative strategies.
6. In late 2020, Council engaged Jaynaya Winmar, a respected member of the Aboriginal community, small business owner and RAP consultant, to assist with the consultation process.
7. During November-December 2020, engagement was undertaken with the Boonwurrung Land and Sea Council, Bunurong Land Council and Wurundjeri Woi Wurrung Cultural

Heritage Aboriginal Corporation. Engagement was also undertaken with Reconciliation Stonnington, a local community group, and internally with Middle Years and Youth, Maternal and Child Health, the RAP Working Group and Diversity and Inclusion Working Group. The feedback gathered has informed the development of the Draft Reconciliation Plan 2021-2023.

### Key Issues and Discussion

8. Development of the Draft RAP 2021-2023 has involved a review of the previous plan and its achievements and internal and external engagement to refine Council's commitments, vision and actions.
9. Building on the foundation of the RAP 2018-2020, changes have been made to strengthen Council's 'Statement of Commitment' and 'Reconciliation Acknowledgement Statement'. These changes include acknowledging the Wurundjeri Woi Wurrung and Bunurong as the Traditional Owners, in accordance with the boundary changes announced by the Victorian Aboriginal Heritage Council (June 2021) and defining the Traditional Land area as 'East' Kulin Nations. New sentences have also been included in both statements acknowledging Aboriginal and Torres Strait Islander peoples' connection to Country, relationship to the land and sovereignty.
10. Achievements of the previous plan are documented under the 'RAP Journey' highlighting the diversity and number of actions achieved between 2018 and 2020 and actions to be carried forward in the next plan.
11. Actions have been developed around the four focus areas – Relationships; Respect; Opportunities; and Governance. The focus areas tie to the objectives of the Council Plan and follow the base template developed by Reconciliation Australia.
12. There are 16 actions, each with at least one deliverable, timeline for delivery and responsible officer/s. The highlighted text refers to actions identified from internal and external engagement and are in addition to the minimum actions required by Reconciliation Australia (non-highlighted text). Actions will be delivered during Year One or Year Two and, in some cases, over both years, commencing from June 2021.
13. In line with accreditation requirements, the draft RAP was submitted to Reconciliation Australia for review in March 2021. Minor updates were made to meet accreditation standards and consultation undertaken with the RAP Advisory Committee before being resubmitted to Reconciliation Australia. On 9 September, Reconciliation Australia provided 'conditional' endorsement of the Draft RAP, confirming it meets accreditation requirements for an 'Innovate' level Plan.
14. Following Council's endorsement, the draft will be released for community consultation for a minimum of three weeks. Feedback received will be considered before the RAP is finalised for final endorsement from Reconciliation Australia and Council adoption.

### Governance Compliance

#### Policy Implications

15. The Reconciliation Action Plan must be submitted to, and endorsed by, Reconciliation Australia.

#### Financial and Resource Implications

16. Implementation of the Plan has financial implications. Some of the actions are absorbed by individual business units or are recurrent and covered by the annual Reconciliation

budget (\$35,000). This includes National Reconciliation and NAIDOC Week events, engagement with Traditional Owners, cultural awareness training and consultant fees. Higher cost action items have been delayed until Year 2 so that they can be budgeted by the business unit or department responsible.

#### Conflicts of Interest Disclosure

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

#### Legal / Risk Implications

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

#### Environmental Implications

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

#### Community Consultation

20. Engagement was undertaken by phone and Zoom with the Bunurong Land Council; Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation; Boonwurrung Land and Sea Council; Reconciliation Stonnington; Middle Years and Youth; Maternal and Child Health; the RAP Working Group; Diversity and Inclusion Working Group; and RAP Advisory Committee. The Aboriginal Liaison Officer also consulted community members at gatherings and at health services across Melbourne.

21. A plan for exhibition is summarised below.

<b>Purpose</b>	To provide the community with the opportunity to review the draft Reconciliation Action Plan and provide feedback before the Plan is finalised for endorsement by Reconciliation Australia and Council.
<b>IAP2 Goal</b>	Consult – to obtain feedback on the plan
<b>Exhibition period</b>	Wednesday 6 October until Sunday 31 October 2021
<b>Method</b>	Website news Connect Stonnington – Draft Plan and submission Direct mail to Traditional Owners, Reconciliation Stonnington, Aboriginal services and local services Social media Council e-newsletters
<b>Reach</b>	TBC – following engagement period
<b>Summary of feedback</b>	To be reported following engagement period
<b>Impact</b>	Summary of amendments made to the RAP as a result of the feedback

#### Human Rights Consideration

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

#### Attachments

1. Innovate Reconciliation Action Plan [8.3.1 - 18 pages]



## 8.4 Planning Application 0977/20 - 581 Toorak Road, Toorak

**Manager Statutory Planning: Alex Kastaniotis**

**Director Planning & Place: Annaliese Battista**

### Purpose of Report

For Council to consider a planning application for the construction and display of electronic and internally illuminated signage in a General Residential Zone and a Heritage Overlay at 581 Toorak Road, Toorak.

### Abstract

#### Proposal

The proposal seeks to construct two internally illuminated signs, both of which include electronic display screens.

#### Officer Recommendation Summary

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

- The signage is in keeping with heritage policy and appropriate to the architecture of the church, the Toorak Road streetscape and broader heritage precinct.
- The Department of Transport has no objections subject to conditions. Therefore, the signage is considered acceptable in terms of road safety.
- The signage will not have an unreasonable impact on the amenity of adjoining properties, including The Benson Toorak Retirement Village to the east.
- The signage is considered appropriate under the advertising policy, in the context of the location of the site, and the size and form of the Saint Peter's Church building on site.

#### Issues

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

- Heritage
- Amenity impacts
- Road safety
- Advertising policy

#### Officer's response

The signage is considered appropriate and will not detrimentally impact the heritage place in the context of the church buildings.

The signage does not obscure the architectural elements of the church and will not have an adverse impact on the Toorak Road streetscape or the broader heritage precinct.

The signage will not have an unreasonable impact on the residents of the adjacent Benson retirement complex.

The signage is not considered to unreasonably impact road safety, and the Department of Transport have no objection to the proposal subject to a number of conditions.

Although the signage is larger than preferred for a residential zone, it is considered to be appropriate in size, design and overall appearance in the context of the site and in relation to the size and appearance of the church building.

### Executive Summary

Applicant:	Luke Peldys Andronas Conservation Architecture
Ward:	North
Zone:	General Residential Zone
Overlay:	Heritage Overlay (HO143), Special Building Overlay
Neighbourhood Precinct:	Garden Estate Precinct
Date Lodged:	09 November 2020
Statutory Days: (as at Council Meeting date)	283
Trigger for Referral to Council:	More than 7 objections
Cultural Heritage Plan	No
Number of Objections:	10
Consultative Meeting:	Yes – held on 10 August 2021
Officer Recommendation	Issue a Notice of Decision

### Background

#### The Proposal

The plans that form part of the basis of Council's consideration were prepared by Andronas Conservation Architecture and are known as File No. 262B, Drawing No.s: A.00, A.01, A.01.1, A.02, A.03, A.04 and Council date stamped 01/12/2020.

Key features of the proposal are:

- Construction and display of two internally illuminated / electronic signs at the front of the church on Toorak Road.
- These signs replace the two existing non-illuminated signs.
- The westernmost sign is proposed to be positioned centrally in front of the church and is to have the following characteristics:
  - The signage structure is rectangular in shape.
  - The height of the signage structure is proposed to be 2.865 metres and the width is proposed to be 0.875 metres, resulting in a total area of 2.5 square metres.
  - The top of the sign is proposed to display the St Peters Church name.
  - Beneath the St Peters Church name is proposed to be a 55-inch LED screen (electronic sign). The screen is proposed to be 1.25 metres high and 0.705 metres wide resulting in a total area of 0.937 square metres. The LED screen will occupy the upper half of the signage structure.
  - The plans indicate that the proposed LED screen will change the content on a daily / weekly basis.
  - The proposed hours of illumination of this sign are stated on the plans as follows: Winter (March 21 – Sept 21): on 7am to 10pm



- Summer (Sept 22 – March 20 except 24/25 Dec): on 7am to 12midnight  
24/25 Dec (Christmas Eve / Day): on 24 Dec 7am to 25 Dec 12midnight
- The easternmost sign is proposed to be positioned slightly to the east of the church, nearby the eastern title boundary. This sign is to have the following characteristics:
    - The signage structure is rectangular in shape.
    - The height of the signage structure is proposed to be 2.68 metres and the width is proposed to be 0.82 metres, resulting in a total area of 2.2 square metres.
    - The top of the sign is proposed to display the St Peters Early Learning Centre name.
    - Beneath the St Peters Early Learning Centre name is proposed to be a 49-inch LED screen (electronic sign). The screen is proposed to be 1.1 metres high and 0.65 metres wide resulting in a total area of 0.715 square metres. The LED screen will occupy the upper half of the signage structure.
    - The plans indicate that the proposed LED screen will change the content on a daily / weekly basis.
    - The proposed hours of illumination of this sign are stated on the plans as follows:  
Winter (March 21 – Sept 21): on 7am to 10pm  
Summer (Sept 22 – March 20): on 7am to 12midnight
  - The total cumulative display area of both signs including illuminated background is 4.7 square metres.
  - The total cumulative display area of electronic signage for both signs is 1.65 square metres.
  - Both signs are to be setback 1.0 metre from the front (southern) title boundary.

#### Site and Surrounds

The site is located on the northern side of Toorak Road in Toorak. The site has the following significant characteristics:

- The site has a frontage to Toorak Road of 30.48 metres, maximum depth of 85.55 metres with an area of 2598 square metres.
- The site currently has two non-illuminated signs which are to be removed.
- The site is occupied by St Peters Church and Early Learning Centre.
- To the immediate north is Dalrida Street, on the opposite side of which are Units 3 and 5 at 4 Dalrida Street, Toorak – both double-storey townhouse units.
- To the immediate south is Toorak Road, on the opposite side of which are 516 Toorak Road, Toorak – an 11-storey apartment building comprising 22 dwellings; Unit 1/518 Toorak Road, Toorak – a double-storey townhouse unit; 520 Toorak Road, Toorak – an A2 graded two-storey flats building named Taunton.
- To the immediate east is The Benson – 585 Toorak Road, Toorak – a retirement village complex comprising 33 dwellings.
- To the immediate west is 579 Toorak Road, Toorak – a double-storey building comprising four dwellings; 2 Lansell Road, Toorak – a C graded three-storey building comprising five dwellings; 2A Lansell Road, Toorak – an A1 graded double-storey building comprising four dwellings.

