



Council Meeting Agenda

Monday 5 July 2021 at 7 PM

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

Information for the Community

Welcome

Welcome to a City of Stonnington Council meeting.

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

About this meeting

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

Arrangements to ensure meetings are accessible to the public

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

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

Live webcasting

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

Governance Matters

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

Recording of Council Meetings

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

Disclosure of Conflict of Interest

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

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

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

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

Behavior at meetings

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

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

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

Your cooperation would be appreciated.

Mayor, Deputy Mayor and Councillors, Stonnington City Council

Attendees

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

Welcome and Acknowledgement of Country

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

We acknowledge we are meeting on the Traditional Lands of the Bunurong, Boonwurrung and Wurundjeri Woi Wurrung Peoples 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.

Affirmation Statement

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

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1 Reading of the Reconciliation Statement and Affirmation Statement

2 Introductions

3 Apologies

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

4.1 Minutes of the Council Meeting held on 28 June 2021

Officer Recommendation

That the Minutes of the Meeting of the Stonnington City Council held on 28 June 2021 be confirmed as an accurate record of the proceedings.

5 Disclosure by Councillors of conflicts of interest

6 Questions to the Council from Members of the Public

7 Correspondence (only if related to Council business)

8 Questions to Council Officers from Councillors

9 Tabling of Petitions and Joint Letters

10 Notices of Motion

Nil.

11 Reports of Committees - Informal Meetings of Councillors

12 Reports by Delegates

13 Urgent Business

14 Business

14.1 Planning Application 0455/20 - 9 Bruce Street, Toorak

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

Purpose of Report

For Council to consider changing its position at the Victorian Civil and Administrative Tribunal (VCAT) to support Planning Permit Application 455/20 at 9 Bruce Street Toorak, based on VCAT Amended Plans.

Abstract

Proposal

The proposal seeks to construct a single dwelling at 9 Bruce Street, Toorak.

The application previously sought approval for a three-storey dwelling, which was refused by Council Officers under delegation in December 2020. The plans have since been amended at VCAT and now propose a two-storey design with a roof top terrace.

Based on the amended plans, Council Officers support the proposal.

Officer Recommendation Summary

That Council authorise Officers to change their position at VCAT to **support the amended proposal**, subject to the conditions outlined in the Officer Recommendation.

The proposal is supported for the following reasons:

- Officers' previous concerns were largely to do with the third storey being an inappropriate built form outcome for the site. The removal of this level, and the associated reduction of the building to two storeys, has resolved this concern.

Issues

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

- Building height and massing (*refer to Built Form assessment*)

Officer's response

The refusal of the planning permit application was largely due to the excessive scale and mass created by the third level of the proposed building. The third level was seen as an inappropriate built form response within the site's context.

The VCAT amended plans have made changes to the building to delete the top level, so that it is now a two-storey building. This has resolved the concerns of the Planning Officer.

It is noted that Council's Urban Designer is now supportive of the amended design.

Executive Summary

Applicant:	Gaurav Rajadhyax - R Architecture
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Ward:	North
Zone:	General Residential Zone, Schedule 5
Overlays:	Significant Landscape Overlay, Schedule 1 Design and Development Overlay, Schedule 3
Neighbourhood Precinct:	Garden River
Date Lodged:	11 June 2020
VCAT Hearing date	8 and 9 July 2021
Trigger for Referral to Council:	Number of objections
Number of Objections:	25 Properties
VCAT Statements of Grounds	2 (both joint Statements of Grounds with a total of 16 signatories)
Consultative Meeting:	No
Officer Recommendation	Change position to support proposal based on VCAT Amended Plans

Background

The Proposal

The VCAT Amended Plans that form part of the basis of this report and will be considered at the upcoming VCAT Hearing were prepared by R Architecture and are known as Sheets TP03 revision C, TP04 revision F, TP05 revision F, TP06 revision F, TP07.1 revision F, TP07.2 revision F, all dated 24 May 2021.

In summary, the application now proposes a two-storey dwelling on site. Key features of the proposal are:

- A basement level consisting of a gym, swimming pool and storage room.
- A ground floor consisting of an open plan kitchen / living / dining room and one bedroom.
- A second floor consisting of 3 bedrooms.
- A roof top terrace accessed via a pop-up roof hatch.
- The maximum building height is 7.8 metres.
- The dwelling is proposed to be constructed with walls of a white limestone render and elements of timber cladding. A landscaped green roof is proposed surrounding the roof-terrace.

Site and Surrounds

The site is located on the south-western corner of the intersection with Bruce Street and Cloverdale Avenue. The site is an irregular shape with a 22.86 metre frontage to Bruce Street and a 13 metre frontage to Cloverdale Avenue. The site has an overall area of approximately 365 square metres.

The surrounding area to the north of the subject site is characterised by detached and semi-detached single and double storey dwellings of varying architectural styles, with the emergence of some three-storey development. Along the south side of Bruce Street, four-

storey development is emerging in line with the different zone expectations on the southern side of the street.

Allotment sizes in Cloverdale Avenue and the surrounding area are varied and the pattern of front setbacks is mixed. Built form in the surrounding area features a mix of flat and pitched roof forms, with examples of boundary-to-boundary construction.

Surrounding development includes:

North	1A Cloverdale Avenue – A single storey cream coloured rendered dwelling with a pitched tiled roof. The majority of the dwelling is constructed on the southern (common) boundary with the subject site. The predominant area of secluded private open space is located on the northern side of this dwelling. No habitable room windows face the subject site.
South	8 Bruce Street – On the opposite side of Bruce Street is a three-storey building that encompasses eight dwellings over a ground floor garage. 10 Bruce Street – A three-storey exposed brick building with a flat metal roof.
East	11 Bruce Street – On the opposite side of Cloverdale Avenue is a part single and part double storey painted brick dwelling with a pitched tiled roof.
West	5A Bruce Street – Double storey exposed brick dwelling with a pitched tiled roof. The dwelling is setback 1.9 metres from the eastern (common) boundary with the subject site and setback 6.1 metres from Bruce Street. The dwelling does not contain any habitable room windows that face the subject site. A narrow pathway is located along the eastern boundary.

Application Background

The application has the following history:

- The application was submitted to Council in June 2020.
- In September 2020 the application was advertised. Objections from 25 different addresses were received.
- The application was refused under delegation on 16 December 2020. The refusal notice contained 5 refusal grounds that can be summarised as follows:
 - The third-floor results in excessive visual bulk and is inappropriate in the local context.
 - The development does not provide an adequate landscape response.
 - The proposal may result in overlooking of the adjacent property to the north.
- On 16 February 2021, VCAT advised Council that a Section 77 appeal had been lodged against the refusal.
- Two objectors have joined the VCAT proceeding. Both have lodged joint statements of grounds. One represents seven individuals, the other represents a further 9 individuals.
- On 25 May 2021, the applicant formally circulated amended plans. Notice of the amended plans was provided to all original objectors, and to the owners and occupiers of adjoining land. No further parties have joined following the circulation of amended plans.

The Title

The site is identified as Lot 1 on Plan of Subdivision 349847R in Volume 10275 Folio 308. Two Covenants are registered on title.

Covenant 1363550 restricts the following:

- No erection of any church, school, hotel or shop or any building to be used for religious, business, charitable or educational purposes.
- No hoarding for advertising.
- No more than one dwelling house or residential flats.
- All buildings and fences to be constructed of good new materials and no building (including outbuildings) shall have its roof or any of its exterior walls of iron or metal of any description or any material which shall be an imitation or substitute.
- Any dwelling house shall be used for residential purposes.
- Shall not dig, carry away or remove any marble, stone, earth, gravel, clay or sand except for the purposes of laying foundations of any building.

The proposal does not breach the covenant for the following reasons:

- The proposal is for a single dwelling (used for residential purposes).
- No walls or roofs of the dwelling are proposed to be constructed of iron or metal (or a substitute). The first-floor roof will comprise of a green roof with planting and the roof top terrace. Wall materials and finishes consist of a white limestone render and elements of timber cladding.

Covenant PS349847R contains a restriction about where buildings can be located on site. However, the covenant also contains a 'sunset' clause where it states:

This restriction expires two years after the issue of the Certificate of Occupancy for the dwellings shown within the area shown hatched.

An occupancy permit was issued in March 1997. Therefore, the restriction has expired and is no longer relevant.

Neither of the covenants are breached by the proposal

Relevant Planning Policies

Clause 22.03 – Vision

Clause 22.05 – Housing

Clause 22.06 – Built Environment and Heritage

Clause 22.18 – Water Sensitive Urban Design Policy

Clause 22.23 – Neighbourhood Character Policy

Advertising

The application was advertised pursuant to Section 52 of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land and by placing two signs on the site (one on Bruce Street and one on Cloverdale Avenue). The public notification of the application has been completed satisfactorily.

The site is located in the North Ward and objections from 25 different properties were received. The objections can be summarised as follows:

- Neighbourhood character (inappropriate built form/height/setbacks) and overdevelopment of subject site.
- Amenity impacts (overshadowing and overlooking).
- Insufficient landscape response.
- Lack of permeable area/garden area.

- Architectural design/colour is dominant within the streetscape.

These objections were received against the advertised three-storey proposal.

No further objections or Statements of Grounds have been received following the circulation of the VCAT amended plans which reduced the proposal to two-storeys.

However, no objections have been withdrawn following the circulation of amended plans either.

Referrals

Council's Urban Designer was initially critical of the original three-storey proposal. The Urban Designer was concerned that the third level resulted in inappropriate visual bulk on a prominent corner site.

Council's Urban Designer has reviewed the VCAT Amended Plans and is now supportive of the two-storey design.

Key Issues and Discussion

Built Form

The application has been assessed against the provisions of the Zone, Overlays and Clause 54 (ResCode). The key areas for discussion are as follows:

- Building height
- Neighbourhood character
- Landscaping
- Overlooking

Building height

The three-storey proposal refused by Council Officers in December 2020 had a maximum height to the parapet of 9.8 metres.

The amended two-storey proposal now has a maximum height to the parapet of 6.9 metres.

The two-storey proposal is now consistent in terms of height and setbacks with other two-storey dwellings in the vicinity. Given the substantial reduction in building height and mass associated with the deletion of a level, the proposed building is considered to reduce the bulk when viewed from adjoining land and responds appropriately to its context.

Neighbourhood character

A primary concern with the three-storey proposal was that it was inconsistent with the surrounding area and its immediate context. Specifically, the lower two storey scale residential character along Cloverdale Avenue. It is considered that this has now been resolved with the deletion of a level and the amended two storey proposal is now consistent with the prevailing character along Cloverdale Avenue.

Given the eclectic mix of architectural styles within the area, there is no opposition to the building on design grounds.

Landscaping

The Delegate Report documenting the reasons for the refusal outline that the concerns regarding landscaping related to the third storey protruding above any landscaping, rather than the ability of the site to accommodate space for landscaping. Again, this concern has been resolved by the deletion of the uppermost level.

Council's Parks Department have reviewed the proposal and are generally satisfied with the space allocated on site for landscaping and open space. It is recommended that a Landscape Plan is required by permit condition that requires landscaping and planting in all open areas of the site.

The site coverage of the proposal is 51%, which provides adequate opportunities for meaningful landscaping around the building.

Overlooking

There are no habitable room windows to the north or west of the site that could be overlooked by the proposal.

There is a small courtyard in the southwest corner of 1A Cloverdale Avenue that will be overlooked by the first floor north facing windows and roof top terrace of the proposal. However, this space is a secondary courtyard with the primary area of open space for 1A Cloverdale Avenue being located to the north of that dwelling. Given its secondary function, it is not unreasonable to allow the limited overlooking of this space by the proposal.

When the application was refused it was not clear what the function of this space was. Therefore, overlooking of the courtyard was included as a refusal ground. Since then, it has become apparent that the courtyard is more of a service space and not a primary area of open space. For this reason, it is not unreasonable to allow the limited overlooking of this space.

The Significant Landscape Overlay (SLO1) and Design and Development Overlay (DDO3):

The SLO1 and the DDO3 both seek to ensure that new buildings appropriately minimise any visual intrusion on the Yarra River corridor. Buildings should be of varying heights and avoid visual bulk, integrate with the landscape setting and be setback adequately to limit light spill and overshadowing on the river and banks.

Given the now two-storey form of the proposal, and its distance from the Yarra River, the objectives of these two overlays are met. The two-storey form will not rise above the prevailing tree canopy line of the area, and the building footprint is setback sufficiently from Bruce Street and its side and rear boundaries to allow an adequate level of landscaping.

