



# Council Meeting Agenda

**Monday 6 September 2021 at 7 PM**

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

## **Information for the Community**

### **Welcome**

Welcome to a City of Stonnington Council meeting.

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

### **About this meeting**

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

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

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

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

### **Live webcasting**

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

### **Governance Matters**

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

### **Recording of Council Meetings**

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

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

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

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

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

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

**Behavior at meetings**

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

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

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

Your cooperation would be appreciated.

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

## Attendees

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

### **Welcome and Acknowledgement of Country**

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

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

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

### **Statement of Commitment**

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

# Council Meeting Agenda Monday 6 September 2021 Order of Business

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**1 Reading of the Reconciliation Statement**

**2 Reading of Statement of Commitment**

**3 Apologies**

**4 Introductions of Councillors & Executive Staff**

**5 Confirmation of the Minutes of the previous meetings**

**5.1 Minutes of the Council Meeting held on 16 August 2021**

**Officer Recommendation**

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

**6 Disclosure of Conflicts of Interest**

**7 Questions From the Community**

**8 Business**

## 8.1 Planning Application 0272/20 - 1631-1637 Malvern Road, Glen Iris

**Manager Statutory Planning: Alex Kastaniotis**

**Director Planning & Place: Annaliese Battista**

### Purpose of Report

For Council to consider a planning application for construction of a multi-dwelling development in a General Residential Zone and alteration of access to a road in a Road Zone Category 1 at 1631-1637 Malvern Road, Glen Iris.

### Abstract

#### Proposal

The proposal seeks to construct a four-storey apartment building comprising 52 dwellings. A total of 52 car spaces are provided over two basement levels, with vehicle access provided from the rear laneway which connects to King Street.

#### Officer Recommendation Summary

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

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

- The development is appropriately located on a main road and within close proximity of the Malvern Road – Burke Road Neighbourhood Activity Centre, Peace Park, public transport, and existing services and infrastructure to accommodate a medium density development.
- The proposal provides for a satisfactory landscape response that will contribute to the landscape character of the area.
- The development will not unreasonably impact upon adjoining residential amenity.
- The development will provide for an acceptable level of internal amenity.
- Sufficient car parking is provided in accordance with the Stonnington Planning Scheme and the development will not result in unreasonable traffic and parking impacts.

#### Issues

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

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

#### Officer's response

The proposal seeks to construct a four-storey apartment building comprising 52 dwellings. The subject site has many of the characteristics outlined in the local policy as suitable locations for medium density housing including being on an arterial road, being located in proximity to the Malvern Road – Burke Road Neighbourhood Activity Centre, having good access to public transport, and being within close proximity to a number of existing medium density housing developments. The site being a sloping, large, consolidated allotment has the capability of accommodating a four-storey building.

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

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

The proposal provides adequate car parking and access arrangements. As confirmed by Council's Transport and Parking Unit, the access arrangements and anticipated increase in traffic is considered reasonable and will not result in unacceptable traffic or parking impacts to Malvern Road, King Street and the surrounding local road network.

#### Executive Summary

Applicant:	Simon Martyn Fulcrum Urban Planning
Ward:	East
Zone:	General Residential Zone – Schedule 7
Overlay:	Nil
Neighbourhood Precinct:	Garden Suburban 4

Date Lodged:	09 April 2020
Statutory Days: (as at Council Meeting date)	48
Trigger for Referral to Council:	4 storeys or above and 7 or more objections
Number of Objections:	13
Consultative Meeting:	Yes – held on 1 July 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 Map Architecture and are known as Drawing No's: TP001-TP013, TP090, TP100-TP106, TP200-TP202, TP251-TP253, TP300, TP400-407, TP500 and TP600-TP604 and Council date stamped 12 July 2021 and Landscape Plans TP01 and TP02 Council date stamped 10 December 2020.

The application was originally advertised in August 2020. Following the first public notification, the application was amended on 10 December 2020 to formally substitute the advertised plans. The amended proposal mainly altered the vehicle access arrangement from the laneway to access the basement and was subsequently readvertised. After readvertising, further amendments to the plans were made in an effort to address the concerns expressed by objectors and Council Officers.

Notably, the revised plans which are Council date stamped 12 July 2021 were formally substituted pursuant to Section 57A of the *Planning and Environment Act 1987* and supersede the readvertised plans. Further details of the changes are outlined in the 'Advertising' section of this report.

Key features of the proposal are:

- Demolition of the existing dwellings and outbuildings (no permit required).
- Construction of a part three and part four-storey building comprising 52 apartments (25 x one-bedroom and 27 x two-bedroom).
- Provision of 52 resident car parking spaces and 53 resident bicycle parking spaces within a lower ground level and basement, as well as 6 visitor bicycle spaces adjacent the pedestrian entry.
- Vehicle access is via the rear laneway at the northern corner splay of the site which connects to King Street.
- Three existing crossovers to Malvern Road are to be removed and reinstated as kerb and footpath.
- The site is arranged with two 'wings' occupying the eastern and western halves of the site, separated by a central pedestrian walkway. Pedestrian access to a common lobby is provided at the upper ground level, providing a central point of access to both wings of the building from Malvern Road. The pedestrian access leads to a dedicated lift, stairwell, and lobby area. The lift and stairs provide access between all floors, including lower ground and basement levels.
- A maximum building height of 11.5 metres (including the screened roof plant). While the majority of the building is a maximum of three-storeys, a small portion of the rear section of the building is partially four-storeys due mainly to the slope of the land.

- Each apartment is provided with either a terraced courtyard or a balcony.
- Retention of the significant Cedar tree within the front setback of the site (south-east corner) and removal of the significant Pin Oak tree within the rear of the site.
- Planting of a further 17 canopy trees and additional vegetation.
- A contemporary built form response utilising a variety of materials including render, Colourbond cladding and aluminum frames and screening.
- The front fence is set behind a landscaped strip and comprises of aluminum slats with a woodgrain finish. The height is approximately 1.56 metres (varies depending on the slope).

### Site and Surrounds

The site is located on the north-east side of Malvern Road, approximately 30 metres east of the corner of Burke Road in Glen Iris. The site has the following significant characteristics:

- The subject site is a consolidated lot made up of three contiguous parcels, known as 1631 Malvern Road, 1633 Malvern Road and 1635-1637 Malvern Road.
- The site has a total area of 2,398 square metres. It has a combined street frontage to Malvern Road of 53.34 metres, an overall depth of approximately 42.2 metres, and a rear laneway boundary of approximately 63 metres.
- A laneway of approximately 3 metres in width extends along the rear boundary and is accessed off King Street. This laneway has a length of approximately 260 metres and is accessible via King Street and Burke Road.
- The site has an appreciable slope, generally falling in a north-easterly direction across the site of approximately 3.9 metres from the Malvern Road frontage towards the rear laneway.
- 1631 Malvern Road is developed with a single storey dwelling with vehicle access from Malvern Road. Secluded private open space is located to the rear of the dwelling.
- 1633 Malvern Road is developed with a single storey dwelling with vehicle access from Malvern Road. Secluded private open space is located to the rear of the dwelling.
- 1635 Malvern Road is a vacant parcel of land. A driveway continues to service the site from Malvern Road. Planning Permit No. 737/17 was issued for this site on 3 May 2018 and allows for a three-storey apartment building and rooftop deck with an overall height of 11.5m. This permit was extended on 20 April 2020 and is still valid.
- A mature Pin-Oak tree is located in the northern corner of the site at the rear of 1631 Malvern Road and a mature Cedar tree is located in the southern (front) setback of site at 1635-1637 Malvern Road. Both trees are deemed significant under Council's Local Law.
- High front fences are erected in front of 1631 and 1633 Malvern Road, and a temporary solid hoarding is located along the frontage of 1635 Malvern Road.

The site is located within an area that has good access to services and facilities. The Malvern Road – Burke Road Neighbourhood Activity Centre is located approximately 60 metres to the east and Peace Park is located directly to the east of the subject site. The site is well served by public transport with Gardiner railway station located 225 metres to the west of the site and trams located at the Malvern / Burke Road intersection with a tram stop located 70 metres from the site.

The surrounding area is largely made up of residential properties, featuring a mixture of detached dwellings and multi-dwelling developments (in the form of townhouses and apartment buildings) constructed in various periods. Developments along the north-eastern side of Malvern Road are largely two to four-storeys with a more robust and contemporary built form, and this forms part of the emerging character within the immediate context. The

opposite (south-western) side of Malvern Road is characterised by a predominance of traditional single detached dwellings. High front fences for properties with an abuttal to a main road is characteristic in the immediate surrounds.

The site interfaces with adjoining properties as follows:

- To the north-east, the laneway runs parallel with Malvern Road and provides vehicle access to the rear of properties that front Malvern Road and King Street. There are numerous properties that rely on the laneway for access to rear garages. Beyond the laneway are the rear private open spaces of the properties at No's 4, 6, 8, 10 and 12 King Street. The dwellings on these properties are setback from the laneway by approximately 12 metres exhibiting sizeable backyards and garages/outbuildings along part of their rear boundaries.
- The land to the east at 1639 Malvern Road is developed with a three-storey apartment building (approved under Planning Permit No. 638/15) commonly known as the 'The Henderson'. Vehicular access to this development is from Malvern Road with car parking located in a basement. This apartment building is setback 3.1-3.4 metres from the common boundary with the subject site at ground and first floor level and then setback 5.7-6.6 metres from the common boundary at second floor level. It is noted that terraces and balconies encroach into these setbacks and are located 1.8-3.6 metres from the boundary. The building exhibits a street setback to Malvern Road which varies between 8.3-10.3 metres. This development includes setbacks of between 4-9 metres to the rear boundary with balconies setback a minimum of 3 metres from the rear boundary.
- A small Council reserve is located immediately west of the site, known as 'Peace Park'.
- Further west is Burke Road and the Malvern Road – Burke Road Neighbourhood Activity Centre. A seven-storey contemporary apartment building has been constructed to the north-western corner of Burke and Malvern Road.
- Malvern Road sits to the south of the site and is within the Road Zone, Category 1. Further south-west and opposite the subject site Planning Permit No.268/16 issued on 16 January 2017 allows for a multi-dwelling residential development at 1564-1566 Malvern Road containing four levels of apartments. The development is known as the 'Aspect' apartments. This permit has been extended and is still valid. Works are yet to commence.

### Previous Planning Application

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

#### *1635 Malvern Road (eastern most parcel of subject site)*

- Planning Permit No.737/17 issued on 3 May 2018 for the construction of a multi-dwelling development in a General Residential Zone and alteration of vehicle access to a road in a Road Zone Category 1. The permit allows for the construction of a three-storey apartment building for 7 dwellings with basement car parking and vehicle access provided from the rear laneway. An extension of time to the permit was approved on 20 April 2020. Works are yet to commence, and the development must now commence by 3 May 2022 and be completed by 3 May 2024.

### The Title

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

- Lots 1 and 2 on Title Plan 879403K in Volume 11811 Folio 870 (1631 Malvern Road). No covenants or easements affect the land.
- Lots 1, 2 and 3 on Title Plan 217482G in Volume 05020 Folio 834 (1633 Malvern Road). A restrictive covenant has recently been removed from this site which restricted “...the erection of a building other than a detached dwelling house or detached dwelling houses or garage...which shall not be constructed of any material other than brick...”. No covenants or easements affect the land.
- Lots 1 and 2 on Title Plan 837181N in Volume 11408 Folio 166 (1635-1637 Malvern Road). No covenants or easements affect the land.

### Planning Controls

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

#### Zone

##### *Clause 32.08 – General Residential Zone (Schedule 7) – Residential Boulevards & Corridors*

Pursuant to Clause 32.08-6, a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55.

Pursuant to Clause 32.08-4, a minimum garden area of 35% is required to be provided on a lot greater than 650 square metres. The development provides a minimum garden area of 38% (which equates to 912 square metres) in compliance with the mandatory requirement.

Schedule 7 to the General Residential Zone (GRZ) specifies that a building used as a dwelling must not exceed a height of 10.5 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 11.5 metres. The site has an allowable height of 11.5 metres and a lift overrun may exceed this height by up to 1.2 metres.

The proposal has a maximum building height of 11.5 metres above the natural ground level. The lift overrun and roof top plant screens sit beneath this height. The lift overrun extends 1 metre above the roof parapet and the rooftop plant screen extends between 1.4-1.8 metres above the roof parapet. The proposal complies with the mandatory building height limit as set out in Schedule 7 to the GRZ.

Schedule 7 modifies the following requirements:

- Site coverage (Standard B8) - Basements should not exceed 75% of the site area.
- Side and rear setbacks (Standard B17) - For a distance of at least 5 metres behind the front facade of the building fronting the street, setback new buildings (including basements) a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height. Where no setback is specified, standard B17 applies.
- Walls on boundaries (Standard B18) - Walls should not be located on side boundaries for a distance of 5 metres behind the front façade of the building fronting the street.

#### Overlay

The site is not affected by any overlays.

#### Particular Provisions

##### *Clause 52.06 – Car Parking*

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

The development, comprising 25 x one-bedroom and 27 x two-bedroom dwellings, generates a statutory car parking requirement of 52 car spaces. The subject site is located within the Principal Public Transport Network (PPTN) area and therefore no visitor car parking is required to be provided on site.

The development provides 52 car spaces over two levels of basement car parking, which meets the requirements of Clause 52.06.

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

Pursuant to Clause 52.29, a permit is required to create or alter access to a road in a Road Zone, Category 1. An application to create or alter access to a road declared as an arterial road under the Road Management Act 2004 must be referred to the Roads Corporation under Section 55 of the Act. The Department of Transport (formerly known as VicRoads) is a determining referral authority.

*Clause 52.34 – Bicycle Facilities*

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

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

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

The development generates a requirement for 15 spaces (10 resident spaces and 5 visitor spaces). The proposal provides 53 resident spaces in the basement car park and 6 visitor spaces adjacent the pedestrian entry, which exceeds the statutory requirements of Clause 52.34.

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

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

**Relevant Planning Policies**

Clause 15 – Built Environment and Heritage

Clause 16 – Housing

Clause 18 – Transport

Clause 21.03 – Vision

Clause 21.05 – Housing

Clause 21.06 – Built Environment and Heritage

Clause 22.05 – Environmentally Sustainable Development Policy

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

Clause 22.23 – Neighbourhood Character Policy

Clause 53.18 – Stormwater Management in Urban Development

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

Clause 65 – Decision Guidelines

**Advertising**

The original application was first advertised in September 2020 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 four signs on the site). The public notification of the application was completed satisfactorily.

The site is located in East Ward and objections from thirteen (13) different properties were received to the original proposal. The objections are summarised as follows:

- Inappropriate vehicle access from King Street and vehicle access should be from Malvern Road.
- Unreasonable traffic impact and increase of traffic and congestion, particularly in King Street.
- Removal of Pin Oak tree at the rear.
- Inadequate landscape response.
- Overshadowing to Peace Park.
- No provision of communal open space.
- Lack of visitor car parking.
- Overlooking (to the north).
- Poor mix of apartment sizes.
- Overdevelopment of the site.
- Excessive bulk, scale, and form of the development.
- Inadequate design standard of development.
- Inadequate ESD initiatives.
- Proposal will breach covenant.

Following public notification, the plans were formally substituted under Section 57A of the *Planning and Environment Act 1987*. The key changes shown on the amended plans include, but are not limited to, the following:

- Design of the accessway revised with a raingarden added on the eastern side of the accessway to physically restrict use of the east-west portion of the laneway and instead rely only on the north-south section of the laneway to access the basement.
- Changes to the landscape plan to include larger canopy trees along the northern (rear) boundary.
- Additional 28 bicycle spaces within the basement.
- Increased setbacks from Malvern Road at each level.
- Increased western setbacks (from Peace Park) at each level.
- Relocated retaining wall to further protect Himalayan Cedar tree within the front setback.
- Internal layout changes.

The amended application was subsequently readvertised by sending notices to the owners and occupiers of adjoining land and all previous objectors. The re-notification of the application was completed satisfactorily.

One (1) objection was received to the amended application. It is noted that the 1 objection was a further objection from a previous objector. This objection is summarised as follows:

- The use of a 'no right turn/no left turn' sign is insufficient in restricting vehicles from using the laneway and a barrier is required to prevent drivers using the laneway in an east-west direction.

A Consultative Meeting was held on 1 July 2021. The meeting was attended by Councillors Klisaris, Lew and Morgan, representatives of the applicant, objectors and a Council planning Officer. The meeting resulted in lodgment of further revised plans formally substituted under

Section 57A of the *Planning and Environment Act 1987*. Amended plans submitted on 20 July 2021 include, but are not limited to, the following changes:

- Further increased setbacks from Malvern Road at each level to achieve a minimum 6m street setback.
- Increased setbacks from Malvern Road have resulted in Apartment's UG.08, 1.16 and 2.07 changed from two-bedroom to one-bedroom apartments.
- Increased western setbacks (from Peace Park) at each level to achieve a minimum 3m setback (with the exception of the north-west corner).
- Basement slab and lower ground raised approximately 140mm to address stormwater drainage issues.
- Level 1 AHD now 30mm lower as a consequence of structural changes to slab thickness.
- Light reflectance values for walls and windows increased and visible light transmittance for screening increased for some apartments.