#### Previous Planning Application/s

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

- Planning Permit for 1169/99 issued on 11/01/2000 for Landscaping and car parking works. Permit complete.

- Planning Permit for 0227/01 issued on 21/05/2001 for Use and Development of the existing church meeting rooms as an early learning centre (kindergarten). Permit current.
- Planning Permit for 0306/07 issued on 17/07/2017 for Fence on a site within a Heritage Overlay. Permit complete.
- Planning Permit for 0408/13 issued on 18/02/2014 for Demolition of a building in a heritage overlay and the subsequent development and use of the land for a retirement village (as defined by the Retirement Village Act 1986) and parish facilities (associated with the adjoining St Peter's Church) within a heritage overlay and special building overlay, and the creation and alteration of access from a Road Zone Category 1. Permit current.
- Planning Permit for 0287/17 issued on 31/07/2017 for Buildings and works to the existing St Peter's Church building in a Heritage Overlay. The permit is complete.
- Planning Permit for 0574/18 issued on 21/09/2018 for Partial demolition and construction of buildings and works to the existing St Peter's Church building in a Heritage Overlay and General Residential Zone. The permit is complete.

### The Title

The site is described on Certificate of Title Volume 03001 Folio 027 / Lot 33 on Plan of Subdivision 004189 and no covenants affect the land. There is a 1.75 metre wide drainage and overland floodway easement running along the rear half of the eastern side boundary. The proposed works do not take place within this easement.

### Planning Controls

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

#### *Zone*

Clause 32.08 – General Residential Zone – Schedule 1

Pursuant to Clause 32.08-14 Sign requirements are at Clause 52.05. This zone is in Category 3.

#### *Overlay*

Clause 43.01 – Heritage Overlay – Schedule 143

Pursuant to Clause 43.01-1 a permit is required to construct a building or construct or carry out works, including a sign.

#### *Particular Provisions*

Clause 52.05 – Signs

Pursuant to Clause the signage definitions at Clause 73.02 of the Stonnington Planning Scheme, the proposed signage arrangement meets the following definitions:

Internally illuminated sign: A sign illuminated by internal lighting or which contains lights or illuminated tubes arranged as an advertisement.

Electronic sign: A sign that can be updated electronically. It includes screens broadcasting still or moving images.

The LED screens meet the Electronic sign definition above, whilst the remaining components of the signs meet the Internally illuminated sign definition.

Pursuant to Clause 52.05-2 a permit is required to construct or put up for display a sign in Section 2. This does not apply to a sign specified in Clause 52.05-10. All the conditions opposite the sign must be met. If the conditions are not met, the sign is prohibited.

Section 2 of Category 3 – High Amenity Areas – specifies that the display area of electronic signage must not exceed 3 square metres. Given the total area of the electronic signage component is proposed to be 1.65 square metres, a planning permit is required. A planning permit is also required for the internally illuminated signage component. None of the signage elements are prohibited under the Zone.

### Relevant Planning Policies

Clause 22.03 – Advertising Policy

Clause 22.04 – Heritage Policy

### 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 front of the site. The public notification of the application has been completed satisfactorily.

The site is located in North Ward and objections from 10 different properties have been received. The objections can be summarised as follows:

- The signage poses traffic safety concerns, obstructing vision, particularly when entering / exiting the Benson.
- The signage is not in keeping with the heritage values or architecture of the church.
- The signage is unattractive / inappropriate for the General Residential Zone.
- The signage detracts from the ambience and appearance of the adjacent Benson.

A Consultative Meeting was held on 10 August 2021. The meeting was attended by Councillors Koce and Griffin, representatives of the applicant, objectors and two Council planning officers. The meeting did not result in any changes to the plans.

### Referrals

#### *Heritage*

The electronic display component of the signs is within the parameters set out in Council's heritage policy. Given the relative size of the church building and the large degree of separation between the signs and church building, the signs are considered appropriate. They will not obstruct views to the church nor have an adverse impact on the streetscape or broader heritage precinct.

#### *Department of Transport*

The Department of Transport has no objection to the application, subject to 10 conditions to be placed on the permit. These conditions relate to issues such as how long an advertisement is displayed, how quickly the display transitions, the luminance change, displays containing elements that could be mistaken as traffic signals, splitting of screens, the use of sound and motion, or activation by sound from road users.

### Key Issues and Discussion

#### Heritage

As outlined above, the site is affected by Heritage Overlay 143, which is the Montalto Urban Conservation Area. The statement of significance for this area is as follows:

*Montalto Avenue Urban Conservation Area has significance as a distinctive and unusual late 1920s subdivision form that, combined with a series of architecturally-interesting inter-war houses, successfully creates a singular residential precinct. The overall landscape design, plantings and street detailing are important attributes.*

The Heritage Policy at Clause 22.04-4.12 provides the following recommendations with respect to proposed new signage:

Ensure that signs:

- Are sited in traditional locations on heritage places including fascias and below verandahs.
- Do not obscure any architectural elements or existing signage that contributes to the significance of the heritage place.
- Are small-scale, simple in design and are appropriate to the period and style of the heritage place.
- Are consistent with the design of existing signage for multi-tenancy buildings and heritage precincts.

The application has been assessed against Clause 22.04 and generally complies as follows:

- The signage does not obscure architectural elements that contribute towards the significance of the heritage place.
- The signs are small-scale in relation to the church buildings.
- The signs are simple in design and are appropriate to the period and style of the heritage place.

#### Amenity Impacts

Concerns have been raised from objectors regarding the amenity of the adjacent Benson, particularly in the shared driveway and entry / exit. The proposed signage is relatively small in comparison to the church building, the Benson and the driveways between the sites. It is not considered to have an unreasonable impact on this driveway and access. Concerns have been raised regarding how the signs will affect the ambience of the Benson and will look unattractive to the streetscape in the General Residential Zone. However, it is considered that the signs are subdued in colour and design and are appropriate in the context of the church and in relation to the church building. Given that the site is on a main road in a Road Zone Category 1, the size of the signage is considered appropriate.

It is also noted that the signs have the following setbacks from neighbouring residential buildings:

<b>Sign</b>	<b>Closest Western Setback to Neighbouring Buildings</b>	<b>Closest Eastern Setback to Neighbouring Buildings</b>	<b>Closest Southern Setback to Neighbouring Buildings</b>
Western St Peters Church sign	More than 25m	More than 35m	More than 30m
Eastern St Peters Early Learning Centre sign	More than 35m	More than 21m	More than 30m

These setbacks are sufficient to ensure that the signs will not result in unreasonable amenity impacts to neighbouring properties in terms of light spill.

In terms of hours of illumination, it is considered that a finish time of 12midnight during the summer is excessive in this predominantly broader residential context. A condition will be included to provide for a 10pm finish time, consistent with what is proposed during the winter months. The However the western (St Peters Church) sign will be allowed to be illuminated throughout the night during the Christmas Eve / Christmas Day period given the specific activities of the church during this time.

### Road Safety

The signage is considered appropriate in regard to road safety as the signs will be subdued in colour, the electronic display will not be flashing or animated, the signs are designed for pedestrian viewing only, and will not be mistaken for traffic signals.

The Department of Transport has no objection to the proposal, subject to conditions. Of particular relevance, is a condition requiring no advertisement to be displayed for less than 24 hours. This means that the signs will not have regularly changing messages throughout the day. There are several other conditions that have been included to ensure that the signs will not pose any safety issues.

It is noted that concerns have been raised by the objectors that the signage will obstruct vision to drivers entering and exiting the driveway associated with the Benson to the east. In response, the applicant has advised that they are prepared to relocate the sign 500mm further west. A condition will be included to this effect.

It is considered that subject to conditions, the proposal is acceptable in terms of road safety.

### Advertising Policy

Pursuant to Clause 22.03, signs other than those displaying the name and address of a building and its use, or managing agents are discouraged in residential areas unless the applicant can demonstrate that the sign:

- Is designed to complement the buildings on the site, particularly on land in a Heritage Overlay, such as whether the materials used, the colours and the style matches the building
- Maintains the character of the residential area and the streetscape, fixed to the fence or facade and not freestanding, and not more than 0.1 of a square metre in area if in a residential street or 0.5 of a square metre in area if on land with a frontage to a Road Zone (category 1).

The signs complement the buildings on the site, and the colours and style matches the building, particularly in the use of subdued red colours. The signs are freestanding, positioned behind the front fence, and they exceed 0.5 square metres in area on land with a frontage to a Road Zone Category 1. However, given the context of the church building and the size and appearance of the signage in relation to the building, the signs are considered acceptable under the Advertising Policy. The Department of Transport has conditioned that no advertisement must be displayed for less than 24 hours. This will prevent the sign display from being changed more than once per day.

### 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. 977/20 - 581 Toorak Road, Toorak [8.4.1 - 7 pages]

### Officer Recommendation

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 0977/20 for the land located at 581 Toorak Road, Toorak under the Stonnington Planning Scheme for the construction and display of electronic and internally illuminated signage in a General Residential Zone and a Heritage Overlay subject to the following conditions:***

1. ***Before the commencement of the development, one (1) electronic copy of plans drawn to scale and fully dimensioned must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the advertised plans, Council date stamped 1 December 2020 but modified to show:***
  - a) ***The easternmost sign must be relocated 500mm further west.***
  - b) ***The hours of operation and illumination modified in accordance with Condition 4.***
2. ***The location and details of the signs, including those of the supporting structure, must be in accordance with the endorsed plans, unless otherwise agreed in writing by the Responsible Authority.***
3. ***The signs must be maintained to the satisfaction of the Responsible Authority.***
4. ***The signs hereby permitted must only be illuminated during the following hours:***

***St Peters Church Sign:***

  - ***Winter (March 21 to September 21) 7am to 10pm.***
  - ***Summer (September 22 to March 20 except 24/25 December) 7am to 10pm***
  - ***24/25 December (Christmas Eve/Day) 24 December 7am to 25 December midnight.***

***St Peters Early Learning Centre Sign:***

  - ***Winter (March 21 to September 21) 7am to 10pm.***
  - ***Summer (September 22 to March 20) 7am to 10pm.***

### **Department of Transport Conditions start**

5. ***No advertisement must be displayed for less than 24 hours.***
6. ***The transition from one advertisement to another must be instantaneous.***
7. ***Where the graphical content or colours will change between successive advertising images, the average luminance change between the new image and the previous image must not exceed 30%.***
8. ***The sign must not display content, images or text:***
  - a) ***Giving the illusion of continuous movement.***