Specifically with regard to the site coverage requirement of the DDO3, while the proposal exceeds the preferred 40% site coverage outlined in the overlay, the proposal is an improvement from the existing conditions and will achieve the intent of the requirement to increase on-site water infiltration.

Variations to Clause 54:

A full assessment against Clause 54 has been carried out. All variations proposed to the Standards are discussed below.

Standard A3 - Street setback:

The setback to Bruce Street is 3 metres. The requirement of the standard is to match the setback at 5A Bruce Street, which is 6.1 metres. However, given the dimensions of the lot, and that the existing dwelling on site is only setback 2.8 metres from Bruce Street, the proposed variation to 3 metres is acceptable.

Standard A10 – side and rear setbacks:

The proposal seeks a variation to this standard on the northern elevation of the building where it abuts the garage of the next door building at 1A Cloverdale Avenue.

This variation is acceptable as it occurs opposite the wall on boundary of the garage to the north and will not unreasonably impact on any private open space or habitable room windows.

The refusal grounds issued against the three-storey proposal raised side boundary setbacks. However, they clearly state that the concern predominately related to the third level. As the top level has now been deleted, this concern has been resolved.

Standard A20 - Front fence height:

The application proposes a solid front fence on Cloverdale Avenue and Bruce Street that (at its highest point) reaches a height of 2.03 metres.

The relevant standard prescribes a maximum fence height of 1.5 metres.

Although a variation to the standard, high and solid fences are common in the area and the proposed fence will not appear out of place. Given they are a characteristic of local neighborhood character, the high fence is supported in this case.

Water Sensitive Urban Design

The proposed stormwater treatment measures achieve a STORM rating of 103% which meets best practice requirements and the objectives of Clause 22.18.

Conclusion

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

Governance Compliance

Conflicts of Interest Disclosure

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

Human Rights Consideration

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

Attachments

1. 0455/20 - 9 Bruce Street, Toorak [14.1.1 - 9 pages]

Officer Recommendation

That the Council AUTHORISE Officers to support the issue of Planning Permit No: 455/20 at VCAT, for the land located at 9 Bruce Street, Toorak under the Stonnington Planning Scheme for the construction of a dwelling 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 VCAT Amended Plans (prepared by R Architecture, sheets TP03 revision C, and TP04, TP05, TP06, TP07.1 and TP07.2, revision F, all dated 24.05.21 "VCAT Submission") to but modified to show:***

- a) ***Any changes in accordance with Condition 3 (Landscape Plan), Condition 5 (TMP) and Condition 8 (WSUD).***

All to the satisfaction of the Responsible Authority.

2. ***The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.***
3. ***Prior to the endorsement of plans, a landscape plan to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must show:***
 - a) ***A survey (including botanical names) of all existing vegetation to be retained and/or removed.***
 - b) ***Buildings and trees (including botanical names) on neighbouring properties within 3 metres of the boundary.***
 - c) ***Details of surface finishes of pathways and driveways.***
 - d) ***A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.***
 - e) ***The planting of two trees within the Bruce Street frontage to the south of the dwelling, and one tree to the north of the dwelling.***
 - f) ***Landscaping and planting within all open areas of the site.***
4. ***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.***
5. ***Prior to the endorsement of development plans a Tree Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the Tree Management Plan will form part of this permit and all works must be done in accordance with the Tree Management Plan (AS 4970).***

The Tree Management Plan must detail measures to protect and ensure the viability of the street trees in front of the site on Bruce Street and Cloverdale Avenue.

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

- a) ***Pre-construction (including demolition) – details to include a tree protection zone, height barrier around the tree protection zone, amount and type of mulch to be placed above the tree protection zone and method of cutting any roots or branches which extend beyond the tree protection zone. A plan must be submitted detailing any tree protection fencing, where the fencing is clearly identified and dimensioned.***

- b) ***During-construction – details to include watering regime during construction and method of protection of exposed roots.***
 - c) ***Post-construction – details to include watering regime and time of final inspection when barrier can be removed and protection works and regime can cease.***
6. ***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.***
 7. ***Before the development (including excavation and demolition) starts, a tree protection fence must be erected around the street trees on Bruce Street and Cloverdale Avenue. Fencing is to be compliant with Section 4 of AS 4970. Signage identifying the need for approval from Council's Parks Unit for any root cutting (prior to it occurring) must also be displayed on the fence.***
 8. ***Prior to the endorsement of plans, the applicant must provide a Water Sensitive Urban Design Response addressing the Application Requirements of the Water Sensitive Urban Design Policy to the satisfaction of the Responsible Authority. All proposed treatments included within the Water Sensitive Urban Design Response must also be indicated on the plans.***
 9. ***The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
 10. ***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.***
 11. ***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.***
 12. ***The level of the footpaths must not be lowered or altered in any way to facilitate access to the site.***
 13. ***This permit will expire if one of the following circumstances applies:***
 - a) ***The development is not started within two years of the date of this permit.***
 - b) ***The development is not completed within four years of the date of this permit.***

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

NOTES:

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

- C. Council has adopted a zero tolerance approach in respect to the failure to implement the vegetation related requirements of Planning Permits and endorsed documentation. Any failure to fully adhere to these requirements will be cause for prosecution. This is the first and only warning which will be issued.**

14.2 Planning Application 1051/19 - 14 Garden Street, South Yarra

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

Purpose of Report

For Council to consider a planning application for use of the land as serviced apartments, construction of a mixed-use development (comprising a food and drink premises and serviced apartments) in an Activity Centre Zone and a reduction in the car parking requirement at 14 Garden Street, South Yarra.

Abstract

Proposal

The proposal seeks to use and develop the land for a nine-storey building, comprising a food and drink premises (café) at ground floor and 34 serviced apartments above. A total of 5 car parking spaces and a multi-purpose loading bay are provided on site, with access from Garden Lane.

Officer Recommendation Summary

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

- The proposed use as Serviced Apartments is considered appropriate in this activity centre context and will contribute to the economic viability of the activity centre in the long term.
- The development is considered to be an appropriate response to the design objectives and built form outcomes of sub precinct JF-3 of the South Yarra Precinct and Schedule 1 to the Activity Centre Zone.
- The development offers an adequate level of internal amenity.
- The proposal will not cause unreasonable off-site amenity impacts.
- The proposal provides adequate on-site car parking provision, loading/unloading and drop off/pick up arrangements. It will not result in unreasonable traffic or parking impacts to the surrounding streets.

Issues

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

- Use (refer to Use assessment).
- Building height and massing (refer to Built Form assessment).
- Amenity impacts on the adjoining properties (refer to Amenity Impacts assessment).
- Internal amenity (refer to Internal Amenity assessment).
- Car parking and traffic impact (refer to Car Parking and Traffic assessment).

Officer's response

The proposal seeks to use and develop the land for a nine-storey building, comprising a food and drink premises (café) at ground floor and 34 serviced apartments above.

The subject site is located within the South Yarra Precinct, sub-precinct JF-3, of the Chapel Street Activity Centre and is well serviced by public transport.

There is strong strategic support to direct high-density development to this precinct taking advantage of the excellent access to public transport and other amenities, services and facilities.

The strategic direction for the site encourages revitalisation of former light industrial areas to provide high-quality mixed-use opportunities and supports the activation of retail and commercial activity in side streets.

‘Serviced apartments’ is not defined in the Stonnington Planning Scheme and is an innominate use. The relevant case law defines that ‘serviced apartments’ provide a form of short term, temporary accommodation for persons away from their normal place of residence. They have their own specific qualities and characteristics, distinguishing them from other conventional, permanent dwellings, residential hotels or motels in many ways.

At present, there are no design requirements or policy guidelines in the Planning Scheme to provide benchmarks for ‘serviced apartments’. However, it has been accepted by the Victorian Civil and Administrative Tribunal (VCAT) that the internal amenity of serviced apartments is lower than that of permanent dwellings. The difference in occupant demands has also led to a different format of building with smaller units, minimal or no secluded open spaces, and less car parking, which are commonly seen.

From a broader strategic perspective, the proposed use of this site for serviced apartments is appropriate and consistent with the relevant planning policies and zoning provisions. The proposed building is purposely designed for serviced apartments as short term, temporary accommodation and provides a good level of amenity for occupants. The proposal provides a right balance of on-site car parking and allows for an efficient use of this narrow and constrained site.

As confirmed by Council’s Transport and Parking Unit, the provision of on-site car parking, loading/unloading and drop off/pick up arrangements are considered acceptable for the proposed use. The proposal will contribute to the local economy and the vibrancy of the wider Chapel Street precinct and promote the Activity Centre as a tourist destination in the long term.

The proposal is considered to appropriately respond to the built form objectives and design and development guidelines of Schedule 1 to the Activity Centre Zone. It strikes an appropriate balance with its built form responding to a number of site constraints and neighbouring sensitive interfaces whilst complementing the diverse built form in this precinct.

Measures, including an Operational Management Plan and a Car Parking Management Plan, will be imposed in any permit issued to protect the surrounding residential amenity and ensure effective and accountable management of the serviced apartments by future operators. A Section 173 agreement (to be registered on title) will be required by way of conditions on any permit issued to ensure the serviced apartments cannot be converted to individual dwellings in the future and that any future owners of the individual apartments are made aware of this through any sale process.

Executive Summary

Applicant:	One Yarra Developments Pty Ltd C/- SJB Planning
Ward:	North
Zone:	Activity Centre Zone, Schedule 1 (ACZ1)

Overlay:	Incorporated Plan Overlay, Schedule 3 Environmental Audit Overlay
Date Lodged:	20 December 2019
S57A Date Lodged:	25 February 2021
Statutory Days: (as at Council Meeting date)	105
Trigger for Referral to Council:	4 storeys or above and 7 or more objections
Number of Objections:	9
Consultative Meeting:	Yes – 5 May 2021
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 Interlandi Mantesso Architects and are known as Drawing No.s: 0.01 – 0.06 (Rev A), 1.01 – 1.04 (Rev A), 1.10 – 1.16 (Rev B), 1.20 – 1.22, 2.01 – 2.04 (Rev B), 2.05 (Rev A), 3.01 (Rev B), 3.02 (Rev A), 3.03 – 3.04 (Rev B), 3.05 (Rev A), 4.01 – 4.04 (Rev A), and 5.01 (Rev A) and Council date stamped 25 February 2021.

Key features of the proposal are:

- Construction of a nine-storey building to be used as serviced apartments.
- The development comprises a food and drink premises (café) at ground floor (known as Level 1 on the plans) and 34 serviced apartments (19 x studio, 9 x 1-bedroom and 6 x 2-bedroom) above.
- At ground level, the building contains a café, the main building entry, and lobby lounge with reception desk facing Garden Street. Bicycle storage facilities with 14 spaces, refuse storage and car parking area are proposed at the rear.
- On Levels 2 to 4, each level contains 6 serviced apartments, ranging between 25 and 50 square metres in area.
- On Levels 5 and 6, each level contains 5 serviced apartments, ranging between 25 and 61 square metres in area.
- Level 7 contains 4 serviced apartments, ranging between 34 and 61 square metres in area.
- Levels 8 and 9 contain two penthouse apartments with an area of 99 square metres.
- Back of house and administrative areas are located within the basement level.
- Five (5) car parking spaces provided in mechanical car stacker and an at-grade multi-purpose loading bay are accessed from Garden Lane. The on-site guest parking will be managed via valet parking arrangement.
- The building will have a maximum height of 28.7 metres (excluding lift overrun and rooftop plant screen).
- A 3-4 storey podium with a street wall height of 11.87-14.34 metres and 11.7 metres presents to Garden Street and Garden Lane respectively. Above the street walls, the building is setback 3 metres to both street frontages. At the uppermost levels (Levels 8 and 9), the tower form is setback 5.5-6 metres from Garden Street and Garden Lane and 2 metres from both side boundaries.

- The building is constructed to both side boundaries up to Level 7. A lightwell is located centrally along both side boundaries and aligned with the existing lightwells of the adjoining developments on either side.
- The building features a mixture of materials including precast concrete panels, in-situ concrete panels, metal sheet cladding 'Corten' or similar, glass curtain wall comprising diamond bronze and blue glass with charcoal frame, clear glass, tinted grey glass, various types of glass balcony balustrades, and perforated metal car stacker sliding doors.

Site and Surrounds

The site is located on the southern side of Garden Street, approximately 37 metres east of Chapel Street, in South Yarra. The site has the following significant characteristics:

- The subject site is rectangular in shape and has an area of 338 square metres. It has dual street frontages of 12.37 metres to Garden Street to the north and Garden Lane to the south and a depth of 27.28 metres.
- The site is currently undeveloped and is used as a car park, with vehicle access from Garden Street and Garden Lane.