The latest revised plans were not formally re-advertised as it was considered that no additional material detriment would result from the amended application given the extent of changes as listed above result in an overall reduction in the building footprint (i.e. increased setbacks from Peace Park and Malvern Road) and the changes to the floor level AHD's are negligible and do not result in any increase in overall building height.

#### Referrals

##### *Urban Design*

- The scale of the building is consistent with the intent of the Zone.
- The current revised plans represent an adequate response.
- I support the proposed design character and the materials/colour palette.

##### *Parks*

- The Non Destructive Root Investigation (NDRI) information in relation to the significant Himalayan Cedar tree is accepted.
- A Tree Management Plan and Tree Retention Bond are required to be conditioned for the significant Himalayan Cedar tree.
- The *Quercus palustris* (Pin Oak) within the rear setback, although in good health, has structural deficiencies which has greatly reduced the Useful Life Expectancy (ULE) for this tree.
- The landscape plan is supported.
- A condition of permit will require that no works or storage of materials associated with the development are to occur within the Council Reserve, Peace Park.

##### *Environmentally Sustainable Design*

- It is proposed to install 6 Star WELS rating kitchen and bathroom taps. Further information is to be provided on the proposed tap types.
- A notation is to be included on the plans confirming all windows to habitable spaces are to be double glazed as per the preliminary energy ratings.
- Within BESS there is a commitment to achieve an average NatHERS Rating of 7.0 stars and hence a 50% score has been claimed, however within the SMP there is a commitment to achieve an average NatHERS Rating of 6.9 stars which equals a score of 16%.
- As a raingarden is proposed, design details are to be provided including a cross section which show details of the depth and materials for each layer of the raingarden.

- The number of bedrooms within the STORM assessment is to be amended to reflect the number of bedrooms within the development.
- A 600mm deep shroud will be accepted (for shading) for the lower-level habitable room windows to the north and east. However, the top floor living area windows facing north and east and all north and west windows, not protected by a balcony over, should have a combination of fixed external shading (600mm deep shroud) and operable external vertical shading devices, which could be in the form of operable louvres, sliding shutters or external blinds.
- Based on the results of the revised daylight modelling now 96% of the Living areas achieve Council's best practice standard, which is acceptable.

Planner note:

The revised plans include a cross section design detail of the proposed raingarden. Permit conditions are included to address the concern raised regarding shading and the additional information required on the plans and within the SMP and STORM assessment.

*Infrastructure*

- Conditions are required relating to a report for the legal point of discharge, ensuring that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations, stormwater drainage system, the existing right-of-way levels must not be lowered or altered in any way, removal of redundant vehicle crossovers and the provision of a stormwater detention system or alternatively stormwater tanks that are in total 5,000 litres greater than those tanks required to satisfy WSUD requirements.

*Transport and Parking*

- A proposed traffic generation of 0.25 movements per dwelling per peak hour is proposed for the subject site.
- In conjunction with the traffic movement surveys undertaken by GTA Transport Consultants, additional surveys were undertaken observing intersection movements at the intersection of Burke Road/King Street and Malvern Road/King Street.
- Site generated traffic volumes of the subject site and nearby development at 1655-1661 Malvern Road were applied to produce an analysis of the intersection movements post-development. The impact to both intersections were analysed.
- The values in the results indicate that the intersection at either end of King Street will adequately operate within their theoretical capacities post-development. All delays expected are anticipated to occur on the local road network (i.e. King Street) and no delays are expected on arterial roads (i.e. Malvern Road and Burke Road). The longest delay time expected is 12 seconds on the east leg of King Street at the intersection with Malvern Road during the PM peak period.
- The traffic generation analysis and intersection analysis can be considered reasonable.
- The architectural plans dimension the head height available in the lower ground level as 2.82m. The applicant is to confirm that this head height can cater for the private waste truck proposed for the site.
- Sight triangles are not shown on the plans. However, considering the accessway is approximately 6.16m wide at the property boundary and traffic cannot come from the west, the available sight lines at the property boundary are acceptable.

- The ground clearance diagrams demonstrate that adequate access is provided for a B99 design vehicle up and down the basement ramp and vehicles do not bottom out. This is acceptable.
- The minimum gradient of the lower ground floor shall be 1 in 200 (0.5%), similar to the basement level. The applicant is to reflect this on the plans.
- The applicant has provided reasoning as to why access is still sought via the laneway at the rear of the property, rather than proposing access direct from Malvern Road at the property frontage. These reasons relate to road safety issues, Planning Scheme considerations to minimise access points to a road zone and previous Department of Transport advice objecting to the neighbouring access point on Malvern Road. As a result, the proposed right of way access to the subject site is reasonable.
- The applicant is to ensure that all redundant vehicle crossings on the Malvern Road frontage of the site are reinstated to kerb and channel and must be made good to the satisfaction of the responsible authority.

#### *Waste*

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

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

The Head, Transport for Victoria has considered this application and does not object if the permit is subject to the following condition:

- Prior to the occupation of the development, the disused/redundant vehicle crossing on Malvern Road must be removed, and the area reinstated to kerb and channel, to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.

The Department also requests the following planning note be included on any approved permit:

- No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the *Road Management Act 2004*, the *Road Safety Act 2017*, and any other relevant acts or regulations created under those Acts.

## **Key Issues and Discussion**

### **Strategic Justification**

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

Benefits of more intensive housing include the provision of more diverse and affordable housing choices to meet the needs of Melbourne's growing population and better use of existing infrastructure in an effort to reduce Melbourne's urban sprawl.

Council's Local Policy on the location of residential development at Clause 21.05-2 seeks to maintain a clear distinction between the type of development outcomes in locations for higher density development and the lower density residential hinterland. The subject site is identified as being suitable for incremental change within Council's Strategic Framework Plan (Clause 21.03-3), where the policy directs multi-unit development (two to three-storeys)

to lots capable of accommodating increased density. In this instance the part three and four-storey built form is similar in height to a number of existing and approved buildings along Malvern Road and Burke Road. The site being a sloping, large, consolidated allotment has the capability of accommodating a four-storey building.

The purpose of the General Residential Zone is to encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport. The proposal incorporates one and two-bedroom apartments which will provide for a greater range of housing stock in this established residential area and is consistent with the purpose of the zone and Clause 21.05-4 (Housing diversity) which encourages infill developments to provide for a range of dwelling types.

The subject site has many of the characteristics outlined in the local policy as suitable locations for medium density housing including being on an arterial road, being located in proximity to the Malvern Road – Burke Road Neighbourhood Activity Centre, having good access to public transport, and being within close proximity to a number of existing medium density housing developments. The subject site is also large in area (2,398 sqm) by virtue of the consolidation of three separate titles (1631, 1633 and 1635-1637 Malvern Road).

Therefore, there is strong policy support within the Planning Scheme for a higher density residential development on the subject site. The relevant State and Local Policy regarding the provision of housing also refers to the importance of maintaining and enhancing neighbourhood character. Detailed consideration must be given to how the proposal specifically responds to the neighbourhood character, design and residential amenity. These elements are discussed in further detail below

### Neighbourhood Character

The Neighbourhood Character Policy in Clause 22.23 sets out the preferred character and design guidelines for development in different character precincts. The subject site is located in the Garden Suburban 4 (GS4) Precinct where the statement of preferred neighbourhood character is as follows:

*The Garden Suburban 4 (GS4) precinct comprises spacious and leafy streetscapes with Edwardian, Interwar or Post-war era and new buildings set in established garden surrounds. Regular front and side setbacks provide space around buildings and allow for canopy trees. New buildings or additions offer innovative and contemporary design responses while complementing the key aspects of building form, scale and design detail of the older dwellings in the precinct. Low or permeable front fences retain views to gardens and buildings from the street. Areas within a Residential Growth or Mixed Use Zone or within a substantial change area will accommodate more development with a more compact setting but with space for canopy trees and other vegetation and high quality, responsive design.*

Having regard to the objectives above, the development is deemed to be respectful of the surrounding built form, the existing development approvals on the neighbouring properties, as well as the prevailing and emerging character of the area. The proposed development responds positively to the preferred character objectives by way of the following:

- The character of the area has evolved in recent years and features three and four-storey apartment buildings as well as new detached dwellings and unit developments interspersed with traditional homes.
- The existing buildings on the subject site are not historically significant and planning permission is not required for their demolition.

- The proposed development will present as a part three and part four-storey form with a maximum building height of 11.5 metres above natural ground level. The four-storey apartment typology provides a scale and height that is consistent with other existing and approved medium density developments along this section of Malvern Road.
- It is considered the setbacks provided, particularly an increased setback and recession of the second floor combined with the separation afforded through the rear laneway helps alleviate the extent of building mass and will allow for an appropriate sense of transition to the lower scale residential area behind.
- The development incorporates two distinct built forms separated by a landscaped pedestrian walkway. This assists to break up the breadth of the elevation which spans three lots.
- The development represents a contemporary architectural design response which is well-articulated and selected materials include, light render finishes, colourbond cladding and aluminum frames and screening which are complementary to surrounding development.
- The siting of the development enables a suitable landscape response incorporating a number of canopy trees and lower level vegetation around the perimeter of the site to complement the garden character of the precinct and soften the built form.
- The front setback is consistent with the broader streetscape of Malvern Road and enables the retention of the large mature tree within the front garden.
- The proposal removes three existing crossovers from Malvern Road and proposes one point of entry/egress to a communal basement car park via the rear laneway. This ensures that car parking structures do not dominate the streetscape and hard paved areas are minimised.
- The proposed 1.56 metre high front fence includes landscaped recesses and is compatible with the scale of the development and will complement adjacent fencing which is typically high in this main road context.

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

### Built Form

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

#### *Street Setback*

The standard requires the front setback to be the same distance as the setback of the front wall of the existing building on the abutting allotment facing the front street or 9 metres, whichever is the lesser. The adjoining apartments to the east are set back from Malvern Road between 8.3 and 10.3 metres (with balconies encroaching into these setbacks). The Standard requires an 8.3 metre street setback for the proposal.

The proposal is setback to the street between 6-11 metres at ground floor, 6-11.4 metres at first floor and 6-11.8 metres at second floor. The balconies and framing elements at each level do not encroach within these setbacks.

The proposed setback is staggered, noting a minimum 9.6 metres front setback at the interface to The Henderson apartments (eastern property) and a minimum 6 metre setback at the western end. The central part of the site has a front setback that varies between 6 – 11 metres.

As proposed, the development does not strictly comply with the recommended setback of 8.3 metres. Nonetheless, these setbacks are considered to be responsive to the existing and approved multi-dwelling developments to the south-east and largely reflective of the prevailing street setbacks along this section of Malvern Road. The staggered setbacks along the expanse of Malvern Road are considered to provide an appropriate transition from the eastern side of the site adjoining the neighbouring apartment building and the western side adjoining the activity centre corner. It is noted that Council's Urban Designer is supportive of the proposed street setbacks.

The setbacks will ensure that the new building will not dominate the streetscape of Malvern Road. The building has a modern contemporary appearance, and the facade incorporates balconies, terraces, framing elements and a mixture of materials and colours which provides articulation to the building and visual relief as presented to public realm.

The street setback of the development also allows for the retention of the large Cedar tree within the front garden and allows for the planting of five large canopy trees along the frontage.

#### *Building Height*

The development as proposed has a maximum building height of 11.5 metres, which complies with the mandatory height limit specified in Schedule 7 to the GRZ. It is also noted that the lift overrun and roof top plant screens sit beneath this height.

The three to four-storey scale of the development is compatible with the main road location and is not dissimilar to other existing and approved medium density housing developments along this section of Malvern Road, where there are examples of robust three and four-storey buildings. The adjoining property to the east at 1639 Malvern Road is a three-storey apartment building constructed to a height of 11.3 metres and further east at 1647-1653 Malvern Road and 1655-1661 Malvern Road are existing approvals for four-storey apartment buildings with overall heights of 11.5 metres.

#### *Site Coverage and Permeability*

Schedule 7 of the General Residential Zone varies ResCode and states that a basement should not exceed 75% of a site's area. The proposed basement footprint equates to site coverage of 65% in compliance with the varied requirement. Above ground, the proposed site coverage of the building is 58.2% in compliance with the 60% permitted by the standard.

ResCode seeks at least 20% of the site to be of permeable surfaces and the application proposes approximately 24.7%, thereby exceeding the minimum requirement.

#### *Landscaping*

The proposal offers a meaningful landscape response which is respectful of the landscape character of the neighbourhood. The development seeks to retain the significant Cedar tree within the front setback of the site (south-east) and remove all remaining vegetation, including a significant Pin Oak tree within the rear (north-west) of the site. In some instances it may be considered acceptable to remove vegetation from a site provided an acceptable level of replacement planting is proposed. The applicant has submitted an Arboriculture Report prepared by Galbraith and Associates dated March 2015 that assesses the health and retention value of the significant Pin Oak tree proposed for removal. In this report the

proposed removal of the tree is considered acceptable given its low useful life expectancy. Council's Arborist has no objection to the vegetation removal, subject to appropriate replacement planting.

The provisions of Standard B38 (Deep Soil Areas and Canopy Trees) requires development on a site with an area of 1501-2500 square metres to provide 10% of the site area with a minimum dimension of 6 metres for deep soil planting. The site has an area of 2,398 square metres and therefore a total deep soil area of 239 square metres is required. The overall landscape response respects the character of the area with 30.8% of the site (743 square metres) set aside for deep soil planting with a dimension greater than 3 metres (and 213 square metres or 8.8% of the site with a minimum dimension of 6m). The landscape response provides more canopy tree cover than the minimum required in the standard. As such, it is considered the objective of Standard B38 is met.

Provision is made for 17 canopy trees, including Pin Oaks with a mature height of 14 metres, Magnolia's with a mature height of 12-15 metres, Chinese Elms with a mature height of 8-15 metres and Crepe Myrtle's with a mature height of 8 metres. The proposed landscaping will provide a safe, functional and attractive environment for future residents. The level of landscaping, including canopy tree planting is consistent with the prevailing landscape character, and suitably compensates for the removal of existing vegetation. The building setbacks above and below ground are also adequate to ensure that trees on neighbouring properties and Peace Park are not adversely impacted.

As recommended by Council's Arborist, a Tree Management Plan will be required as a condition of permit and a tree bond will be required for the retained significant Cedar tree as security to protect its health during and post-construction. It is also noted that the extent of encroachment into the root zone of the Cedar tree has reduced from the development approved under Planning Permit 737/17 for the eastern most parcel of the subject site.

#### *Access and Parking Location*

The vehicle access is to be provided via the rear laneway. The three existing vehicle crossings on Malvern Road are to be removed.

The location and design of the proposed vehicle access is supported by Council's Transport and Parking Unit as well as the Department of Transport (DoT).

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

The habitable room windows of apartments LG.01 and UG.02 adjacent the basement ramp are proposed to be acoustically treated.

Overall, the vehicle access arrangements and location of parking on site for each of the dwellings is considered to be convenient and appropriate.

#### *Amenity Impacts*

##### *Side and Rear Setbacks*

The setbacks and wall heights vary across the site due to the slope in the land. It is noted that wall heights are calculated based on the levels of ground level directly below the building (not based on the levels at the boundary).

Schedule 7 to the zone varies the side setback standard requirements and seeks new buildings, including basements, to be setback a minimum of 2 metres from at least one side boundary and at least 1 metre from the other side boundary up to 3.6 metres in height, for a distance of at least 5 metres behind the street facing façade.

### 'Western Interface'

To the west the basement is proposed to be constructed on the western boundary and the apartments at lower ground are setback a minimum of 4.8 metres. The basement boundary construction does not comply with the varied side setbacks as required under the schedule to the zone as stipulated above.

A minimum setback of 3 metres is then proposed at the upper ground floor, Level 1 and Level 2. This is with the exception of the north-western corner of the building, which is setback a minimum of 1 metre (due to the irregular property boundary). The setbacks to the upper ground and Level 1 comply with the standard, with the exception of a partial section of the north-west corners of the building which comprise the bedrooms to UG.01 and 1.01. A variation from the Standard of between approximately 0.2-1.2 metres is sought.

Level 2 is setback between 3-4.8 metres (again with the exception of the north-west corner setback 1 metre) and does not comply with the requirements of the Standard. A setback of between 3.8-6.59 metres is required based on a varying wall height of 8.7-11.5 metres.

It is considered the variation to the western side setbacks as described above can be supported in this local context having regard to the topography of the site, the irregular property boundary and the existing screening vegetation within the abutting park. Council's Urban Designer is also supportive of the setbacks proposed to Peace Park.

There is no adjoining building to the west and the site sits on the periphery of the neighbouring activity centre (where more intense built forms are apparent) and therefore, encroachment into the side setback requirements along this boundary would not adversely impact on the character of the area, nor impact on the amenity of any existing dwellings.