- b) **Capable of being mistaken for traffic signals or traffic control devices, including red, amber or green circles, octagons, crosses or triangles.**
  - c) **Capable of being mistaken as an instruction to a road user, including the wording stop, give way, slow down, turn left or turn right.**
  - d) **With a flashing background, flashing text, flashing images, blinking or fading elements that create the illusion of movement.**
  - e) **Contain any animation.**
  - f) **Capable of being interpreted as projections beyond the face of the advertising screen such as through 3D technology.**
  - g) **Consisting of present time or other contemporary update information relating to news, weather or time.**
9. **The advertising area must not be split into two screens with different messages.**
10. **The sign and any displayed advertisement must not include any ancillary extension, embellishment or accessorisation within or outside the permitted advertising area unless the Head, Transport for Victoria has agreed to in writing prior to its installation.**
11. **The use of sound or motion to activate the sign is not permitted.**
12. **The use of sound to interact with road users is not permitted.**
13. **In the event of an attack by a computer hacker or similar resulting in unauthorised display of visual images or any other display malfunction, the electronic sign must shut down and cease any form of visual output until the malfunction is repaired.**
14. **This permit expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed, and the site made good to the satisfaction of the Responsible Authority.**

**End of Department of Transport Conditions**

15. **This permit will expire if the sign is not erected within 2 years of the date of this permit. The Responsible Authority may extend the periods if a request is made in writing before the permit expires or within the timeframe specified in Section 69 of the Planning and Environment Act 1987.**

**Notes:**

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

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

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

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

- D. ***Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.***



## 8.5 Planning Application 0521/21 - 707 Orrong Road, Toorak

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

### Purpose of Report

For Council to consider a planning application for construction of a multi-dwelling development and front fence in a General Residential Zone at 707 Orrong Road, Toorak.

### Abstract

#### Proposal

The proposal seeks to construct a four-storey apartment building containing seven dwellings and basement car park with 14 spaces accessed from the existing, modified crossover.

#### Officer Recommendation Summary

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

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

#### Issues

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

- Neighbourhood character and building scale (refer to Built Form assessment);
- Landscape response (refer to Built Form assessment); and
- Amenity impacts on adjoining properties (refer to Amenity Impacts assessment).

#### Officer's response

The proposal seeks to construct a four-storey apartment building comprising of seven dwellings.

The site is located within an 'incremental change area' on a main road where some increased housing density is anticipated by Local and State 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 physical context and character of the area and is supported by Council's Urban Designer.

The proposed landscaping is commensurate with the scale of the development and compensates for the removal of existing vegetation with suitable setbacks to provide for an increased number of replacement trees.

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:	Tech MC Pty Ltd C/- Urbis Pty Ltd
Ward:	North
Zone:	General Residential Zone
Overlay:	N/A
Neighbourhood Precinct:	Garden River
Date Lodged:	21 June 2021
Statutory Days: (as at Council Meeting date)	91
Trigger for Referral to Council:	Four-storey building
Number of Objections:	1
Consultative Meeting:	No
Officer Recommendation	Notice of Decision to Grant a Permit

### Background

#### The Proposal

The plans that form part of the basis of Council's consideration were prepared by Christopher Doyle Architects and are known as Job No. 18-15, Drawing No's: PD01 to PD31 and MS01, and Council date stamped 21 June 2021.

Key features of the proposal are:

- Construction of a four-storey apartment building comprising seven three-bedroom dwellings.
- Provision of 14 car parking spaces within a basement, in addition to individual resident stores, bin storage room and plant/services.
- Vehicle access is via an existing, yet modified crossover located at the southern end of the Orrong Road frontage.
- Pedestrian access to a communal lobby located centrally along the north side of the building is accessed via a covered entry at the northern end of the frontage. The covered entry will incorporate a visitor bicycle space, intercom, mailboxes and water metres.
- A maximum building height of 12.915 metres (not including lift overrun which represents an additional 0.5 metres).
- A contemporary architectural response incorporating a mansard-style roof form in terracotta tiles and materials including face brickwork, render and porcelain cladding finishes in a muted colour palette.
- Construction of a front fence with an overall height of approximately 1.8 metres incorporating face brickwork plinth, rendered piers and wrought iron infill.

- Removal of all vegetation including two significant trees, with provision of 16 new canopy trees, screening shrubs, lower-level vegetation and planter boxes to upper floor balconies.

### Site and Surrounds

The site is located on the western side of Orrong Road approximately 90 metres north of the intersection with Toorak Road in Toorak. The site has the following significant characteristics:

- The site is regular in shape with a frontage to Orrong Road of 21.34 metres, a depth of 42.67 metres and an overall area of approximately 910 square metres.
- The land has a fall of approximately 2.5 metres from the south-east to north-west corners (front to rear).
- The lot is currently developed with a double storey, painted brick building comprising two dwellings with pitched, tiled roofing. The building is setback approximately 10 metres from the street and is fronted by a 1.7 metres high bluestone fence.
- Vehicle access is provided by a single width crossover located at the southern end of the frontage.
- There is some established vegetation on site, including two trees located toward the south-west corner of the site, which are deemed to be significant under Council's Local Law.

### Previous Planning Application/s

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

- Planning Permit 225/19 for the subject site issued at the direction of VCAT on 4 December 2020 allowing construction of a four storey apartment building and front fence exceeding 1.5 metres in height. Refer to Background section below for further details.
- Planning Permit 569/15 for 14 Lascelles Avenue (south-west abuttal) issued at the direction of VCAT on 28 October 2016 for construction of a four-storey apartment complex. Construction of the development has recently been completed.
- Planning Permit 235/14 for 711 Orrong Road (north abuttal) issued by Council on 16 November 2015 for construction of a four-storey apartment building. Although an extension of time was granted on 28 February 2018, the permit was not acted upon and expired on 16 November 2019.
- Planning Permit 940/12 for 715-719 Orrong Road (north) issued at the direction of VCAT on 31 March 2014 for construction of a four to five-storey apartment building. The development has been constructed.

### The Title

The site is described on Certificate of Title Volume 5821 Folio 191 as Lot 38 on Plan of Subdivision 13390.

A 1.83 metre wide drainage and sewerage easement runs along the rear/western boundary of the site.

A covenant is registered on title and restricts the following:

- Use of the land for trade or business purposes;
- Construction of a building other than one dwelling or one building comprising residential flats and associated outbuildings;
- Construction of a dwelling or residential building with a cost of less than two thousand pounds, excluding outbuildings;

- Construction of a building and outbuilding of materials other than brick, stone or concrete with roofs of tiles, slates or shingles;
- Construction of a building erected in a position other than facing the street frontage; and
- Excavation or opening of any sand pit or quarry, or dig, excavate, take up, carry away or remove any sand, stone, clay, earth or gravel, except for the purpose of constructing a dwelling and/or residential building and outbuildings.

The proposed development will not breach the restrictive covenant.

### Planning Controls

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

#### *Zone*

Clause 32.08 – General Residential Zone, Schedule 11

Pursuant to Clause 32.08-6 a permit is required to construct two or more dwellings on a lot and to construct a front fence exceeding 1.5 metres in height.

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 41.7% in compliance with this mandatory requirement.

Schedule 11 specifies that a building used as a dwelling must not exceed a height of 12 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 13 metres. This site has an allowable height of 13 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 12.915 metres to the roof. The lift overrun projects an additional 0.5 metres above the roof.

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

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

#### *Overlay*

There are no overlays affecting the land.

#### *Particular Provisions*

Clause 52.06 - Car Parking

Pursuant to Clause 52.06-5, two resident car parking spaces are to be provided for each three-bedroom dwelling. Visitor parking is not required as the land is located within the Principle Public Transport Network (PPTN) area.

The development proposes seven three-bedroom dwellings and provides 14 car parking spaces on site, with two allocated to each dwelling. This meets the statutory requirement

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 52.34 – Bicycle Facilities

Pursuant to Clause 52.34-5, the development generates a requirement for two bicycle spaces, with one each allocated to visitors and residents. The visitor requirement has been met with the provision of one wall mounted horizontal rail within the ground level pedestrian entrance to the site. Although a designated resident space has not been proposed, all resident stores within the basement are adequately sized to accommodate a bicycle in addition to other storage capacity. A permit is therefore not required pursuant to this Clause. The design of bicycle spaces outlined at Clause 52.34-6 is applicable to the assessment of the visitor space.

#### Relevant Planning Policies

Clause 11 - Settlement  
Clause 15 - Built Environment and Heritage  
Clause 16 - Housing  
Clause 21.03 - Vision  
Clause 21.05 - Housing  
Clause 21.06 - Built Environment and Heritage  
Clause 22.05 - Environmentally Sustainable Development  
Clause 22.18 - Stormwater Management  
Clause 22.23 - Neighbourhood Character Policy  
Clause 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 site. The public notification of the application has been completed satisfactorily.

The site is located in North Ward and an objection from one property has been received which is summarised as follows:

- Noise impacts from common pedestrian pathway.
- Lack of landscaping to ameliorate visual bulk impacts.
- Impact on neighbouring trees.

#### Referrals

##### *Parks*

- There is no objection to the removal of the significant trees on site due to poor health.
- It is considered the basement construction will not compromise the neighbouring Leyland Cypress tree.
- Suggested tree protection measures are supported.
- The landscape design is acceptable, and the landscape plan is suitable for approval.

##### *Urban Design*

- This is an application for a four-storey apartment building, with seven apartments, located in an area that is transitioning to medium-density developments.
- The proposed building scale, siting, massing and design are acceptable in a streetscape of existing and approved four-storey apartment buildings, of varying architectural styles. While the loss of existing canopy trees is regrettable, the proposed

setbacks and deep soil planting at the front and rear of the site will allow for replacement canopy trees. The proposed external façade and roofing materials are of high quality and will 'age' well.

- Off-site amenity issues have been considered in the design of window locations and integrated screening to restrict overlooking, and the additional overshadowing of adjoining properties falls within ResCode guidelines.
- The apartment layouts are generous, with northern aspect to living areas and allowing for cross-ventilation and will provide a good level of internal amenity. Outdoor living areas (terraces and balconies) are larger than minimum requirements, and well-located.
- The proposal is supported.

#### *Waste Management*

- A comprehensive Waste Management Plan (WMP) accompanied this proposal.
- The WMP should be submitted for approval as a requirement of the planning permit.

Planner Note: It is considered that the feedback provided for the previous application from other internal departments is sufficient to inform the assessment. In line with previous comments received from the Infrastructure unit, recommended conditions of permit are included to address drainage design, stormwater drainage and detention, and to ensure that footpath levels are not altered to facilitate access to the site. The Transport & Parking unit did not have any specific requirements applicable to the amended proposal.