The subject site is located within the South Yarra Precinct of the Chapel Street Activity Centre. The area provides good access to services, infrastructure and public transport. The site is easily accessible by tram services on Chapel Street, Toorak Road and Commercial Road; Hawksburn and South Yarra railway stations which are located within walking distance (approximately 500 metres to the east and 650 metres to the northwest respectively); and various bus routes. The surrounding area has undergone substantial change in recent years. It comprises an eclectic mix of land uses and diverse built form, ranging from single and double storey warehouses and commercial buildings to multi-storey residential or office buildings.

The site interfaces with adjoining land as follows:

- The adjoining property to the west at 8 Garden Street is developed with a 11-storey mixed use development with a height of 34 metres. This development was approved under Planning Permit No. 974/13 at the direction of the Victorian Civil and Administrative Tribunal (VCAT). It comprises retail tenancies and a fitness centre at ground floor with 91 apartments above. The basement car park is accessed from Garden Lane. The building is built to the common boundary with the subject site. A lightwell is located centrally along the east boundary. There are bedroom windows facing this lightwell.
- To the east at 20 Garden Street is an eight-storey mixed use development, which was approved under Planning Permit No. 633/09. It comprises two office spaces at ground floor with apartments above. Car parking is provided in car stackers, accessed via Garden Lane. The building has an overall height of 26 metres and is built to the common boundary with the subject site. A lightwell is located centrally along the west boundary. There are bedroom windows and courtyards facing this lightwell.
- To the north on the opposite side of Garden Street is the Jam Factory shopping complex. Planning Permit No. 1027/17 was granted on 23 May 2018 allowing a complete redevelopment of the Jam Factory site for a collection of buildings comprising offices, food and drink premises, restaurants, cinema, shops and basement car parking.
- Directly across Garden Lane to the south is 5-7 Wilson Street and 11-13 Wilson Street. Number 5-7 Wilson Street is occupied by an eight-storey mixed-use development comprising a food and drink premises at ground floor and apartments above.

Number 11-13 Wilson Street has recently redeveloped with a nine-storey commercial building (retail and office) with a maximum building height of 36.17 metres. This development was approved under Planning Permit No. 1054/18 by Council on 27 May 2019.

Previous Planning Application/s

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

- Planning Permit No. 925/13 was issued on 21 July 2014 for '*display of internally illuminated directional signs to a car park in a Commercial 1 Zone and Design and Development Overlay*'.

The Title

The site is described on Certificate of Title Volume 10515 Folio 612 / Lot 1 on Title Plan 762601H.

No covenants or easements affect the land.

Planning Controls

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

Zone

Clause 37.08 – Activity Centre Zone, Schedule 1

Pursuant to Clause 37.08-2 and Schedule 1, a permit is not required to use the land for food and drink premises. However, a permit is required to use the land for serviced apartments.

'Serviced apartments' is not defined in the Stonnington Planning Scheme and is an innominate use. The definition of 'serviced apartments' will be further explained in the Assessment section below.

Pursuant to Clause 37.08-5, a permit is required to construct a building or construct or carry out works unless the schedule to this zone specifies otherwise.

Pursuant to Clause 37.08-6, a permit may be granted to construct a building or construct or carry out works which is not in accordance with any design and development requirement in the schedule to this zone unless the schedule to this zone specifies otherwise.

Schedule 1

The subject site is located within the sub-precinct JF-3 of the South Yarra Precinct, and is designated as a Side Street Use in Schedule 1 to the ACZ. The Schedule identifies the following preferred built form guidelines applicable to development on the subject site:

- Preferred maximum building height of 27 metres (8-storeys).
- Preferred maximum street wall height to Garden Street and Garden Lane of 12 metres with a 3 metre setback above the street wall up to 21 metres and a 6 metre setback above 21 metres (Type 2 Interface).

Overlay

Clause 43.03 – Incorporated Plan Overlay, Schedule 3

The application does not propose a liquor licence or a tavern. This Overlay therefore is irrelevant to this application.

Clause 45.03 – Environmental Audit Overlay

Pursuant to Clause 45.03-1, before a sensitive use (residential use, childcare centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:

- *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
- *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*

Particular Provisions

Clause 52.06 – Car Parking

There is no defined car parking rate for ‘serviced apartments’ at Clause 52.06-5. Therefore, car parking must be provided to the satisfaction of the Responsible Authority.

Pursuant to Clause 52.06-5, the use of food and drink premises requires 3.5 spaces to each 100 square metres of leasable floor area within the Principal Public Transport Network (PPTN) area. This generates a car parking requirement of 5 spaces.

The development proposes five (5) car parking spaces in mechanical car stacker and an at-grade multi-purpose loading bay. Two (2) spaces are to be allocated for staff parking and three (3) spaces for guest parking. Pursuant to Clause 52.06-3, a permit is required to reduce the car parking requirement for the food and drink premises.

Clause 52.34 – Bicycle Facilities

Pursuant to Clause 52.34-1, a new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

There is no specific rate of bicycle parking required for ‘serviced apartments’ in Clause 52.34.

The development proposes 14 bicycle spaces.

Relevant Planning Policies

Clause 11.03-1R – Activity Centres – Metropolitan Melbourne

Clause 15 – Built Environment and Heritage

Clause 17 – Economic Development

Clause 18 – Transport

Clause 19 – Infrastructure

Clause 21.03 – Vision

Clause 21.04 – Economic Development

Clause 21.06 – Built Environment and Heritage

Clause 21.08 – Infrastructure

Clause 22.05 – Environmentally Sustainable Development Policy

Clause 22.18 – Water Sensitive Urban Design Policy

Clause 53.18 – Stormwater Management in Urban Management

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 two (2) signs on the site. The public notification of the application has been completed satisfactorily.

The site is located in the North Ward and objections from nine (9) different properties have been received. The objections are summarised as follows:

- Overdevelopment.
- Excessive height and should be reduced by four-storeys.
- Inadequate setbacks to neighbouring properties.
- Loss of natural light.
- The western lightwell does not align with 8 Garden Street.
- Overlooking and loss of privacy.
- Potential noise due to serviced apartment use and balconies.
- Inadequate car parking provision on site and increasing pressure of parking in the area.
- Unreasonable additional traffic congestion.
- Potential stormwater overflow to neighbouring balconies.
- Safety, vibration, dust, and noise impact during construction.
- Impact on rental income.

On 25 February 2021, the applicant submitted an amended proposal in an effort of addressing Officers' concerns and the objections. The key changes shown on the amended plans include, but are not limited to, the following:

- Modifications to the western lightwell.
- Revised lobby lounge and café area at ground floor.
- Modifications to internal floor layout.
- Provision of fixed planter boxes to various balconies.
- Modifications to the services arrangement along Garden Street frontage.
- Revised bicycle parking arrangement.
- Modifications to parking arrangement along the Garden Lane frontage.
- Reduction in the number of car parking spaces from eight (8) to five (5).
- Inclusion of a multi-purpose loading bay.
- Reduction in height of roof parapet and plant screening.

The amended application was re-advertised and two (2) objections were received. It is noted that the objections are a further objection from the previous objectors. The additional grounds raised in the objections are summarised as follows:

- Balconies on Garden Lane are more imposing than 20 Garden Street.
- No construction should be allowed until cladding issue of the neighbouring property is solved.

A Consultative Meeting was held on 5 May 2021. The meeting was attended by Councillors Hely, Griffin and Koce, representatives of the applicant, objectors and a Council planning officer. The meeting did not result in any changes to the plans. However, a revised daylight modelling analysis has been submitted in an effort of addressing the concerns expressed by Council officers.

Referrals

Urban Designer

- The location and the site suit the proposed use for serviced apartments.
- Overall, this is a well-conceived design for this infill site on Garden Street. Whilst not strictly complying with the full range of ACZ1 provisions, the proposed use and the

design resolution is supported as an appropriate response to this important and somewhat constrained site.

City Strategy (based on original application plans)

- The development in its current form is generally supported, subject to consideration for the relocation and presentation of the service boxes at ground level, so that they are better concealed from view.

Planner response: The revised plans show that the service cupboards have been reconfigured to minimise the dominance of the street frontage. The gas meter cupboard has been repositioned to the northwest corner of the site and concealed by a wing wall. Glass door is proposed to the fire booster cupboard to better integrate in the design of the building.

ESD Officer

- Due to the nature of the development for serviced apartments, the lower level of daylight to bedrooms are accepted.
- The remaining outstanding ESD/ WSUD items, including shading devices and additional notations on the plans, can be addressed by way of permit conditions.

Infrastructure

- The levels of the car stacker are such that they offer reasonable protection from high channel flow along Garden Lane.
- No objection to the proposal subject to the recommended permit conditions.

Waste Management

- A comprehensive Waste Management Plan (WMP) accompanied this proposal. This document responded well to the waste management challenges presented in the plans.

Transport and Parking Unit

- The on-site car parking provision and drop off/ pick up arrangement are considered acceptable.
- The anticipated volume of traffic generated by the development is low and would have limited impact to Garden Lane.
- A multi-purpose loading bay is provided, which can accommodate vans and is acceptable.
- The removal of the existing crossover on Garden Street will reinstate 1 on-street parking opportunity, which may be available for valet parking. A multi-purpose loading bay will also be utilised for valet parking which alleviates concerns of guests stopping on Garden Lane. This is considered satisfactory.
- The design of accessway is considered satisfactory.
- A convex mirror is recommended on the western side of the loading bay as the proposed loading bay is directly abutting a wall which obscures visibility.
- The proposed car stacker is considered acceptable in principle. However, details of car stacker are not shown on the amended plans. Remote control access to the car stacker is recommended and should be provided to staff in order to prevent vehicle queuing in the laneway.
- The provision and design of bicycle parking facilities are considered appropriate.
- Council's waste management guidelines indicate that collection directly from the laneway may be appropriate, provided the time taken for transfer is not so high as to obstruct access by other users.

Planner response: The identified design issues are not fatal and can be addressed by way of permit conditions and amended plans.

Key Issues and Discussion

Use

'Serviced apartments' is not defined in the Stonnington Planning Scheme and is an innominate use. The characterisation of the use has been considered at length by VCAT in a number of case law.

In *Tribe v Whitehorse CC* [2014] VCAT 2012, Member Cimino found that 'serviced apartments' is a use in its own right as a form of short term accommodation. It was noted:

15. *'Serviced apartments' typically provide short stay accommodation. The fundamental purpose and nature of the accommodation is not the same as 'dwelling', a form of accommodation that provides a permanent place of residence. That difference has been recognised by the Tribunal and lead to 'serviced apartments' being assessed differently to 'dwellings', particularly having regard to 'internal amenity'. 'Accommodation' is a very broad land use term, and would need to be qualified in some way, such as suggested in one submission to the Tribunal in Surrowee by bracketing 'serviced apartments' to better describe and limit the nature of the permission being granted. The same approach would need to be taken with 'Residential hotel', a land use that clearly contemplates 'accommodation in serviced rooms', but also may include other activities such as sale of liquor, function or conference rooms, entertainment, dancing etc. Again, the definition contemplates a range of activities that are not part of this proposal. The broader definition of 'Residential Building', within which 'Residential Hotel' is nested, raises the same issue.*
16. *Accordingly, I find that 'Serviced Apartments' is a use in its own right, albeit that it has not been defined as a specific land use in the planning scheme for some time. 'Serviced Apartments' have their own specific qualities and characteristics, distinguishing them from other defined land uses. These include the provision of self-contained accommodation, serviced and controlled under central management regime, suitable for travellers or other persons seeking short term stays away from their usual place of residence. The alternative is that this use falls within the broader definition of 'Accommodation'. (underlined my emphasis)*

The above findings were adopted by the Tribunal in a number of VCAT decisions, including *Parc Vue Projects Pty Ltd v Darebin CC* (Corrected) [2017] VCAT 1602, and the latest *Spinosa v Boroondara CC* [2019] VCAT 1838.

Put simply, serviced apartments provide a form of short term, temporary accommodation for persons away from their normal place of residence. They have their own specific qualities and characteristics, distinguishing them from other conventional, permanent dwellings, residential hotels or motels in many ways.

The purpose of the Activity Centre Zone, amongst other things, is to encourage a mixture of uses and the intensive development of the activity centre as a focus for business, shopping, working, housing, leisure, transport and community facilities, and to support sustainable urban outcomes that maximise the use of infrastructure and public transport. More specifically, the objectives of Schedule 1 to the Activity Centre Zone seek to:

- *Provide a premier shopping, business, civic, cultural and entertainment destination in a local, metropolitan and national context.*
- *Provide a range of uses that are accessible to all and complement the role of the Activity Centre.*

- *Revitalise former light industrial areas behind Chapel Street to provide high quality mixed use development opportunities.*

The site is located in the South Yarra Precinct (sub-precinct JF-3) of the Chapel Street Activity Centre, an area highlighted at both State and Local policy level as a premier retail and tourism destination and a place to concentrate retail, office-based employment, community facilities and services in central locations as well as to encourage uses associated with tourism.