The construction of the basement on the western boundary also allows for the vehicle access point to be from the north-west corner of the site to encourage drivers to enter and exit the site using the north-south link leading to King Street, rather than the longer east-west portion of the laneway. While this access arrangement limits the opportunity for deep soil planting, the proposal includes boundary planting in raised planters, including a 4m high canopy tree along the western edge.

The front setback will contain a row of Crepe Myrtles, extending to the corner of the site closest to the park. The existing planting within the Peace Park will substantially screen views to the western edge of the new development and lessen the visual bulk impact.

The building setbacks are also adequate to ensure that trees in Peace Park are not adversely impacted.

### 'Eastern Interface'

To the east, setbacks ranging between 1.76-2.68 metres are proposed at the lower ground floor and setbacks ranging between 2.8-5.7 metres are proposed at the upper ground floor and Level 1. The building then steps back further at Level 2, with setbacks ranging between 4.93-7.35 metres. The balcony setbacks range between 3.2-3.9 metres at the upper ground floor and first floors, and 4.9-5.1 metres at the second floor.

The eastern interface has been designed to largely comply with the side setback standard. This is with the exception of the rear north-eastern corner of the building which is setback 5.5 metres from the eastern boundary. A setback of 5.8 metres is required based on a wall height of 10.7 metres. The parapet associated with apartment 2.09 encroaches approximately up to 300mm into the side setback requirements.

The encroachment of the top parapet toward the rear of the building is considered acceptable as the neighbouring apartment building is setback to a similar degree as the proposal. The adjoining second floor level is setback from the common boundary between 5.7-6.2 metres to the wall and 3.6-4.8 metres to the terraces. Having regard to the setbacks of the adjoining apartment building, a separation of between 9.75 metres (front) and 11.76 metres (rear) between the two apartment buildings will be achieved. This is consistent with the prevailing streetscape rhythm and it is considered that the proposed setbacks provide an acceptable separation from the adjoining apartment building.

The eastern facade is also articulated by colour, facade detailing and architectural features designed to fragment the mass of the building.

The submitted landscape plan also shows the planting of six canopy trees along the eastern boundary varying in size between 10-14 metres. This will help soften the impact of the built form to the neighbouring properties to the east.

The minor variation to the side setbacks will also not result in unreasonable loss of outlook and daylight or overshadowing to the neighbouring apartment building.

It is further noted that the siting and setbacks of the proposal from the east have generally adopted those of the apartment building approved under Planning Permit No.737/17 for the eastern most parcel of the subject land, with minor variations that, on balance, increase the setbacks at this interface.

#### 'Northern Interface'

To the north, setbacks ranging from a minimum of 3.99-5.4 metres are proposed at the lower ground floor, upper ground floor and Level 1. The building then steps back to between 6.97-7.7 metres at Level 2. The balcony setbacks range between 2.4-3.2 metres at the upper ground level and Level 1 and between 5-5.7 metres at Level 2.

The northern interface has been designed to largely comply with the rear setback standard.

This is with the exception of the bedroom wall of apartment 102 at Level 1 which encroaches approximately 260mm-360mm into the rear setback standard. A setback of 4.16 metres is required based on a wall height of 9.07 metres and a setback between 3.8-3.9 metres is proposed. The corner of this balcony also encroaches approximately 200mm in the rear setback standard. A setback of 2.59 metres is required based on a height of 7.5 metres and a setback of 2.3 metres is proposed.

The majority of the balcony to apartment 202 at Level 2 also encroaches approximately up to 500mm into the rear setback standard. A setback of 5.53 metres is required based on a height of 10.44 metres and a setback of between 5-5.5 metres is proposed.

The existence of the rear laneway provides an immediate separation between the built form proposed for the subject site and those properties fronting King Street. Given the interface with a 3 metre wide laneway, such extent of non-compliance is not considered to be unreasonable. This is evident in that the building would be fully contained within the Standard B17 envelope if measured from the centreline of the laneway, as demonstrated in the cross-sections.

The proposed rear setbacks are deemed to be an adequate distance from the neighbouring secluded private open spaces to the north to ensure that the building bulk will not overwhelm or dominate these spaces and the presence of rear garages and outbuildings to the King Street properties will further lessen the potential visual bulk impacts of the proposal.

The development incorporates two distinct separated built forms, which assists to break up the breadth of this elevation across the three lots.

The area at the rear will also allow for spreading of seven proposed canopy trees along the northern boundary varying in size between 12-14 metres which will contribute to the softening of any visual impact perceived by the properties to the rear.

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

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

#### *Daylight to Existing Windows*

Considerable setbacks are proposed from the adjoining property to the east, with setbacks between 6.7-11.3 metres proposed from the neighbouring habitable room windows, exceeding the numeric requirements of the Standard. The existing habitable room windows to the rear are setback substantially from the subject site. There are no north facing windows within 3 metres of the subject site. As such, the proposal will ensure adequate daylight to all existing habitable rooms to the adjoining dwellings is maintained.

#### *Overshadowing*

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

The neighbouring apartment building to the east contains terraces and balconies located in proximity to the common boundary with the subject site.

The proposal will not cast any additional shadow to the neighbouring property until 1pm. At 1pm, the impact is negligible and unlikely to be noticed beyond the existing fence shadow.

Due to the changes in levels throughout the site, the extent of additional overshadowing cast by the proposal is best described in the 3D modelling images provided by the applicant (TP400-TP406). A cross-section has also been provided on TP407 that depicts the shadow impact of the proposal upon the west facing secluded private open space associated with the existing development at 1639-1645 Malvern Road (The Henderson) at 2pm and 3pm, depicting existing and proposed conditions.

The 3D modeling and sections depict that at 2pm, there will be some impact to the lower ground (G03) and ground floor courtyards (G04, G05 and G06) of the adjoining apartments. At 3pm, the shadows then also extend to the first floor balconies of apartments 107 and 108.

While the proposal results in additional overshadowing to these secluded private open space areas, the extent of additional shadowing is not considered unreasonable. The impact is not appreciably different from the impact arising from the already approved apartment development on the eastern most parcel of the subject site. Notably, the shadow impacts to The Henderson apartments closer to Malvern Road will see a reduction in shadow impacts compared to the existing approval.

It is also noted that the built form/ balustrades and screening to the secluded private open space areas from the existing Henderson apartment development already result in less sunlight to these areas in the morning hours.

As evidenced in sectional shadow diagrams submitted with the application, shadows cast at 2pm do not hit the full extent of the building at natural ground level, resulting in a maximum 1.2 metre high shadow from natural ground level.

No additional overshadowing will result to the adjoining apartments between 9am-12pm, and the extent of overshadowing at 1pm is minimal. It is considered that the proposal will not unreasonably impact the amenity of the existing courtyard areas of the adjoining apartments.

An objector has also raised concern with overshadowing to Peace Park. The shadow diagrams indicate the proposal will result in some additional shadow to the park at 9am and then at 10am the impact is negligible beyond the existing fence shadow. Due to the orientation of the subject site the proposal will not cast any shadow to the adjoining park from 11am onwards, ensuring the new development does not unreasonably compromise the parks access to sunlight.

### *Overlooking*

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

#### *'Eastern Interface'*

To the east, the proposal is fully compliant with Standard B22 (Overlooking).

New boundary fencing at a height of at least 2 metres high combined with obscure glazing up to 1.7 metres above finished floor level to windows will adequately limit overlooking from proposed lower ground and upper ground floor windows into the adjoining apartment building to the east. The east elevation does not clearly dimension the height of the proposed boundary fencing and this detail will form a condition of any permit to issue.

At Levels 1 and 2, 1.7 metre high aluminum slat screening (with no more than 25% transparency) will be used around the balconies and obscure glazing to 1.7 metre above finished floor level is proposed to all windows within 9 metres from any secluded private open space or habitable room windows of the apartment building adjacent.

#### *'Northern Interface'*

Beyond the laneway to the north are the rear private open spaces of the properties at No's 4, 6, 8, 10 and 12 King Street. The dwellings on these properties are setback from the laneway by approximately 12 metres exhibiting sizeable backyards and garages/outbuildings along part of their rear boundaries.

To the north, the proposed boundary fencing (being a combination of cement cladding and aluminum slats with no more than 25% transparency) will adequately limit overlooking from proposed lower ground floor windows and terraces. The extent of cut required into the site (due to the slope of the land) results in a visual barrier at least 1.9 metres high above the lower ground level.

At the upper ground and Level 1, 1.7-1.8 metres high aluminum slat screening (with no more than 25% transparency) will be used around the balconies and obscure glazing to 1.7-1.8 metres above finished floor level is proposed to all windows within 9 metres from any secluded private open space of the neighbouring dwellings opposite the laneway.

Due to the setback of Level 2, there will be no direct overlooking from the windows as the setback exceeds 9 metres from the opposite secluded private open space areas of the properties on King Street. However, view lines from north facing balconies for the Level 2 apartments fall within 8-8.9 metres from the fence line of the opposite properties on King Street, and these balconies are proposed with 1.1 metre high screening. It is unclear from

the drawings if the views within 9 metres of the adjoining properties fall within areas of secluded private open space or areas occupied by outbuildings, garages or car parking environs. It is also unclear if the existing structures within the neighbouring rear yards will adequately limit views into any existing secluded private open space. As such it is recommended that all north facing balconies at Level 2 with potential for overlooking within 9 metres of neighbouring secluded private open space of the properties at No's 4, 6, 8, 10 and 12 King Street must be either screened or it be demonstrated that there are limited views in order to comply with Standard B22 (Overlooking) as a condition of approval.

A permit condition will require a section detail of the proposed aluminum slat screens including details of its width, height and angle of the slats as well as the gap between the slats to ensure compliance with the overlooking standard is met.

A permit condition will also require an annotation to be provided in the Finishes Legend that the obscure glazing (referred to as GL2) and screens (referred to as MT2) are not openable (fixed) below 1.7 metres above the finished floor level.

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

### Internal Amenity

The entry to the building will be readily identifiable from Malvern Road, via the centralised and landscaped pedestrian walkway. This walkway leads to a secure point of entry to each wing of the building for residents.

Each wing of the building is provided with a communal stairwell and lift providing access to the lower ground, upper ground, Level 1 and Level 2 from the basement. The common hallways and stair areas are provided with at least one source of natural daylight. Overall, the building entry and internal circulation area satisfy the objectives of Standard B42 (Building entry and circulation objectives).

The new dwellings will be provided with a good level of internal amenity. The apartments have generally been designed to achieve energy efficient dwellings. Each proposed apartment will be of a reasonable size ranging between 52-93 square metres. Each apartment will have direct access to natural light and ventilation.

Standard B41 (Accessibility objective) seeks to ensure the design of dwellings meet the needs of people with limited mobility. The pedestrian entry to the building is appropriately graded to allow easy access for people with limited mobility. The development includes a lift in the central lobby area of each wing to access all levels of the building. In terms of internal apartment layouts, Drawings TP600 and TP604 depict that 26 dwellings (50 percent) are designed to be accessible to people with limited mobility and include adaptable bathrooms. This meets the requirements of the relevant Standard.

The apartments will be provided with ample internal storage areas including walk-in-robos, wardrobes and built in cupboards within each dwelling as well as external storage ranging between 2.5-6 cubic metres, at the basement level. The internal storage areas within Apartments vary between 7-14 cubic metres per dwelling and exceed the requirements as required in Standard B44 (Storage objective).

All apartments will receive adequate access to daylight to all habitable rooms. The apartments each have a functional layout with well-proportioned, open-plan living spaces and bedrooms which meet or exceed the minimum dimensional requirements in Standard B47 (Functional layout objective). All single aspect habitable rooms have a floor to ceiling height of 2.7 metres and a room depth that complies with the numeric requirements of

Standard B47 (Room depth objective). All bedrooms and living areas are provided with direct daylight access with no reliance on borrowed light or 'saddleback' windows.

All apartments are provided areas of private open space in the form of a terrace or balcony with direct access from a living room. The majority of the lower and upper ground floor secluded private open spaces of the apartments (varying between 62-135 square metres) meet the quantitative requirements of Standard B28 (Private open space objective) which requires an area of 40 square metres (with one part secluded private open space with a minimum area of 25 square metres and a minimum dimension of 3 metres).

The private open spaces of apartments LG01, LG02, LG05 and LG06 vary between 31 and 35 square metres and therefore fall short of the numerical requirements of Standard B28. This is not uncommon for apartment developments. Importantly, the lower ground level spaces are appropriately connected to the living areas, are of a useable size and have a northern solar orientation making it suitable for future residents. Furthermore, the development has proximate access to notable public open spaces including Peace Park adjacent the site as well as Gardiner Park approximately 400m from the site. On balance it is considered the proposed private open space areas of apartments LG01, LG02, LG05 and LG06 are considered adequate to meet the recreation and service needs of future residents for a one or two-bedroom apartment.

For the remaining apartments with private open space above ground floor, Standard B43 (Private open space above ground floor objective) requires balconies of at least 8 square metres and 2 metres in width for a one or two-bedroom dwelling. Each apartment above ground floor is provided with a balcony with a minimum dimension and size in accordance with the Standard.

As 52 dwellings are proposed, Standard B36 (Communal Open Space Objective) calls for approximately 130 square metres of communal open space to be provided. All private open spaces have adequate dimensions and acceptable solar access to meet the recreation and service needs of future residents.

All apartments will be provided with either terraces or balconies which will provide adequate solar access given the orientation of the site. Some of the apartments have private open space to the south or sides of the building with no solar access directly from the north, however they will receive direct sunlight from the east in the morning and/or the west in the afternoon. This is considered acceptable for an apartment development as it is not practicable to provide all private open space areas to the north. It is noted that the street facing courtyards and balconies oriented to the south will provide good passive surveillance of the public realm.

In terms of Standard B46 (Functional layout objective), the new apartments are adequate in size with the smallest bedroom having dimensions of 3 metres by 3 metres. All main bedrooms have a minimum depth of 3.4 metres and the smallest living room for a one-bedroom apartment will be 10.9 square metres with a minimum width of 3.3 metres and for a two-bedroom apartment 11.88 square metres with a minimum width of 3.6 metres which complies with the recommendation of Standard B46 (Functional layout objective).

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

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

## Car Parking and Traffic

The application attracts an on-site car parking requirement of 52 spaces for residents, being one for each dwelling. As previously indicated, there is no requirement for visitor car parking as the subject site is located within the Principal Public Transport Network area.

The proposal meets the car parking requirements with a total of 52 spaces and all parking is within the two basement levels.

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

Council's Transport and Parking Unit have assessed the proposed bicycle parking provision and layout and confirm that it is compliant with the requirements of Clause 52.34 and the Australian Standards. A total of 53 bicycle spaces are provided for residents within the basement as well as 6 visitor bicycle spaces adjacent the pedestrian entry.

In terms of traffic generation, the development will not result in any adverse traffic impact to the nearby streets, the surrounding area and local road network. Council's Transport and Parking Unit and the Department of Transport have not raised any concerns with the anticipated increase in traffic generated by the development, and the access arrangements are acceptable subject to permit conditions which have been included in the recommendation.

Several objectors have expressed concern with the proposed access arrangement from the rear laneway and would prefer for vehicle access to be provided from Malvern Road. Council cannot require vehicle access to be provided from Malvern Road. As Malvern Road is a road in Road Zone Category 1, any variations to access onto this road must be approved by the Department of Transport (DoT). It is further noted that Clause 55.03-9 seeks to minimise the number of access points to a road in a Road Zone.

The Traffic Impact Assessment prepared by GTA Traffic Consultants provides the following commentary with regard to providing vehicle access from the rear laneway as opposed to providing access direct from Malvern Road and the anticipated traffic generation from the proposed development:

- The subject site is located closer to the Malvern Road / Burke Road signalised intersection, thereby increasing to an unacceptable safety risk of conflict for vehicles entering/exiting the site.
- It is noted that a left turn slip lane is provided for vehicles turning left from Burke Road into Malvern Road. As such, vehicles wanting to turn left will be at an angle that allows the driver to look westbound along Malvern Road for through traffic. Therefore, they will not be in an ideal position to look for vehicles turning in/out of the proposed site access, which would be located a maximum of 50 metres from the signalised intersection. In particular, there is a high safety risk of conflict with vehicles turning out of the subject site.
- The role and function of a rear laneway in this area is to provide access for residential traffic, consistent with the current proposal. The design of the accessway has been revised with a raingarden added on the eastern side of the accessway at the property boundary. This has reduced the width of the accessway which will physically restrict any left turn entry / right turn exit movements. No right turn / no left turn signs are proposed within the raingarden facing vehicles exiting and entering the site from the east respectively to further reinforce this restriction. The design no longer requires utilisation of the longer section of east-west laneway to the east of the site.

- Previous referral advice from DoT in respect to a neighbouring site resulted in an objection to a proposal for direct Malvern Road access. The proposal seeks to maintain DoT approval for the access strategy.
- A proposed traffic generation of 0.25 movements per dwelling per peak hour is proposed for the subject site.
- The values in the survey results of the intersection movements at the intersection of Burke Road/King Street and Malvern Road/King Street indicate that the intersection at either end of King Street will adequately operate within their theoretical capacities post-development. All delays expected are anticipated to occur on the local road network (i.e. King Street) and no delays are expected on arterial roads (i.e. Malvern Road and Burke Road). The longest delay time expected is 12 seconds on the east leg of King Street at the intersection with Malvern Road during the PM peak period.