## Key Issues and Discussion

### Background

Planning application 225/19 was refused under delegation in May 2020. The grounds of refusal derived from the development's failure to provide a meaningful landscape response to offset the loss of vegetation (two significant Dutch Elm trees) and mitigate associated visual bulk impacts. Notwithstanding this, Officers were supportive of the apartment typology and four-storey scale of the development (refer to strategic context below).

The decision was subsequently appealed to VCAT and was the subject of a merits hearing in November 2020. VCAT's decision to approve the development was based on amended plans which addressed the refusal grounds. The subject site is affected by a restrictive covenant which, of particular relevance, stipulates specific materials for construction of the roof. A small section of the roof shown on the plans was found to be in breach of the restriction and whilst this was discussed at the hearing and is mentioned in the associated VCAT Order, permit conditions requiring compliance with the covenant were omitted from the Permit. Consequently, the decision has been appealed to the Supreme Court and a hearing date has been set down for March 2022.

To facilitate a more timely outcome, the current planning application seeks permission to construct essentially the same development as that approved by VCAT under Planning Permit 225/19, yet the proposal has been modified to ensure compliance with the restrictive covenant. It also seeks minor modifications to the bin storage area within the basement and minor internal modifications to several apartment layouts. It is noted that the submitted plans accord with the specific changes required by Condition 1 of the Planning Permit granted by VCAT.

The following table provides a comparison of key features of the development previously refused under delegation and the current proposal which is the same as that approved by VCAT:

	Previous application	Proposed development
Garden area	36.4%	41.7%
Site coverage	59% (above ground) 66% (basement)	52.3% (above ground) 60.3% (basement)
Permeability	28.8%	32.3%
Height	12.915m	12.915m
Street setback	7.2m (5.99m to balconies)	8m (7.8 to balconies)
Number of apartments	7 (6 x 3-bed & 1 x 4-bed)	7 (all 3-bed)
Number of parking spaces	17 (surplus of 3)	14
Number of new canopy trees	12	16

### Strategic context

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

The Municipal Strategic Statement (MSS) recognises the need for increased densities across the municipality and identifies locations where specific outcomes are encouraged (Clause 21.03). Council's Local Policy on the location of residential development (Clause 21.05-2) seeks to maintain a clear distinction between the type of development outcomes sought in locations for higher density development and the lower density residential hinterland. The site is located within an Incremental Change Area in which multi-unit development, typically up to three-storeys, is encouraged on lots capable of accommodating increased density.

The site is capable of supporting a form of higher density development given it is within reasonable walking distance (approximately 275 metres) of the Toorak Village, which is classified as a large Neighbourhood Activity Centre and incorporates a variety of commercial facilities, community services and employment opportunities. Furthermore, the site is accessible to public transport, including a principal tram route and bus stops along Toorak Road less than 100 metres to the south, and Toorak Railway Station is within 1 kilometre. It is also reasonably well located with respect to a variety of public open spaces and education facilities.

This area contains a diverse and highly varied built form, including several four-storey apartment buildings in close proximity to the site, providing a neighbourhood context which is not sensitive to change. Furthermore, the site is not within a Heritage Overlay area or Neighbourhood Character Overlay area.

The purpose of the General Residential Zone is to implement the Municipal Planning Strategy and the Planning Policy Framework, to encourage development that respects the existing neighbourhood character, and to encourage a diversity of housing types and housing growth, particularly in locations offering good access to services and transport.

Based on the physical context, it is considered the site benefits from a level of strategic support for the modest increase in density in the form proposed, which contributes to the mix

and diversity of housing in the area in line with policy expectations. The key is to manage the level of change to ensure it appropriately integrates into the neighbourhood setting and minimises off-site amenity impacts. An apartment building on this site must appropriately respond to its immediate context, particularly the interfaces with adjoining properties. In this instance, the new proposal demonstrates a considerate response to the layout of adjoining properties and is respectful of the valued landscaped character of the area.

Overall, the proposal is considered to respond adequately to the State and Local planning policy objectives for increased density and infill development, subject to an appropriate design response and a suitable landscape outcome as discussed below.

As noted previously, the current planning application seeks permission to construct essentially the same development as that approved by VCAT under Planning Permit 225/19. Despite the existing approval, a detailed assessment of the proposal has been undertaken against the applicable controls of the Stonnington Planning Scheme.

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

## Built Form

### *Neighbourhood Character*

Standard B1 calls for a design response which is appropriate to the existing and preferred neighbourhood character and the features of the site. The Neighbourhood Character Policy at Clause 22.23 sets out the preferred character and design guidelines for development in different precincts.

*The subject site is located in the Garden River neighbourhood character precinct which is defined as comprising 'buildings that contribute to the Yarra River and its landscaped setting, with innovative architectural styles set among Victorian, Edwardian and Interwar dwellings and well-planted, spacious gardens. New buildings of varying styles and scales are designed to complement and respect the river environs. Consistent front and side setbacks allow for substantial planting that contributes to the tree canopy, and softens the appearance of built form. Where adjoining or visible from the Yarra, buildings address both the street and the River. Low or permeable front fences provide views of building facades and front gardens. Areas within a Residential Growth or Mixed Use Zone or within a substantial change area will accommodate more development with a more compact setting but with space for canopy trees and other vegetation and high quality, responsive design.'*

The proposed development responds positively to the preferred character objectives by way of the following:

- The site is not in close proximity to the Yarra River, therefore the development will not adversely impact on the river environs.
- The development proposes a contemporary architectural style which is considered to be responsive to the prevailing and emerging character of the area. The use of high quality, traditional materials proposed will complement the character of the neighbourhood and the building facade is well articulated to provide visual interest. The overall massing is considered to be respectful of the neighbourhood character as discussed below.
- The height and scale of the building is considered appropriate to the prevailing context. Given the approved four-storey developments on adjacent sites, the proposed



development, which reads predominantly as a three-storey form with a recessed fourth level within a mansard-style roof form, will not represent an excessive built form outcome in this neighbourhood. Essentially, a four-storey building is not out of character and the proposed height is an appropriate response to the scale that characterises the streetscape. The scale is tempered with appropriate boundary setbacks to enable successful integration with the neighbourhood.

- This area displays a landscape character of established gardens, street trees and topography that retains a sense of space around buildings. With the exception of the entry lobby, the proposed development is setback from all boundaries to provide space around the building. The proposed setbacks are considered adequate to allow sufficient space for substantial canopy tree planting to reflect the established garden character, maintain the established pattern of spacing between buildings and soften the visual impact of the built form, as sought by the design guidelines.
- The development seeks to offset the removal of existing vegetation with increased side setbacks toward the rear of the development and provision of 16 new canopy trees, which once established will contribute to and strengthen the valued character of the neighbourhood.
- Parking on site is proposed within a basement with vehicle access provided to the side of the frontage, enabling a large portion of the front setback to be set aside for garden space. A planting strip along the southern edge of the accessway will assist to soften the visual effects of hard paving.
- The proposal seeks to construct a front fence with a maximum height of approximately 1.8 metres. The height is considered to be acceptable in the context of this streetscape in which high fencing predominates. The fence is designed with some visual permeability to allow views through to the front garden.

Essentially, the level of change proposed on this site is considered appropriate due to the surrounding context and provision of a suitable design response which will contribute to and enhance the neighbourhood character, whilst minimising adverse impacts on surrounding residential properties.

#### *Integration with the street*

The communal building entrance is oriented towards Orrong Road with separate, clearly defined pedestrian and vehicular accessways at either end of the frontage. Street facing windows and balconies will provide passive surveillance of the public realm while visually permeable front fencing will enable views through to the development. Standard B5 is considered to be met.

#### *Street Setback*

The adjacent buildings to the north and south have minimum street setbacks of approximately 8 metres and are broadly consistent with other setbacks on the western side of this part of Orrong Road. Taking the average setback of adjacent existing buildings, Standard B6 requires a minimum street setback of 8 metres.

The development generally complies with a minimum street setback of 8 metres, albeit with a minor encroachment to upper-level balconies of 0.2 metres. The setbacks are consistent with the prevailing character of the street ensuring the development will not visually dominate the streetscape. The setbacks enable sufficient space for the planting of canopy trees in front of the building. The minor variation for the balcony encroachment is considered acceptable as the relevant objective is met.

#### *Building Height*

At approximately 12.9 metres, the building height complies with the mandatory height limit of the General Residential Zone, Schedule 11. As previously discussed, the four-storey scale is consistent with nearby buildings in Orrong Road and the mansard roof form of the top floor will provide a suitable relationship with adjacent buildings in the streetscape.

#### *Site Coverage and Permeability*

Schedule 11 to the General Residential Zone varies Standard B8 and stipulates that a basement should not exceed 75% of the site area. The development represents 60.3% site coverage at basement level in compliance with the modified requirement. The standard prescribes a maximum site coverage of 60% above ground, and the development accords with 52.3% proposed.

The development proposes site permeability of 32.3%, exceeding the prescriptive requirement of Standard B9 which seeks a minimum of 20%.

The relatively low site coverage and good permeability allow for the establishment of in-ground planting which will limit visual bulk and assist to reduce the impact of increased stormwater run-off on the drainage system, thus the relevant objectives are considered to be met.

#### *Landscaping*

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

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

The existing site is planted with a modest amount of vegetation which is proposed to be removed. This includes the removal of two mature Dutch Elm trees located in the south-west corner of the site. Council's arborist is supportive of their removal as the trees do not have a long life expectancy due to declining health. However, the proposal compensates with a responsive design which allows for generous opportunities for replacement landscaping throughout the site.

The siting and layout of the proposed development, including the basement footprint and above ground setbacks, will provide space around the perimeter of the site to accommodate 16 canopy trees. These include two fig trees in the rear setback which are expected to achieve a height of 15-20 metres and a width of 10 metres at maturity, two red maple trees in the front setback with a mature height of 11 metres, and four Callery pear trees also with a mature height of 11 metres. In addition, there are a further eight small trees, an assortment of shrubs, lower-level vegetation and balcony planter boxes, all of which contribute to a suitable response to the scale of the development and will assist to soften the visual impact of the building. The proposed landscaping response will respect and enhance the existing landscaped character of the neighbourhood as required by Standard B13. Furthermore, the provision of 13.9% (127sqm) deep soil area complies with Standard B38 which requires a minimum of 5% and one small tree per 30 square metres.