Strategies call for commercial facilities to be aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure. Specific precinct objectives seek to support the activation of retail and commercial activity in side streets.

The proposal seeks to use and develop an under-utilised and fairly constrained site for short term, temporary accommodation in the form of 34 serviced apartments. The proposed use meets the objectives of the Activity Centre Zone and its Schedule 1 as outlined above. It is deemed to be compatible with the eclectic mix of land uses in this precinct and is ideally located in the tourism destination with convenient access to ample services and amenities, including excellent access to public transport.

The proposal is also consistent with the broad intent of providing tourism facilities to further strengthen the role of the Activity Centre and create employment opportunities. It will contribute to the local economy and the vibrancy of the wider Chapel Street precinct and promote the Activity Centre as a tourist destination in the long term.

The building is purposely designed and engineered to be used for serviced apartments as short term, temporary accommodation. A fit-for-purpose building provides a better solution and planning outcome compared to ad-hoc conversion of typical apartments into short stay accommodation, as the latter generally creates conflicts and amenity impacts between short stay guests and permanent residents within the building.

Conditions of the permit will further require an Operational Management Plan to ensure that the use of the land does not adversely impact on the surrounding residential properties. The operational management plan will be required to address such things as; management of the serviced apartments, display of contact details at the site's frontage to enable a prompt response to any operational complaints, rules around guest occupancy and behaviour of guests and visitors, and security measures as to how the building will be secured for guests and their visitors only.

A Car Parking Management Plan will also be required to detail how the car parking spaces will be managed and allocated (booked) to guests and how loading will be managed to the satisfaction of the Responsible Authority. These measures are considered to be appropriate in seeking to protect the surrounding residential amenity and will ensure effective and accountable management of the serviced apartments by future operators.

In order to effectively enforce the use of the land as serviced apartments, a Section 173 agreement (to be registered on title) will be required by way of conditions on any permit issued. This has been found by the Tribunal as an appropriate method for enforcing the use and ensuring that the serviced apartments cannot be converted to individual dwellings in the future.

The subject site has strong strategic support for higher density development. Recent planning approvals in the area south of the Jam Factory further demonstrate the areas preferred position for higher density development and the evolving character to a high density, mixed use precinct. The scale and height of the development is considered to be appropriate in this site and local context, which will be discussed in detail below.

On balance, from a broader strategic perspective, the development of the site for serviced apartments is consistent with the relevant planning policies and zoning provisions.

Built Form

The subject site sits within an area identified as South Yarra precinct, sub-precinct JF-3, of the Chapel Street Activity Centre. The area has significantly evolved in recent years, from a former industrial area to an area with an eclectic mix of land uses and diverse built form.

Whilst a number of single and double storey warehouses and commercial buildings exist in the precinct, there is a strong emerging character of multi-storey commercial buildings and mixed-use developments, generally comprising commercial activity at ground floor with residential apartments or office floor space above.

Schedule 1 to the Activity Centre Zone (ACZ) provides a number of design and development requirements and guidelines which give clear guidance on the preferred development outcomes sought for the site. An assessment of the key relevant requirements is provided below.

Height and Massing

The proposed nine storey building has a maximum height of 28.7 metres to the parapet, with an additional height of 1.6 metres to the top of the lift overrun and rooftop plant screen. Excluding the lift overrun and rooftop plant screen, the proposal marginally exceeds the preferred maximum building height of 27 metres (eight-storeys) specified in the sub-precinct JF-3 by 1.7 metres.

Despite exceeding the (discretionary) preferred maximum height, the proposed height of 28.7 metres appropriately responds and provides a gradual transition to the adjoining developments to the east (eight-storey with a height of 26 metres), west (11-storey with a height of 34 metres) and south (nine-storey with a height of 36.17 metres).

The proposed building with boundary-to-boundary construction is compatible with the form and scale of the two adjacent buildings. The uppermost levels, where additional height proposed, is highly articulated and recessed with setbacks from all boundaries and use of lightweight materials to avoid visual dominance. The proposed building will sit comfortably in this eclectic and evolving streetscape.

The proposed height is compatible with the strategic context of this site, the Jam Factory redevelopment opposite, as well as the broader precinct, within which contains comparable or taller built forms.

As confirmed by Council's Urban Designer, the proposal represents an appropriate design response for a such small, constrained infill site and responds well to its wider context.

The architectural expression and design character of the building is considered appropriate. The minor exceedance of discretionary building height limit can be accommodated in this site context without manifesting as an unacceptable outcome. The proposal will not result in an imposing and unduly dominant built form in the streets.

Interface Setback

The ACZ calls for a preferred maximum street wall height of 12 metres with a 3 metre setback above the street wall up to 21 metres and a 6 metre setback above 21 metres (Type 2 interface) to both Garden Street and Garden Lane.

The proposed development adopts a defined podium and tower form. It exhibits a three to four-storey street wall with 11.87 metres to 14.34 metres in height to Garden Street and a three-storey street wall with 11.7 metres in height to Garden Lane.

Above the street walls, the building is stepped back and setback 3 metres to both street frontages. At the uppermost levels (Levels 8 and 9), the upper levels are setback 5.5 metres to 6 metres from Garden Street and Garden Lane and 2 metres from both side boundaries. The upper-level balconies project within the street setbacks.

Whilst the development does not strictly comply with the prescriptive requirements, overall, it represents a satisfactory built form and design outcome as it generally meets the requirements with only minor variations.

The podium form of a varied three to four-storey street wall to Garden Street achieves assimilated transition between the lower three-storey street wall to the west (20 Garden Street) and the higher four-storey street wall to the east (8 Garden Street) and maintains the streetscape rhythm. The three-storey street wall to Garden Lane complies with the ACZ1 controls and generally aligns with the existing three-storey street wall to the east.

The variation of the upper-level setbacks by 500mm is minor and indiscernible in the context of a tall building. Despite non-compliance with the ACZ1 controls, the proposed upper-level setbacks of 5.5 metres to 6 metres indeed exceeds the existing setbacks of the abutting developments to the east and west and responds well to the immediate and wider context.

The projection of the upper-level balconies within the street setbacks is compatible with the abutting development to the east. Along with the use of varied materials, it provides additional articulation to the building façade when viewed in the street and will not be overly dominant in its context.

The interface setback requirements in the ACZ1 stipulate that new buildings should be setback 4.5 metres from the side boundaries above a three-storey podium up to 27 metres in height, where the setback should then increase to 5.5 metres. This is to be applied to lots that sit adjacent to existing or proposed habitable room windows and balconies. In this case, the building is constructed to both side boundaries up to Level 7, with a central lightwell which reflects and mirrors the existing lightwells of the adjoining developments on either side. A side setback of 2 metres is provided at the uppermost levels (Levels 8 and 9) only.

This is not uncommon in this precinct where tall buildings have been constructed with solid walls on the side boundaries. Given the narrowness of the lot (12.37 metres in width), it is almost impossible to achieve the recommended side setbacks, and indeed would be unreasonable to require full compliance. The design of central lightwells recognises the equitable development opportunities of the site and balances the anticipation of change and amenity impact to the adjoining properties. The side setbacks of the tower form provide appropriate separation between developments and maintain the development pattern and the streetscape rhythm. It will not present unreasonable visual bulk to the neighbouring properties.

Overall, the proposed design provides an acceptable relationship to the existing context and is a suitable response in the policy context of the area. As presented to the streets, the setbacks achieve an adequate separation of the podium and tower form. The materiality, colour and fenestration on the building façades provides additional differentiation and contrast. The minor variation of setbacks therefore is supported.

Public Realm

The proposed building exhibits good quality architecture, with commercial use and lobby lounge with reception desk at the ground floor to activate the street and promote pedestrian interaction towards the street frontage.

The Garden Street interface has been designed with large expanse of clear glazing with building entry, which provides a strong commercial presence and good activation to the public realm in this side street. The service cupboards along the Garden Street frontage have been minimised and integrated into the design of the building.

The ground level frontage incorporates a setback to Garden Street which functions as weather protection. This achieves the precinct objectives, which seek to enhance the street level of the precinct through improved pedestrian connections and streetscape amenity.

Car parking facility has been positioned to the rear of the building. This has maximised the opportunity to activate the main frontage and building façade on Garden Street and is consistent with the precinct objectives, which encourage removal of conflict frontages (vehicular crossings) along Garden Street.

The Garden Lane car stacker doors are to be treated with perforated metal to ensure some level of pedestrian interest along the site's frontage. This design solution is a reasonable and practicable response to the site.

The apartments above have been designed with fenestration, glazing, balconies and terraces. This design initiative facilitates passive surveillance of the public realm from upper levels to both Garden Street and Garden Lane.

Overall, the proposal has been appropriately designed to provide a satisfactory interface with the public realm and support the activation of commercial activity in the street.

Noise Attenuation

An acoustic report has been submitted to demonstrate that adequate noise attenuation measures, including glazing system, roof construction, external wall, acoustically treated ventilation openings, and vibration isolation system for car stacker, could be put in place to provide better amenity and a more comfortable acoustic environment for occupants. Conditions will be imposed in the permit requiring the submission of a revised Acoustic Report to assess the latest floor layout and the impact of mechanical plant noise.

Amenity Impacts

In terms of off-site amenity impacts, it is important to acknowledge that the subject site and the adjoining properties are in an activity centre envisaged with substantial change and thereby residents cannot hold expectations of the same amenity level as would a resident of residential zoned land. Notably, as the application is not an application for the construction of apartments, Clause 58 is not applicable. The potential amenity impacts on the adjoining properties will be considered in turn below.

Daylight to Existing Windows

The adjoining building to the east at 20 Garden Street contains a central lightwell along the common boundary with the subject site. There are a number of bedroom windows facing this lightwell and courtyards at the bottom of this lightwell. On Level 7, there are west facing habitable room windows which are setback 3m from the subject site.

Similarly, the adjoining building to the west at 8 Garden Street also contains a central lightwell along the common boundary with the subject site. There are a number of bedroom windows oriented to face this lightwell. On Level 8 and above, there are east facing habitable room windows, which are setback 7.4 metres from the subject site, with terraces/balconies facing the subject site.

The proposal has been designed in response to this context. The building is constructed to both side boundaries up to Level 7 and incorporated with a central lightwell, which reflects and mirrors the existing lightwells of the adjoining developments.

Boundary-to-boundary construction within this activity centre is common and encouraged by the policy. The design of central lightwells recognises the equitable development opportunities of the site and balances the anticipation of change and amenity impact to the adjoining properties.

The central lightwells provide daylight to the proposed habitable rooms as well as the existing habitable rooms on the adjoining developments facing the lightwells. Due to the siting of the existing lightwells, reduction in daylight to existing windows facing the lightwells would occur with any building proposed on the subject site, regardless of its overall height and setbacks.

The living areas of the adjoining apartments are not impacted. The affected habitable rooms are solely bedrooms, which has lower requirement of daylight when compared to living areas. The courtyards at the bottom of the lightwell to the east (20 Garden Street) are not the sole and main secluded private open space and the affected apartments have a separate north/south facing balcony fronting Garden Street or Garden Lane that provide light and ventilation for recreation needs.

The impact to the abutting upper-level apartments (on Level 7 or above) is limited and is considered reasonable, particularly given the policy aspiration of substantial change with a building height of 27 metres for this precinct.

In light of the above, the level of reduction in daylight to the adjoining properties is considered reasonable in this high density, activity centre context.

Overshadowing

The ACZ1 guidelines state that buildings and works should not cast additional shadow to the south side footpath between 9.00am and 3.00pm at the Equinox and acknowledges that this guideline may not be achievable if the preferred building heights and setbacks specified would result in overshadowing to this part of the footpath.

Garden Lane is a 3.7 metre (approximate) wide road with no pedestrian footpath. Given to this unique context, the overshadowing guideline strictly does not apply to the proposal.

The proposed development will cast additional shadows over the adjoining terraces to the west in the morning and the east in the afternoon. However, the site and the affected properties are located in an inner urban location within an Activity Centre and thereby cannot hold expectations of the same amenity standards as would a property in Residential zoned areas. Given the policy envisages substantial change and new development of at least 27 metres for this area, some degree of overshadowing is inevitable and is considered acceptable.

Overlooking

While ResCode (Clause 55) does not apply to this application, the overlooking standard (Standard B22) can be used as a guide to assess the impact on adjoining properties from potential overlooking.