As confirmed by Council's Transport and Parking Unit, the access arrangements and anticipated increase in traffic is considered reasonable and will not result in unacceptable traffic or parking impacts to Malvern Road, King Street and the surrounding local road network.

### Sustainable Design Assessment

A Sustainable Management Plan (SMP) was submitted with the application. The SMP uses the BESS tool to demonstrate that the objectives of Clause 22.05 have been addressed.

The BESS score achieved for this development is 53%. This score meets best practice (minimum 50%) and demonstrates an adequate response.

The development proposes several ESD commitments including a 5kW rooftop solar panel system; a rainwater harvesting system for toilet flushing and irrigation; water efficient fixtures and appliances; high performance glazing; environmentally preferable internal finishes; and bicycle parking for all residents and visitors.

In response to the concerns of Council's ESD Officer in relation to daylight to some habitable rooms, the applicant has submitted a revised Daylight Modelling study which incorporates increased reflectance values to 80% for the walls and 90% for the ceilings of the living rooms of Apartments UG05, UG12, UG13, UG15 and 105 and increased light transmittance of the privacy screening for the living areas of apartments UG05 and UG12. The latest daylight modelling analysis demonstrates that the development complies with the daylight criteria in BESS and now 96% of the Living areas achieve Council's best practice standard which is considered acceptable. An updated SMP will be required by way of permit conditions to reflect the latest daylight modelling analysis.

In terms of shading, additional treatment measures to the north, east and west facing habitable room windows are required to prevent passive solar gain in summer while enabling warming winter sun access. This can be addressed via a permit condition.

The remaining issues relate to technical issues in relation to the BESS and STORM ratings and the requirement for additional supporting information and additional notations to be included on the plans. Amended plans, along with an updated SMP, will be required as part of the permit conditions.

The SMP includes a Water Sensitive Urban Design (WSUD) response which indicates that the development achieves a STORM rating of 101%. This is achieved by the provision of a 27,500 litre rainwater tank connected to all toilets within the development and a raingarden collecting water from north facing balconies in the western side of the building.

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

## 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. 0272/20 - 1631-1637 Malvern Road, Glen Iris [8.1.1 - 47 pages]

## Officer Recommendation

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 272/20 for the land located at 1631-1637 Malvern Road, Glen Iris under the Stonnington Planning Scheme for construction of a multi-dwelling development in a General Residential Zone and alteration of access to a road in a Road Zone Category 1 subject to the following conditions:***

1. ***Before the commencement of the development, one (1) electronic copy of plans drawn to scale and fully dimensioned must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the amended plans TP100-TP106, TP200-TP202, TP251-TP253, TP300, TP400-407, TP500 and TP600-TP604 Council date stamped 12 July 2021 but modified to show:***
  - a) ***A notation on the plans confirming all windows to habitable spaces are to be double glazed.***
  - b) ***The revised reflectance values as required by Condition 3.d) to be included on the materials schedule.***
  - c) ***The Visual Light Transmittance value for the privacy screens to the private open space areas of Apartments UG5 and UG12 as required by Condition 3.e) to be included on the materials schedule.***
  - d) ***All north facing balconies at Level 2 with potential for overlooking within 9 metres of neighbouring secluded private open space of the properties at No's 4, 6, 8, 10 and 12 King Street must be either screened or it be demonstrated through a section diagram to be in accordance with Standard B22 at Clause 55.04-6. Direct lines of view to the neighbouring secluded private open space must be measured to 1.7 metres above natural ground level.***
  - e) ***A section detail of the proposed aluminum slat screens (MT2) including details of its width, height and angle of the slats as well as the gap between the slats to ensure compliance with Standard B22 at Clause 55.04-6***

- f) The Finishes Legend to include an annotation that the obscure glazing (GL2) and screens (MT2) are not openable (fixed) below 1.7 metres above the finished floor level.**
- g) The Level 2 north and east facing living room windows and all north and west windows (not protected by a balcony over) to have a combination of fixed external shading and operable external vertical shading devices, which could be in the form of operable louvres, sliding shutters or external blinds. The external shading devices are to be clearly shown and noted on the plans and elevations.**
- h) The east elevation to clearly dimension the height of the proposed boundary fencing above natural ground level.**
- i) Plans to confirm that the head height available in the lower ground level can cater for the private waste truck proposed for the site.**
- j) Plans to confirm the minimum gradient of the lower ground floor to be 1 in 200 (0.5%).**
- k) A tree protection deed as required by Condition 12.**
- l) Any changes as required by Condition 3 (SMP), Condition 5 (WMP), Condition 11 (TMP) and Condition 24 (Stormwater Detention).**

**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. Concurrent with the endorsement of any plans pursuant to Condition 1 a Sustainable Management Plan (SMP), generally in accordance with the plan prepared by NJM Design dated 5 December 2020, must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. Amendments to the SMP must be incorporated into plan changes required under Condition 1. The report must be modified as follows:**
  - a) Changes to accord with Condition 1.**
  - b) Provide further information on the 6 Star WELS rating kitchen and bathroom taps to be provided.**
  - c) The average NatHERS star rating to be consistent within the BESS report and within the SMP, while still achieving a pass score for the Energy Category within BESS.**
  - d) The reflectance values of the internal walls and ceilings of the living areas of Apartments UG05, UG12, UG13, UG15 and 105 to be increased to 80% for the walls and 90% for the ceilings to improve the daylight access to these spaces.**
  - e) The proposed privacy screens to the private open space areas of Apartments UG5 and UG12 with opaque glazing with a Visual Light Transmittance > 60%.**

**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.***

- 4. Prior to the commencement of the use of the building approved under this permit, a report from the author of the Sustainability Management Plan, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainability Management Plan have been implemented in accordance with the approved plan.***
- 5. Concurrent with the endorsement of any plans pursuant to Condition 1, a Water Sensitive Urban Design (WSUD) report must be submitted to and approved by the Responsible Authority. Upon approval the WSUD report will be endorsed as part of the planning permit and the development must incorporate the Water Sensitive Urban Design initiatives outlined in the WSUD report to the satisfaction of the Responsible Authority. The report must be generally in accordance with the Stormwater Management (WSUD) Report prepared by NJM Design dated 5 December 2020 but modified as follows:***
  - a) Changes to accord with Condition 1.***
  - b) Updated to reflect the requirements of Condition 24.***
  - c) The number of bedrooms within the STORM assessment to be amended to reflect the number of bedrooms within the development.***
- 6. The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.***
- 7. Concurrent with the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by NJM Design dated 21 October 2020, but modified to show:***
  - a) The floor layout as shown on the plans submitted under Condition 1.***

***When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the endorsed WMP, to the satisfaction of the Responsible Authority.***
- 8. 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.***
- 9. Concurrent with the endorsement of any plans pursuant to Condition 1 a landscape plan, to be prepared by a landscape architect or suitably qualified or experienced landscape designer, must be submitted to and approved by the Responsible Authority. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale with dimensions. The landscape plan must be generally in accordance with the plan prepared by John Patrick Landscape Architects Council date stamped 10 December 2020, but modified to show:***

- b) **Changes to the landscaping to accord with the plans endorsed under condition 1.**
10. **Before the occupation of the development, the landscaping works as shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.**
11. **Concurrent with the endorsement of 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.**

**The Tree Management Plan must detail measures to protect and ensure the viability of the Himalayan Cedar tree located within the within the front setback of the site (south-east corner).**

**Without limiting the generality of the Tree Management Plan it must have at least three sections as follows:**

- a) **Pre-construction – 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.**
- b) **During-construction – details to include watering regime during construction and method of protection of exposed roots.**
- c) **Post-construction – details to include watering regime and time of final inspection when barrier can be removed and protection works and regime can cease.**

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

12. **Prior to the endorsement of plans and prior to any development commencing on the site (including demolition and excavation whether or not a planning permit is required), the owner/developer must enter into a Deed with the Responsible Authority and provide it with a bank guarantee of \$36,892.80 + GST as security against a failure to protect the health of the Himalayan Cedar tree to be retained on site. The applicant must meet all costs associated with drafting and execution of the Deed, including those incurred by the responsible authority. Once a period of 12 months has lapsed following the completion of all works at the site the Responsible Authority may discharge the bank guarantee upon the written request of the obligor. At that time, the Responsible Authority will inspect the tree(s) and, provided they have not been detrimentally affected, the bank guarantee will be discharged.**
13. **Concurrent with the endorsement of plans or prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), whichever occurs sooner, a letter of engagement must be provided to the Responsible Authority from the project arborist selected to oversee all relevant tree protection works. The project arborist must be an**

- appropriately experienced and qualified professional (minimum Cert IV or equivalent in experience).*
14. *The project arborist must maintain a log book detailing all site visits. The log book must be made available to the Responsible Authority within 24 hours of any request.*
  15. *Prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), the project arborist must advise the Responsible Authority in writing that the Tree Protection Fences have been installed to their satisfaction.*
  16. *No works or storage of materials associated with the development are to occur within the Council Reserve, Peace Park.*
  17. *The permit holder / developer must advise Council in writing that a Certificate of Occupancy has been issued in respect to the development and that the 12 month establishment period has commenced.*
  18. *Written confirmation by a Licensed Land Surveyor must be provided to the Responsible Authority verifying that the development does not exceed 11.5 metres in height above natural ground level. This must be provided at frame stage inspection and at final inspection.*
  19. *Prior to a building permit being issued, a report for the legal point of discharge must be obtained from Council and a drainage design for the development must be prepared by a suitably qualified Engineer in accordance with all 'recommendations' and requirements contained in that report.*
  20. *All drainage through to the legal point of discharge, must be by means of a gravity based system and not pumped, with the exception of runoff from any basement ramp and agricultural drains which may be pumped. The relevant building surveyor must check and approve the drainage design and ensure that protection of the building is provided from a 1 in 100 A.R.I. rainfall event as required by the Building Regulations.*
  21. *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.*
  22. *The existing right-of-way levels must not be lowered or altered in any way.*
  23. *Prior to occupation of the building or commencement of use, any existing vehicular crossing made redundant by the building and works hereby permitted must be broken out and re-instated as standard footpath and kerb and channel at the permit holders cost to the approval and satisfaction of the Responsible Authority.*
  24. *The applicant must at their cost provide a stormwater detention system to restrict runoff from the development to no greater than the existing runoff based on a 1 in 10 A.R.I. to the satisfaction of Council's Infrastructure Unit. Alternatively, in lieu of the stand-alone detention system, the owner may provide stormwater tanks that are in total 5,000 litres greater than those tanks required*

**to satisfy WSUD requirements for the development. Those tanks must be connected to all toilets.**

- 25. Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required by Standard B22 of Clause 55.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.**
- 26. 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.**
- 27. 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.**
- 28. 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.**
- 29. All plant and equipment (including air-conditioning units) shall be located or screened so as to minimise visibility from any of the surrounding footpaths and from overhead views and shall be baffled so as to minimise the emission of unreasonable noise to the environment in accordance with Section 48A of the Environment Protection Act 1970 to the satisfaction of the Responsible Authority. Ventilation systems must be designed and installed in accordance with the relevant Australian Standards.**

**Department of Transport Condition**

- 30. Prior to the occupation of the development, the disused/redundant vehicle crossing on Malvern Road must be removed, and the area reinstated to kerb and channel, to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.**

**End Department of Transport Condition**

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

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

**NOTES:**

**Department of Transport Note**

- A. No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 2017, and any other relevant acts or regulations created under those Acts.**

**End Department of Transport Note**

- B. This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.**
- C. 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.**
- D. Nothing in the permit hereby issued may be construed to allow the removal of, damage to or pruning of any street tree without the further written consent of the Stonnington City Council. Contact the Council Arborists on 8290 1333 for further information.**
- E. 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.**
- F. The owners and occupiers of the dwelling/s hereby approved are not eligible to receive "Resident Parking Permits".**
- G. At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:**
  - i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and**
  - ii. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.**

## 8.2 Planning Application 0517/20 - 4 Pine Grove, Malvern

**Manager Statutory Planning: Alex Kastaniotis**

**Director Planning & Place: Annaliese Battista**

### Purpose of Report

For Council to consider a planning application for an extension to a dwelling on a lot under 300sqm in a Neighbourhood Residential Zone at 4 Pine Grove, Malvern.

### Abstract

#### Proposal

The proposal seeks an extension to a dwelling on a lot under 300 square metres in a Neighbourhood Residential Zone comprising a ground and first floor addition at the rear of the existing dwelling.

#### Officer Recommendation Summary

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

- The proposal is consistent with the objectives of State and Local Planning Policy.
- The proposal provides a satisfactory design response to the existing and preferred neighbourhood character of the area.
- The proposal will not cause any unreasonable off-site amenity impacts by way of visual bulk, overlooking or overshadowing.

#### Issues

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

- Neighbourhood character, building height, scale and massing (refer to Neighbourhood Character and Built Form assessment).
- Amenity impacts on the adjoining properties (refer to Amenity Impacts assessment);

#### Officer's response

The proposal seeks to construct a ground and first floor addition at the rear of the existing dwelling. Notably, the existing primary built form at ground floor level is to be retained, with the first floor addition sited to reduce any adverse amenity impacts to the adjoining properties. The design response appropriately responds to the preferred neighbourhood character and surrounding context.

#### Executive Summary

Applicant:	Wendy Nettle Nettle Architects
Ward:	South
Zone:	Neighbourhood Residential Zone – Schedule 2
Overlay:	None
Neighbourhood Precinct:	Garden Suburban 1

Date Lodged:	30 June 2020
Statutory Days: (as at Council Meeting date)	70
Trigger for Referral to Council:	Call up
Cultural Heritage Plan	No
Number of Objections:	10 from 5 different properties
Consultative Meeting:	Yes – held on 7 April 2021
Officer Recommendation	Notice of Decision to Grant a Planning Permit

## Background

### The Proposal

The plans that form part of the basis of Council's consideration were prepared by Nettle Architects and are known as Drawing No.s: 01-30 (inclusive) and Council date stamped 28 June 2021.

The proposal is to partially demolish the existing dwelling (no permit required) and construct a two-storey extension to the existing dwelling.

Key features of the proposal are:

- Partial demolition of the dwelling including the kitchen, bathroom, storeroom and deck (no permit required).
- Construction of a ground floor extension comprising a new kitchen, dining room open to an existing living room, a new deck and a staircase to the first floor.
- Construction of a first-floor extension comprising a new master bedroom, a bathroom and study.
- The extension will result in a maximum building height of 8 metres.
- The extension comprises a variety of materials, specifically face brick in red on the ground floor, and timber weatherboards in dark grey on the first floor. The roofing over the ground floor extension will utilise existing roof tiles, and the roofing over the first-floor extension will be corrugated iron roofing in a colorbond monument finish.
- A 1.1m<sup>2</sup> 300mm raingarden in the rear of the site as part of a Water Sensitive Urban Design Response.

### Site and Surrounds

The site is located on the southern side of Pine Grove. It is approximately 15 metres east of the intersection with Nicholls Street and 125 metres west of the intersection with Isabella Street. The site has the following significant characteristics:

- The land is rectangular in shape and has a total site area of approximately 241 square metres.
- The land has a singular frontage towards the north of 7.9 metres to Pine Grove.
- The land is currently occupied by a single-storey brick dwelling that shares a boundary wall with 6 Pine Grove immediately to the east.
- A 1.8m high timber front fence is constructed along the Pine Grove frontage.
- Pedestrian access is provided via the front fence gate to Pine Grove.
- There is no existing vehicular access to the site.
- The land is mostly flat, with a minute slope from the front to the rear of the site.

The subject land has four interfaces, which are summarised as follows:

- To the immediate north is Pine Grove, a two-way residential thoroughfare with footpaths and parking subject to restrictions on both sides of the street.
- To the immediate east is 6 Pine Grove, a single-storey brick dwelling that shares built form with the subject site, specifically a boundary wall and roof.
- To the immediate south is a narrow unnamed laneway accessible from Nicholls Street, separating lots on Pine Grove from lots on Wattletree Road.
- To the immediate west is 2 Pine Grove, a single storey Edwardian-style dwelling.

#### Previous Planning Application/s

There is no relevant recent planning history associated with this site.

#### The Title

The site is described on Certificate of Title Volume 03620 Folio 863 / Lot 1 on Title Plan 67456U. No covenants affect the land. An easement relating to a party wall shared with 6 Pine Grove runs along the eastern boundary of the site. This party wall will be retained and unaffected by the proposal.

#### Planning Controls

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

##### Zone

*Clause 32.09 – Neighbourhood Residential Zone, Schedule 2*

Pursuant to Clause 32.09-5, a permit is required to construct or extend one dwelling on a lot less than 300sqm.