There are no significant trees on adjoining sites which will be adversely impacted by the development. The objector from the adjoining property to the north has raised concerns with

the impact on an existing Leyland cypress pine tree within the neighbouring property. The VCAT Order directing approval of the development under application 225/19 made the following observations with regard to this tree:

15. *The proposals' impact on the tree located on or near the side boundary of the neighbouring property to the north, is a matter to be resolved by the imposition of a permit condition. The tree makes no significant contribution to the character of the neighbourhood and it is not protected by any provisions of the planning scheme. The tree was proposed to be removed as part of the now expired permit for the development on the neighbouring property. Its removal would be acceptable if this occurred. On the basis that the tree is proposed to be retained a permit condition will require a root investigation to be carried out and in the event that changes are required to the basement layout, the extent and nature of those changes will be informed by the results of the root investigation.*

The applicant subsequently engaged the project arborist to conduct a non-destructive root investigation and prepare a tree management plan. The submitted report reveals that no substantial roots were found within the tree protection zone encroachment area and that the roots could be pruned without negatively impacting the long-term health of the tree. The Tree Management Plan (TMP) recommends tree protection measures and construction techniques to limit the development's impact on this tree, as well as several other trees to the north and the existing street trees adjacent to the frontage, and these measures are reflected on the plans. Several permit conditions are included within the recommendation in relation to tree protection and the TMP will be endorsed to form part of the permit, should the development be approved.

#### Amenity Impacts

##### *Side and rear setbacks*

Schedule 11 to the zone varies Standard B17 and seeks side setbacks of 2 metres and 1 metre respectively within 5 metres of the front façade of the building, including at basement level. Correspondingly, Standard B18 is also varied to provide that walls should not be located on side boundaries for a distance of 5 metres from the façade. The development achieves the required side setbacks and the wall proposed on the northern boundary, associated with the main entrance, is well setback approximately 12 metres from the façade and is compliant with the prescribed length and height requirements.

The development is largely compliant with the remaining setback requirements of the standard and generally exceeds the minimum requirements. The exception is the third-floor lift lobby which is setback 4.97 metres from the northern boundary, yet is required to be setback 7.85 metres based on a wall height of 12.76 metres. A variation is considered acceptable as this part of the development is in a location where its visual impact is not significant. The encroaching wall has a relatively small width of approximately 5 metres and the combined setback to the neighbouring dwelling is approximately 6.6 metres, which is sufficient to limit any visual bulk impacts. The lift core is set well back from the street frontage and the non-compliance will have no adverse streetscape impact.

Importantly, the development provides generous setbacks towards the rear of the building adjacent to neighbouring private open space areas, with minimum setbacks of 4.9 metres to the north, 5 metres to the west and 4 metres to the south. Overall, it is considered the proposed setbacks appropriately respond to the layout of adjoining properties to limit amenity impacts.

All proposed setbacks, including the variation noted above, are consistent with the previous development plans approved by VCAT under Planning Permit 225/19.

#### *Overshadowing and Daylight to windows*

The development will cast some shadows over neighbouring secluded private open space and unusable landscaped areas to the south and west. The impact is generally limited to a ground level terrace associated with a two-bedroom apartment adjacent to the southern boundary. The space is partially affected primarily in the morning between 9am and midday. From 10am the area which is unaffected by shadows equates to 25 square metres and this increases throughout the day. It is considered that the impact is acceptably low as a sufficient amount of usable private open space remains unaffected by the development and thus the objective is met. A small amount of secluded private open space located adjacent to the western boundary will be affected by overshadowing at 9am, but there is no impact from 10am onwards in compliance with Standard B21.

There are no north facing windows within 3 metres of the boundary and the development is sufficiently setback on the southern and western sides to allow adequate daylight into the adjacent apartment development. The plans indicate there are two habitable room windows associated with the dwelling to the north, located toward the western end of its southern elevation. The development is sufficiently setback from these windows to maintain adequate daylight into the associated rooms in compliance with Standard B19.

#### *Overlooking*

Due to the substantial setbacks of the neighbouring development to the west from the common boundary, there will be no overlooking from windows or balconies within 9 metres to the rear of the proposed building. Furthermore, the secluded private open space to the north-west associated with the dwelling at 18 Lascelles Avenue is sited more than 9 metres away.

The development proposes external screening to first and second floor habitable room windows and balconies facing north and south to a height of 1.7 metres above finished floor level with maximum 25 per cent transparency, to limit overlooking of adjacent properties in accordance with Standard B22. The third-floor dormer windows are at a sufficient height and angle such that screening is not required. All proposed screening measures accord with the previous development approved by VCAT.

#### *Noise*

The adjoining neighbour to the north has raised concerns with potential noise impacts from the common pedestrian pathway located adjacent to the boundary. In deciding to approve this development under the previous application, VCAT stated the following:

- 13 *I am also satisfied that the proposal does not contribute to unacceptable amenity impacts.*
- 14 *...The noise impacts of a pedestrian path located along the northern side of the review site will generate no noise impacts other than those normally associated with a residential use in a residential area.*

Planning officers concur with this view. The limited number of apartments proposed combined with the expectation that many residents will enter and exit the building from within the basement ensure that any noise impacts are minimal. Furthermore, the pathway is not located adjacent to an interface which would be particularly sensitive to increased noise.

#### *Internal Amenity*

The proposal seeks to provide seven family-sized apartments ranging in area from 139 to 215 square metres. It is considered that the proposal generally provides all the necessary components for comfortable living within each dwelling, including the provision of external windows to all habitable rooms, in compliance with Standard B27. Functional private open space areas accessible from the living area with good solar access are provided in accordance with Standards B28 and B43 as applicable.

The proposal provides areas for the necessary site services. Each dwelling is provided with sufficient internal storage facilities in addition to external storage within the basement which exceeds the requirements of Standard B44, and mailboxes and other site service facilities are conveniently located and integrated into front fencing where appropriate. The communal corridors are provided with access to daylight and ventilation and apartment entries are clearly visible and functional. Dedicated waste and recycling facilities are located within the basement with convenient access for residents.

In terms of accessibility, all seven of the apartments are capable of meeting the needs of people with limited mobility. Bedrooms and living room dimensions are generous and exceed the minimum requirements of Standard B46, although single aspect room depths are not excessive to ensure they will receive adequate daylight in accordance with Standard B47. It is noted that all open plan living areas and bedrooms meet Council's best practice requirements for daylight access. Finally, all dwellings have dual aspect windows to allow for effective natural cross ventilation as required by Standard B49.

#### Car Parking and Traffic

The provision of 14 car parking spaces on site meets the statutory requirements, being two for each dwelling. The proposed layout of access and parking satisfies the relevant design standards of Clause 52.06-9. The modified crossover will not impact any trees on the nature strip.

One visitor bicycle space is provided at ground level adjacent to the frontage. Resident stores within the basement are of sufficient size to accommodate a bicycle for each dwelling. The provision of bicycle parking is considered to meet the relevant requirements.

Given the location of the site and the modest increase in dwellings proposed, it is estimated that the impact to traffic would be low and not significant in the context of the area.

#### Sustainable Design Assessment

A Sustainable Design Assessment (SDA) was submitted with the application. The proposed development seeks to incorporate several ESD initiatives and achieves a BESS score of 56% with a pass in all mandatory categories, in compliance with the minimum 50% required to achieve best practice. The key commitments include double glazed windows, energy efficient heating, cooling and appliances, the use of environmentally friendly materials and finishes, and carbon monoxide sensors in the basement. The objectives of the local ESD policy at Clause 22.05 are considered to be satisfied. However, the key ESD initiatives are not all detailed on the plans, nor is the SDA referenced. A permit condition is recommended to address this issue.

A Water Sensitive Urban Design assessment was also submitted with the application. The report indicates the development achieves a STORM rating of 115% which is achieved by the provision of a 10,000 litre rainwater tank to collect stormwater from all roofed areas. The tank will be located beneath the basement and will be connected to all toilets within the development. The response meets the requirements of Clause 22.18.

#### 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. 521/21 - 707 Orrong Road, Toorak [8.5.1 - 14 pages]

### Officer Recommendation

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 521/21 for the land located at 707 Orrong Road, Toorak under the Stonnington Planning Scheme for construction of a multi-dwelling development and front fence in a General Residential Zone subject to the following conditions:***

1. ***Before the commencement of the development, 1 copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans submitted with the application (identified as Job No. 18-15, Drawing No's: PD04 to PD09, PD11 to PD18, PD28, PD29 and MS01, Council date stamped 21 June 2021) but modified to show***
  - a) ***The key ESD commitments reflected on the plans and/or annotations to confirm the development will incorporate all specifications detailed in the ESD report prepared by LID Consulting dated 31 May 2021.***

***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. ***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.***
4. ***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.***
5. ***The existing footpath levels must not be lowered or altered in any way at the property line.***
6. ***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.***
7. ***Prior to the commencement of any works over any easement, the permit holder must obtain approval from the relevant authorities to remove and/or build over***

- the easements pertaining to the site to the satisfaction of the Responsible Authority.*
8. *The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.*
  9. *Concurrent with the endorsement of plans, a landscape plan must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions and be generally in accordance with the landscape plan prepared by John Patrick Landscape Architects dated April 2021.*
  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. *Concurrent with the endorsement of plans, a Tree Management Plan (TMP) generally in accordance with the TMP prepared by John Patrick Landscape Architects dated May 2021 must be submitted to and approved by the Responsible Authority. When approved, the Tree Management Plan will form part of this permit and all works must be done in accordance with the tree management plan (AS 4970).*
  12. *Pre-construction works and any root cutting must be inspected and approved by the Responsible Authority's Parks Unit. Removal of protection works and cessation of the Tree Management Plan must be authorised by the Responsible Authority's Parks Unit.*
  13. *Prior to the commencement of any works on the land, each Tree Protection Zone nominated within the Tree Management Plane Plan must:*
    - a) *Be fenced with temporary fencing in accordance with the attached specifications annotated in this permit to the satisfaction of the Responsible Authority.*
    - b) *Include a notice on the fence to the satisfaction of the Responsible Authority advising on the purpose of the Tree Protection Zone, the need to retain and maintain the temporary fencing and that fines will be imposed for removal or damage of the fencing and trees.*
    - c) *No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone without the prior written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.*
  14. *Concurrent with the endorsement of plans or prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), whichever occurs sooner, a letter of engagement must be provided to the Responsible Authority from the project arborist selected to oversee all relevant tree protection works. The project arborist must be an appropriately experienced and qualified professional (minimum Cert IV or equivalent in experience).*

15. ***The project arborist must maintain a log book detailing all site visits. The log book must be made available to the Responsible Authority within 24 hours of any request.***
16. ***Prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), the project arborist must advise the Responsible Authority in writing that the Tree Protection Fences have been installed to their satisfaction.***
17. ***The permit holder / developer must advise Council in writing that a Certificate of Occupancy has been issued in respect to the development and that the 12 month establishment period has commenced.***
18. ***Concurrent with the endorsement of plans, a Waste Management Plan generally in accordance with the Waste Management Plan prepared by Low Impact Development Consulting dated 31/05/2021 must be submitted to and approved by the Responsible Authority. The Waste Management Plan must include:***
  - a) ***Dimensions of waste areas;***
  - b) ***The number of bins to be provided;***
  - c) ***Method of waste and recyclables collection;***
  - d) ***Hours of waste and recyclables collection;***
  - e) ***Method of presentation of bins for waste collection;***
  - f) ***Strategies for how the generation of waste and recyclables from the development will be minimized;***
  - g) ***Confirmation that residents can opt to utilise Council's green waste collection service.***

***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.***

19. ***Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report. All drainage must be by means of a gravity based system with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.***
20. ***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.***
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 standalone 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.***

- 22. Prior to the occupation of the building, all screening designed to limit overlooking must be installed in accordance with the endorsed plans to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.***
- 23. 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.***
- 24. 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.***
- 25. This permit will expire if one of the following circumstances applies:***
  - a) The development is not started within three years of the date of this permit.***
  - b) The development is not completed within five 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.***

## 8.6 Bangs Street Housing Estate

**Manager City Strategy & Performance: Mathew Burke**  
**Director Planning & Place: Annaliese Battista**

### Linkage to Council Plan

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

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

### Purpose of Report

To update Council on the redevelopment of the Bangs Street Housing Estate and endorse feedback to the Department of Environment, Land, Water and Planning (DELWP), including key advocacy positions.