The property to the north across Garden Street is the Jam Factory shopping complex. There are no sensitive interfaces at present that would require protection from overlooking. Windows, balconies and terraces facing Garden Street do not require screening as they overlook the public realm.

Direct view from the north facing balconies to the abutting balconies to the east (20 Garden Street) will be limited by the proposed building itself and the existing boundary wall, and therefore there will be no unreasonable overlooking. Whilst there may be some overlooking to the abutting balconies to the west (8 Garden Street), the level is considered reasonable given the lower expectation of amenity within the activity centre.

To the south, the proposal interfaces two existing developments opposite Garden Lane. 11-13 Wilson Street is a commercial/office building and is not a sensitive interface that would require protection from overlooking. 5-7 Wilson Street is an apartment building, which contains a number of unscreened balconies and habitable room windows facing Garden Lane. No screening measures are proposed to the south facing windows, balconies and terraces, and this will result in unreasonable overlooking.

Conditions will be imposed in any permit issued requiring the south facing windows, balconies and terraces to be screened, or sightline diagrams to demonstrate no unreasonable overlooking into the neighbouring apartments at 5-7 Wilson Street if screening is not proposed.

To the west, the abutting south facing balconies at 8 Garden Street have already treated with obscure balustrades to 1.7 metres above finished floor level, and therefore will have no additional overlooking issue. To the east, direct view from the proposed south facing balconies to the abutting balconies at 20 Garden Street will be limited by the proposed building itself and the existing boundary wall, and thus there will be no unreasonable overlooking.

All habitable room windows facing the lightwells are to be installed with obscure glass fixed to 1.7 metres above finished floor level to limit direct view and overlooking into the adjoining properties. A condition will be imposed in any permit issued restricting no adhesive film to be used in obscure glazing.

On Level 8, the side and rear edges of the terraces are to be incorporated with obscure glass to 1.7 metres above finished floor level. This will limit overlooking to the adjoining apartments to the east and west.

On Level 9, the existing balconies/terraces to the east and west may fall within 9 metres of the proposed north and south facing windows. Conditions will be imposed in any permit issued requiring screening measures or sightline diagrams if screening is not proposed.

In summary, it is considered that the proposal will not cause unreasonable off-site amenity impacts on the adjoining properties, subject to conditions.

Internal Amenity

At present, there are no design requirements or policy guidelines in the Planning Scheme to provide benchmarks for 'serviced apartments'. The Tribunal has dealt with the internal amenity of 'serviced apartments' in a number of VCAT decisions over the years and has found that serviced apartments, which is temporary accommodation, are different to standard dwellings which are designed for long term occupants.

In *Adamco Developments v Monash CC* [2004] VCAT 2359, the Tribunal said:

48. *We also note that there is a distinction to be made between permanent and temporary accommodation (in this case between dwellings and serviced apartments) and adopt the findings in 487-497 Flinders Lane Pty Ltd v Melbourne City Council [1998] VCAT 192 and Australian Conservation Foundation Inc. and Surowee Pty Ltd v Melbourne City Council and Anor. [2002] VCAT 1.*

49. *In essence, these decisions support the proposition that different standards for “liveability” or internal amenity can be applied to dwellings occupied by residents on a more permanent basis compared to more temporary accommodation in the form of serviced apartments. We agree with this.*

In *Elland Development Pty Ltd v Whitehorse CC* [2013] VCAT 2104, the Tribunal said:

30. *I am not assessing these apartments as permanent dwellings. Some are 30 square metres in area, south facing and have a balcony less than 8 square metres. They are clearly for temporary accommodation, mostly without a car space but have a range of services and facilities within easy walking distance.*
31. *I am of the view that the reduced apartment area and balcony area is appropriate given they are used for temporary accommodation or serviced apartments (I note that the serviced apartments are generally in the order of 30 square metres). I find it is therefore reasonable to require a Section 173 Agreement identifying that the use of all serviced apartments within the development shall only be used as serviced apartments.*

In *Tribe v Whitehorse CC* [2014] VCAT 2012, the Tribunal found that:

62. *While it would be acceptable to design serviced apartments to a standard that they could also be used as permanent dwellings, Jinlin clearly states its intention here is to provide temporary accommodation and the apartments have been design accordingly. By and large, I do not see any difficulty with apartments of the size and type proposed being used for temporary accommodation. However, I would not approve them for dwellings providing permanent accommodation given the standard of amenity they provide. The absence of open space for some apartments, the internal layouts and absence of facilities do not make the proposed units suitable for permanent accommodation.*

In *Spinosa v Boroondara CC* [2019] VCAT 1838, the Tribunal found that:

53. *When assessing the internal amenity of each serviced apartment I have also placed weight on the fact that this building is intended to be used for short term accommodation and not as permanent homes for the occupants of the dwellings.*
56. *A number of apartments contain bedrooms which rely on borrowed light. These apartments must be assessed against those apartments which have no separate bedroom at all. These arrangements would not be acceptable for permanent dwellings, however given that these are to be used for short term accommodation I consider that they are acceptable. Similarly, a number of dwellings have no secluded private open space, or less secluded private open space than what would be expected for a normal dwelling. However, again given the nature of the use I find this arrangement to be acceptable, noting that Surrey Gardens, located 270 metres from the site in Union Road, will provide additional recreational space to meet the needs of the occupants of the serviced apartments.*

Having considered the relevant case law, it is clear that ‘serviced apartments’ provides a form of short term, temporary accommodation for persons away from their normal place of residence, and is not utilised as permanent accommodation. ‘Serviced apartments’ has its own specific qualities and characteristics, and clearly distinguishes from permanent, conventional dwellings.

There is fundamental difference between the nature, purpose and internal amenity of serviced apartments to that of permanent dwellings. The distinct shift in category of user, reliance on shared facilities and temporal aspect of the use represents distinguishable

differences. The difference in occupant demands has also led to a different format of building with smaller units, minimal or no secluded open spaces and less car parking, which are commonly seen.

The proposed building is purposely designed for serviced apartments as short term, temporary accommodation and provides a good level of amenity for occupants as noted below:

- The serviced apartments are provided with back of house facilities, such as storage, kitchen, laundry and staff room, within the basement level.
- The development proposes a range of apartment types with varying floor layouts and sizes, ranging from studio (25-37 square metres), 1-bedroom (47-50 square metres), to 2-bedroom (61-99 square metres). All 1 and 2-bedroom apartments are self-contained and provided with an open plan living area with kitchen. Studio style apartments will have a small living area but no kitchen.
- All living areas have appropriate depth and floor to ceiling height and are oriented to front onto the streets, which allow for adequate daylight access and better outlook.
- Positively, no serviced apartments will rely on borrowed light and all bedrooms have an external window for natural light and ventilation. Daylight to bedrooms has been maximised in this case by mirroring the existing and proposed lightwells. As noted by Council's ESD Officer, the lower level of daylight to bedrooms is considered acceptable only for serviced apartments, but not for permanent dwellings.
- 18 out of 34 apartments have been provided with a small balcony, which will provide for some additional amenity to these spaces.
- Whilst the proposed serviced apartments are typically smaller than conventional apartments, yet they have adequate room sizes, floor to ceiling height, access to natural light and ventilation, and amenities, that suit the needs of guests for short term, temporary accommodation.

For the reasons outlined above, the proposed serviced apartments are deemed to be acceptable despite the smaller floor area, reduced/no balcony area, and limited on-site car parking, as they are to be used as short term, temporary accommodation only. Conditions are imposed to ensure that the serviced apartments are not converted to permanent dwellings.

Car Parking and Traffic

Pursuant to Clause 52.96, the use of food and drink premises generates a car parking requirement of five (5) spaces. There is no specific car parking rate for serviced apartments at Clause 52.06. Accordingly, car parking must be provided to the satisfaction of the Responsible Authority.

The development proposes five (5) car parking spaces in mechanical car stacker and an at-grade multi-purpose loading bay. Two (2) spaces are to be allocated for staff parking and three (3) spaces for guest parking. The on-site guest parking will be managed via valet parking arrangement. The application seeks to reduce the car parking requirement for the food and drink premises.

The subject site has excellent access to public transport with bicycle parking provided on-site. It is also within the Chapel Street Activity Centre with access to many amenities, services, facilities and places of interest within close proximity. These act to reduce the reliance on private vehicles.

Importantly, the use of the land for serviced apartments caters for those seeking temporary accommodation and it is likely that many people staying in this facility will not have the need

for a car parking space. The demand for on-site car parking for such facility is considered to be low.

As outlined in the Operational Management Plan submitted, any market materials for the serviced apartments will inform prospective guests of on-site car parking provision, valet parking arrangement and parking availability in the area. Prospective guests can decide to book different accommodation if they require on-site parking and cannot obtain it, or make other arrangements prior to arrival. If visitors to the area require a vehicle, there are car share vehicles within proximity on Garden Street and Chapel Street. There are also commercial car parks nearby which can easily absorb the parking demand if necessary.

A limited provision or no on-site car parking in facilities like serviced apartments or residential hotels in a Central Business District (CBD) or an inner city, activity centre location is common. As confirmed by Council's Transport and Parking Unit, the extent of on-site guest parking as proposed is considered acceptable.

The at-grade multi-purpose loading bay will be made available for housekeeping staff during housekeeping hours and will be used for loading/unloading and (guest) valet parking for drop off/pick up outside house-keeping hours.

This bay, along with valet parking, will be managed through a car parking management plan as an effective means of managing the parking demand, loading/ unloading and pick up/ drop off generated by the serviced apartments. An on-site multi-purpose loading bay will remove the reliance of on-street loading bays for housekeeping staff, and this is deemed as a more appropriate solution by Council's Transport and Parking Unit.

The removal of the existing crossover on Garden Street will reinstate one on-street parking bay, which may be available for valet parking in future. There is also an on-street loading bay, approximately 30m to the east on Garden Street.

As confirmed by Council's Transport and Parking Unit, coupled with an on-site multi-purpose loading bay and valet parking arrangement, the drop off/pick up arrangement for the serviced apartments is considered appropriate and will not create unreasonable traffic impact on the surrounding road network.

Overall, the proposal provides a right balance of on-site car parking and allows for an efficient use of this narrow and constrained site.

Environmentally Sustainable Design

The submitted Sustainable Management Plan (SMP) and revised daylight modelling report demonstrate that the building has been designed to meet the objectives of the ESD Policy at Clause 22.05 and the Stormwater Management (WSUD) Policy at Clauses 22.18 and 53.18. The outstanding items identified by Council's ESD officer, including shading devices and additional notations on the plans, can be readily addressed by way of permit conditions on any permit issued.

The SMP demonstrates that the development will achieve a score of 45.6 and a 4 Star rating in Green Star, which is equivalent to Australian Best Practice. The STORM rating report demonstrates that the development meets the best practice and achieves a STORM rating of 158% (above the minimum 100%) through the provision of a 10,000 litre rainwater tank.

Subject to recommended permit conditions, the proposed development includes features designed to achieve best practice for sustainable design, particularly in terms of Indoor Environment Quality (IEQ), daylight access, shading and stormwater management, and achieves an acceptable ESD outcome.

Environmental Audit Overlay

The subject site is affected by an Environmental Audit Overlay (EAO). Clause 45.03 requires a certificate or statement of environment audit must be issued before construction of buildings and works in association with a residential use commences. This will be required by way of permit conditions on any permit issued.

Objections

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

- *Safety, vibration, dust, and noise impact during construction*

Planning has limited scope to control activities during construction of developments. Noise, and traffic impacts during construction phase are governed by Council's Local Laws. There are other building and local law provisions to consider building safety, construction and any road closures as a separate process of Council.

- *Impact on rental income*

This is not planning related and cannot be considered in planning applications.

- *Potential stormwater overflow to neighbouring balconies*

Council's Infrastructure Unit has reviewed the design and supported the proposal subject to permit conditions including detailed drainage design.

- *No construction should be allowed until cladding issue of the neighbouring property is solved*

The issue of combustible cladding is dealt with by the Building Act and Regulations and is not a planning issue.