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

Pursuant to Clause 32.09-10, a building used as a dwelling must contain no more than two-storeys at any point. It is noted that the proposal contains no more than two-storeys at any point and is therefore compliant with the maximum number of storeys under Clause 32.09-10.

Clause 32.09-10 further states that a building used as a dwelling must not exceed a height of 9 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 10 metres. The proposal has a maximum height of 8 metres and therefore complies with the maximum height limit.

Pursuant to Clause 32.09-5, a development to extend one dwelling on a lot less than 300sqm must meet the requirements of Clause 54. Schedule 2 to the Neighbourhood Residential Zone modifies the following Clause 54 requirements:

- Site coverage (Standard A5) – Basement should not exceed 75% of the site area.
- Side and rear setbacks (Standard A10) – For a distance of at least 5 metres behind the front façade of the building fronting the street, setback new buildings (including basements) a minimum of 2 metres from at least one side boundary and at least 1 metres from the other side boundary up to 3.6 metres in height. Where no setback is specified, Standard A10 applies.
- Walls on boundaries (Standard A11) – Walls should not be located on side boundaries for a distance of 5m behind the front façade of the building fronting the street.

##### Particular Provisions

### *Clause 52.06 – Car Parking*

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

### *Clause 54 – One Dwelling on a Lot*

A development must meet the requirements of Clause 54.

### Relevant Planning Policies

Clause 11 – Settlement

Clause 15 – Built Environment and Heritage

Clause 16 – Housing

Clause 21.05 – Housing

Clause 21.06 – Built Environment and Heritage

Clause 22.18 – Stormwater Management (Water Sensitive Urban Design)

Clause 22.23 – Neighbourhood Character Policy

Clause 54 – One Dwelling on a Lot

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, one facing Pine Grove and one facing the rear laneway). The public notification of the application has been completed satisfactorily.

The site is located in South Ward and ten (10) objections from five (5) different properties have been received. The grounds of objection are summarised as follows:

- Bulk, height and scale
- Overdevelopment of site
- Neighbourhood character
- Compliance with setbacks
- Walls on boundaries
- Overlooking
- Overshadowing
- Daylight to existing windows
- Impact of proposal on availability of on-street parking
- Omission of on-site car parking
- Impact of works on fence footings
- Overshadowing onto skylight
- Omission of existing chimney on plans
- Impact of proposal on oblique views from Wattletree Road heritage streetscape

A Consultative Meeting was held on 7 April 2021. The meeting was attended by Councillor Sehr, Councillor Batagol, representatives of the applicant, objectors and a planning officer. Following the meeting and further discussions with the assessing planning officer, amended plans (Council date stamped 28 June 2021) were formally submitted under Section 57A of the *Planning and Environment Act*, seeking to address concerns expressed by objectors and assessing planning officers. Specifically, the amended plans show:

- First floor addition reduced in size, with front setback increased from 8.78m to 10.18m
- First floor eastern boundary wall reduced in length from 12.85m to 11.45m
- Ground floor western boundary wall reduced in height from 3.25m to 2.9m

- Eaves to first floor removed
- Inclusion of existing and proposed visual renders of development on site

The plans were not required to be formally re-advertised, as it is considered that no additional material detriment would result from the revisions.

### Referrals

The proposal was not required to be referred to any internal or external referral departments.

## Key Issues and Discussion

### Neighbourhood Character

Pursuant to Clause 22.23, the site is located within the Garden Suburban 1 Neighbourhood Character Precinct. The statement of preferred neighbourhood character is as follows:

*The Garden Suburban 1 (GS1) precinct comprises leafy streetscapes with a range of Victorian, Edwardian or Interwar era and contemporary buildings set in established garden surrounds. In typical streets regular front and side setbacks provide space around buildings and allow for small, well designed garden areas that contribute to the landscape quality of the street. New buildings or additions offer innovative and contemporary design responses while complementing the key aspects of form, general one-two storey scale and design detail of the older buildings. Low, visually permeable front fences retain views to gardens and dwellings from the street. Areas within a Residential Growth or Mixed Use Zone or within a substantial change area will accommodate more development with a more compact setting but with space for canopy trees and other vegetation and high quality, responsive design.*

The relevant design objectives for the Garden Suburban 1 Precinct are as follows:

*To encourage the retention of intact, older dwellings that contribute to the character of the area.*

*To ensure new buildings and extensions do not dominate the streetscape.*

*To encourage a high quality of building detailing that references, without mimicking, the details of buildings in the area.*

*To maintain and reinforce the alignment of buildings along the street.*

*To maintain and strengthen the garden settings of buildings and the tree canopy of the neighbourhood.*

*To prevent the loss of front garden space and the dominance of car parking structures.*

*To ensure fences complement the predominant style of front boundary treatment in the street and retain views to dwellings and gardens.*

The Pine Grove streetscape comprises a mix of contemporary and older dwellings, resulting in a varied built form character to the streetscape. Dwellings within the streetscape vary between one and two storeys in height, with built form comprising a mixture of detached, attached and semi-attached dwellings. The proposed two-storey extension provides a contemporary design response that references, without mimicking, the details of buildings in the neighbourhood. Specifically, the extension would retain the existing verandah, front entrance hallway and two rooms to a depth of over 13 metres behind the front façade. The retention of the majority of the existing dwelling at ground floor will provide continuity in the dwelling's presentation to Pine Grove in relation to other dwellings in the streetscape. The proposed first floor front setback of 10.18m will also ensure that the existing ground floor dwelling façade will be the predominant feature of the site when view from Pine Grove.

The proposed external walls of the rear extension at ground floor level would be constructed primarily of painted face brick to match the existing dwelling. The external walls of the extension at first floor level would be constructed of timber weatherboards painted in dark grey. The roofing over the ground floor extension would be constructed of roof tiles matching the existing roof, with the roofing over the first floor addition being corrugated iron roofing finished in 'colorbond monument'. The materials and colours are of a contemporary nature and are compatible with those observed on other contemporary dwellings and extensions within Pine Grove. Specifically, the ground floor materials and colours reference the existing dwelling, whilst the first floor materials and colours appropriately reference the design details of the contemporary dwellings and extensions in the immediate neighbourhood. The proposal would also retain the existing front garden area and does not include any car parking structures as part of the proposal. There are no changes proposed to the existing front fence.

The proposal provides a contemporary design response that would sit comfortably within the Pine Grove streetscape and complements the existing and preferred neighbourhood character within the Garden Suburban 1 Precinct.

### Built Form

#### *Site Coverage*

The proposal would result in an increase in site coverage from 53.7% to 57.5%. The applicable standard requires site coverage of no greater than 60%, therefore the proposal is compliant with the standard.

#### *Permeability*

The proposal would provide 36.3% of the site being covered by pervious surfaces, with the applicable standard requiring at least 20% of the site to be covered by pervious surfaces. Therefore, the proposal is compliant with relevant standard.

#### *Building Height*

The proposal would result in the dwelling having a maximum building height of 8 metres measured from natural ground level to the highest point of the roof, with a maximum of two storeys at any one point. Standard A4 and the Neighbourhood Residential Zone has a mandatory requirement that the maximum building height be no greater than 9 metres and two storeys at any one point. The proposal is therefore compliant with this requirement.

#### *Side and Rear Setbacks*

The assessment of the extension against Standard A10 is as follows:

Location	Wall Height	Proposed Setback	Required Setback
Ground Floor (West)	3.52m	2.03m	1m
Ground Floor (South)	3.32m	6.2m	1m
First Floor (West)	6.22m	2.2m	1.84m
First Floor (South)	6.8m	7.97m	1.96m

As outlined in the table above, the extension meets all the required setbacks with regards to the new proposed walls on the ground floor southern interface, and the first floor western and southern interfaces. The proposal is considered to satisfy the requirements of Standard A10. It is noted that the application also proposes new walls on the ground floor western and

eastern boundary interfaces, and new walls on the first floor eastern interface that would be located on or within 200mm of title boundaries. Therefore, these walls will be assessed against the relevant walls on boundaries standard.

#### *Walls on Boundaries*

The proposal will result in the construction of new walls along both the western and eastern boundaries. Specifically, a new boundary wall would be introduced on the ground floor western interface to 2 Pine Grove, and a new first floor boundary wall would be constructed above an existing ground floor boundary wall with a length of 20.42m on the eastern interface to 6 Pine Grove.

Wall Location	Proposed Length	Permissible Length
West	7.75m	15.12m
East	11.45m	15.12m

As per the table above, the extension meets the requirements with regards the proposed boundary wall on the western and eastern interface.

It is noted that the application includes a boundary wall along the western boundary. This wall has an average height of 2.85m, and a maximum height of 2.9m. This complies Standard A11, which allows for an average height of 3.2m and a maximum height of 3.6m.

The proposed first floor extends along the eastern boundary adjoining No. 6 Pine Grove. This wall will adjoin the neighbouring boundary wall and is therefore considered acceptable.

#### *Amenity Impacts*

##### *Overshadowing*

The key assessment mechanism for overshadowing of neighbouring areas of private open space is the Overshadowing open space objective and Standard A14.

The proposal would result in the following additional overshadowing above existing levels to abutting neighbouring properties.

Address (SPOS/required area with daylight) / Time on 22 September	2 Pine Grove (82.1m <sup>2</sup> /40m <sup>2</sup> )	6 Pine Grove (67.5m <sup>2</sup> /40m <sup>2</sup> )
9am	2.08m <sup>2</sup>	No change
10am	2.27m <sup>2</sup>	No change
11am	1m <sup>2</sup>	No change
12pm	No change	No change
1pm	No change	0.01m <sup>2</sup>
2pm	No change	0.03m <sup>2</sup>
3pm	No change	0.06m <sup>2</sup>

The Overshadowing objective states: *To ensure buildings do not significantly overshadow existing secluded private open space.*

The proposal would result in increased overshadowing to the secluded private open space at 2 Pine Grove, specifically at the hours of 9am, an additional 2.08m<sup>2</sup> of overshadowing, and 10am, an additional 2.27m<sup>2</sup> of overshadowing, and 11am, an additional 1m<sup>2</sup> of overshadowing. The increase in overshadowing between 9am and 11am would result in the secluded private open space at 2 Pine Grove not being provided with direct sunlight to an area greater than 40m<sup>2</sup> for a minimum of five hours between 9am and 3pm on 22 September. A variation is therefore sought to Standard A14 with regards to the impact of the proposal on 2 Pine Grove. This variation is considered supportable, given that the amount of additional overshadowing is not unreasonable within the context of the immediate neighbourhood, where lots are generally small and narrow. It is also noted that there is no additional overshadowing occurring at 2 Pine Grove after 12pm on 22 September.

The proposal would also result in increased overshadowing to the secluded private open space at 6 Pine Grove, specifically, at the hours of 1pm, an additional 0.01m<sup>2</sup> in overshadowing, and 2pm, an additional 0.03m<sup>2</sup> of overshadowing, and 3pm, an additional 0.06m<sup>2</sup> of overshadowing. This is considered an inconsequential amount of additional overshadowing, and will not cause any unreasonable amenity impacts to the adjoining property.

#### *Overlooking*

Standard A15 provides a 9m 45 degree angle arc that determines unreasonable overlooking. Windows, balconies, terraces, decks or patios that are located in such a position must be screened to a height of 1.7m above finished floor level accordingly.

The proposal includes one south-facing habitable room window associated with the first floor study that may have direct views into the secluded private open spaces of 2 and 6 Pine Grove. This window has not been provided with any screening to parts of the window below 1.7m above finished floor level. It is noted that the submitted plans show cross-section sightline drawings, which do not clearly demonstrate that the existing side fences on the shared boundaries of both 2 and 6 Pine Grove will mitigate any unreasonable overlooking from the proposed study window.

The proposal also includes two west-facing habitable room windows that may have direct views into the secluded private open space and habitable room windows of 6 Pine Grove. Specifically, the extension includes a west-facing window to the study, and a west-facing window to the master bedroom. The west-facing study window is shown on the plans to have the lower sill heights to be at least 1.7m above the finished floor level, therefore meeting Standard A15.

The west-facing master bedroom window is shown on the plans to have a "louvre screen with limiter" to the parts of the window below 1.7m above finished floor level. However, the exact transparency of this screening method is unclear.

In light of the above, Conditions would be placed on any Permit to be issued, requiring the screening of the south-facing study window and the west-facing master bedroom window in accordance with Standard A15 to prevent unreasonable overlooking into 2 and 6 Pine Grove.

#### *Daylight to Existing Windows*

There are five existing west-facing habitable room windows at 2 Pine Grove that directly interface with the proposed extension. Four of these windows would directly interface with the proposed 2.9m high boundary wall. This boundary wall is required to be setback 1.45m from the affected windows in order to meet Standard A12. The plans show a minimum

setback of 2.36m between the affected habitable room windows at 2 Pine Grove and the 2.9m high boundary wall, therefore meeting the applicable standard.

It is also noted that all five of these habitable room windows will also directly interface a proposed first floor west-facing wall with a maximum height of 6.22m. Therefore, this wall is required to be setback 3.11m from the windows to meet Standard A12. The minimum setback between these five windows at 2 Pine Grove at the 6.22m high wall is 4.56m, therefore also meeting the applicable standard.

### Internal Amenity

The proposed extension would provide adequate internal amenity through the provision of significant habitable room windows at ground and first floor level. All new habitable room windows will face open space clear to the sky with a minimum dimension of 1 metre. The proposal would also provide 49m<sup>2</sup> of secluded private open space to the rear of the dwelling, directly accessible from the kitchen and dining room at ground floor level. Whilst the secluded private open space and living areas are located to the south due to the orientation constraints of the site, the extended dwelling would take advantage of north-facing daylight through existing and new north-facing windows. The internal amenity of the extended dwelling is therefore considered acceptable and the proposal meets the objectives of Clause 54.05.

### Water Sensitive Urban Design

Pursuant to Clause 22.18, a Water Sensitive Urban Design response is required for an extension to an existing building greater than fifty (50) square metres in floor area. A STORM Rating Report has been submitted as part of the Section 57A Plans Council date stamped 28 June 2021. The proposal achieves a 100% STORM rating through the provision of a 1.1m<sup>2</sup> 300mm raingarden to the rear of the dwelling along the eastern boundary. It is noted that the submitted site plan in relation to the Water Sensitive Urban Design response shows the provision of buffer strips, which are not applicable to the submitted STORM Rating Report. Should a permit be issued, a condition will therefore be included requiring an updated Water Sensitive Urban Design Response.

### Objections

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

- Bulk, height and scale

The proposed extension would not cause unreasonable visual bulk when viewed from the Pine Grove streetscape or any adjoining properties. The maximum height of 8 metres meets the mandatory height requirement pursuant to the Neighbourhood Residential Zone. The scale of the development is not considered unreasonable with regard to the immediate neighbourhood and the impacts on adjoining properties.

- Overdevelopment of site

The double-storey extension is not considered an overdevelopment of the site. The first-floor built form would be reasonable in scale within the immediate neighbourhood context.

- Impact of proposal on availability of on-street parking

The proposal would not have an unreasonable impact on the availability of on-street parking. It is also reiterated that the requirements of Clause 52.06 (Car Parking) are not applicable to a development for an extension of one dwelling on a lot.

- Omission of on-site car parking

As stated above, requirements of Clause 52.06 (Car Parking) are not applicable to a development for an extension of one dwelling on a lot and as such it is not a requirement for the development to include on-site car parking.

- Impact of works on fence footings

The impact of the works on fence footings is not a consideration at the planning stage. It is noted that these concerns will be further addressed at building and construction stage.

- Overshadowing onto skylight

An objector has raised a concern regarding the impact of the development on the access to daylight from an existing skylight. Standard A15 (Overshadowing open space) assess the impact of development on daylight access to secluded private open space. Given that a skylight is not either considered a window or part of secluded private open space, Standard A15 is not applicable to the skylight. Nevertheless, if Standard A14 was applied to the skylight, the overshadowing would comply.

- Omission of existing chimney on plans

It was noted by an objector that an existing chimney to the roof of the subject site was not shown on the plans. This chimney is now shown on the amended plans Council date stamped 28 June 2021 and is to be retained.

- Impact of proposal on oblique views from Wattletree Road heritage streetscape

The southern rear property boundary of the site is over 40 metres from Wattletree Road. This is a more than significant distance and the proposal will not have an unreasonable impact on the oblique views from the Wattletree Road heritage streetscape.