### Officer Recommendation

**That Council:**

- 1. NOTE the proposed design of the redevelopment of the Bangs Street Housing Estate;**
- 2. ENDORSE Council's advocacy positions on rate exemptions, retention of street trees on Bangs Street, the impact of reduced car parking provision on local amenity, lack of loading/unloading facilities on site, the functionality and integration of community and commercial facilities, waste management issues, and insufficient evidence to support environmentally sustainable design claims; and**
- 3. ENDORSE technical feedback on the proposed design to the Department of Environment, Land, Water and Planning (DELWP), as shown in Attachment 2.**

### Executive Summary

1. Council has been requested by DELWP to comment on a planning application by Building Communities for the redevelopment of the Bangs Street Estate at 1-21 Bangs Street, Prahran, located within the Prahran Housing Precinct, for which the Minister for Planning is the Responsible Authority.
2. DELWP has requested a response from Council, after which time DELWP intends to progress recommendations to the Minister for Planning to determine the application.

### Background

3. In 2010, the Department of Health and Human Services (DHHS) commenced a master planning process for public housing renewal in Prahran. This process sought to enable the revitalisation of the Prahran Housing Estates, which were to receive Federal Government funding to support their redevelopment.
4. The Prahran Housing Precinct comprises the Horace Petty, Essex, King Street and Bangs Street Estates.

5. On 21 July 2011, the Minister for Planning approved Amendment C160 to the Stonnington Planning Scheme and introduced Schedule 5 to the Development Plan Overlay (DPO5) to facilitate this master planning process. On 28 July 2016, the Prahran Housing Precinct Development Plan (the Development Plan) was approved by the Minister for Planning pursuant to DPO5 to guide the redevelopment of the Prahran housing estates.
6. The Bangs Street Estate comprises the first stage of redevelopment of the Prahran Housing Precinct.
7. Homes Victoria released a draft discussion paper for the 10-year Strategy for Social and Affordable Housing in February 2021. Council feedback indicated overall support for the statewide strategy and highlighted the importance of ongoing engagement with Councils on the development of the Local Government Compact, which will address issues such as rate exemptions and State Government funding, subsidies and grants.
8. Officers have identified a number of concerns, which primarily relate to the retention and protection of all established street trees on Bangs Street, the impact of reduced car parking provision on local amenity, lack of loading/unloading facilities on site, the functionality and integration of community and commercial facilities, waste management issues, and insufficient evidence to support environmentally sustainable design claims.
9. A letter has been drafted to outline Council's feedback on the application, which is provided as **Attachment 2**.

### Key Issues and Discussion

10. The Bangs Street Estate comprises an area of approximately 12,600 square metres bound by Bendigo Street to the east, Bangs Street to the west, Kings Street Estate to the north and commercial properties fronting High Street to the south. The site is located within the Chapel Street Activity Centre and benefits from excellent access to public transport, commercial and community services, employment and educational opportunities.
11. The site previously comprised 120 social housing dwellings within four five-storey buildings (demolished in 2020), 112 car parking spaces at basement level, a playground and a large communal open space area to the north of the site. Vehicle access was from both Bendigo Street and Bangs Street.
12. A large number of mature trees exist on-site and within adjacent nature strips. Some of the on-site trees were removed during the demolition phase.
13. The proposed redevelopment incorporates a total of 445 dwellings (228 social housing and 217 private dwellings) within six buildings, ranging in height from three to 12-storeys.
14. A total of 272 car parking spaces are proposed in a basement accessed solely from Bangs Street. The development incorporates 1,500 square metres of centrally located public open space, in addition to the public open space at the northern end of the estate, as well as pedestrian and cycle links throughout the site.
15. Ancillary uses include a community space, artist studio and commercial spaces (office/retail/café). The proposal has been designed by Jackson Clements Burrows Architects (refer **Attachment 3** for design response plans).
16. The Development Plan provides built form and design parameters to guide the future land use and development of the site, including guidelines for dwelling yield, car parking, open space, connectivity, materials and finishes, landscaping, ESD goals, waste

management and environmental site assessment. Refer to **Attachment 1** for a summary of priorities specific to the Bangs Street Estate and details of how the proposal responds.

17. A permit granted must be generally in accordance with the Development Plan. When considering an application, the Minister for Planning as the responsible authority must consider the views of Council and whether the development achieves the vision for the site.
18. Council Officers have undertaken a review of the proposed design and while it is considered to be broadly consistent with the vision for the site as outlined in the Development Plan (refer **Attachment 2**), there are a number of concerns around the retention and protection of all established street trees on Bangs Street, the impact of reduced car parking provision on local amenity, lack of loading/unloading facilities on site, the functionality and integration of community and commercial facilities, waste management issues, and insufficient evidence to support environmentally sustainable design claims

### Conclusion

19. It is considered appropriate to provide a letter to DELWP which summarises Council's feedback on the planning application to redevelop the Bangs Street Housing Estate and outlines Council's advocacy on issues yet to be addressed through the design.

### Governance Compliance

#### Policy Implications

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

#### Financial and Resource Implications

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

#### Conflicts of Interest Disclosure

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

#### Legal / Risk Implications

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

#### Environmental Implications

24. Some of the key directions of Council's Urban Forest Strategy are to 'Protect and value existing trees' and 'Manage the interface between trees and infrastructure'. Council's feedback on the application to DELWP includes references to the retention and protection of all established street trees on Bangs Street.

#### Community Consultation

25. There was no requirement for community consultation. Homes Victoria undertook a voluntary community consultation process prior to submission of the planning application to DELWP. The department also established a Community Committee comprised of community members and representatives of local organisations to identify local issues and concerns, and to provide feedback on the redevelopment of the site.

#### Human Rights Consideration

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

### Attachments

1. Bangs Street Housing Estate Development Plan Response [**8.6.1** - 4 pages]
2. Bangs Street Housing Estate Feedback to DELWP [**8.6.2** - 11 pages]
3. Bangs Street Housing Estate - Key Design Response Plans [**8.6.3** - 19 pages]

## 8.7 Roadside Dining Fee Waiver

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

### Linkage to Council Plan

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

**EC1** Develop long-term plans to ensure sustainability of Stonnington's activity centres.

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

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

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

### Purpose of Report

To obtain approval from Council to waive the introduction of Roadside Dining fees and absorb the costs for the Summer Dining Program 21/22.

### Officer Recommendation

**That Council:**

- 1. APPROVE the fee waiver and cost absorption of \$488,681 for the Roadside Dining Program for the period 1 November 2021 - 30 April 2022 (or equivalent six-month period, based on State Government restrictions).**
- 2. NOTE ongoing advocacy for additional financial support from the State Government to provide funding assistance to both businesses and Council to facilitate outdoor trading and assist in the recovery effort.**

### Executive Summary

1. In light of the release of the roadmap by the State Government and the emphasis on outdoor trading for the foreseeable future, support for the Stonnington business community is critical.
2. In this context, the delayed introduction of fees and related absorption of costs by Council for the recently endorsed summer dining program is recommended.

### Background

3. The approval of Council's Roadside Dining Program on 20 September 2021 will enable businesses to occupy road space to commence trading when restrictions allow.
4. Up until 30 June 2021, the outdoor dining program has been delivered with the assistance of an initial \$500,000 from the State Government. Through a competitive process, Officers secured a further \$200,000 from the Victorian Government to cover additional costs.

### Key Issues and Discussion

5. It was intended to introduce fees and pass on costs for the Roadside Dining Program in the context of the benefit roadside trading provides, however, given the extended lockdown and ongoing uncertainty, it is not considered an appropriate time to do this.
6. The waiving of fees for the Summer Dining Program and the costs of the related barrier hire installation and maintenance should continue to be absorbed by Council.
7. For the 365 Roadside Program, no fees will be charged for the first six months, however it is intended that pro-rata fees be introduced as of 1 May 2022.
8. Officers will continue to advocate to the State Government to provide funding assistance in this space to both businesses and Council, to facilitate outdoor trading and assist in recovery effort.

### **Governance Compliance**

#### Policy Implications

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

#### Financial and Resource Implications

10. To date, application and permit fees have not been charged for this program, and costs associated with the barrier hire, installation and maintenance have been absorbed by Council.
11. The estimated cost to Council to continue to facilitate the outdoor dining program for a six-month period without initiating the user pays model as intended is \$488,681.
12. It is hoped that some State Government funding will become available to support these economic recovery initiatives.

#### Conflicts of Interest Disclosure

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

#### Legal / Risk Implications

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

#### Environmental Implications

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

#### Community Consultation

16. There was no requirement for community consultation.

#### Human Rights Consideration

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

### **Attachments**

Nil

## 8.8 Proposed Road Discontinuance of Road Adjoining 15-17 Somers Avenue, Malvern

**Manager Asset Management & Planning: Mick Lo Bianco**

**Director Environment & Infrastructure: Rick Kwasek**

### Linkage to Council Plan

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

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

### Purpose of Report

To seek authority to discontinue part of the road adjoining 15-17 Somers Avenue, Malvern, shown as lot 1 on the plan in Attachment 1 (**Road**), in accordance with the provisions of the *Local Government Act 1989* (Vic) (**Act**), and sell the land to the adjoining owner.