Conclusion

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

Governance Compliance

Conflicts of Interest Disclosure

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

Human Rights Consideration

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

Attachments

1. 1051/19 - 14 Garden Street, South Yarra [14.2.1 - 29 pages]

Officer Recommendation

That the Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 1051/19 for the land located at 14 Garden Street, South Yarra under the Stonnington Planning Scheme for use of the land as serviced apartments, construction of a mixed-use development (comprising a food and drink premises and

serviced apartments) in an Activity Centre Zone, and a reduction in the car parking requirement 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, Drawing No.s: 0.01 – 0.06 (Rev A), 1.01 – 1.04 (Rev A), 1.10 – 1.16 (Rev B), 1.20 – 1.22, 2.01 – 2.04 (Rev B), 2.05 (Rev A), 3.01 (Rev B), 3.02 (Rev A), 3.03 – 3.04 (Rev B), 3.05 (Rev A), 4.01 – 4.04 (Rev A), and 5.01 (Rev A), prepared by Interlandi Mantesso Architects and Council date stamped 25 February 2021, but modified to show:

- a) External materials and finishes schedule updated to show details of materials, colours and finishes of service cupboards and to confirm that the reflectivity of glass and other finishes used on the building will not exceed 20%.**
- b) Notation to confirm that no adhesive film is to be used in obscure glass/ glazing.**
- c) Screening measures shown on the floor plans to correspond with the elevations.**
- d) Screening or alternative measures to the south facing windows, balconies and terraces to limit direct views into the north facing dwellings at 5-7 Wilson Street within 9 metres.**

Alternatively, overlooking sections/ sightline diagrams must be provided to demonstrate no direct views into the north facing dwellings at 5-7 Wilson Street within 9 metres.

- e) Screening or alternative measures to the north and south facing windows on Level 9 to limit direct views into the adjacent balconies/terraces to the east at 20 Garden Street and west at 8 Garden Street within 9 metres.**

Alternatively, overlooking sections/ sightline diagrams must be provided to demonstrate no unreasonable overlooking into the adjacent balconies/terraces to the east at 20 Garden Street and west at 8 Garden Street within 9 metres.

- f) Fixed external shading devices are to be provided to all north facing glazing of all habitable rooms to ensure that the north windows are shaded from the spring equinox till the autumn equinox (21 September to 21 March). Where sun shading devices are being utilised a dimensioned section diagram must be included to demonstrate their effectiveness.**
- g) A notation confirming the number of toilets that the rainwater tank is to be connected to.**
- h) A notation on the roof plan confirming the area(s) (m²) to be drained to the rainwater tank.**
- i) The installation of an electronic garage door opener so the garage doors to the car parking area can be opened via remote control.**
- j) The type of car stacker system proposed to the satisfaction of the Responsible Authority. The car stacker system must be able to operate via remote control.**

- k) Manufacturer's specification of the car stacker system including the actual platform length, width, headroom clearance and details of operation of the system.**
- l) Details, including height and pit depth, of the car stacker and dimensions of usable platform.**
- m) Location of control panel of car stacker.**
- n) Provision of a convex mirror on the western side of the loading bay.**
- o) All noise attenuation measures recommended in the acoustic report as required by Condition 10.**
- p) Any changes required by Condition 4 (Façade Strategy), Condition 5 (SMP), Condition 7 (Landscape Plan), Condition 8 (WMP), and Condition 9 (Car Parking Management Plan).**

All to the satisfaction of the Responsible Authority.

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
- 3. Prior to commencement of any buildings and works, the Owner of the land must at its cost enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987. The Agreement must require the Owner to acknowledge and confirm the following:**
 - a) The use of all apartments within the development shown on the endorsed plans, must be for serviced apartments only (excepting the provision of a manager's residence if required) and may only be used as temporary accommodation up to three months at any time without the written further approval of the Responsible Authority.**
 - b) A serviced apartment must not be occupied by any person as their primary/permanent place of residence.**
 - c) All serviced apartments shall be leased to and managed by a single management entity and shall not be leased or otherwise occupied for any other form of occupation (excepting the provision of a manager's residence if required).**
 - d) That the requirements contained in this agreement must form part of any lease of the premises which the owner of the land under this permit may enter into with another party.**
 - e) Pursuant to the provisions of Section 181 of the Planning and Environment Act 1987 this agreement must be registered with the Registrar of Titles and must run with the land.**
 - f) The Owner of the land under this permit must pay the legal costs and be responsible for the preparation and registration of the said agreement.**
- 4. Prior to the endorsement of plans pursuant to Condition 1, a Façade Strategy must be prepared to the satisfaction of the Responsible Authority and must be submitted to and approved by the Responsible Authority. Once approved, the Façade Strategy will be endorsed and will then form part of the permit. The Façade Strategy must include:**

- a) ***A concise description by the architect of the building design concept and how the façade works to achieve this.***
- b) ***Example prototypes and/or precedents that demonstrate the intended design outcome as indicated on plans and perspective images, to produce a high-quality built form outcome in accordance with the design concept.***
- c) ***A schedule of colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance and confirmation that no material will have more than 20% reflectivity;***
- d) ***Detailed elevations showing the location of the proposed materials, colours and finishes, building details, entries and doors, utilities and any special features, in accordance with plans endorsed under Condition 1 of this permit.***
- e) ***Cross sections or other method of demonstrating the façade systems, including fixing details indicating junctions between panels.***
- f) ***Information about how the façade will be accessed, maintained and cleaned, including details of the ongoing maintenance, inspection and where necessary treatment of the façade.***

The provisions, recommendations and requirements of the endorsed Façade Strategy must be implemented and complied with to the satisfaction of the Responsible Authority.

5. ***Prior to the endorsement of any plans pursuant to Condition 1, a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The SMP is to be generally in accordance with SMP (Version V3) prepared by Sustainable Development Consultants, Council date stamped 9 July 2020, and must include, but not limited to, the following:***

- a) ***The layout of the development to accord with the plans required by Condition 1.***
- b) ***The daylight modelling in the Appendices to be amended to include the daylight modelling advice prepared by Sustainable Development Consultants with Council date stamped 31 May 2021.***
- c) ***Demonstrate how Best Practice measures from each of the 10 key Sustainable Design Categories of Stonnington Council's Sustainable Design Assessment in the Planning Process (SDAPP) have been addressed.***
- d) ***Identify relevant statutory obligations, strategic or other documented sustainability targets or performance standards.***
- e) ***Document the means by which the appropriate target or performance is to be achieved.***
- f) ***Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring.***

- g) Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.**

All to the satisfaction of the Responsible Authority.

All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to the Sustainable Management Plan may occur without written consent of the Responsible Authority.

- 6. Prior to the occupation of the development approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.**
- 7. Prior to the endorsement of plans, a landscape plan to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must show:**
- a) Irrigation systems to be connected to the planters and how these are connected to the rainwater tanks on-site.**
 - b) Details of surface finishes of pathways and driveways.**
 - c) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.**
 - d) Landscaping and planting within all open areas of the site.**
 - e) Details of all proposed hard surface materials including pathways, patio or decked areas.**

All to the satisfaction of the Responsible Authority.

- 8. Prior to the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Design Pty Ltd, with Council dated 9 July 2020, but amended to show the following:**
- a) The layout of the development to accord with the plans required by Condition 1.**

All to the satisfaction of the Responsible Authority.

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

- 9. Prior to the endorsement of plans, a Car Parking Management Plan prepared by an appropriately qualified traffic consultant must be submitted to and approved by the responsible authority. When approved, the car parking management plan**

will be endorsed and form part of this permit. The car parking management plan must include (but is not limited to):

- a) A minimum of two (2) spaces are to be provided for staff of the facility and a minimum of three (3) for the occupants of the serviced apartments.**
- b) The control of access to the car parking spaces.**
- c) The garage door and car stacker are to be operable via remote control. Staff who require access to the car park and car stacker must be provided with remote control.**
- d) The multi-purpose loading bay must be made available for housing-keeping staff during house-keeping hours.**
- e) The multi-purpose loading bay is to be used for loading/unloading and (guest) valet parking for drop off/pick up outside house-keeping hours.**
- f) Details of how the operation of multi-purpose loading bay will be managed.**
- g) Details of loading activity, including frequency and how this will be managed.**
- h) Details of valet parking arrangement.**
- i) Details of how guests of the serviced apartments will be advised of the car park access and arrangements.**
- j) Details of how guests will be advised of where to park on street if no parking is available on site.**
- k) Traffic management devices and signage for the safe and efficient use of the car park.**

All to the satisfaction of the Responsible Authority.

The endorsed Car Parking Management Plan must be ongoing implemented to the satisfaction of the Responsible Authority.

- 10. Prior to the endorsement of plans, the operator of the serviced apartments must submit an operational management plan to the satisfaction of the Responsible Authority. When approved, the operational management plan will be endorsed and will then form part of the permit. The operational management plan must establish the procedures for the serviced apartment complex, to ensure:**
 - a) There is a presence of a manager to control and supervise the serviced apartments during operating hours (from 7am to 12am, 7 days a week unless otherwise agreed by the Responsible Authority).**
 - b) The nature of the management of the complex and the contact details of the manager.**
 - c) A contact person and their telephone number must be displayed at the accommodation facility's frontage at all times. The displayed telephone number must be contactable at all times (otherwise call forwarded to another appropriate person) to enable a prompt response to any operational complaints which may arise that require immediate attention, such as noise emissions or other issues of non-compliance with this permit.**

- d) Provision of information on local public transport and to encourage walking (e.g. information on facilities within walking distance, local public transport timetables, outlets for purchase of Myki tickets, car share services etc).**
- e) Provision to ensure that the serviced apartments do not cause negative impacts on the amenity of the surrounding area.**
- f) Measures to control noise emissions from the facility.**
- g) House rules regarding occupancy and behaviour of guests and visitors, and grievance procedures.**
- h) Security measures to be put in place to restrict access to the serviced apartments for guests and their visitors only.**
- i) The means by which car spaces are to be allocated or booked out to guests.**
- j) Details of valet parking arrangement.**
- k) Details of loading activity, including frequency and how this will be managed.**
- l) The operator must operate with a booking system to inform prospective guests of on-site car parking provision, valet parking arrangement and parking availability and restrictions in the area.**
- m) Critical Incident Management and Emergency & Evacuation Procedures.**
- n) All garbage collection from the development be managed and conducted so as not to prejudicially affect the amenity of the locality by reason of appearance. No garbage bin or waste materials generated by the permitted use shall be deposited or stored outside the site.**

All to the satisfaction of the Responsible Authority.

The endorsed operational management plan must be ongoing implemented to the satisfaction of the Responsible Authority.

- 11. Prior to the endorsement of plans, an acoustic report prepared by a suitably qualified acoustic engineer must be submitted to and approved by the Responsible Authority. When approved, the acoustic report will be endorsed and will then form part of the permit. The acoustic report must be generally in accordance with the Environmental Noise Impact Assessment (Revision 2) prepared by Telemetrix Acoustic & Vibration Solutions with Council date stamped 20 December 2019, but modified to:**
- a) Reflect the design layout as shown on the amended plans required by Condition 1.**
 - b) Assess the impact of mechanical plant noise and recommend appropriate acoustic measures.**

All to the satisfaction of the Responsible Authority.

- 12. Prior to the occupation of the development hereby approved, all acoustic measures proposed in the acoustic report must be incorporated to the satisfaction of the Responsible Authority.**

13. ***Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:***
 - a) ***A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or***
 - b) ***An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.***

Before the occupation of the building all the conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the Responsible Authority.
14. ***The use and development allowed by this permit must comply with the directions and conditions of any statement of environmental audit issued for the land.***
15. ***All the conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the responsible authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the responsible authority. In addition, sign off must be in accordance with any requirements in the Statement conditions regarding verification of works.***
16. ***Prior to the endorsement of plans, the permit holder must submit an updated digital 3D massing model of the development hereby approved in accordance with the specifications of Council's GIS Unit, to the satisfaction of the Responsible Authority.***
17. ***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 discharge from 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.***
18. ***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.***
19. ***The existing footpath levels must not be lowered or altered in any way at the property line.***
20. ***Prior to occupation of the building, any existing vehicular crossing made redundant by the building and works hereby permitted must be broken out and***

re-instated as standard footpath and kerb and channel at the permit holders cost to the approval and satisfaction of the Responsible Authority.