## 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. 0517/20 - 4 Pine Grove, Malvern [8.2.1 - 28 pages]

## Officer Recommendation

***That Council AUTHORISE Officers to issue a Notice of Decision to Grant a Planning Permit No: 517/20 for the land located at 4 Pine Grove, Malvern VIC 3144 under the Stonnington Planning Scheme for extension to a dwelling on a lot under 300sqm in a Neighbourhood Residential Zone subject to the following conditions:***

1. ***Before the commencement of the development, one (1) copy of plans drawn to scale and fully dimensioned, must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of this permit. The plans must be generally in accordance with the plans***

**prepared by Nettle Architects and Council date stamped 28 June 2021 but modified to show:**

- a) **Screening provision to the south-facing study window, to limit unreasonable overlooking to the adjoining properties at 2 Pine Grove and 6 Pine Grove in accordance with Standard A15 at Clause 54.04-6 of the Stonnington Planning Scheme. Alternatively, an overlooking diagram including cross-section can be provided to demonstrate full compliance with Standard A15 at Clause 54.04-6 of the Stonnington Planning Scheme.**
  - b) **The screening provision to the west-facing master bedroom window to have no more than 25 per cent transparency to any part of the window below 1.7 metres above finished floor level, to limit unreasonable overlooking into the adjoining property at 2 Pine Gove in accordance with Standard A15 at Clause 54.04-6 of the Stonnington Planning Scheme.**
  - c) **An updated Water Sensitive Urban Design Response in accordance with Condition 3.**
2. **The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason, without the prior written consent of the Responsible Authority.**
  3. **Concurrent with endorsement of plans, the applicant must provide a Water Sensitive Urban Design Response addressing the Application Requirements of the Water Sensitive Urban Design Policy to the satisfaction of the Responsible Authority. All proposed treatments included within the Water Sensitive Urban Design Response must also be indicated on the plans.**
  4. **The project must incorporate the Water Sensitive Urban Design initiatives detailed in the endorsed site plan and/or stormwater management report.**
  5. **Prior to the occupation of the building, the walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the Responsible Authority.**
  6. **Prior to the occupation of the building, fixed privacy screens (not adhesive film) designed to limit overlooking as required by Standard A15 of Clause 54.04-6 in accordance with the endorsed plans must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.**
  7. **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.**

#### **NOTES**

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

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

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

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

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

- D. At the permit issue date, Section 69 of the Planning and Environment Act 1987 stated that the Responsible Authority may extend the periods referred to if a request is made in writing within the following timeframes:**
- i. Before or within 6 months after the permit expiry date, where the development allowed by the permit has not yet started; and**
  - ii. Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.**

## 8.3 Perth Street, Prahran - Permanent Implementation of One-Way Flow Consultation

**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 consider the results of the consultation undertaken for the permanent implementation of one-way flow in Perth Street, Prahran.

### Officer Recommendation

**That Council:**

- 1. APPROVE the permanent implementation of one-way flow arrangement in the southbound direction in Perth Street, Prahran between Commercial Road and Greville Street.**
- 2. APPROVE the permanent implementation of one-way flow arrangement in the northbound direction in Perth Street, Prahran between High Street and Greville Street.**
- 3. APPROVE the undertaking of civil works at the Commercial Road, High Street and Greville Street intersections and notify affected properties.**
- 4. Review traffic speeds and volumes in Donald Street and Alfred Street following the completion of the works in Recommendation 3.**
- 5. AUTHORISE officers to notify those who made a submission as part of the consultation process of this decision.**

### Executive Summary

1. A public consultation process was undertaken regarding permanent implementation of one-way traffic flow in Perth Street, Prahran.
2. From written submissions received 108 people supported the proposal, and 37 people opposed the proposal.
3. Submitters were also provided an opportunity to state their case at a hearing by a committee of Council to consider the matter. This occurred on 16 August 2021. Eight (8) submitters were heard in relation to the proposal

### Background

4. Twenty-eight (28) letters from residents in Perth Street and surrounding streets were received in 2019 requesting one-way flow due to concerns with traffic speeds and congestion.
5. On 1 June 2020 a report was presented for decision by Council on the implementation of a trial of one-way flow in Perth Street after consultation with the residents. A decision

was made to proceed with this trial, refer **Attachment 1**, and outlines the background prior to this report. The trial commenced in August 2020, in the midst of the Victorian Covid-19 lockdown, however Council made the decision to proceed with the trial due to the community appetite for the one-way flow to be implemented.

6. Part of the resolution by Council was:
  - **7. CONSULT with the affected community through a section 223 process seeking feedback on the trial, and their preference for maintaining the one-way flow or reopening the street to two-way flow.**
7. As per part 7 of the resolution, officers were required to seek feedback on the trial one-way flow arrangement. Since that Council decision, Council has implemented the Engagement Policy and the process followed was in accordance with this rather than the S223 process listed which has been superseded. A speed and volume survey identical to the one conducted in 2019 was also completed for a 2 week period (spanning 23 February to 8 March 2021, not including the Labour Day weekend). This was done as a comparison for residents who received the consultation material. The 2019 and 2021 counts are included in **Attachment 2**. It is important to note that speed and volume counts have been difficult to conduct in the current environment due to the constant changing of COVID-19 restrictions. These surveys were conducted outside of any Metro Melbourne lockdowns. It was acknowledged that the counts were conducted shortly after the snap lockdown in February 2021. As such, we asked the Department of Transport for some advice on the traffic volumes and they provided the below table.

	Alexandra Pde at Nicholson St	Flemington Rd at Royal Childrens Hospital	Hoddle St at Bridge Rd	Kings Way at Sturt St	Nepean Hwy at Glen Eira Rd	Toorak Rd at Williams Rd	Total	Change from last week
Mon 24 Feb - Sun 1 Mar (Baseline)	74,227	35,358	62,896	87,220	43,448	17,178	320,328	N/A
...								
Mon 15 Feb - Sun 21 Feb	50,501 68.0%	23,202 65.6%	47,533 75.6%	61,793 70.8%	29,610 68.2%	13,046 75.9%	225,686 70.5%	N/A
Mon 22 Feb - Sun 28 Feb	73,160 98.6%	31,859 90.1%	65,706 104.5%	88,388 101.3%	42,314 97.4%	17,568 102.3%	318,995 99.6%	41.3%
Mon 1 Mar - Sun 7 Mar	74,204 100.0%	32,291 91.3%	63,905 101.6%	87,456 100.3%	42,253 97.2%	17,756 103.4%	317,865 99.2%	-0.4%

Figure 1: Arterial Road Weekday Average Traffic Volumes compared to baseline Mon 24 February 2020 – Sun 1 March 2020

8. In comparison to the baseline dates from 2020, which was prior to any COVID lockdowns, the traffic volumes during the survey period on a sample of major arterial roads were at 90-100% capacity including Toorak Road within Stonnington. The week of the lockdown had capacity at 70%.
9. Based on the advice provided by the Department of Transport stating that they were comfortable that levels of traffic were comparable to other years not affected by COVID, it was decided that the results received from the survey would have been representative of true conditions and a re-survey was not required. Whilst this decision was made, officers were still aware that traffic patterns were not totally comparable to 2019 due to factors such as more people working from home and not commuting and those who would normally commute via public transport were choosing to drive their private vehicles due to the health concerns.
10. A public notice was published in The Herald Sun on 3 July 2021, on-line in the Leader publication and placed on Council's social media platforms. Letters were also sent to residents and absentee owners of properties in the area bounded by Punt Road, Commercial Road, High Street and Porter Street (ie, residents who may use Perth Street

in order to access their property). This public notice and letter can be seen in **Attachment 2**. Submissions were required by 30 July 2021.

11. There was a delay in conducting the consultation due to the uncertainty of COVID lockdowns. As the length of this consultation was for a month, officers wanted to ensure that most restrictions were eased, and the best available date to commence was 3 July 2021. Unfortunately, Victoria was placed into a snap lockdown from 16 July to 28 July 2021, in the middle of this consultation. This consultation could have been constantly delayed but uncertainty around COVID and the restrictions that could be placed on Metro Melbourne at any time made it difficult to plan. The ad was published and the letters sent at a time when restrictions were at a minimum and officers wanted to begin the consultation so a resolution on this matter could be made rather than continuing to delay.

### Key Issues and Discussion

12. As a public notice was published it is assumed that submissions can be received from any person, and a justification of a submitter's relationship to the proposal is not necessary. When Council conducts consultation there is a limit of one response per property. The process does not require a person to indicate their place of residence (there are no submission requirements other than making a statement of support or opposition), and therefore all submissions have been counted if they include a person's details for identification.
13. As stated above, the public notice and a submission form was delivered to those that live in the local area of Perth Street to improve engagement with those directly affected. One property (8 Perth Street) did not receive this letter at the same time as the rest due to locked access to their mailboxes. A separate delivery was organised to this property and a slight extension of the closing date was provided to allow these residents to respond.
14. A total of 145 submissions were received in response to the advertisement. There were 108 in support of the one-way flow being permanently installed and 37 against the change. This indicates that a majority of people who made a submission supported the one-way flow being retained permanently. The submissions received are from 10% of the properties individually notified of the proposal via letter.
15. The individual submissions are included in **Attachment 3** with identifying details removed. A summary of these submissions and officer comments on the issues raised is included in **Attachment 4**.
16. In addition, as permitted by the provisions of Council's Engagement Policy enacted under Section 55 and 56 of the Local Government Act 2020, a person has the right to be present at a meeting to be heard in support of their submission. In this case, 13 submitters indicated they wished to present. Submissions were heard at the Council Meeting on 16 August 2021 at 8pm. Only 8 of the 13 submitters were present at the meeting however all 13 written submissions were circulated to the Councillors for their information. Of those that spoke, 6 were in favor of the proposal and 2 were against the one-way proposal. A summary of the hearing submissions is included as **Attachment 5**.
17. No major additional issues were raised not already covered in the written submissions, although it would be prudent for Council to review view vehicle speeds and volumes in Donald Street and Alfred Street (the adjacent north-south local streets) following the permanent implementation of the 1-way flow works in Perth Street

### Governance Compliance

#### Policy Implications

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

#### Financial and Resource Implications

19. The printing of the advertisements and notification letters for distribution cost a total of \$8,658.84. The speed and volume counts conducted cost \$4,719.

#### Conflicts of Interest Disclosure

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

#### Legal / Risk Implications

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

#### Environmental Implications

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

#### Community Consultation

<b>Purpose</b>	To identify the views of the public on the existing one-way flow arrangement in Perth Street, Prahran being made permanent.
<b>IAP2 Goal</b>	Consult
<b>Exhibition period</b>	3 July 2021 to 30 July 2021
<b>Method</b>	<ul style="list-style-type: none"> <li>Advertisement/Public Notice placed in Herald Sun and Leader website to commence consultation,</li> <li>The public notice and a submission form was distributed to property occupiers and absentee owners in the local area,</li> <li>Responses were emailed or mailed into Council records. These were collated on whether they support or oppose the proposal. All comments were also recorded,</li> <li>A hearing was run at Council meeting 16 August 2021 for those who requested to speak to hear a presentation on their submissions</li> </ul>
<b>Reach</b>	Herald Sun, The Leader Advertisements, Council website, Council Facebook and Twitter, 1,403 notification and survey letters sent to local property occupiers and absentee owners.
<b>Summary of feedback</b>	See Attachments 3, 4 and 5 for all summaries relating to the consultation.
<b>Impact</b>	The feedback received from the community was an important factor in understanding the operation of the trial. This has been a major factor in determining the recommendation.

#### Human Rights Consideration

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

#### Attachments

1. Council Report 1 June 2020 [8.3.1 - 5 pages]
2. Notification and Submission Letter including Area of Distribution [8.3.2 - 6 pages]
3. Perth Street Individual Submissions 2021 [3X6N] [8.3.3 - 8 pages]
4. Consultation Discussion Report 2021 [D2GF] [8.3.4 - 2 pages]
5. Perth Street Hearing Summary [8.3.5 - 3 pages]



## 8.4 Climate Emergency Advisory Committee

**Manager Open Space & Environment: Simon Holloway**

**Director Environment & Infrastructure: Rick Kwasek**

### Linkage to Council Plan

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

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

**Environment:** A cleaner, safer and better environment for current and future generations to enjoy.

**E1** Reduce energy use and associated greenhouse gas emissions.

**E7** Lead community sustainability through public programs.

### Purpose of Report

To establish a Climate Emergency Advisory Committee comprising representatives from Council and the community to guide and support the implementation of Council's endorsed climate emergency response.

### Officer Recommendation

**That Council:**

- 1. APPROVE the establishment of a Climate Emergency Advisory Committee with the attached Terms of Reference (refer Attachment 1);**
- 2. NOTE that a subsequent report will come to Council seeking endorsement of Climate Emergency Advisory Committee members for its first term;**
- 3. NOTE that the Draft Climate Emergency Action Plan will be brought back to Council for consideration in September 2021.**

### Executive Summary

1. In February 2020, Council declared a climate emergency, committing to immediate and urgent climate action.
2. Part of the declaration included a commitment to engage and partner with the Stonnington community and other stakeholders in the development and implementation of a Climate Emergency Action Plan.
3. Establishment of a Climate Emergency Advisory Committee provides Council with an opportunity to collaborate with the community to guide and support our climate emergency response and enhance the collective impact of Council and community programs.

### Background

4. Council declared a climate emergency at its 17 February 2020 Council Meeting, recognising the need for urgent action on climate change, and included a commitment to accelerate and further strengthen Council's response to climate change.

5. The climate emergency declaration also included a commitment to engage and partner with the Stonnington community and other stakeholders in the development and implementation of a Climate Emergency Action Plan.
6. Advisory committees with community representation provide an opportunity for Council and community representatives to work together, supporting Council decision-making and engaging community resources and expertise.
7. Establishment of the committee responds to a key action of the draft Climate Emergency Action Plan.
8. Establishing the committee now allows it to support the implementation of the Climate Emergency Action Plan from the outset.

### Key Issues and Discussion

9. The proposed Climate Emergency Advisory Committee is a collaborative partnership between Council and key community stakeholders to inform and advise Council on its climate emergency response. Refer **Attachment 1** for Draft Terms of Reference.
10. The key objectives of the Committee include:
  - Collaborate with Council to enhance the collective impact of the Committee and the delivery of the Climate Emergency Action Plan.
  - Provide input and advice on the implementation of Council's Climate Emergency Action Plan.
  - Provide advice and feedback on climate-related policies, plans, measures and outcomes.
  - Provide input into the development and implementation of initiatives that support Council's climate emergency response.
  - Help guide Council's research, strategy development and solutions relating to the climate emergency.
  - Provide a forum for information sharing, networking and collaboration between Council, community members and other key stakeholders.
  - Assist Council to successfully engage and empower the community.
  - Promote environmental sustainability activities and climate action within Stonnington.
11. It's proposed the Committee comprise two (2) Councillors and 10-12 people who live, work and/or study in Stonnington to ensure a diversity of representation, skills, experience and opinion. The members will be appointed through an expression of interest process. Representatives will be selected with work or volunteer experience in a range of climate response areas to ensure a broad range of issues are considered. Representatives will also be sought from a variety of sectors, including young people, community groups, business and education.
12. A co-chair arrangement is proposed with one (1) Stonnington Councillor and one (1) community representative to co-chair the Committee to ensure a collaborative, collective process.
13. It is intended to recruit Committee members over a 4-week period in October. Following the recruitment and selection of Committee members by Council Officers, a report will come to Council seeking endorsement for the selected members.

## Governance Compliance

### Policy Implications

14. In February 2020, the City of Stonnington declared a climate emergency, committing to immediate and urgent climate action. Part of this declaration included a commitment to engage and partner with the Stonnington community and other stakeholders in the development and implementation of a Climate Emergency Action Plan.
15. The draft Climate Emergency Action Plan includes an action to: 'Establish a Climate Emergency Advisory Committee with representatives from Council and across the Stonnington community to support the implementation of Council's Climate Emergency Action Plan.'

### Financial and Resource Implications

16. Participation in the Climate Emergency Advisory Committee would be on a voluntary basis. Administration of the committee would be managed within existing resourcing and budgets.

### Conflicts of Interest Disclosure

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

### Legal / Risk Implications

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

### Stakeholder Consultation

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

### Human Rights Consideration

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

## Attachments

1. Terms of Reference Climate Emergency Advisory Committee September 2021 [8.4.1 - 5 pages]

## 8.5 Festivals and Events Calendar 2021/22 - Christmas Events - Alternative Recommendation

**Manager Events, Arts & Culture: Alison Leach**

**Director Community & Wellbeing: Cath Harrod**

### Linkage to Council Plan

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

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

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

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

### Purpose of Report

To provide Council with an alternative recommendation for the 2021 Christmas Event proposed for Orrong Romanis on Sunday 19 December.

### Officer Recommendation

**That Council:**

- 1. APPROVE the delivery of Options 1 and 2 (Christmas Immersive Light and Sound Display Installation in Prahran Square, as part of a 12 Days of Christmas Activation and Campaign); and**
- 2. APPROVE the additional funding of \$94,000.**

### Executive Summary

- The 2021/22 Festivals and Events program was endorsed by Council on 19 July 2021 with an alternative recommendation to:
  - Investigate alternative sites to Orrong Romanis Reserve, including Prahran Square and Sir Zelman Cowen Reserve, for Christmas events, noting the format must meet any COVIDsafe regulations.
  - Develop a creative program to enable and encourage Christmas street parties, given the inability to use Como Park for the traditional North Ward Carols due to renovations and reduced numbers at venues due to COVID-19.