### Officer Recommendation

***That Council, having followed the statutory procedures pursuant to sections 207A and 223 of the Local Government Act 1989 ("Act"), and pursuant to its power under clause 3 of Schedule 10 of the Act, and having received no submissions in response to the public notice regarding Council's proposal to discontinue part of the road adjoining 15-17 Somers Avenue, Malvern, which is shown as lot 1 in Attachment 1 to this Report, being part of the land contained in certificate of title volume 5931 folio 127 ("Road"):***

- 1. NOTE that the Road is no longer reasonably required for general public use;***
- 2. RESOLVE to discontinue the Road and sell the land to the adjoining owner of the common property at 15-17 Somers Avenue, Malvern; and***
- 3. DIRECT that a notice pursuant to the provisions of clause 3(a) of Schedule 10 of the Act is to be published in the Victoria Government Gazette***

### Executive Summary

1. Council officers consider it reasonable to discontinue and sell the Road to the adjoining owner, being Owners Corporation 1 on plan of subdivision no. PS739833D, for the reasons set out in this Report and in line with the previous Council report on the 6 May 2019 .

### Background

2. The developer of 15-17 Somers Avenue, Malvern (**Development Site**) construction encroachments on the Road, including landscaping and disability access ramps which were not part of the plans approved under the planning permit. During a meeting with Council officers, the Owners Corporation and the developer, the developer advised that it accepts full responsibility for the error that has occurred with respect to the encroachments constructed on the Road.
3. As the Road adjoins the common property owned by the Owners Corporation, the developer and the Owners Corporation have requested that Council consider



discontinuing the Road and selling the land to the Owners Corporation. The Owners Corporation has agreed to pay Council's costs and disbursements associated with carrying out this proposal.

4. On 6 May 2019, Council resolved to remove the Road from Council's Register of Public Roads and to give public notice of its proposal pursuant to sections 207A and 223 of the Act. Attachment 2 incorporates additional background to this matter including the 6 May 2019 report to Council.

### Key Issues and Discussion

#### ROAD STATUS

5. As the Road is shown as a 'road' on title, Council has the power to consider its discontinuance under the provisions of the Act. If the Road were discontinued, it would vest in Council.
6. It is considered that the Road is no longer required for general public use as the Road:
  - is primarily used by the members of the Owners Corporation and their invitees to access the site; and
  - is constructed as a private disability access ramp and is partially obstructed by fencing, garden bed and services, and therefore does not form part of the constructed road known as Somers Avenue, Malvern.

#### ADJOINING OWNER

7. The adjoining owner to the north of the Road has not made a submission in response to Council's public notice. The Road is not required to access the adjoining land to the north as it is exclusively used by members of the Owners Corporation and their invitees for access to the Development Site.

#### SITE INSPECTION

8. A site inspection was conducted on 7 October 2020 by Reeds Consulting who prepared the appropriate plans. The site inspection notes that the Road is:
  - open and available for use by the public but is not functioning as a public road;
  - partially obstructed by fencing, vegetation, and services; and
  - exclusively used and maintained for the members of the Owners Corporation and their invitees to access the Development Site.
9. A copy of the site inspection report is attached as Attachment 3.

#### PUBLIC NOTICE

10. Council published a public notice of the proposal in the 'Herald Sun' on 21 December 2020 and no submissions were received by the conclusion of the notice submission period of 18 January 2021. A copy of the public notice is contained in Attachment 4 to this Report.

#### PUBLIC AUTHORITIES

11. The following statutory authorities have been consulted to identify the potential existence of any service authority assets within the Road area:

- Melbourne Water, South East Water and Yarra Valley Water
  - CitiPower
  - Multinet Gas and APA Gas
  - United Energy and AusNet Services
  - Telstra and Optus
12. Yarra Valley Water has sewer assets within the Road and requested an easement to be created in its favour over the Road. Yarra Valley Water has since confirmed that the title plan in Attachment 1, which creates the requisite easement in its favour, was acceptable and subsequently withdrew its objection to the proposal.
13. APA Gas, CitiPower and South East Water advised that the Road does not fall within their jurisdiction.
14. Optus, AusNet Services, Multinet Gas and Melbourne Water have no assets in or above the Road and do not object to the proposed discontinuance and sale. There are no Council assets within the Road area.
15. Telstra advised that while it has assets in the vicinity of the Road it does not object to the proposal provided that the Owners Corporation agrees to bear the cost of any future relocation of Telstra's assets in the future.
16. Similarly, United Energy also advised that it has high and low voltage underground assets in the Road and would require access for maintenance purposes. The easement created in the title plan in Attachment 1 serves to provide maintenance access to United Energy so it withdrew its objection.
17. Copies of the correspondence from Telstra, Yarra Valley Water and United Energy are contained in Attachment 5.
18. Any rights to existing assets which are required by the statutory authorities to be saved under section 207D of the Act, will be saved in any transfer of the Road.

#### **CONDITIONS OF DISCONTINUANCE AND SALE**

19. If the Road is discontinued and sold to the Owners Corporation, the Owners Corporation shall be required to consolidate the title to the Road with its adjoining common property at its own cost within 12 months.

#### **Conclusion**

20. As the Road is no longer reasonably required for general public use, it is reasonable to discontinue the Road and sell the land to the Owners Corporation of 15-17 Somers Avenue in line with the recommendation of the report on 6 May 2019.

#### **Governance Compliance**

##### **Policy Implications**

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

**Financial and Resource Implications**

22. The Owners Corporation of 15-17 Somers Avenue has agreed to pay the current market value (plus GST) for the Road and Council's costs and disbursements associated with this matter, including a cost recovery charge to cover Council Officer time.

23. In accordance with the provisions of the Act, if Council resolves to discontinue the Road, a valuation of the Road shall be required.

### Conflicts of Interest Disclosure

24. 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

25. Maddocks were engaged to prepare and review relevant documentation in relation to this matter.

### Environmental Implications

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

### Stakeholder Consultation

27. Council publicly advertised a notice of the proposed road discontinuance and sale in accordance with the Act and consulted with relevant statutory authorities.

### Human Rights Consideration

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

### Attachments

1. Title Plan of Road [8.8.1 - 1 page]
2. First report to Council [8.8.2 - 12 pages]
3. Reeds Surveyor Report - road adjoining 15-17 Somers Avenue Malvern [8.8.3 - 5 pages]
4. Published public notice [8.8.4 - 1 page]
5. Telstra, YVW and UE response [8.8.5 - 11 pages]

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

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

### Linkage to Council Plan

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

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

### Purpose of Report

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

### Officer Recommendation

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

### Executive Summary

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

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### Background

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

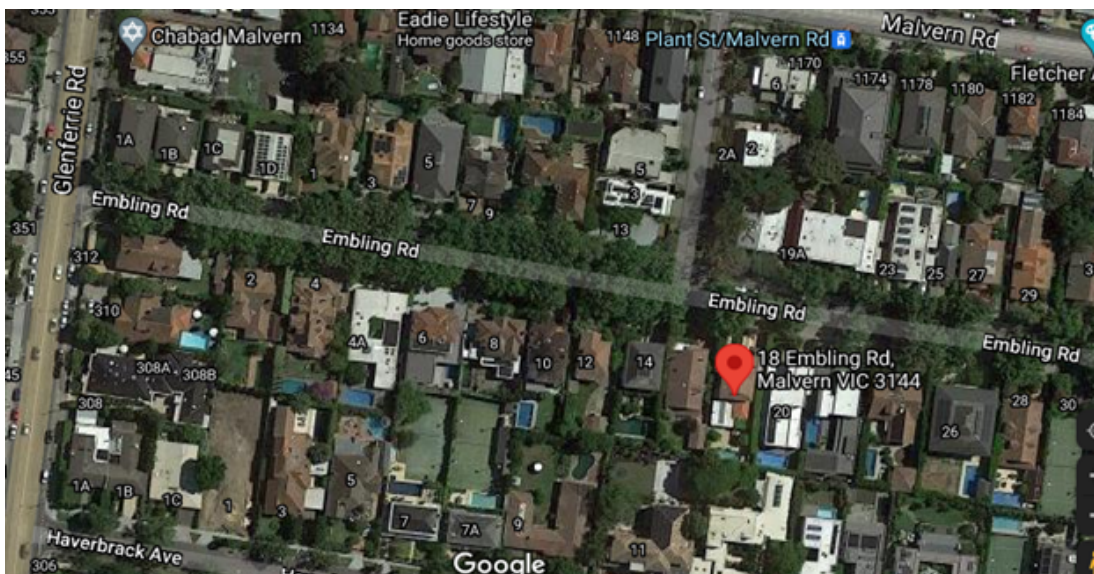


Figure 1: Subject Site (obtained from Google Maps).

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

**Minimum Street Setback pursuant to regulation 74**

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

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

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

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

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

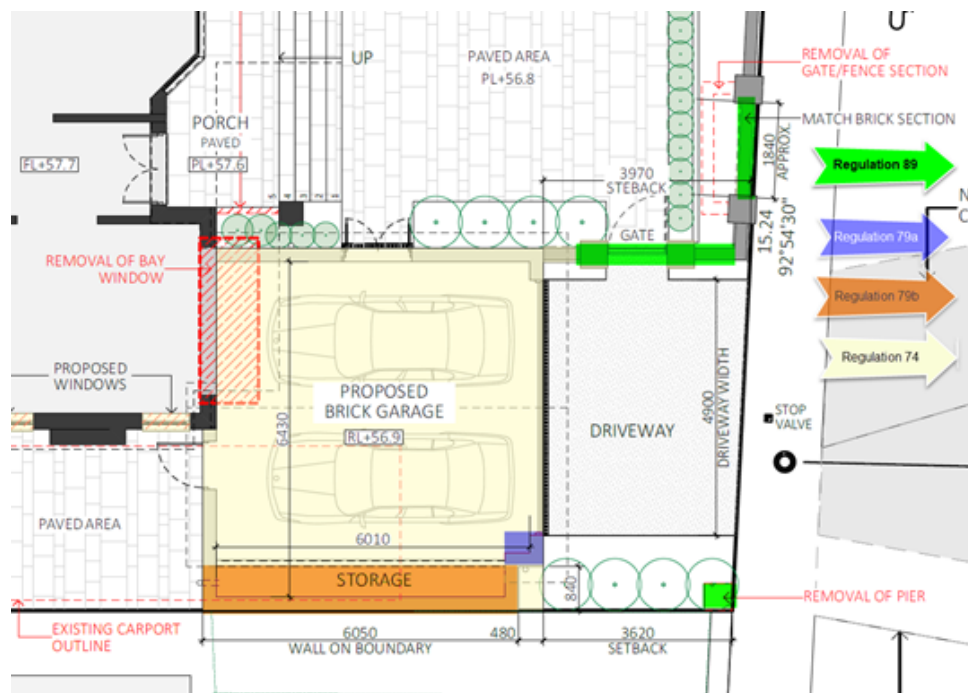


Figure 2: The matters requiring report & consent to the building permit application.