- 21. 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.**
- 22. Prior to the occupation of the building, any screening devices shown on the endorsed plans designed to limit overlooking must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building. Adhesive film must not be used as screening devices to the satisfaction of the Responsible Authority.**
- 23. Before the use commences, areas set-aside for parked vehicles and access lanes as shown on the endorsed plans must be:**
 - a) Constructed to the satisfaction of the Responsible Authority.**
 - b) Properly formed to such levels that they can be used in accordance with the plans.**
 - c) Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.**
 - d) Drained and maintained to the satisfaction of the Responsible Authority.**
 - e) Line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority. Parking areas and access lanes must be kept available for these purposes at all times.**
- 24. Prior to the commencement of use, the car spaces hereby approved must be made available and used by customers and staff of the proposed serviced apartments and food and drink premises at all times.**
- 25. The use and development must be managed so that the amenity of the area is not detrimentally affected through the:**
 - a) Transport of materials, goods or commodities to or from the land.**
 - b) Appearance of any building, works or materials.**
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.**
 - d) Presence of vermin.**
- 26. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.**
- 27. Prior to occupation, access for persons with disabilities must be provided in compliance with the Disability Discrimination Act 1992 and such access must be maintained at all times the building is occupied or in use.**
- 28. Prior to the occupation of the building, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.**

29. ***All 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.***
30. ***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.***
31. ***Any projection over the street must have a minimum vertical clearance above the footpath level of 2.7 metres and a minimum horizontal clearance of 750 millimetres from the street kerb unless otherwise approved in writing by the Responsible Authority.***
32. ***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 shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority. Ventilation systems must be designed and installed in accordance with the relevant Australian Standards.***
33. ***The emission of noise or any other emission to the environment derived from activities on the site must conform to standards contained in the appropriate State Environment Protection Policy or Policies.***
34. ***All loading and unloading of goods must be undertaken in accordance with Council's Local Laws.***
35. ***The collection of wastes and recyclables from the premises (other than normal Stonnington City Council collection) must be in accordance with Council's General Local Laws.***
36. ***Adequate provision must be made for the storage and collection of wastes and recyclables within the site prior to the commencement of use or occupation of the building. This area must be appropriately graded, drained and screened from public view to the satisfaction of the Responsible Authority.***
37. ***This permit will expire if one of the following circumstances applies:***
 - a) ***The development is not started within two years of the date of this permit.***
 - b) ***The development is not completed within four years of the date of this permit.***
 - c) ***The use is not commenced within five years of the date of this permit.***
 - d) ***The use is discontinued for a period of two years or more.***

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

NOTES:

- A. ***This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.***

- B. This permit is for the use of the land and/or buildings and does not constitute any authority to conduct a business requiring Health Act/Food Act registration without prior approval from the Council's Health Services.**
- C. Unless a permit is not required under the Stonnington Planning Scheme, signs must not be constructed or displayed without a further planning permit.**
- D. This permit does not give any authority to occupy the footpath for trading without prior approval from Council's Local Laws department. A permit must be obtained for footpath trading and it must accord with the relevant Footpath Trading Code.**
- E. The installation, maintenance and/or use of any intruder alarm system must at all times conform to the Environmental Protection (Audible Intruder Alarm) Regulations 1978.**
- F. The crossover must be constructed to Council's Standard Vehicle Crossover Guidelines unless otherwise approved by the Responsible Authority. Separate consent for crossovers is required from Council's Building and Local Law Unit.**
- G. Car parking consent is given for the proposal allowed by the above permit subject to the conditions on the above permit being implemented.**
- H. At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:**
 - i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and**
 - ii. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.**

14.3 Thomas Oval Dog Park - Final Concept Plans

Manager Project Management & Delivery: Madelyn Eads-Dorsey

Director Environment & Infrastructure: Rick Kwasek

Linkage to Council Plan

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

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

Purpose of Report

To provide an update on community feedback received in relation to the draft Concept plans for the Thomas Oval Dog Park, and seek endorsement of the final concept plans in order to progress with construction.

Officer Recommendation

- 1. That the Council APPROVE the final concept plans for the Thomas Oval Dog Park in order to proceed with design documentation and procurement of a contractor for construction;**
- 2. That the Council NOTE that the endorsed final concept plans will be displayed in the Thomas Oval Park, distributed to all those involved in the consultation process and promoted via Council communications channels.**

Executive Summary

Council has a combined budget of \$784K for design and delivery of a dedicated dog park facility at Thomas Oval, South Yarra. Unlike Council's other 27 parks that allow dogs to be off leash, these new facilities will provide a fully enclosed space specifically dedicated for dog owners and their dogs to use in accordance with the specific local laws requirements.

Background

Initial community consultation on the project was undertaken in May 2020. From that initial consultation phase, a draft concept design was developed and endorsed by Council on 21 December 2020. Community feedback on the draft concept design was collected in March and April, which resulted in increasing the overall size of the dog park. The 26 April Council resolution was to undertake further consultation on the draft concept plans, release the final concept plans to the community and report back to Council for endorsement prior to proceeding with construction.

Key Issues and Discussion

Stakeholder engagement March-April 2021

Council officers underwent a stakeholder engagement process between 4 March 2021 and 6 April 2021 seeking feedback on the draft concept designs. 1493 postcards were sent to local residents and 15 posters were installed within the park as well as in nine of Stonnington's other designated dog off leash parks. Postcards were also included with Stonnington's mailout for animal registration renewal reaching an estimated additional 1,200 individual pet owners within Stonnington.

The postcard and poster invited individuals to provide feedback via an online survey, writing or calling to Council or attending one of the workshops held on site on Saturday 20 March and the *Pets in the Park* event on Sunday 28 March. Targeted letters outlining the project objectives were also posted to surrounding sporting organisations.

The online survey asked a series of questions relating to specific elements on the draft concept plan and sought feedback and general support for the overall layout and design. The survey also provided an opportunity for additional comments if required.

As part of the stakeholder engagement process, industry experts *Paws4Play* were engaged to review the concept designs in the context of providing a safe facility for dogs, their owners and other park users. The review provided specific comments related to the layout, provision of open space, alignment of fencing and appropriateness of the specific play and interactive elements within the design.

A targeted meeting was also held with representatives from the *Save-A-Dog-Scheme* to discuss the design in more detail and gather feedback from this organisation.

Stakeholder feedback

144 individual surveys were completed (refer to attachment 1- Consultation report). In response to the question '*How do you feel about the concept design overall?*' **32.8%** of responses '*loved it*' and **50.4%** '*liked it*'. **5.1%** of responses either '*disliked it*' or were '*not a fan*'.

'*Dog drinking bowls and waste bins*' (**17.3%**), '*mounded lawn for running*' (**15.3%**) and '*logs timber and rocks for exploring and play*' (**13.2%**) were the three most supported elements within the design. Having a fence around the dog park was also '*Very important*' for **78.9%** of the survey responses.

20-30 individuals attended the workshop held on site and around **100** people attended the marquee at the *Pets in the Park* event. The designs were discussed in more detail with those who attended and the vast majority of individuals were supportive of the project. Individuals were also encouraged to fill out the on-line survey during these workshops.

Industry expert review

The industry expert design review provided the following comments on the draft concept plan:

- Maximise the footprint of the dog park to ensure it does not become overcrowded with increased use
- Create barriers between the small dog area and the large dog area to separate uses
- Ensure gates and fences do not create corners and areas for dogs to be trapped
- Use physical barriers and obstacles in the large lawn area to slow dogs and discourage 'pack running'
- Minimise garden beds and planting to reduce maintenance requirements
- Consolidate materials and surfaces to minimise maintenance
- Reconsider the use of water play elements due to significant maintenance requirements
- Limit opportunities for dog owners to congregate as this will reduce surveillance and control of their pets

Save-a-dog foundation

The *Save-a-Dog Foundation* raised concerns with the proposed footprint of the dog park and argued for an expansion of this space to cater for the anticipated increased use.

Melbourne Rugby Union Club (MRUC)

The MRUC provided the below response in relation to the project '*...Our vision is to see a dedicated rugby union pitch built at the site for all year access by Melbourne Rugby Club and Melbourne High School. This would offset some of the access that we have lost at Gardiner Park to both AFL and Soccer (refer Gardiner Park Operating Procedure published 1/12/2020)....*' Council officers have previously undertaken an assessment into the required space for these facilities and found there is not an appropriate amount of space at Thomas Oval. This was previously reported to Council on the 7 December as part of the original *Thomas Oval, South Yarra Dog Park* report.

Amended concept designs following stakeholder consultation

A final concept design (refer **Attachment 2**) was developed in response to the feedback received through all forms of the stakeholder engagement process. Specifically, changes that were made include:

- Increasing the overall footprint of the dog park from 2,428m² to 4,725m²;
- Expanding the footprint of the small dog/ quite zone from 334m² to 1,140m² and the large dog zone from 1520 to 3,584m²;
- Mounding, trees and fallen logs within the lawn area to limit opportunity of 'pack running';
- Fencing between the small dog and large dog zones ;
- Shifting the majority of garden beds to outside of the fence line to reduce maintenance requirements;
- Realigning fence lines and relocate entrance gates to limit corners and areas for dog and people to feel trapped;
- Relocation of shelters to more visually prominent positions to discourage congregation of owners;
- Removal of the water play feature to reduce maintenance requirements and damage to the park;
- Provision of CCTV camera to monitor surveillance and incidents within the park.

The elements which were well supported through feedback received, including boulders, fallen trees, various textured surfaces, native trees, solar lighting, drinking fountains, bins, dog waste bags and signage, have all remained within the final concept designs.

To accommodate other users of the park, two (2) existing fitness stations have been moved to the eastern edge of Thomas Oval and a new path will connect these to the area north of the dog park. This will provide an exercise circuit around the park outside of the dog park without affecting the facilities themselves.

Activity since Council resolution to share final concept design

In order to close out the consultation process, the final concept plans and consultation summary report were uploaded on Council's dedicated webpage in May. Posters were installed in and around Thomas Oval and **1493** postcards were sent to surrounding residents and businesses inviting individuals to view the plans online.

The final designs were also reviewed by industry expert, *Paws4Play* who were satisfied that the increase footprint, alignment of fencing and layout of specific play elements would provide a safe facility for dogs and dog owners.

A targeted meeting was held with representatives of the *Save-a-Dog Foundation* who were supportive of the final designs due to the significantly increased footprint of the facilities.

Two dog walking business provided comments on the final designs and requested that the footprint of the dog park be further increased, arguing that dogs are currently using the entire area of Thomas Oval North **off leash**. However, Thomas Oval currently operates as a dog **on leash** park and allowing dogs to run freely on the site is contrary to the current local law requirements. Increasing the footprint of the dog park would have negative impacts to other users currently using the park for exercise and passive recreation as the space outside the dog park would be decreased. The total area of the dog park also currently meets the State Government's recommended size and as such, is considered to be adequate. Dog owners will be encouraged to use the remainder of the park in an on-leash environment as it currently functions. The scope of the park design and its features and size also responds to our available budget and is a balanced outcome meeting the needs of all park users.

No other community feedback or comments were received on the final concept designs, giving confidence that the community are satisfied with the designs and a transparent consultation process has been undertaken. The final footprint of the dog park is considered to create a balance between creating a safe and useable space for dogs and their owners as well as maintaining and supporting existing users and encouraging other uses of the surrounding park.

Program

Subject to Council approval, detail designs will be finalised and tendered in August with construction expected to begin in late 2021. A four-month construction program is expected.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

Below is a summary of the estimated costs. The concept designs have been developed to align with this budget to ensure the project is delivered within it.

Budget Purpose	Cost Estimate (Esc. GST)	Funding allocation
Dog friendly facilities	\$575,000	Grant (\$275,000) and capital (\$300,000)
Other park improvements	\$109,000	Capital budget
CCTV allowance	\$100,000	Capital budget
Total	\$ 784,000	

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

Contractual arrangements will be standard form contracts limiting potential risks and a suitable risk assessment will be undertaken as part of standard project protocols minimising project related risks.

Environmental Implications

Appropriate treatment and management of waste from the site will be explored and incorporated into the final designs. Lighting proposed for the site will be solar powered and final surfaces will be designed to minimise ongoing maintenance.

Stakeholder Consultation

As discussed throughout this report a significant stakeholder engagement process has been undertaken to gather feedback from user groups, residents surrounding the facilities, Stonnington pet owners, various dog organisations, surrounding sporting organisations and industry experts. Feedback received through both rounds of stakeholder engagement has been used to develop the final concept plans for the space, which were made public in May 2021. The final concept designs will ultimately provide a purpose built safe and engaging space for dogs and their owners.

Human Rights Consideration

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

Attachments

1. Draft Concept Design Consultation Summary Report [**14.3.1** - 3 pages]
2. Final Concept Plan [**14.3.2** - 5 pages]

14.4 St Edmonds Road, Prahran - Traffic Concerns

Manager Transport & Parking: Ian McLauchlan
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 advise Council of the outcome of traffic surveys following concerns raised in St Edmonds Road, Prahran.

Cr Sehr has requested this matter be brought to Council.