### Background

- The Festivals and Events program has traditionally included two (2) Christmas concerts in December at Central Park, Malvern East and Como Park, South Yarra.
- For 2021 Como Park is unavailable due to renovations and the Festivals and Events team have explored several locations to find a suitable alternative.
- Sir Zelman Cowen Reserve is not a viable option for a concert and/or pyrotechnics display due to the proximity to the Monash Freeway.

- Prahran Square hosts Stonnington's feature Christmas Tree and could be ideal for a Christmas activation series and site-specific installation over multiple evenings.

## Key Issues and Discussion

### Additional Christmas event options

- There is a total of \$81,000 available within the endorsed Festivals and Events budget to support an additional Christmas event and/or activation.
- The following options have been explored and budgeted as alternative Christmas event(s) in addition to the Christmas concert to be held in Central Park on 12 December 2021:

Option	Proposed Date	Budget	Considerations
<b>Option 1</b>			
<p><b>Christmas Immersive Light and Sound Display Installation</b> (Prahran Square)</p> <p><i>A site-specific lighting, projection and sound display encompassing the Christmas Tree. Playing every 15 minutes this will be a family-friendly COVID safe experience, transforming the Square and celebrating the magic of Christmas for 12 nights.</i></p> <p><i>This display would work well as part of the 12 Days of Christmas concept or as a standalone event.</i></p>	13 – 24 December 2021	\$137,500	<p>Up to <b>42,000 people</b> across twelve days.</p> <p>Cost to Council per head between \$3.27 and \$5.70</p> <p>Activities of a similar nature have attracted high levels of visitation, media, and interactions across social media (e.g. Airship Orchestra and Robot SPACEland)</p> <p>Budget is an estimate and includes marketing, security/COVID marshalls</p>
<b>Option 2</b>			
<p><b>12 Days of Christmas</b> (Prahran Square)</p> <p><i>Fun family friendly interactive and celebratory activations in Prahran Square across twelve days.</i></p> <p><i>Activations include:</i></p> <ul style="list-style-type: none"> <li><i>Santa Paws – Christmas themed pet photo opportunity</i></li> <li><i>Silent Christmas Disco for children and adults</i></li> </ul>	13 – 24 December 2021	\$37,500	<p>Up to <b>12,000 people</b> across twelve days.</p> <p>Cost to Council per head between \$3.12 and \$6.25</p> <p>Activities like Santa Paws could attract high levels of interaction across social media</p> <p>Budget is an estimate and includes marketing, staffing, security/COVID marshalls</p>

- *Christmas Grand Piano with pianist(s)*

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### Option 3

<b>Live Streamed Christmas Concert</b> (Prahran Square) <i>Outdoor cinema screening of the Central Park Christmas Concert, live in real time.</i>	Sunday 12 December 2021	\$75,000	<b>1,000 people maximum</b> due to social distancing requirements and capacity of the Square.  Cost to Council per head \$75  Viewing areas will be impacted by the Christmas Tree.  Prahran Square may need to be partially or fully closed to accommodate the COVID Safe requirements.
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### Recommended Option

8. Council Officers recommend a combination of Options 1 and 2 to create an impressive and unique Christmas experience that will maximise visitation to Prahran Square and the surrounding precinct over twelve days.
9. The recommended activations will support economic recovery by driving local, intrastate and interstate visitation, and local traders by increasing daytime and nighttime economy that aligns with the Outdoor Dining program and the Stonnington Presents brand campaign.
10. The recommended activations will support community recovery by delivering a range of socially engaging and safe activations that will attract diverse demographics over twelve days.

### Street Parties

11. Following advice from the Department of Jobs, Precincts and Regions, the Community Street Party Program has been rested for 2021 due to the impact of COVID-19.
12. COVID Safe Event requirements within the Victorian Government Public Event Framework significantly impact the facilitation of Street Parties in their current form.
13. The Street Party program will be reviewed from a COVID Safe perspective as well as facilitation framework in early 2022 before being reinstated.

### Governance Compliance

#### Policy Implications

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

#### Financial and Resource Implications

15. The recommended option for a '12 Days of Christmas' activation and 'Christmas Immersive Sound and Lighting Display' would require an additional budget of up to \$94,000.

#### Conflicts of Interest Disclosure

16. 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

17. The Risk and Integrity team are key internal stakeholders that the Festivals and Events team consult with regularly in the planning and delivery of events.

#### Environmental Implications

18. The Sustainability team are key internal stakeholders that the Festivals and Events team consult with regularly in the planning and delivery of events.

#### Community Consultation

19. There was no requirement for community consultation.

#### Human Rights Consideration

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

#### Attachments

Nil

## 8.6 Health and Wellbeing Plan 2021 - 2025

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

**Director Community & Wellbeing: Cath Harrod**

### Linkage to Council Plan

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

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

### Purpose of Report

To present Council with the draft Stonnington Health and Wellbeing Plan 2021–2025 and seek approval to release for final community consultation.

### Officer Recommendation

***That Council ENDORSE the draft Health and Wellbeing Plan (refer Attachment 1) for the purposes of community consultation from 7 September to 28 September 2021.***

### Executive Summary

1. All Victorian Councils are required to develop a Health and Wellbeing Plan by 24 October 2021.
2. The draft Stonnington Health and Wellbeing Plan (refer **Attachment 1**) has been developed in collaboration with key partners and is underpinned by extensive research and engagement.
3. The plan identifies the health and wellbeing needs of our community and provides strategic guidance to Council and our partners about how we respond to these needs.
4. Consultation on the draft Plan is scheduled from 7 September to 28 September 2021.

### Background

5. Council has a significant role, including statutory responsibilities, for improving the health and wellbeing of people who live, work, study and play in the municipality.
6. The *Public Health and Wellbeing Act 2008* requires Councils to prepare a health and wellbeing plan every four years, within 12 months of a Council election.
7. While the Council is responsible for preparing the Plan, improving health outcomes requires a collective and sustained effort from all levels of government, non-government organisations, businesses, health professionals, communities, families and individuals.
8. The Stonnington Health and Wellbeing Plan (SHWBP) 2021-2025 is due for submission to the Department of Families, Fairness and Housing by 24 October 2021.

### Key Issues and Discussion

9. The SHWBP (refer **Attachment 1**) outlines the vision and priorities for protecting, improving, and promoting the health and wellbeing of our community over the next four years.
10. Health data indicates that overall Stonnington residents continue to enjoy a higher quality of life, health and wellbeing than the rest of Victoria and Greater Melbourne.

11. There are however concerns around health inequities experienced by vulnerable community members, low levels of physical activity, high and increasing consumption of alcohol and intake of unhealthy foods and drinks, increasing psychological distress, high rates of injury and sexually transmitted infections, rates of violence, including family violence and the health impacts of climate change.
12. The Plan is reflective of the health priorities identified by our community through consultation. These include preventing all forms of violence, improving mental wellbeing and increasing active living.
13. Community consultation also identified the most important actions for Council to take to support health and wellbeing in Stonnington. These include improving access to green space; creating safer streets, facilities and public spaces; increasing opportunities and space available for walking, cycling and physical activity; supporting activities to promote mental health and resilience; improving access and inclusion; and building community connections.
14. The Plan has three overarching priority areas for delivering improved health and wellbeing outcomes for the community (1) Healthy and Well, (2) Safe and Respectful and (3) Connected and Supportive.
15. Underpinning the Plan is a strong emphasis on achieving health equity across the lifespan and across communities that are experiencing poorer health and wellbeing.
16. Implementation of the Plan and its success will be monitored through an evaluation framework including key performance indicators and reported to Council annually.

## Governance Compliance

### Policy Implications

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

### Financial and Resource Implications

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

### Conflicts of Interest Disclosure

21. 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

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

### Environmental Implications

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

## Community Consultation

<b>Purpose</b>	<ul style="list-style-type: none"> <li>• <u>Phase 1</u> consultation (Feb-Apr) sought to understand the priority needs to inform the development of the Draft Plan.</li> <li>• <u>Phase 2</u> consultation (Sept) will seek to confirm the final Plan.</li> </ul>
<b>IAP2 Goal</b>	<ul style="list-style-type: none"> <li>• Involve</li> </ul>
<b>Exhibition period</b>	<ul style="list-style-type: none"> <li>• Phase 1: February to April 2021</li> <li>• Phase 2: September 2021</li> </ul>
<b>Method</b>	<p>Phase 1 (Complete)</p> <ul style="list-style-type: none"> <li>• Promotion via social media posts, Stonnington News article, Website news, Connect Stonnington (survey and ideas board), e-newsletters and emails to local agencies.</li> <li>• Health and Wellbeing Reference Group meetings (Feb – July)</li> <li>• Roundtable discussions and targeted conversations</li> <li>• Health and Wellbeing Survey (online and face-to-face)</li> </ul> <p>Phase 2 (September)</p> <ul style="list-style-type: none"> <li>• Draft Plan and feedback form on Connect Stonnington</li> <li>• Promotion via Council websites, social media, Stonnington News, e-newsletters, direct email and distribution via Reference Group</li> <li>• Hard copies of Draft Plan and feedback forms at Customer Service Centres, Libraries and Community Centres</li> <li>• On hold message and Customer Service TV screen</li> </ul>
<b>Reach</b>	<p>Phase 1 reach:</p> <ul style="list-style-type: none"> <li>• 6 Reference Group meetings (24 members)</li> <li>• 4 Roundtable discussions (48 participants)</li> <li>• 5 targeted workshops (77 participants)</li> <li>• 636 Connect Stonnington views (42 Surveys)</li> <li>• Stonnington News article (65,000 copies)</li> </ul>
<b>Summary of feedback</b>	<p>Phase 1</p> <ul style="list-style-type: none"> <li>• Fact Sheets (refer <b>Attachment 2</b>)</li> <li>• Health and Wellbeing Survey Summary report</li> <li>• Insights Summary report</li> </ul>
<b>Impact</b>	<p>Phase 1 – informed the priorities of the Health and Wellbeing Plan</p> <p>Phase 2 – inform the direction of the final plan and priorities for the next four years.</p>

## Human Rights Consideration

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

## Attachments

1. Draft Stonnington Health and Wellbeing Plan [8.6.1 - 20 pages]
2. Fact sheets [8.6.2 - 6 pages]

## 8.7 Road Management Plan Review 2021

**Manager Asset Management & Planning: Mick Lo Bianco**  
**Director Environment & Infrastructure : Rick Kwasek**

### Linkage to Council Plan

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

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

### Purpose of Report

To update Council of the findings following a review of the Road Management Plan conducted in accordance with the Road Management Act 2004 (RMA) and the 2016 RMA Regulations.

To seek Council's approval of the proposed Road Management Plan 2021 (RMP) and the updated Register of Public Roads.

### Officer Recommendation

**That Council:**

- 1. NOTE the results of the statutory review process for the Road Management Plan;**
- 2. APPROVE the proposed Road Management Plan 2021 (refer Attachment 1); and**
- 3. APPROVE the public display of the proposed Road Management Plan 2021 on Council's website and through its communications channels.**

### Executive Summary

1. Subsequent to a report to Council on 5 July 2021 foreshadowing a review of the current Road Management Plan, Council officers have undertaken a public consultation process and a formal review of Council's Road Management Plan.
2. The review also incorporated advice from Council's insurance provider and information provided by Council staff during the internal consultation phase of the review.
3. The consultation process resulted in several proposed changes to the Road Management Plan based on submissions received and a subsequent analysis of the responses.

### Background

4. In 2005, Stonnington Council produced a Road Management Plan in accordance with the provisions of the RMA. The RMA incorporates a requirement that Council's review their road management plans every four years.
5. Stonnington Council's Road Management Plan outlines service levels such as asset inspection frequencies, defect intervention levels and repair response times for all public road infrastructure listed on Council's Register of Public Roads.
6. The RMP mitigates Council's liability against claims for damages attributed to the use of road infrastructure assets within its jurisdiction. The review and proposed changes to the Road Management Plan were conducted in accordance with the requirements of Section 54 of the RMA incorporating the required public and stakeholder consultation.

## Key Issues and Discussion

7. A RMP is a dynamic document that sets out inspection, repair and response requirements for Council's public roads. Periodic reviews of the RMP ensure that these service standards continually align with Council's policies, procedures and long-term resource management planning.
8. The RMP review was conducted in accordance with the RMA, supporting RMA Regulations and a Communications and Engagement Plan. The Communications and Engagement Plan was developed to ensure a fit for purpose 'deliberative engagement' process was established.
9. The community engagement process consisted of presentations to community groups, in-person sessions at the Council's public offices and on-line surveys. Advice was also procured from MAV Insurance (Council's insurers).
10. The RMP review also included an internal stakeholder consultation process and an analysis of compliance and performance metrics in relation to the current Road Management Plan. The internal review provided insight into the current resource allocation for managing the RMP and assessed the risks of the current service levels and possible changes.
11. While all of the proposed changes to the RMP that are material are listed in the review section of the RMP (appended as Attachment 1), a high-level summary of the scope of the review is provided below:
  - simplifying classifications and hierarchy so a consistent methodology can be applied to the maintenance of roads and footpaths;
  - inspection frequencies aligned with current practices and sustainable resourcing levels;
  - intervention levels adjusted to reflect community expectations and maintained within sustainable resourcing levels; and
  - response times modified in consideration of community expectations and sustainable resourcing levels.

## Governance Compliance

### Policy Implications

12. The recommendations in this Report are consistent with the Council Plan and Council's Community Engagement Policy.

### Financial and Resource Implications

13. The Road Management Plan review is part of Council's ongoing operational costs. The review indicates that Council's road maintenance costs and resourcing are appropriate to Council's needs and risk appetite.
14. The costs associated with compliance with the RMP are appropriate to mitigate the risk of public liability claims associated with use of the road network. The proposed changes to the RMP do not negatively impact the current resource provision for road maintenance operations.

### Conflicts of Interest Disclosure

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

### Legal / Risk Implications

16. The recommendations in this Report are consistent with the Road Management Act 2004, the 2016 Regulations and the Local Government Act 2020.

### Environmental Implications

17. The contents of this report support the principle that sound road operations management will result in more sustainable asset management practices.

### Community Consultation

18. The table below is a summary outline of the public consultation process conducted from 21 June to 21 July.

<b>Purpose</b>	To inform the public of Council's road management service levels and to gather feedback to determine if the current or proposed service levels are appropriate.
<b>IAP2 Goal</b>	The participation goal is to Inform and Consult with the community as per the Engagement Policy.
<b>Exhibition period</b>	7 September 2021 to 24 September 2021
<b>Method</b>	Online information on Council's webpage and Survey on Connect Stonnington In Person drop-in sessions held at Council Service Centre and Prahran Hub Presentation and feedback sessions with Community groups
<b>Reach</b>	125, 824 views on Council's website, 34 Connect Stonnington page views, 2 attendances at public in-person sessions and 12 formal submissions to Council's survey.
<b>Summary of feedback</b>	'What we heard' from the community is that whilst they are satisfied with most of Council's operations and service levels for its road infrastructure, they would like to see Council increase the standard of repair and the response times for footpaths. Please refer to Attachment 3.
<b>Impact</b>	The level of influence the community engagement had on the review was it informed Council as to how its service standards were perceived and that consultation with the community would provide feedback to influence the revised standards set as a result of the review.

### Human Rights Consideration

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

### Attachments

1. Stonnington Road Management Plan 2021 Draft [8.7.1 - 19 pages]

## 8.8 Citipower Recoverable Work Contract- Claremont Street, South Yarra

**Manager Project Management & Delivery: Madelyn Eads-Dorsey**

**Director Environment & Infrastructure: Rick Kwasek**

### Linkage to Council Plan

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

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

### Purpose of Report

To seek Council approval to accept the *Recoverable Works Contract (RWC)* of the distributor CitiPower Pty Ltd (ABN 76 064 651 056) for electrical asset relocation works in Claremont Street, South Yarra (Stage 2 Civil Works).

### Officer Recommendation

**That Council:**

- 1. ACCEPT Recoverable Works Contract (RWC) - Electrical Asset Relocation, Claremont Street, South Yarra (Stage 2 Civil Works) from CitiPower Pty Ltd (ABN 76 064 651 056) at a cost of \$1,175,694.00 (\$1,293,263 inclusive of GST).**
- 2. NOTE that the customer contribution of \$1,175,694.00 has been determined in accordance with the Australian Energy Regulator (AER) guidelines.**
- 3. AUTHORISE the Chief Executive Officer to execute the contract agreements with the above distributor.**
- 4. NOTE that expenditure under this contract is in accordance with Council's Budget for Financial Year 2021/22.**

### Executive Summary

1. This item has been included in the public agenda to facilitate transparency and accountability in Council's decision making. If discussion of the confidential information in the attachments to this report is required in order for Council to make a decision, this item will be deferred to the confidential section of the agenda.

<b>Citipower Contract Ref:</b>	307275845
<b>Contract Name:</b>	Electrical Asset Relocation, Claremont Street, South Yarra (Stage 2 Civil Works)
<b>Contract Supervisor:</b>	Targol Khorram- Senior Project manager- Landscape projects

### Background

2. A masterplan for the Forrest Hill Precinct in South Yarra was adopted by Council in 2008 to provide a vision for public realm improvements.