### Key Issues and Discussion

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

### Decision Criteria

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

**Objective**

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

**Decision Guidelines**

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

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

**Statement of preferred neighbourhood character**

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



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

**Design guidelines**

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

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

**Consideration**

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

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

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

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

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

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

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

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

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

### **Governance Compliance**

#### Policy Implications

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

#### Financial and Resource Implications

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

#### Conflicts of Interest Disclosure

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

#### Legal / Risk Implications

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

#### Environmental Implications

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

#### Community Consultation

25. There was no requirement for community consultation.

#### Human Rights Consideration

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

### **Attachments**

1. Architectural Drawings - 18 Embling Street Malvern [8.9.1 - 4 pages]
2. 3D Renderings of Proposed Garage - 18 Embling Street Malvern [8.9.2 - 1 page]
3. Aerial Images from Nearmaps updated [8.9.3 - 1 page]
4. Marked up plan showing regulatory matters requiring Council Consent [8.9.4 - 1 page]

## 8.10 Volunteer Support and Community Engagement

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

### Linkage to Council Plan

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

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

### Purpose of Report

To seek approval to undertake community engagement on localised approaches to support community organisations recruit and retain volunteers.

#### **That Council:**

- 1. APPROVE to undertake community consultation on need and preferences for Volunteering Support, to occur from 11 October until 15 November 2021.**
- 2. NOTE a further report on Volunteering Support will be presented by December 2021.**

### Executive Summary

1. The Community Recovery Committee (CRC) was established in January 2021 as a community led approach to addressing pandemic impacts. The CRC has raised the need for localised support to re-establish volunteering in community organisations.
2. Participants attending a forum facilitated by Volunteering Victoria in June 2021 indicated COVID-19 had impacted volunteer recruitment and retention and expressed a need for Council to support for volunteering.
3. Benchmarking and research have identified three potential approaches, being information on the Council's website; a volunteer management software portal; and establishing a Volunteer Resource Centre.
4. Community consultation, if approved, will confirm if support for volunteering is required; and, if so, a preferred model for the Council's consideration.

### Background

5. The COVID-19 pandemic has significantly impacted community and economic life. To aid recovery efforts and deliver community led, long term, sustainable recovery, the Council established the Community Recovery Committee (CRC) in January 2021.

6. With broad community representation, the CRC is well placed to articulate the impact of the pandemic and what is required to restore the community to an effective level of functioning or better than pre-COVID level.
7. The impact on volunteering and ongoing difficulty of attracting and retaining volunteers has been identified as an area requiring support. CRC members report difficulty returning pre-COVID volunteers; attracting and retaining new volunteers; and low retention through state-wide recruitment platforms leading to significant wasted effort.
8. A survey by [Volunteering Australia](#) (2020) supports this with three quarters (72%) of Victorian respondents reporting that volunteer programs were only partially operational (60%) or not operational (12%). Further, four out of ten (42%) of respondents were not confident their organisation would achieve pre-COVID levels of volunteering activity in the next six months.

### Key Issues and Discussion

9. Volunteering builds self-esteem, wellbeing, social and economic networks. It enables affordable community services, financial viability, and relevance<sup>1</sup>.
10. The CRC has raised a localised approach to volunteer recruitment may yield better outcomes due to community connection to local causes and geographic proximity.
11. Volunteering Victoria ran a Recruitment, Retention and Recognition session for community groups on 29 June 2021, attended by eight community groups. Feedback from this session indicated further support for volunteering would be welcome.
12. Research and benchmarking have been undertaken to gauge approaches in other municipalities (refer **Attachment 1**). Arising from this, there are three models to consider.
  - a. Model One: A static page of information and links to state-wide volunteer portals on the Council's website. This will complement the existing Community Directory where community groups upload information on their activities, including use of volunteers. However, this option is limited and does not connect volunteers or build capacity.
  - b. Model Two: Integrated volunteer software management system linking compatible volunteers and community groups; combined with programming. Like existing state-wide portals, this type of electronic 'notice board' will register organisations and volunteers but at a local level. A resource to oversee connections and facilitate networks and events to build capacity to manage, recruit and retain volunteers enhances the offering.
  - c. Model Three: Establish a Volunteer Resource Centre (VRC) or fund an external provider. VRCs or state-wide agencies in other areas may wish to extend into Stonnington. However, this may result in competing geographic priorities

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<sup>1</sup> Per [Seek Volunteering](#) and [WCSU](#)

replicating existing retention issues in state-wide platforms. Alternatively, the Council could establish a dedicated VRC offering a software management system, physical presence, networking, and capacity building.

13. Each of the models varies in cost from low/no cost to substantial staffing and infrastructure costs. Community engagement to determine the need and support if investment to facilitate volunteering is required and at what level.
14. An engagement plan has been developed in consultation with the Council's Community Engagement team (refer 'Community Consultation' summary below).
15. Outcomes from the community engagement process will be presented to Council with a more detailed proposal for a preferred model.

### Governance Compliance

#### Policy Implications

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

#### Financial and Resource Implications

17. Model One: No additional cost with website maintenance absorbed in current resources.
18. Model Two: Indicative cost estimates include software (\$35,000), employee costs 1FTE (\$110,000) and events/forum costs (\$20,000).
19. Model Three: Costs depend on the precise model however benchmarking with other VRCs indicate a resourcing requirement of 2FTE (\$220,000) with additional costs depending on whether Council establishes or outsources the VRC.

#### Conflicts of Interest Disclosure

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

#### Legal / Risk Implications

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

#### Environmental Implications

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

#### Community Consultation

23. A summary of benchmarking is provided (**Attachment 1**) and proposed consultation is provided below.

<b>Purpose</b>	To understand local needs regarding volunteering (individual and community groups) and the role Council could play to support this.
<b>IAP2 Goal</b>	Involve
<b>Exhibition Period</b>	11 October – 19 November 2021
<b>Method</b>	<ul style="list-style-type: none"><li>• Surveys with community groups / organisations</li></ul>

	<ul style="list-style-type: none"> <li>• Surveys with potential volunteers and volunteers</li> <li>• Focus groups with community groups and organisations who use volunteers</li> <li>• Focus groups with residents who volunteer or would like to volunteer</li> </ul>
<b>Reach</b>	<ul style="list-style-type: none"> <li>• Minimum of 2 focus groups of 11 participants in each</li> <li>• Stonnington Connect Survey (reach of up to 30-80 daily visits)</li> <li>• Promotion on Council's social media channel (10,975 followers)</li> <li>• Promotion through Council databases including: <ul style="list-style-type: none"> <li>• Community Grants Database – 124 organisations and groups based in Stonnington who are either predominantly volunteer based or use volunteers in their activities.</li> <li>• Recreation Database – 50 clubs</li> </ul> </li> </ul>
<b>Summary of feedback</b>	Feedback will be incorporated
<b>Impact</b>	Determining the need and local context for volunteering support and establishing Council's role in addressing this.

#### Human Rights Consideration

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

#### Attachments

1. Benchmarking Summary [8.10.1 - 4 pages]

## 8.11 CEO Employment and Remuneration Policy

Chief People Officer: Jacqui Campbell

### Linkage to Council Plan

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

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

### Purpose of Report

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

### Officer Recommendation

***That the Council APPROVE the Chief Executive Officer Employment and Remuneration Policy (refer Attachment 1).***

### Executive Summary

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

### Background

1. The CEO Employment and Remuneration Policy is a requirement of the Act and outlines the way in which Council will manage the recruitment and appointment of its Chief Executive Officer.
2. The policy also sets out a process and framework for evaluating performance and setting Chief Executive remuneration and includes mandatory contract terms and conditions.
3. The Council is required to establish the policy on or before 31 December 2021.
4. This policy has also been written in accordance with section 21 of the *Victorian*
5. The draft policy was presented to the Audit and Risk Committee in August 2021 for feedback and input. Cr. Hely, Cr. Griffin and Cr. Lew participated in this process.
6. Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019.

### Key Issues and Discussion

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



## **Governance Compliance**

### **Policy Implications**

There are no policy implications associated with this report.

### **Financial and Resource Implications**

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

### **Conflicts of Interest Disclosure**

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

### **Legal / Risk Implications**

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

### **Stakeholder Consultation**

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

### **Human Rights Consideration**

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

## **Attachments**

1. CEO Employment and Remuneration Policy FINAL [CCCJ] [8.11.1 - 5 pages]

## 8.12 Cancel Council Meeting: 1 November 2021

**Chief of Staff: Tracey Limpens**

### Linkage to Council Plan

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

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

### Purpose of Report

To seek approval to cancel the Council Meeting scheduled for 1 November 2021.

### Officer Recommendation

***That Council APPROVE the cancellation of the Ordinary Council Meeting scheduled for Monday 1 November 2021.***

### Background

1. Monday 1 November Council meeting date falls on the day immediately prior to the Melbourne Cup public holiday.
2. In the preceding years (for example 2019 and 2020), the Council meetings were not held on the Monday immediately prior to Melbourne Cup public holiday.
3. The City of Stonnington Governance Rules State *Council May Alter Meeting Dates: Council may change the date, time and place of any Council meeting which has been fixed by it and must provide reasonable notice of the change to the public* (Rule 10).
4. The cancelled meeting date will not impact on the Council's statutory timeframe to lodge its Annual Report. The Minister recently issued an extension of time to 30 November.
5. There is no urgent or imperative Council business that will be impacted.
6. The council's website will be updated to advise of the cancelled meeting.

### Governance Compliance

#### Policy Implications

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

#### Financial and Resource Implications

8. There are no financial and resource implications associated with the report.

#### Conflicts of Interest Disclosure

9. 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

10. There are no legal / risk implications relevant to the report.

#### Environmental Implications

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

#### Community Consultation

12. There was no requirement for community consultation.

#### Human Rights Consideration

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

#### Attachments

Nil

**9 Correspondence**

**10 Tabling of Petitions and Joint Letters**

**11 Notices of Motion**

**12 Reports by Councillors**

**13 Reports by Delegates**

**14 Questions to Council Officers**

**15 Urgent Business**

**16 General Business**

**17 Confidential Business**

**17.1 Services Report**

**Director COVID Response: Cath Harrod**

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