Officer Recommendation

That Council:

- 1. NOTE the results of the traffic surveys conducted, and ARRB Star Rating Assessment undertaken in St Edmonds Road, Prahran;**
- 2. NOTE that no further action is required for traffic management in St Edmonds Road, and that traffic speed and volume will be monitored;**
- 3. NOTE that council will consider renewal and streetscape treatments in line with council's future capital program;**
- 4. NOTE Further counts will be undertaken in 2-3 years, and any potential treatments (if required) can be considered at that stage;**
- 5. NOTE that Council Officers will advise the lead resident of the outcome and the Council's determination.**

Executive Summary

Residents in St Edmonds Road, Prahran have expressed concerns with vehicle speeds and volume in the street. Data collected showed that the speed and volume of traffic were within acceptable limits for a street designated as a shopper access route. An ARRB assessment indicates that St Edmonds Road is a 4 to 5 Star Rated Road. It is recommended that no further action occur at this stage, and that further speed and volume counts be undertaken in 2-3 years.

Background

Road Characteristics and Abutting Land Uses

St Edmonds Road is a north-south road between High Street at the south, and Greville Street at the north (St Edmonds Road becomes Izett Street north of Greville Street). There are various carriageway widths in the street, with the southern section approximately 10.9m wide, the middle section approximately 6.4m wide and northern section approximately 7.8m wide. The abutting land use is mainly a combination of commercial and residential properties, with some industrial uses (see below diagram).



Road Function

The former City of Prahran developed a strategy that provides north-south shopper access routes on both sides of Chapel Street to provide convenient vehicle access to the off-street car parks to take the pressure off Chapel Street.

St Edmonds Road is part of the shopper access route (along with Izett Street) between Commercial Road and High Street. The other shopper access route in the area is Bangs Street-King Street-Little Chapel Street-Bray Street. The St Edmonds Road-Izett Street access route is to facilitate access to the Greville Street shops, Prahran Market, and the Prahran Square car park. It also provides access to the Woolworths car park. The High Street/St Edmonds Road and Commercial Road/Izett Street intersections are both signalled in accordance with the original Strategy.

The aim of the route was to provide a carriageway sufficient for parking on both sides of the carriageway with a single traffic lane in each direction capable of accommodating 2-way/2-lane commercial vehicle traffic. This was intended to be achieved by property acquisition (generally ~6m width) on the west side of the street up to the southern boundary of 194 Greville Street (an historic building unable to be demolished), and a similar acquisition then on the east side up to Greville Street. Prior to the works, St Edmonds Road provided 1-way single lane northbound access only. When Council acquired all properties necessary in the southern half of the street in the early 1990's, the widening proceeding in the southern half

only, and the 2-way flow was installed with the introduction of intersection signals at High Street. Attached is the **functional layout traffic plan** of St Edmonds Road with the overlay.

Key Issues and Discussion

Resident Requests

Initially, concerns were raised by some residents on the speed and volume of vehicles using St Edmonds Road, coupled with the narrow footpaths and reduced carriageway width in the middle section. In light of those concerns, the resident has requested the following:

- Installation of a central median with raised pavements and pedestrian crossing
- Installation of raised pavements
- Installation of lane dividers at the High Street end.

The **Resident Requests** are attached for further information. Following the concerns, officers undertook speed and volume counts, and an independent safety assessment by ARRB, to determine if action was warranted in St Edmonds Road. The results of the ARRB assessment would determine if any pedestrian surveys were required.

Speed and Volume Counts

Speed and volume counts were undertaken for a 2-week period from 18 February 2021 to 3 March 2021. This captured the speed of vehicles in the street and volume of vehicles using the street. In the past 4 years, speed and volume counts have been undertaken on a further 2 separate occasions. The key results captured are shown below. It should be noted that the locations where the counts were undertaken are slightly different, accounting for requests made by the resident or limitations in placing the recording equipment. Notwithstanding, they were all taken in the southern section of St Edmonds Road and can be used for comparison.

St Edmonds Road	2017	2019	2021
85 th Percentile Speed (km/h)	41.0	41.0	38.4
Ave Speed (km/h)	34.0	32.0	31.2
Weekday Ave Volume (veh/day)	5,048	2,452	4,277

The 85th percentile speed is the speed at which 85% of motorists are traveling at or below, and is used in the industry for design. The most recent survey confirmed the 85th percentile speed was 38.4 km/h (down from the previous 41 km/h). The volumes are also reasonable for a shopper access route with signals at either end, along with car park access and access to the Greville Street shops.

Further, a review of the crash history of the street has shown that one crash has occurred in the last 5 years which required emergency services attendance. It is understood that the nature of the crash was 'vehicle dooring' and the incident did not result in a serious injury (as classified on crash statistics). Given this, there does not appear to be a trend in crashes.

Based on the above information captured, traffic management devices to address vehicle speed are not warranted at this stage.

ARRB Star Ratings Assessment

Officers also engaged ARRB to undertake an assessment of the existing road conditions of St Edmonds Road (and Izett Street) using AusRAP to obtain Star Ratings of the road network and identify countermeasures to improve star ratings.

ARRB is the central national entity of higher order skills and knowledge in road infrastructure engineering, with over 60 years' experience. They are a recognised leader in the development of the Safe System vision for road transport, involving a holistic view of the road transport system and the interactions among roads and roadsides, travel speeds, vehicles and road users.

AusRAP is the Australian Road Assessment Program operating under the umbrella of the International Road Assessment Program (iRAP) and uses the established iRAP protocols.

Globally, iRAP has adopted a safety performance benchmark of building a '3 Star or better' road network. In accordance with the iRAP methodology, a 3 Star or better road network will significantly reduce the incidence of road crashes and for fatal and serious injury trauma for road users.

See the **ARRB Star Ratings Assessment** for the full report.

ARRB collated video data of the nominated roads, as well as undertaking site observations. The video data was then coded by determining the risk score category for 78 road environment types, including roadside hazards, speed limits, pavement condition, curvature and delineation. The coded data is prepared into a format to allow processing in an on-line road safety software platform. Processing of the data calculates a Star Rating Score, which aligned to a corresponding Star Rating band.

The report found that St Edmonds Road (and Izett Street) were assessed to be 5 Star rated for the vehicle occupant, pedestrian and bicyclist, and 4 Star rated for motorcyclists, with the iRAP 3 Star or better target for all road users being achieved. As pedestrians were assessed as 5 Star for St Edmonds Road, pedestrian surveys were not proposed. In addition, the volume of pedestrians does not impact the Star rating, but rather the physical attributes of the street. During preliminary discussions with ARRB, they were able to demonstrate that a volume of pedestrians similar to the Toorak Road/Chapel Street intersection (which has a very high volume of pedestrians) did not change the Star rating. Details on the 4 Star rating for motorcyclists can be seen in the full report. The report suggested that the speeds be reviewed every 2 to 3 years, which can be considered.

Additional Matters

The resident queried why amenity and aesthetics were never mentioned by the officers during correspondence on the road safety matters. Amenity and aesthetics are not part of a road safety assessment, and therefore would not be considered. If any landscape improvements are considered in St Edmonds Road, they would have to be balanced against the access function of the road as desired in Council's strategy for the Activity Centre.

Overall Treatment Consideration

Although some resident concerns have been raised, the above speed and volume data does not warrant further action at this stage. In addition, the ARRB Star Ratings Assessment indicated St Edmonds Road was a 4 and 5 Star rated road.

The installation of a central median suggested by the resident may impact property access, and may result in some occupiers needing to access their property from a single direction. It may also impact turning movements for larger vehicles (particular relevant given the abutting land uses). The median itself would not be wide enough to sustain pedestrian refuge points, as the available width may be only 0.5-0.6m for the median. Raised pavements are likely to

generate noise by vehicles driving over them. A pedestrian crossing is unlikely to be supported, as there are no significant pedestrian generators that would create the volume of pedestrians to warrant a crossing. Lane dividers may hinder larger vehicles from turning left from High Street into St Edmonds Road (large vehicles for waste collection and to service the abutting land uses). Further, St Edmonds Road is a shopper access route.

In most of the requested devices, the abutting properties may be negatively impacted. Officers do not recommend the suggested treatments as there is no compelling evidence on why they are required.

At this stage, it is recommended that the speed and volume of traffic in St Edmonds Road be monitored. Further counts can be undertaken in 2-3 years, and any potential treatments (if required) can be considered at that stage.

Governance Compliance

Policy Implications

There are no policy implications associated with this report.

Financial and Resource Implications

The speed and volume surveys were undertaken as part of the operating budget in 2020/21. The ARRB Star Rating assessment cost \$6,950 (ex GST) and was charged to X8836.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Environmental Implications

There are no environmental implications relevant to this report.

Community Consultation

There was no requirement for community consultation.

Human Rights Consideration

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

Attachments

1. St Edmonds Road - Functional Layout Traffic Plan for PAO [**14.4.1** - 1 page]
2. St Edmonds Road Resident Requests [**14.4.2** - 2 pages]
3. St Edmonds Road - Star Rating Assessment [**14.4.3** - 22 pages]

14.5 Commemorative Plaques

Director Community & Wellbeing: Cath Harrod

Linkage to Council Plan

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

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

Purpose of Report

To seek approval for standard wording for commemorative plaques for projects which were completed during the former Council term but did not have an official opening event due to COVID-19.

Officer Recommendation

That Council:

- 1. APPROVE standard wording for commemorative plaques for projects which were completed during the former Council term but did not have an official opening event due to COVID-19.**

Executive Summary

1. Approval is required for the wording of plaques to commemorate projects completed during 2020 in the previous Council term, where opening events were delayed or cancelled due to COVID-19 restrictions.
2. It is proposed to acknowledge the Council elected at time of project completion on these plaques, rather than the current elected Council.
3. This format will only apply to projects completed during the previous Council term but not opened by official event.

Background

4. Plaques are used to commemorate the date on which a building or place was officially opened, and include a list of Councillors elected at the time of opening.
5. COVID-19 restrictions prohibited opening events for new and redeveloped buildings during the final year of the former Council term.

Key Issues and Discussion

6. The standard plaques wording to commemorate applicable projects is as follows:

<p style="text-align: center;">[Building/Place Name] Opened by the City of Stonnington [Date]</p> <p style="text-align: center;">Mayor, Cr Steven Stefanopoulos Deputy Mayor, Cr John Chandler OAM Cr Glen Atwell Cr Sally Davis Cr Marcia Griffin Cr Judy Hindle Cr Jami Klisaris Cr Matthew Koce Cr Melina Sehr</p> <hr/> <p style="text-align: center;">Chief Executive Officer, Jacqui Weatherill [Note of any funding contributions]</p>

7. This plaque format will apply only to projects completed in the previous Council term, where official opening events were cancelled or postponed due to COVID-19. These include:
- a. East Malvern Men's Shed
 - b. Grosvenor Street Maternal and Child Health Centre
 - c. Victory Square playground
 - d. Victoria Gardens playground
 - e. Union Street Park playground
 - f. Windsor Siding playground

Governance Compliance

Policy Implications

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

Financial and Resource Implications

9. Plaques typically cost approximately \$2,500 (incl. GST) for supply and install.

Conflicts of Interest Disclosure

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

Legal / Risk Implications

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

Community Consultation

12. There was no requirement for community consultation.

Human Rights Consideration

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

Attachments

Nil

14.6 Policy: Council Webcast

Chief Executive Officer: Jacqui Weatherill

Chief Governance Officer: David Taylor

Linkage to Council Plan

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

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

Purpose of Report

To seek Council support and approval for the 2021 review of the Council Meeting Webcast Policy and to note the associated Guidelines.

Officer Recommendation

- 1. That the Council APPROVE the Council Meeting Webcast Policy.**
- 2. That the Council NOTE the Council Meeting Webcast Guidelines.**

Executive Summary

This report provides the overview of the changes to the City of Stonnington Webcast Policy and Webcast Guidelines. The policy intent remains unchanged, and the changes are considered policy neutral. The minor administrative changes ensure that the current practices and legislative references are reflected in the documentation.

Background

The City of Stonnington introduced the live streaming of Council meetings and adopted the initial webcast Policy and guidelines in 2018 to ensure a robust framework existed to support its compliant operation and delivery to the community.

Key Issues and Discussion

A number of administrative changes and operational improvements require the documents to be amended, including:

1. Succession of the *Local Government Act 1989* with the *Local Government Act 2020*;
2. Replacement of the General Local Law with the 'Governance Rules';
3. Revised definitions under the new *Act*
4. Addition of subtext for those with hearing difficulty;
5. Subtext available in various languages; and
6. General formatting improvements.

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

This report has considered the requirements and implications of;

1. Local Government Act 2020; and
2. Privacy & Data Protection Act 2014.

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. Web Casting Policy Revision May 2021 [**14.6.1** - 7 pages]
2. Web Casting Guidelines Revision May 2021 [**14.6.2** - 10 pages]

15 Confidential Business

15.1 Contract: Data Enablement & Analytics Platform

Director Customer & Technology: Greg Curcio

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

Confidential report is circulated separately under the Local Government Act 2020.