3. The Masterplan made a recommendation to underground the powerlines, including the removal of overhead wires which will provide space for trees to grow. The electrical asset relocation also enables the construction of wider unobstructed footpaths with new light poles. These works will facilitate the next stages of the masterplan delivery including wider paved footpaths, implementing a shared pedestrian and vehicle zone, custom street lighting, tree planting and creating more street activation and public art opportunities.
4. Council engaged Citipower Pty Ltd in 2020 to underground power lines and remove all obsolete wiring from existing poles. These works have been completed.

### Key Issues and Discussion

5. The power distributor Citipower Pty Ltd have issued a Recoverable Work Contract for Council to review and accept in order to commence installation of a new conduit in preparation for the new Council light poles. Works in this offer include:
  - Installation of new low voltage underground public lighting circuit to low voltage pit locations, in preparation for new Council lighting poles to be installed.
  - 260m of trenching and conduit, installation of 16mm XPLE underground cable, 29 new low voltage service pits and reinstatement.
6. Construction works are programmed to start in November 2021 and works will be completed by March 2022.

### Governance Compliance

#### Policy Implications

7. Council's Procurement Policy provides exemption for the need to issue a public tender for utility services when utility authorities are required to undertake work on their assets.
8. The power distributor Citipower Pty Ltd is the sole provider of this service and issued a Recoverable Work Contract for Council to review and accept. Council has the authority to endorse use of this exemption and accept the contract.

#### Financial and Resource Implications

9. The estimated total annual expenditure under this contract is identified in the attached confidential Recoverable Works Contract. (Please refer to page 2)
10. Funding is provided from operating budget X8986 Forrest Hill Public Realm in which there is a total budget of \$2,206,204.00(ex GST) for 2021/22 FY. The contract is within current budget allocation.

#### Conflicts of Interest Disclosure

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

#### Legal/ Risk Implications

12. There are no legal / risk implications relevant to this report.
13. Recoverable Work Contract is a standard form of Citipower contract that Council agrees to on a regular basis.

#### Environmental Implications

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

### Community Consultation

15. Citipower will manage community consultation for asset relocation works.
16. There was no requirement for community consultation by Council for these works.

### Human Rights Consideration

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

### Attachments

1. CONFIDENTIAL REDACTED - 307275845 - Claremont Street - RWC [8.8.1 - 16 pages]

## 8.9 T21071 - Orrong Park Multi-use Courts, Flood-lighting, Drainage and Fencing

**Manager Project Management & Delivery: Madelyn Eads-Dorsey**

**Director Environment & Infrastructure: Rick Kwasek**

### Linkage to Council Plan

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

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

**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 seek approval to award Contract No. T21071-Orrong Park Multi-use Courts, Floodlighting, Drainage and Fencing to Fieldform (Eltham Excavation Pty Ltd) (ABN 27 006 981 282).

### Officer Recommendation

**That Council:**

- 1. AWARD Contract No. T21071 – Orrong Park Multi-use Courts, Floodlighting, Drainage and Fencing, to Fieldform (Eltham Excavation Pty Ltd), [ABN 27 006 981 282] for \$1,059,710.10 inc. GST (\$963,372.84 ex GST).**
- 2. AUTHORISE the Chief Executive Officer to execute the contract agreements with the above contractor.**
- 3. NOTE that expenditure under this contract is in accordance with the Council's Budget for Financial Year (2021/22) and provisions will be made accordingly for the associated future budget periods for this contract.**
- 4. NOTE that an independent financial viability assessment is conducted for each preferred supplier via Corporate Scorecard. The Corporate Scorecard for Fieldform is pending at the time of this report. Contract execution will be dependent on a successful viability rating via Corporate Scorecard.**

### Executive Summary

1. Please note that confidential information is contained in Attachments (1), as circulated in the confidential section of the agenda attachments, in accordance with Section 66 (2) (a) of the Local Government Act 2020, as the information relates to contractual matters and premature disclosure of the information could be prejudicial to the interests of Council or other persons.

2. This item has been included in the public agenda to facilitate transparency and accountability in the Council's decision-making. If discussion of the confidential information in the attachments to this report is required in order for the Council to make a decision, this item will be deferred to the confidential section of the agenda.
3. Works proposed to start at the end of August with completion expected prior to the end of December 2021.

<b>Contract No.</b>	T21071
<b>Contract Name</b>	Orrong Park Multi-use Courts, Flood-lighting, Drainage & Fencing
<b>Contract Supervisor</b>	Brian Smith

### Background

4. In 2019/20 design works for the redevelopment of the Orrong Park Tennis Centre (OPTC) Contract No. T21038 commenced, and a public tender was advertised for the redevelopment of the tennis courts, lighting, drainage and fencing. A tender evaluation process was followed; however, Council did not approve the contract.
5. The Council recommended that a redesign of the existing drawings and specifications be undertaken to create a multi-use facility that incorporated the ability to be used for netball and tennis.
6. An investigation into the multi-use courts considered the use, configuration, operation, lighting, and cost. It was determined that the option to create a multi-use facility was feasible. This report and Council decision on 19 April 2021 are included in the confidential attachments.
7. Following the Council decision to make the courts multi-use, the re-design process commenced. The updated tender package T21071 - Orrong Park Multi-Use Courts, Floodlighting, Drainage and Fencing was publicly advertised on 1 May 2021, with the evaluation process completed on 5 August 2021.

### Key Issues and Discussion

<b>Advertisement Date</b>	1 May 2021
<b>Procurement Method</b>	Public
<b>Documents released via</b>	VendorPanel
<b>Closing Date</b>	7 June 2021
<b>Number of Submissions received</b>	11

8. Tenders were assessed against the Evaluation Criteria listed in the Tender Application by an Evaluation Panel Referred to the attached confidential Evaluation Report for:
  - a. Tenders Received
  - b. Tender Submission Pricing
  - c. Tender Evaluation Panel Members
  - d. Evaluation Matrix
  - e. Evaluation Panel Recommendation and Commentary

- f. Tender Conformance/ Compliance Assessment
- g. Departures, Referee and Financial Due Diligence Checks

## Governance Compliance

### Policy Implications

- 9. The redevelopment of the OPTC supports a range of objectives included within Council's Recreation Strategy 2014-2024, Stonnington Tennis Strategy 2014-2024 and the Municipal Public Health and Wellbeing Plan 2017-2021.
- 10. The redevelopment aligns with the following Recreation Strategy 2014-2024 priorities:
  - Quality facilities
  - Accessible facilities
  - Equitable provision
- 11. The project contributes to the achievement of the first two pillars of the Public Health and Wellbeing Plan 2017-2021:
  - Active and Healthy Lifestyle
  - Community Safety
- 12. The Stonnington Tennis Strategy 2014-2024 identifies the OPTC as requiring a 'complete court reconstruction and floodlighting upgrade'.

### Financial and Resource Implications

- 13. The estimated total annual expenditure under this contract is identified in the attached confidential Evaluation Report.
- 14. Funding is provided from capital budget X9475 which has a total budget of \$1,441,516 (ex GST) for FY 2021/22. \$1,221,201 of this budget is to fund this project. The remainder is for urgent works at East Malvern Tennis Centre.
- 15. There is a risk of variations due to contaminated soil removal which is known to exist underneath the courts. The contractor has provided rates to remove the soil and it is recommended that project contingency of 10% is applied to this project.
- 16. The contract value plus 10% contingency is within current budget allocation.

### Conflicts of Interest Disclosure

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

### Legal/ Risk Implications

- 18. A contract variation may be necessary during construction as there is known contamination across the site. This is being in the case that the design and function of the facility and the service provider's responsibilities were to change.

### Environmental Implications

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

### Community Consultation

20. Council Officers have carried out consultation with the operator of Orrong Park Tennis Centre and the Prahran Netball Association. They have also issued notice to the surrounding community.

<b>Purpose</b>	The redevelopment of the OPTC supports a range of objectives included within Council's Recreation Strategy 2014-2024, Stonnington Tennis Strategy 2014-2024 and the Municipal Public Health and Wellbeing Plan 2017-2021.
<b>IAP2 Goal</b>	The project contributes to the achievement of the first two pillars of the Public Health and Wellbeing Plan 2017-2021: <ul style="list-style-type: none"> <li>• Active and Healthy Lifestyle</li> <li>• Community Safety</li> </ul>
<b>Exhibition period</b>	21 April 2021 to present day
<b>Method</b>	<ul style="list-style-type: none"> <li>• Signage (2) at Orrong Romanis Tennis Centre – 3 May 2021</li> <li>• Resident letter April 2021 distributed, and responses collated and addressed.</li> </ul>
<b>Reach</b>	Connect Stonnington page view/readership statistics, attendance at activities and number of formal submissions surveys – see attached Investigation Report
<b>Summary of feedback</b>	The Investigation report summarises the impact of the Multi-Use Courts
<b>Impact</b>	The various impacts of the multiple varied scenarios are investigated in the report.

### Human Rights Consideration

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

### Attachments

1. T21071 - Confidential Attachment A - Supplementary Report [8.9.1 - 2 pages]

2. T21071 - Confidential Attachment B - Evaluation Report [8.9.2 - 15 pages]

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

## 8.10 Instrument of Delegation from Council to Chief Executive Officer (S 5)

**Senior Governance Advisor: Tony McIlroy**

**Chief of Staff: Tracey Limpens**

### Linkage to Council Plan

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

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

### Purpose of Report

The purpose of this report is to recommend that Council approve a new Instrument of Delegation from the Council to the Chief Executive Officer (CEO).

### Officer Recommendation

**That the Council:**

1. **RESOLVE to exercise the power conferred by s 11 (1)(b) of the Local Government Act 2020 (the Act) that:**
  - a. ***There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument.***
  - b. ***The Instrument comes into force immediately the common seal of Council is affixed to the Instrument.***
  - c. ***On the coming into force of the Instrument the previous Instrument of Delegation to the Chief Executive Officer that was executed on 6 July 2020 is revoked.***
  - d. ***The duties and functions set out in the Instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.***

### Background

1. The current delegation from the Council to the CEO was approved 6 July 2020, partly to reflect the State of Emergency which had been declared pursuant to the *Public Health and Wellbeing Act 2008*. The delegation also provided for situations where a state of disaster had been declared under the *Emergency Management Act 1986*.

2. Delegations are essential to enable Council staff to carry out operational duties particularly in areas which involve enforcement, such as town planning, local laws, environmental health, animal management and parking control.
3. The proposed delegation (Refer Attachment 1):
  - a) is based on a document prepared by Council's solicitors and is similar to that used by many Victorian municipalities;
  - b) includes some updated provisions by:
    1. replacing the term "special committee" (the term in the *Local Government Act* 1989) with the term "delegated committee" in accordance with the *Local Government Act* 2020;
    2. replacing the reference to the "MFB" with the term "Fire Rescue Victoria" as a result of the introduction of the *Fire Rescue Act* 1958;
    3. emphasising that in relation to the CEO's power to award contracts, the maximum contract value of \$1 million includes GST; and
  - c) revokes the delegation approved on 6 July 2020.
4. Aside from these amendments (3b), the delegation is unchanged from the one approved by Council 6 July 2020.
5. In addition, section 11(7) of the *Local Government Act* 2020 provides that all Council delegations must be reviewed with 12 months of a general election.
6. The City of Stonington CEO instrument of delegation is comparable to inner city municipalities.
7. Accordingly, it is recommended that Council revoke the existing delegation and approve a new delegation to the CEO.

## Governance Compliance

### Policy Implications

There are no policy implications associated with this report.

### Financial and Resource Implications

The financial and resource implications associated with this report is that there is a requirement for a dollar threshold on the Chief Executive's power to award contracts.

### Conflicts of Interest Disclosure

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

### Legal / Risk Implications

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

### Stakeholder Consultation

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

### Human Rights Consideration

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

## Attachments

1. S5 Council to CEO Marked up Attachment MK 1 [**8.10.1** - 4 pages]

## 8.11 Instrument of Delegation from Council to Organisational Roles (S 6)

**Senior Governance Advisor: Tony McIlroy**  
**Chief of Staff: Tracey Limpens**

### Linkage to Council Plan

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

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

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

### Purpose of Report

The purpose of this report is to approve a new Instrument of Delegation from the Council to various positions in the organisation in accordance with section 11 of the *Local Government Act 2020*.

### Officer Recommendation

***That the Council ADOPT and SEAL the S6: Instrument of Delegation from Council to various positions in the organizational structure (in accordance with Attachment 1).***

### Background

1. Various Acts provide that a Council and its Chief Executive Officer (CEO) may, by *Instrument of Delegation*, delegate to a member of staff, any power, duty or function of the Council under the Act other than some powers (for example power, duty or functions outlined in section 11(2) of the *Local Government Act 2020*).
2. The delegations are made to the position rather than to the staff member occupying the position.
3. Delegations are essential to enable Council staff to carry out operational duties particularly in areas which involve enforcement, such as town planning, local laws, environmental health, animal management and parking control.
4. The current delegation from Council to various positions in the organisation was approved on 17 August 2020.
5. The proposed delegation is based on a document prepared by Council's solicitors and is similar to that used by many Victorian municipalities.
6. The delegations referred to must be approved by Council as distinct from some others which can be delegated by the CEO.
7. The legislative changes involve:
  - a. removing references to the *Environment Protection Act 1970* given that the Act has been repealed. Delegations required pursuant to the *Environment Protection Act 2017*, will in future form part of a separate document and Council report;

- b. minor amendments to the *Planning and Environment Act 1987* to include references to “public availability requirements”; and
- c. the introduction of the *Residential Tenancies Regulations 2021*.

In addition, section 11(7) of the *Local Government Act 2020* provides that all Council delegations must be reviewed with 12 months of a general election.

Accordingly, it is recommended that Council revoke the existing delegations and approve new delegations to Council staff.

## **Governance Compliance**

### **Policy Implications**

There are no policy implications associated with this report.

### **Financial and Resource Implications**

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

### **Conflicts of Interest Disclosure**

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

### **Legal / Risk Implications**

There is a legal requirement under the *Local Government Act 2020* that these delegations be in place and must be reviewed within 12 months of a general election.

### **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. S6 Attachment Council to Council Officers Mk 3 [8.11.1 - 94 pages]

## 8.12 Instrument of Sub-Delegation from Council to Organisational Roles (s 18)

**Senior Governance Advisor: Tony McIlroy**  
**Chief of Staff: Tracey Limpens**

### Linkage to Council Plan

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

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

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

### Purpose of Report

The purpose of this report is to recommend that Council approve a new Instrument of Sub-delegation from the Council to various positions in the organisation.

### Officer Recommendation

#### *That the Council*

1. ***APPROVE the power conferred by section 437(2) of the Environment Protection Act 2017 and the Instrument of Delegation of the Environment Protection Act 2017 under the Act dated 4 June 2021:***
  - a. ***there be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Sub-delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument;***
  - b. ***the instrument comes into force immediately the Common Seal of the Council is affixed to the instrument;***
  - c. ***the duties and functions set out in the instrument must be performed, and the powers set out in the instrument must be executed, in accordance with any guidelines or policies of the Council that it may from time to time adopt.***

### Background

1. Various Acts provide that a council and its Chief Executive Officer (CEO) may, by Instrument of Delegation, delegate to a member of staff, any power, duty or function of the Council under the Act other than some powers (such as adoption of the budget), that are reserved for Council decision.
2. The delegations are made to the position rather than to the staff member occupying the position.

3. Delegations are essential to enable Council staff to carry out operational duties particularly in areas which involve enforcement, such as town planning, local laws, environmental health, animal management and parking control.
4. The proposed sub-delegation (Refer Attachment 1) is required because the Environment Protection Authority (EPA) has recently delegated some powers and functions to Victorian councils.
5. The powers and duties relate to:
  - a. on site wastewater management systems with a design or actual flow rate of sewage not exceeding 5,000 litres on any day; and
  - b. noise from the construction, demolition or removal of residential premises.
6. The proposed sub-delegation is based on a document prepared by Council's solicitors and is similar to that used by many Victorian municipalities and must be approved by Council as distinct from some others which can be delegated by the CEO.

### **Governance Compliance**

#### Policy Implications

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

#### Financial and Resource Implications

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

#### Conflicts of Interest Disclosure

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

#### Legal / Risk Implications

10. There is a legal requirement under the *Local Government Act 2020* that these delegations be in place and must be reviewed within 12 months of a general election.

#### Stakeholder Consultation

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

#### Human Rights Consideration

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

### **Attachments**

1. S18 Delegation Attachment [8.12.1 - 6 pages]

**9 Correspondence**

**10 Tabling of Petitions and Joint Letters**

**11 Notices of Motion**

**12 Reports by Councillors**

**13 Reports by Delegates**

**14 Questions to Council Officers**

**15 Urgent Business**

**16 General Business**

**17 Confidential Business**

**17.2 Prahran Market Board**

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Confidential report is circulated separately under the Local Government Act 1989 Section  
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**17.3 Chief Executive Officer Performance & Remuneration Review**

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Confidential report is circulated separately under the Local Government Act 1989 Section  
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